OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO. 3 **March 14, 2023**

SUBJECT: **RESTRAINING ORDERS – REVISED; AND, RESTRAINING ORDER CONTROL LOG, FORM 15.40.00 – REVISED**

PURPOSE: This Order revises Department Manual Section 4/216.03, *Restraining Orders* and the Restraining Order Control Log, Form 15.40.00. An audit of the Department's policies and procedures with respect to the National Crime Information Center's 2000 Operating Manual identified a need to update and clarify current Department policies as it pertains to restraining and protective orders. These deficiencies have been addressed by the revised Department Manual section and form.

PROCEDURE:

I. **RESTRAINING ORDERS – REVISED.** Department Manual Section 4/216.03, *Restraining Orders*, has been revised. Attached is the Manual Section with the revisions indicated in italics.

II. **RESTRAINING ORDER CONTROL LOG – REVISED.** Attached is the revised Restraining Order Control Log, Form 15.40.00. Revisions to this form include the following:

- Check boxes added for the Subpoena Control Officer or their designee to indicate Emergency Protective Order (EPO) or Temporary Restraining Order (TRO) for each log entry;
- An additional column added to document any "Special Circumstances" related to each log entry;
- A column added to document the Subpoena Control Officer or their designee's serial number to each log entry for future reference; and,
- The "RESPONDENT" column was renamed "RESTRAINED PARTY/RESPONDENT."

The use, completion, and distribution of this form remain the same.

FORM AVAILABILITY: A copy of the revised Restraining Order Control Log, Form 15.40.00, is attached for immediate use and duplication. In addition, the form is also available in E-Forms on the Department's Local Area Network (LAN). Any other versions of this form should be marked obsolete and properly disposed.

AMENDMENT: This Order amends Section 4/216.03 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.

MICHEL R. MOORE
Chief of Police

Attachments

DISTRIBUTION "D"

DEPARTMENT MANUAL
VOLUME IV
Revised by Administrative Order No. 3, 2023

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 (*Temporary* WHO), Gun Violence Emergency Protective Orders (Gun Violence EPO), Temporary Gun Violence Restraining Orders (Temporary GVRO), and Gun Violence Restraining Orders After Hearing (GVRO After Hearing). Some of these orders are issued by a criminal court (criminal order), while others are issued from civil court (civil order).

> **Note:** For more information specific to Gun Violence Restraining Orders, refer to Department Manual Section 4/216.05.

Officer's Responsibilities.

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

- **Emergency Protective Order** – 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 *criminal* 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 *most recently shall* be enforced.
- **Gun Violence EPO, Temporary GVRO, or GVRO After Hearing** – These orders shall be enforced independent of any other restraining or protective order.

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

- Verify that the order has an ink stamp signed by the deputy clerk of the court indicating it is a certified copy;
- Ensure that the order has not expired; and,
- Review the proof of service to ensure it was properly served upon the restrained party/respondent.

> ***Note:*** *Any electronic version of an RO provided by the complainant shall be verified through Department resources.*

When the Department Does Not Have a Copy of the Restraining Order. When officers discover that the Department does not possess an order that was presented *to them* in the field *by a complainant*, they shall determine whether the complainant has an extra copy of the order. If so, officers shall request one *from the complainant* and deliver it to the Area front desk. *If the complainant is unable to provide* 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 California Penal Code (PC) Section 273.6 (Willful and Knowing Violations of Orders to Domestic Violence), or PC Section 166 (Criminal Contempt).

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 telephonically verify the existence of the order through the Consolidated Crime Analysis Database (CCAD) and California Restraining and Protective Order System (CARPOS). 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 party/*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 *restrained party/*respondent and the case number of the order. If the *restrained party/*respondent inquires about obtaining a copy of the RO, the officer shall advise the *restrained party/*respondent to go to the court to obtain a copy of the complete order.

