

How To Enforce Visitation Rights Yourself

Many men find themselves caught between police officers who refuse to enforce visitation rights and family judges who refuse to do anything after-the-fact. Since feminists won't give them one, it is up to us to show them the way.

In the 1990's, I developed an effective method for visitation / parenting time enforcement that worked very well. We ended up training the St. Louis Police Department with it. Please note that I am not an attorney and that this method should not be construed as legal advice. It is experiential advice that is being handed down from one activist to another.



The key to enforcing your parental rights is to know the difference between police and courts functions. Police serve in two capacities. When acting as peace officers, they enforce or supervise court orders (such as eviction notices and parenting time orders), and to prevent crimes when they believe one is about to be committed. As officers of the law, police are required to arrest when they see that a crime has probably been committed. Criminal courts then try these cases. Fathers who understand how the system works, and apply the mechanisms intelligently, can get visitation / parenting time orders enforced with little trouble.

Family courts should be used only after a long history of visitation interference has been documented, primarily to seek compensatory parenting time and in egregious cases a change of custody. Family courts are not the place to go to get your order enforced on a weekly basis. Family courts are too busy, too little, too late, and will not apply punitive measures for single violations of parenting time orders.

Background Information

Before seeking enforcement of your order, here are a few things you should do if possible:

1. Verify that you have an enforceable order. Orders that say "every other weekend" are not enforceable. It must stipulate something like "first and third Friday of each month from 5:00 PM until 8:00 AM the following Monday. If your order is not enforceable, you need to file a motion for clarification with the family court to get the elements stated properly.
2. Check state and local laws to find out if visitation interference is a crime. In most jurisdictions it should be at least a class-A misdemeanor. Copy the statute from the website and print out multiple copies of it to show to police.
3. It is best to collect physical evidence proving a history of visitation interference. This is easily done by audio recording these in-person interactions using a small USB keychain mp3 player/recorder. These devices produce excellent recordings and cost about \$50-\$60. The Samsung models are very easy to put in record while it is in your pocket. These devices hear as well as you do, will clearly record anything that you can hear.
4. Recording these interactions is extremely important to prevent a false domestic violence charge, or to turn the tables on a falsely-accusing mother right at the doorstep.. Mothers who insist on interfering with visitation often use false allegations of domestic violence or child abuse to cut you off. Mothers also often say the stupidest things while you are standing at the door. There is nothing better than being able to play a fresh recording of her saying that she will make a false allegation of abuse, a recording that proves that she is lying through her teeth. While a recording probably will not get her arrested, it will prevent your arrest and put the officer in a mood to enforce your visitation rights.
5. Be sure that children are not aware about your recordings. Keep them out of the middle at all costs.

6. It is best to not let your ex-spouse know you are documenting transactions unless it is absolutely necessary. However, you should check state and local laws to make sure it is legal to record your in-person transactions.
7. If you are planning to record telephone conversations to collect evidence, you must also verify this is legal. The Reporters Committee for Freedom of the Press has a resource page where you can check your state. See: <http://www.rcfp.org/taping/>. It is also advisable to get advice from an attorney to ensure that higher court rulings have not negated the statute, and also to check on admissibility of these recordings.
8. It is best to keep recordings as short as possible, in case they have to be transcribed for a court proceeding. Keep your interactions short, to the point, and do not allow yourself to get into repeating old arguments that have no bearing on the situation at hand.
9. Dump the recordings onto your hard drive after each event. Keep a word document or Excel sheet identifying the file name, location where the recording was made, date and time of the recording, the name/model of the machine the recording was made on, and a short paragraph highlighting the exact sentences of importance that are on that recording. This is very important if the recordings are needed for a court proceeding. These files can be burned to CD ready for introduction. Most judges greatly dislike introduction of recordings at trial, because the entire recording must be transcribed and it takes lots of court time for examination and cross-examination. In my case, I got the evidence into the record in a form the opposition could not contest. What I did was to say that I could not exactly remember what was said on certain dates, and asked the judge if I could "view my notes" to refresh my memory. The exact things that were said went straight into the court record and I won the case pro-se.

Picking Up The Children

1. Always keep 10 feet physical distance between you and her. If she advances, you back off. If she has been threatening a false abuse allegation, it is best to ring the doorbell and then stand on the public sidewalk, or off the porch or at least 25 feet away from the door.
2. Never raise your voice or argue with her. Be reasonable. Remind her that you are there to help raise the kids so she has a life too. If she insists on arguing, go to step 4.
3. If she refuses to comply, calmly and confidently let her know you will have the police come to enforce the order.
4. If she still refuses to comply, return to your car, call 911 and request police assistance to enforce a court parenting-time order.

