

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 3

January 29, 2018

SUBJECT: RESTRAINING ORDERS – REVISED; RESTRAINING ORDERS ISSUED BY JURISDICTION – DELETED; ADVICE ON MISDEMEANOR BOOKINGS – DELETED; ADVICE/APPROVAL ON MISDEMEANOR BOOKINGS – REVISED; DISTRIBUTION AND CONTROL OF RESTRAINING ORDERS – DELETED; SEIZURE OF FIREARMS AT DOMESTIC VIOLENCE INCIDENTS – DELETED; AND DOMESTIC VIOLENCE RESTRAINING ORDER SYSTEM – DELETED

PURPOSE: This Order revises the procedures pertaining to the handling of restraining and protective orders at the geographic Areas. The restraining order titles, Firearms Emergency Protective Order (Firearms EPO), Temporary Firearms Restraining Order (Temporary Firearms RO), and Firearms Restraining Order (Firearms RO) have been added to the list of restraining order types.

PROCEDURE:

- I. **RESTRAINING ORDERS – REVISED.** Department Manual Section 4/216.03, *Restraining Orders*, has been revised. Attached is the revised Manual section with the revisions indicated in italics.
- II. **RESTRAINING ORDERS ISSUED BY JURISDICTION – DELETED.** Department Manual Section 4/216.04, *Restraining Orders Issued by Jurisdiction*, has been deleted. The content of this section has been incorporated into Manual Section 4/216.03.
- III. **ADVICE ON MISDEMEANOR WARRANT BOOKINGS – DELETED.** Department Manual Section 4/216.05, *Advice on Misdemeanor Warrant Bookings*, has been deleted. The content of this section has been moved to Department Manual Section 4/216.02.
- IV. **ADVICE/APPROVAL ON MISDEMEANOR BOOKINGS – REVISED.** Department Manual Section 4/216.02, *Advice/Approval on Misdemeanor Bookings*, has been revised.
- V. **DISTRIBUTION AND CONTROL OF RESTRAINING ORDERS – DELETED.** Department Manual Section 4/216.06, *Distribution and Control of Restraining Orders*, has been deleted. The content of this section has been incorporated into Manual Section 4/216.03.

- VI. SEIZURE OF FIREARMS AT DOMESTIC VIOLENCE INCIDENTS – DELETED.** Department Manual Section 4/216.07, *Seizure of Firearms at Domestic Violence Incidents*, has been deleted. The content of this section has been incorporated into Manual Section 4/216.03.
- VII. DOMESTIC VIOLENCE RESTRAINING ORDER SYSTEM – DELETED.** Department Manual Section 4/216.08, *Domestic Violence Restraining Order System*, has been deleted. The content of this section has been incorporated into Manual Section 4/216.03.

AMENDMENTS: This Order amends Sections 4/216.02 and 4/216.03 and deletes Sections 4/216.04, 4/216.05, 4/216.06, 4/216.07, and 4/216.08 of the Department Manual.

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.



CHARLIE BECK
Chief of Police

Attachment

DISTRIBUTION "D"

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216.02 ADVICE/APPROVAL ON MISDEMEANOR BOOKINGS.

Booking Advice – Defined. Booking advice is the recommendation given to the watch commander regarding *the specific* charge(s) an arrestee should be booked for based on the circumstances of the arrest.

Booking Approval – Defined. Booking approval is the final authority given to an officer to incarcerate an arrestee into a jail facility on a given charge(s).

Booking Advice Procedure. *Prior* to booking an arrestee on a misdemeanor charge at any jail facility, booking advice may be obtained from the on-duty investigative entity responsible for the follow up investigation.

When available, or in complex arrests requiring additional review, the investigative supervisor giving booking advice shall review all related reports for required content and place his *or* her initials and serial number at the conclusion of the narrative portion of each report. This change does not affect other Department procedures associated with booking approval and booking advice.

Advice for a juvenile booking shall be obtained from the on-duty Area Detective Division *personnel*. When the detective division is closed, booking advice shall be obtained from the Area watch commander assigned to patrol.

Telephonic Booking Advice. When it is impractical to obtain a signature from the on-duty investigative supervisor responsible for providing booking advice, the watch commander giving booking approval may obtain such advice telephonically.

In these cases, the approving watch commander shall write the name of the advising investigative supervisor followed by the watch commander's initials, and place a check in the box titled "TELEPHONIC ADVICE" on the Booking Approval, Form 12.31.00.

Booking Approval Procedure. Booking approval for any arrest, shall only be obtained from the Area watch commander or the Watch Commander, Metropolitan Jail Section, Custody Services Division.

When providing approval, the watch commander shall review each arrest for appropriateness, legality, and conformance with Department policy and procedure. When booking is approved, the watch commander shall complete the Booking Approval, Form 12.31.00, and sign his *or* her name and serial number in the "APPROVING WATCH COMMANDER" section of the form, *and complete the Non-Eligibility for Release section at the bottom of the form.*

Note: Officers shall not sign or otherwise write any name for a supervisor in any Department report or form requiring an approving supervisor's signature.

Officers or detectives assigned to Areas (Vice, Detective Division, Gang Enforcement Detail,

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Patrol, etc.) shall obtain booking approval from their respective Area watch commander before booking any arrestee into any jail facility.

Officers or detectives assigned to specialized divisions shall obtain booking approval from one of the 21 Area watch commanders or the Watch Commander, Metropolitan Jail Section, Custody Services Division, before booking any arrestee into any jail facility.

The watch commander approving the booking of an arrestee on a misdemeanor charge shall strictly adhere to the provisions for mandatory release of misdemeanor arrestees (*Department Manual Section 4/216.65*).

