

OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO. 21

December 9, 2019

**SUBJECT: SUBPOENA CONTROL OFFICER – RESPONSIBILITY – RENAMED AND REVISED; AND, RESTRAINING ORDERS – RENAMED AND REVISED**

**PURPOSE:** The purpose of this Order is to update the procedures for processing and logging Restraining and Protective Orders and Temporary Restraining Orders. This Order also revises some of the responsibilities of the Subpoena Control Officer.

**PROCEDURE:**

- I. SUBPOENA CONTROL OFFICER – RESPONSIBILITY – REVISED.** Department Manual Section 3/210.10, *Subpoena Control Officer – Responsibility*, has been revised and renamed as *Subpoena Control Officer’s Responsibilities*. The revised Department Manual section is attached, with revisions indicated in italics.
- II. RESTRAINING ORDERS – RENAMED AND REVISED.** Department Manual Section 4/216.03, *Restraining Orders*, has been revised and renamed as *Restraining/Protective Orders*. The revised, Department Manual section is attached, with the revisions indicated in italics.

**AMENDMENTS:** This Order amends Department Manual Sections 3/210.10 and 4/216.03.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.



MICHEL R. MOORE  
Chief of Police

Attachments

DISTRIBUTION “D”

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**210.10 SUBPOENA CONTROL OFFICER'S – RESPONSIBILITIES.** *The subpoena control officer (or the designee) shall be responsible for:*

- Ensuring that subpoenas and court notices are prepared on a timely basis;
- Receiving and recording subpoenas and court notices in the Employee Subpoena Record, Form 15.29.00, as soon as practicable after receipt in the Area/division;

**Note:** To ensure strict accountability for subpoenas and to ensure that current information pertaining to subpoenas is readily available, the subpoena control officer responsibilities shall not be decentralized within the Area/division.

- Arranging for, and verifying service of, subpoenas and court notices for all watches;
- Ensuring that the watch commander is promptly notified of any subpoena (private person or employee) requiring immediate service;
- Monitoring the subpoena service status by utilizing the Electronic Subpoena System;
- Forwarding control copies of served subpoenas and court notices to the courts or issuing jurisdictions;
- Notifying the city attorney or district attorney when an employee cannot be served before the date set for the court appearance;

**Exception:** When an investigating officer requests service of a subpoena for a preliminary hearing, it shall be returned to the investigating officer as soon as it is served. If a private person cannot be served before the date set for court appearance, the investigating officer shall be notified as soon as practicable by telephone.

- Forwarding subpoenas and court notices to the proper division when a subpoena or court notice is received for an officer assigned to another division. When there is insufficient time to forward the subpoena or court notice before the date of court appearance, the watch commander on-duty at the subpoenaed employee's division of assignment shall be notified as soon as practicable by telephone;
- Reviewing all Declarations for Continuance, Form 15.51.00, and placing a notation in the Employee Subpoena Record that the declaration was completed. The subpoena control officer shall maintain the file of these requests for two years;
- When notified that an employee's on-call status in Superior Court has been continued to another date, *conduct the following:*
  - *Input the necessary information following the new date in the Employee Subpoena Record;*
  - *Notify the employee of the continuance of on-call status; and, have the employee initial the new entry in the Employee Subpoena Record.*

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***For Narcotics Evidence Photographs:***

- Upon receipt of the narcotics evidence photographs from *Forensic Science Division* (FSD), maintain a file of the photographs by *Division of Records* (DR) number;
- Check each subpoena for a narcotics case to ensure that the photograph(s) is on file and mark the Subpoena Control Book. If the photograph cannot be located, the subpoena control officer *shall* contact FSD, Narcotics Analysis Unit, immediately and request a copy of the photograph;
- Provide the photograph(s) to the officer when requested for court purposes and mark the Subpoena Control Book to indicate the photograph(s) was provided to the officer;
- Re-file any returned photograph(s) and mark the Subpoena Control Book; and,
- Store all photographs until notified by the Property Disposition Coordinator (PDC) that the photograph(s) can be destroyed.