Enforcing The Order

1. Call the police and request assistance enforcing a valid parenting-time court order. Give them your name and address where you are at. Remain in your car until the police arrive.
2. Always obey orders of the police. If you do not, you might find yourself "going downtown".
3. When the police arrive, it is your job to train them. Stand on public property, either in the street or the public sidewalk when conferring with police (so police cannot tell you to leave and so she cannot hear what you are talking about). Have at least \$20 on you so they cannot accuse you of vagrancy. Have your driver's license and any necessary immigration papers with you. Be sure your car has current license plates on it. Do not drink alcohol before picking up the children. Be well dressed so you do not look like a street bum. You need to be very professional and matter of fact. You need to walk like attorney, talk like attorney, and be polite, firm, and confident with them. Forget your father's rights language. If you are angry, give yourself a few minutes to cool down. You are an "attorney" for this moment in time. I found that I did my best work by stepping out of my emotions and personal situation, to address the issue impassionately as a much larger issue – as if I was representing somebody else.

4. Hand them your court order, a copy of the state criminal statute, and a copy of this article. Show the officer that visitation interference is a criminal offense. Police are **required** to arrest when they have reason to believe that a crime has been committed. It is your job to demonstrate that she intends to commit an act of visitation interference, and that you are requesting the assistance of the officer, acting to keep the peace, to enforce the order (police get calls all the time to enforce court orders – yours is no different than an eviction order).
5. If police tell you this is not a police issue – that you should take it to the family court -- you must point out #2 again and let him know that family courts are for litigating custody changes and compensatory time after a long history of violations. Family courts are not designed for, nor do they have time, to act as weekly enforcers of visitation.
6. Police might want to call the prosecutor to see what they should do. Remind them that police already know what to do if they have reason to believe a crime will be or has been committed. Police serve in two important capacities: preventing crime (as peace or public safety officers) and arresting those who did commit a crime. You are asking the police to do both. If the police insist on calling the prosecutor (who will probably not be available), tell the police you are calling your attorney on your cell phone to speak with him/her (police are very impressed by that). In some cases it may be necessary to have the prosecutor call your attorney if the police are being uncooperative (this probably will not be immediately possible, and you might have to wait until next week to get your parenting time enforced).
7. Show the method below to the police so they know how to approach this situation (they undoubtedly have never been trained on it). If police are reticent, let them know that this method is being used elsewhere. We know from experience that police usually only have to do this one or two times. When mothers learn that they can't get away with visitation interference – that it results in an embarrassing situation for them in their neighborhood -- they comply with the court order. Alienating mothers convince the neighbors that the father is a jerk who does not care about the kids. Having the neighbors watch police enforce your parental rights puts her in a very embarrassing situation that she will not want to see repeated.
8. Return to your car and stay in it while the police enforce the order. It is important that this issue be between her and the police, with you essentially “out of the picture”.

Police Procedure

1. The officer(s) approach the door and ring the doorbell.
2. If nobody answers the door, request the police write a police report documenting that the parent was not there to permit transfer of custody. Follow up later and get the police report number. This can be used to document a history of interference later.
3. If she answers the door, the officer shows her the court order, and asks if she has a more recent order of the court modifying the existing order. If she cannot produce a more recent order;
4. He asks her to bring the child(ren) to the door to make sure they are OK. In many jurisdictions police can make this request pursuant to child abuse laws.
5. If a baby or a toddler is involved, the police notify the mother that she should prepare the child to go with the father.
6. If older children are involved, the officer squats down (so as not to appear threatening), says hello to the kids and perhaps a couple of nice comments to put the kids at ease. The officer says that daddy is waiting in the car for them, and asks them to go get their things (age-appropriate things such as coats, books, toys, extra clothing).
7. If the mother objects, the officer requests that the mother come outside the home, and informs the mother that visitation interference is an arrestable offense, and that he will have no choice but to arrest her if she does not cooperate. The officer may also need to point out that if she is arrested, the children will have to go with the father, so it is better to cooperate.