In addition, the watch commander shall also verify that:

- The appropriate booking charge is listed exactly as depicted in the Automated Justice Information System Booking Charge Table;
- The specific reason for continued custody is indicated on the form; and,
- A person arrested for two or fewer warrants for failure to appear on a citation for a parking offense or traffic infraction, has been informed of the right to immediate cash bailout (*Department Manual Section 4/682.15*).

Note: Detention officers shall not accept an arrestee from a Department employee unless there is a completed Booking Approval, Form 12.31.00, or a Short Arrest Report, Form 05.02.01, for the arrestee. The name and serial number of the approving watch commander shall be placed on the Los Angeles Consolidated Booking Form in the lower left portion of the **Property** box and in the narrative portion of the *Arrest Report* when one is required.

The watch commander of any Department jail facility shall have the final responsibility for all arrestees booked at that jail. When a Custody Services Division watch commander questions a booking approved by an Area watch commander, the Custody Services Division watch commander shall contact the approving Area watch commander.

When a difference of opinion remains, the watch commander in charge of the jail facility shall make the final determination.

Arrest Reports. Consistent with current procedure, the watch commander or a supervisor designated by the watch commander shall review all reports related to the arrest for appropriateness, legality, and conformance with Department policy and procedure taking into account the booking recommendation. Additionally, the watch commander or supervisor shall examine the reports for authenticity by ensuring that the reports do not contain any "canned" language, inconsistent information, or fail to articulate the legal basis for the action, or any indication that the information in the report is not authentic or correct. Subsequent to review, the watch commander or his *or* her designee shall indicate approval by signing (including serial number) the reports.

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Advice on Misdemeanor Warrant Bookings. Watch commanders approving the booking of an arrestee on a computer-generated misdemeanor warrant shall place their name and serial number on each warrant information teletype after ascertaining that the information on the arrestee and the descriptors on the warrant match.

When the identity of the arrestee is not obvious, the advising supervisor shall cause an Arrest Report, Form 05.02.00, to be completed, which documents the evidence identifying the arrestee as the warrant suspect.

Note: When it is determined that a suspect in custody is not the person on the warrant abstract, the watch commander shall cause the warrant to be reactivated by the concerned jail unit (Department Manual Section 4/611). A warrant shall not be reactivated unless it has been positively ascertained that an arrestee is not booked pursuant to the authority of the warrant in question.

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216.03 RESTRAINING ORDERS. Restraining Orders (RO) and Temporary Restraining Orders (TRO) include, but are not limited to, Domestic Violence Restraining Orders (DVRO), Emergency Protective Orders (EPO), Orders After Hearing (OAH), Juvenile Orders (JUV), Criminal Protective Orders (CPO), Temporary Workplace Harassment Orders (WHO), *Firearms Emergency Protective Orders (Firearms EPO)*, *Temporary Firearms Restraining Orders (Temporary Firearms RO)*, 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 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 orders.*

Complainant 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 party/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 complainant has an extra copy of the order. If so, officers will 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 complainant 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 complainant 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).

Complainant Not in Possession of an Order. Officers at the scene of a dispute where a valid order is alleged to exist, but the complaining person does not possess a copy of the order, *shall* attempt to verify the existence of the order through the Consolidated Crime Analysis Database (CCAD) and *California Restraining and Protective Order System (CARPOS)*.

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

If the officer determines that an order has been issued, but not served, the officer *shall* immediately notify the respondent 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 respondent and the case number of the order. Additionally, *if the respondent inquires about obtaining a copy of the RO*, the officer *should* advise the respondent to go to the court to obtain a copy of the complete order.

Proof of Service. An order must be accepted from the complainant whether or not the proof of service has been completed. The complainant *shall* be advised that personal service of the order is required before enforcement can be taken against the respondent. 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 party/respondent that a valid order is in effect and state its conditions to the respondent. If the complainant has an extra copy of the order, officers *shall* give it to the respondent.

Officers *shall* complete the proof of service when:

- The complainant possesses an incomplete proof of service; and,
- The officers advised the respondent of the conditions of the order.

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The original proof of service shall be returned to the complainant.

If the respondent 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 party; and,
- Book for *PC* Section 273.6 (Willful and Knowing Violation of Orders to Domestic Violence), *PC* Section 166 (Criminal Contempt), or *PC* Section 18205 (Willful and Knowing Violation of Firearms EPO or Temporary Firearms RO, or Firearms RO); 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 must 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 must contact Labor Relations Unit 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.

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

- *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 Warrant Teletype Unit (WTU), 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 Records Responsibilities.

When an Area receives a RO, whether delivered in person or by fax, the records clerk (or designated person) shall query CARPOS to determine if an entry has previously been made. If the query reflects an existing RO entry, the records clerk shall write the File Control Number (FCN) issued in CARPOS on the RO and related documents. If the RO is not present in CARPOS, the records clerk shall enter the pertinent information into CARPOS and obtain an FCN. The CARPOS-generated FCN shall be documented on the RO and related documents.

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

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In all instances, the 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 of a restraining and/or protective order.

Area Subpoena Control Officer Responsibilities.

Upon receipt of a RO and proof of service, the Area Subpoena Control Officers 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;*
- *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 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.*

Notes: 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 Respondents. When a Subpoena Control Officer receives a RO that identifies the respondent as a member of a law enforcement agency, the Subpoena Control Officer shall notify his or her CO. The CO shall ensure that a copy of the order is sent to the Chief of Police of the involved agency. If the respondent is a member of the Department, the CO shall forward a copy of the order to the CO, Internal Affairs Group.