***For City Attorney's Discovery Questionnaire:***

- *Log the questionnaire in the Employee Subpoena Record by entering:*
  - *The Office of the Los Angeles City Attorney's (CA) due date;*
  - *The case number;*
  - *The officer's name; and,*
  - *Give the questionnaire to the officer's supervisor without delay.*

*Upon receipt of the completed questionnaire from the officer's supervisor, the subpoena control officer (or his or her designee) shall:*

- *Record the date of return in the Employee Subpoena Record; and,*
- *Immediately return the questionnaire to the CA's Office.*

Geographic Area commanding officers shall ensure that *the* Area subpoena control officer *or the* designee:

- Maintain a file of all Restraining Orders [e.g., *Domestic Violence Restraining Orders* (DVROs), *Emergency Protective Orders* (EPOs), *Workplace Harassment Orders* (WHOs), etc.];
- Maintain a Restraining Order Control Log, Form 15.40.00, of all Restraining Orders received *from the courts*; and,

**Note:** Only Areas are *required* to use this form. *Records and Identification Division* (R&I) may use *its own* Restraining Order Log.

- Compile all Restraining Order Control Logs in a three-ring, loose-leaf binder and place *the binder* in a location accessible to Area uniformed desk personnel and the on-duty watch commander.

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*Geographic Areas shall retain purged Restraining Orders for two years from the date of expiration. According to the Records Retention Schedule, Restraining Orders are to be kept on site for two years. Then the Restraining Orders may be destroyed.*

***For Digital In-Car Video System (DICVS) and Body Worn Video (BWV) Footage:***

- *Log the subpoena into the Electronic Subpoena System (eSubpoena);*
- *Create an Evidence.com Case Folder with all DICVS and BWV evidence of the traffic stop; and, share the case folder with the citing officer.*

***Note:*** *Subpoena Control Officers may select the option to have the DICVS produced on removable media when the circumstance of the evidence request is best suited for that delivery format.*

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**216.03 RESTRAINING/PROTECTIVE ORDERS.** Restraining and Protective Orders, *Mandated for Entry* and Temporary Restraining Orders (TRO) include, but are not limited to, Domestic Violence Restraining Orders (DVRO), Emergency Protective Orders (EPOs), *Restraining Orders (ROs)*, *After Hearing Orders (AHOs)*, Juvenile Orders (JUVs), Criminal Protective Orders (CPOs), Temporary Workplace Harassment Orders (WHOs), Firearms Emergency Protective Orders (Firearms EPOs), Temporary Firearms Restraining Orders (Temporary Firearms ROs), and Firearms Restraining Orders (Firearms RO). Some of these orders are issued by a criminal court (criminal order), while others are issued from civil court (civil order).

**Officer's Responsibilities.**

**Conflicting Orders – Priorities for Enforcement.** If more than one restraining order has been issued, the orders must be enforced according to the following priorities:

- **EPO** – If one of the orders is an EPO and it is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
- **No-Contact Order** – If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence in enforcement over any other restraining or protective order.
- **Criminal Order** – If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and are enforceable.
- **Family, Juvenile, or Civil Order** – If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.
- **Firearms EPO, Temporary Firearms RO, or Firearms RO** – These orders shall be enforced independent of any other restraining or protective order.

**Protected Person in Possession of a Restraining Order.** When officers are presented with a Restraining Order in the field or at the Area desk, they shall:

- Verify that the order has been certified by the issuing court;

**Note:** A certified copy of an order will bear an ink stamp signed by the deputy clerk of the court documenting authenticity.

- Ensure that the order has not expired; and,
- Review the proof of service to ensure it was properly served upon the restrained respondent.

**When the Department Does Not Have a Copy of the Restraining Order.** When officers discover that this Department does not possess an order that was presented in the field, they shall determine whether the *protected person* has an extra copy of the order. If so, officers *shall* request one and deliver it to the Area front desk.