8. If the mother hurls a wall of claims of child abuse, the officer reminds her that she can always address these issues via the appropriate court procedures and gives her the phone number for the state child abuse hot line. If the mother does not immediately produce evidence of impending abuse, the officer must enforce your parenting time.
9. Spouse abuse allegations are not an element in enforcement of parenting time orders when police assistance has been requested by the father so as to prevent spousal disagreement. (If the father were a spousal abuser, he would not have requested police assistance to keep the peace).
10. If small children need to be carried, the officer motions to the father to come up to carry the child. If permitted by departmental policy, it is best for the officer to transfer the child from the mother to the father. The father may also be needed to help carry the children's personal effects.
11. If separation anxiety kicks in, the officer should be firm but kind, letting the child know that daddy has lots of hugs for them too.

Police Department Outreach and Training

With this document you can train your police officers "on the job" to get your visitation enforced. In addition, here are a few items you should do when you have time:

1. Find out who does training for in your local police department. Explain the problem, and offer this method for use by their training team. Always speak to the larger issue, not your case. Show them that you are there to help the police do a better job preventing serious spousal disagreements and improving the lives of children of divorce. You can earn brownie points by offering to do training sessions for the police.
2. Go to the police station to see if the department has a violation code number assigned for each statutory criminal infraction created by the legislature. The chances are they do not. Police are far more likely to write citations when a violation code number is on their list. If they don't see a violation code, they think its not a crime.
3. Meet with the Chief of Police. Explain the importance of using this model to keep the peace in divorce and custody situations. Public safety is a particularly important issue where divorced parents are involved. Enforcement of visitation keeps the peace and prevents downstream disagreements which, if unaddressed, can lead to murder or serious domestic violence.
4. Remember that police leadership is far more likely to be your friend than not. Police work the streets every day and know exactly what is going on. Police officers are often treated more harshly in family courts than the average man. They are trained to subdue people and to maintain control in the worst of situations. Feminist lawyers use this fear tactic to destroy the parenting and economic rights of police quickly in divorce and custody situations. Once the police know you are on their side, they should be at your service.

Protesting

In rare cases, protest may be necessary to attract public attention to the issue and to embarrass her into compliance. Here are the basics of protest:

1. It is best to have at least two people do the protest. Four to ten people is excellent. There is safety in numbers. Your fathers group should take turns assisting each other.
2. Signs should say something like "Visitation interference is a crime", "Set my children free", "Children need fathers too". It is best not to make signs about "My ex". Signs should be hand carried – not on sticks (which can be used to hit people). Signage is easily generated with a word processor. Print the page out, take it to Kinkos and have it blown up to poster board size. Staple the printouts to poster board and you are in business.

3. Focus on the needs of children and the importance of fatherly parenting. Children who have fathers are far less likely to get into trouble, get pregnant out of wedlock, use drugs or alcohol.
4. Do not say nasty things about the police, the prosecutor, or the courts. The purpose of the protest is to win the support of police, the prosecutor, and the courts. Work the issue, and win them over.
5. The First Amendment covers only you and what you are carrying on public property. Chairs, tables, briefcases, cameras on tripods, and anything else set down are not covered. If you need a briefcase for handouts or documents, get a leather shoulder-strap briefcase and wear it. In most jurisdictions, the public sidewalk and street are public property. Police might try to make you leave. You can firmly assert your right to protest. But in the end, if the police intend to arrest you, you must choose whether you will leave or push your First Amendment rights. My experience is that police back down when you push your First Amendment rights properly. Do not push your First Amendment rights unless you know what you are doing and are fully prepared to take a trip downtown to prove the point.
6. Dress nicely, carry at least \$20 cash on you, park your car on a public street, do not go on any private property.
7. Walk back and forth on the nearest public sidewalk. Do not block access to any home, business, or driveway.
8. Do not stop to talk to anyone except police or reporters. Keep moving at all times so you cannot be accused of vagrancy.
9. Fax a press release to your local television and radio stations the day you will protest. Indicate the exact time you will be protesting. You only need to protest for 30-60 minutes to get coverage. Be there 30 minutes ahead of time.
10. If you are interviewed, speak to the larger issues. Have only one person authorized to speak to the media. This person should be your best spokesperson. The media will try to interview everyone, and will probably air the stupidest thing anyone said. Your team must understand the importance of shutting up and letting the best spokesperson do the interviews. It is OK to mention that your children are being denied their father and to point to the house where the infraction is being committed. But do not mention her name or the children's names -- and do not use the word "ex".
11. Have an mp3 recorder on your person or camcorder running on your dashboard the entire time to protect yourself from allegations of abuse or threatening behavior.

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