Proof of Service. All certified copies of any *RO* shall 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 may be taken against the *restrained party/*respondent. No additional proof of service is required for enforcement of the order if the person named in the order received the actual notice of the existence and substance of the order through a personal appearance in court. 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 *confirmed*, officers shall advise the restrained party/respondent that a valid order is in effect and *inform the respondent of* its conditions. If the complainant has an extra copy of the order, officers shall serve it upon the *restrained party/*respondent and note such service in their *associated* report *(e.g., IR, Arrest Report) and DFAR.*

Officers shall complete the proof of service when:

- The complainant possesses an incomplete proof of service;

- *The restraining order has* an incomplete proof of service *and does not show the restrained party has been served*;
- *The officers are to serve the restrained party/respondent and* advise *them* of the conditions of the order; and,
- *Officers will complete the proof of service and return* the completed original proof of service to the complainant.

If the *restrained party/*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 (*Law Enforcement Response to Domestic Violence*).

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

- Arrest the restrained *party*; and,
- Book the restrained party for a violation of PC Section 273.6 (Willful and Knowing Violation of Orders to *D*omestic Violence), PC Section 166 (Criminal Contempt), or PC Section 18205 (Willful and Knowing Violation of Gun Violence EPO or Temporary GVRO, or GVRO After Hearing); or,
- If the suspect has left the scene prior to the officer's arrival, complete an Investigative Report, Form 03.01.00.

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

- *An attached copy of the RO or the printout from a Department approved database;*
- Court case number assigned to the *O*rder;
- Expiration date of the *O*rder; *and,*
- *C*onditions *of* the *O*rder *that were violated.*

Note: *Officers shall verify that the RO is on file if no physical copy is available.*

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 the Labor Relations Unit, Office of Operations, before taking any enforcement action on an *O*rder.

Restraining Orders Issued By Jurisdiction. 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 United States, or Canada is presented to the officer, the officer shall review it for completeness. If the out-of-state or country RO is complete, then it is considered valid in the

State of California. If it is incomplete, an EPO should be sought and the EPO guidelines *shall* 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. The Department of Justice, with the authority of *California* Family Code Section 6380, mandates that law enforcement agencies enter information from the following ROs into the Department of Justice California Restraining and Protective Order System (CARPOS):

- Emergency Protective Order;
- Gun Violence Emergency Protective Order;
- Temporary Gun Violence Restraining Order;
- Gun Violence 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.

Upon receiving a*n* RO from the issuing court clerk, the Warrant Teletype Unit (*W*TU), Records and Identification Division (R&I), or *the* geographic Area *R*ecords Unit shall input the RO information into CARPOS when the RO is one of the specific types for which such entry is required under Family Code Section 6380.

Area Records Unit's Responsibilities. When an Area receives a*n* 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 Division *of* Records number and the FCN shall be written on the RO and related documents.

In all instances, the FCN shall take precedence for tracking purposes. Inputting the RO should be a priority over other tasks due to the victim being placed in a high risk situation, 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 an RO and proof of service, the Area Subpoena Control Officer*(s)* shall:

- Check that the FCN has been *documented* in the upper right corner of all pages of the *O*rder;
- Maintain a Restraining Order Control Log, Form 15.40.00, of valid *O*rders on file;
- Establish a file of *ROs* in a location accessible to uniformed desk personnel; and,
- Periodically purge expired *RO* from the active file.

***Department Employee's* Named as *the Restrained Party*/Respondent.** When a Subpoena Control Officer receives a*n* RO that identifies the *restrained party*/respondent as a*n employee (sworn or civilian)* of a law enforcement agency, the Subpoena Control Officer shall notify *their* commanding officer (CO). The CO shall ensure that a copy of the Order is sent to the Chief of Police or highest ranking official of the involved agency.

If the *restrained party*/respondent is a member of the Department *(sworn or civilian)*, the CO shall forward a copy of the order to the CO, Internal Affairs Division.

LOS ANGELES POLICE DEPARTMENT
RESTRAINING ORDER CONTROL LOG

(Always refer to the restraining order for special circumstances.)

COMPLAINANT	*RESTRAINED PARTY/RESPONDENT*	DATE ISSUED	DATE EXPIRED	*CHECK APPROPRIATE BOX INDICATING EMERGENCY PROTECTIVE ORDER (EPO) OR TEMPORARY RESTRAINING ORDER (TRO) FOR EACH ENTRY.*		*SPECIAL CIRCUMSTANCES (OPTIONAL FOR COMPLETION)*	*ENTRY BY SERIAL NO.*
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