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When unable to obtain a copy of the order, officers shall request that the *protected person* deliver a copy to the Area front desk (or provide one to be photocopied) as soon as possible.

If an officer cannot locate the order and the *protected person* does not have a copy of the order, no enforcement action may be initiated by officers pursuant to Penal Code (PC) Section 273.6 (Willful and Knowing Violations of Orders to Domestic Violence), or PC Section 166 (Criminal Contempt), or PC Section 18205 (Willful and Knowing Violation of Firearms EPO, Temporary Firearms RO, or Firearms RO).

***Protected Person Not in Possession of an Order.*** Officers at the scene of a dispute where a valid order is alleged to exist, but the *protected person* does not possess a copy of the order, shall attempt to telephonically verify the existence of the order through the California Restraining and Protective Order System (CARPOS) *via the Network Communications System.*

**Note:** If an officer cannot locate the order, no enforcement action may be initiated by the officers.

If the officer determines that an order has been issued, but not served, the officer shall immediately notify the *restrained person* of the terms of the order. Verbal notice of the terms of the order is sufficient notice.

The verbal notice shall be documented in the related crime, arrest or Domestic Violence Incident Report. The officer shall also include the name and assignment of the officer notifying the *restrained person* and the case number of the order. Additionally, if the *restrained person* inquires about obtaining a copy of the RO, the officer should advise the *restrained person* to go to the court to obtain a copy of the complete order.

**Proof of Service.** An order *shall* be accepted from the *protected person* whether or not the proof of service has been completed. The *protected person* shall be advised that personal service of the order is required before enforcement can be taken against the *restrained person*. If a person named in an order has not been served personally with the order, but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

When proof of service is not attached to an otherwise valid order presented to officers in the field, the officers shall determine whether other officers of this Department accomplished the proof of service. If prior proof of service cannot be established, officers shall advise the *restrained person* that a valid order is in effect and state its conditions to the *restrained person*. *If there is no copy available, the officer shall provide the name of the issuing court where a copy of the order can be obtained.*

Officers shall complete the proof of service when:

- The *protected person* possesses an incomplete proof of service; and,
- The officer(s) advises the *restrained person* of the conditions of the order.

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The original proof of service shall be returned to the *protected person*.

If the *restrained person* is present at the scene, officers shall document how the service of the order was accomplished in the narrative of any crime, arrest, or Domestic Violence Incident Report completed, pursuant to PC Section 13730.

**Failure to Comply.** If officers have probable cause to believe that a violation of the order occurred and proof of service can be established, officers shall:

- Arrest the *restrained person*; and,
- Book for *PC Section 273.6*, PC Section 166, or PC Section 18205; or, if the suspect has left the scene prior to the officer's arrival, complete an Investigative Report, Form 03.01.00.

The narrative section of related crime and arrest reports *shall* contain the following information:

- Court case number assigned to the order;
- Expiration date of the order;
- Manner in which the proof of service was accomplished and by whom; and,
- Verbatim listing of the conditions of the order.

**Note:** Officers at the scene of a labor dispute shall be guided by the provisions of Department Manual Section 1/460.30 and *shall* contact *the* Labor Relations Unit, *Office of Operations*, before taking any enforcement action on an order.

**Restraining Orders Issued By Jurisdiction.**

**Within the State of California.** If a party alleges an order exists in an outside jurisdiction within California, officers shall contact that law enforcement agency and verify the information before taking enforcement action. Statewide agencies and/or foreign jurisdictions making inquiries to this Department regarding ROs shall be directed to the concerned Area.

**Out-of-State/Country Restraining Orders.** When a RO that was issued in another state, territory of the U.S., or Canada is presented to the officer, the officer shall review it for completeness. If the out-of-state RO is complete, then it is considered valid in the State of California. If it is deficient, an EPO should be sought and the EPO guidelines should be followed.

**Seizure of Firearms at Domestic Violence Incidents.** When an officer seizes a firearm at the scene of a domestic violence incident involving a threat to human life or a physical assault, the officer shall seize the firearm in accordance with Department Manual Section 4/560.35, and PC Section 18250, *Seizure of Firearm or other Deadly Weapon at Scene of Domestic Violence*.

**California Restraining and Protective Order System (CARPOS).** The Department of Justice, with the authority of Family Code Section 6380, mandates that law enforcement agencies enter information from the following ROs into the Department of Justice CARPOS:

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- Emergency Protective Order;
- Firearms Emergency Protective Order;
- Temporary Firearms Restraining Order;
- Firearms Restraining Order After Hearing;
- Domestic Violence Temporary Restraining Order;
- Domestic Violence Order After Hearing;
- Register Out-of-State Restraining Order;
- Temporary Civil Harassment Order;
- Civil Harassment Order After Hearing;
- Temporary Elder Dependent Adult Abuse Order;
- Elder Dependent/Adult Abuse Order After Hearing;
- Temporary Workplace Violence Order;
- Workplace Violence Order After Hearing;
- Temporary School Violence Order;
- School Violence Order After Hearing;
- Juvenile Restraining Order;
- Criminal Protective Order-Domestic Violence;
- Criminal Protective Order-Other Than Domestic Violence; and,
- Order to Surrender Firearms in Domestic Violence Case.

The *Vehicle Warrant Section (VWS)*, Records and Identification Division (R&I), or geographic Area records, upon receiving a RO from the issuing court clerk, shall input the RO information into the Department of Justice CARPOS when the RO is one of the specific types for which such entry is required under Family Code Section 6380.

**Note:** Mandated orders shall be entered into the CARPOS, whether served or unserved.

**Area Record's Responsibilities.**

When an Area receives a RO, whether delivered in person or by fax, the records clerk (or designated person) shall *review and enter the pertinent information into CARPOS*.

**Note:** If the RO is connected to an existing crime report, the associated *Division of Records (DR)* number shall be written on the RO and related documents.

In all instances, the *File Control Number (FCN)* shall take precedence for tracking purposes. Inputting the RO should be a priority over other tasks due to the high risk of incident to the victim, and should be completed no later than **24 hours** from receipt.

**Area Subpoena Control Officer's Responsibilities.**

Upon receipt of an RO and proof of service, the Area Subpoena Control Officer (*or the designee*) shall:

- Check that the FCN has been placed in the upper right corner of all pages of the order;
- Maintain a Restraining Order Control Log, Form 15.40.00, of valid orders on file;



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*Note: Only Areas/divisions are restricted to this form. Records and Identification Division may use its own Restraining Order Log.*

- Establish a file of restraining orders in a location accessible to uniformed desk personnel;
- Periodically purge expired restraining orders from the active file; and,
- Provide a copy of the Firearms EPO, Temporary Firearms RO, or Firearms RO to the Area Detective CO or his or her designee, who shall designate a Firearms RO coordinator.

**Firearms Restraining Order Coordinator's Responsibilities.** The Firearms Restraining Order coordinator shall:

Ensure the firearms or ammunitions are retained for the duration of the most current Firearms EPO or Temporary Firearms RO; and,

- When the order expires, terminates, or dissolves, the firearms and ammunitions shall be returned to the restrained person.

**Note:** A Law Enforcement Gun Release-Firearm(s) Eligibility Clearance must be obtained via the California Department of Justice, Bureau of Firearms, prior to release.

Detectives may file a Firearms Restraining Order After Hearing (Judicial Council Form GV-130) petition in an effort to extend the restrictions of a pre-existing gun violence restraining order. Extensions may be granted for up to one year.

**Peace Officers Named as *Restrained Persons*.** When a Subpoena Control Officer receives a RO that identifies the *restrained person* as a member of a law enforcement agency, the Subpoena Control Officer shall notify his or her *commanding officer*. The *commanding officer (CO)* shall ensure that a copy of the order is sent to the Chief of Police of the involved agency. If the *restrained person* is a member of the Department, the CO shall *telephonically notify and* forward a copy of the order to the CO, Internal Affairs Group.