

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

RESTRAINING ORDERS
SUBJECT

DATE: January 18, 2007

NO: D-01

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: Restraining Orders
Court Orders
Domestic Violence Restraining Orders
Violation of Elder or Dependent Adult Protective Order

I. POLICY

It is the policy of the Stockton Police Department to receive, maintain, and enforce all court issued protective orders pertaining to Domestic Violence.

II. LAW

- A. Law enforcement agencies are required to maintain records of protection orders issued in domestic violence incidents and compile certain statistical data from domestic violence calls received, Penal Code Section 13710.
- B. Suspects in violation of a Domestic Violence restraining order will be charged with Penal Code Section 273.6.
- C. Suspects in violation of an Elder or Dependent Adult Protective order will be charged with Penal Code Section 273.6.
- D. Suspects in violation of any other court order will be charged with Penal Code section 166.4.
- E. Suspects in violation of a Prostitution Court Order will be charged with Penal Code Section 166(a)(4).
- F. As per Penal Code section 836(c) (1): **Mandatory Arrests for Violations of Court Protective Orders.** An arrest is mandatory if you respond to a call alleging a violation of a domestic violence protective order, restraining order, probation protective order, harassment order, emergency protective order in stalking cases, or elder abuse protective order and you have probable cause to believe (1) that the person against whom the order was issued had notice of the order, and, (2) that the person has violated that order. This section also applies when a domestic violence protective order or restraining order has been issued by a court of another state, tribe, or territory outside California.

III. OFFICER RESPONSIBILITY

- A. When a victim advises of the existence of a restraining or court order, the officer will ascertain the following to insure the validity of the order:
 - 1. Whether the order is on file with our department, by contacting Records Section.
 - 2. Whether the order has an expiration date.
 - 3. Whether a judge has signed the order or it bears a file stamp of the court.
 - 4. Whether proof of service can be provided in one of the following methods:
 - a. Records Section verifies that proof of service was made by the court or the victim

- b. The suspect was physically present in court when the order was made
 - c. The Records Section advises that an officer admonished the suspect or the officer has prior knowledge of suspect admonishment
- 5. The conditions of the order
- 6. The order must read "This order shall be enforced by all law enforcement agencies in the State of California."
- 7. When the order is not on file with our department, officers will follow the same rules for confirming validity of an order as stated in Section III.A.2 through 6 of this policy.
- B. Officers shall affect an arrest when there is reasonable cause to believe that the subject of the order has violated the order regardless if the violation was or was not committed in the officer's presence and the officer has verified the order to be valid and proof of service has been met.
 - 1. When an order is on file with our department, upon the officer's arrival at the police facility, he/she will obtain a copy of the court order from the Records Section and make it an attachment to the appropriate report.
 - 2. Officers will include the following information in the synopsis tab of their ARS report under the "Other Information":
 - a. Plaintiff's/Victim's name
 - b. Date of expiration of court order
 - c. Judge issuing the order
 - d. Superior Court Case Number
 - e. Date of proof of service
 - 3. When an order is not on file in the Records Section, the officer will include the information stated in Section III.B.2. a through e and will write "no order on file with S.P.D." The report shall also include the following information:
 - a. Name of headquarters clerk who verified the order was not on file.
 - b. Superior Court Clerk's name if the verification was done through their office.
 - c. Time and date of verification check.
- C. If the suspect is not present, the officer will complete a crime report and include the same information listed above in Section B.2.a through e.

IV. PROOF OF SERVICE

- A. When an officer verifies that a valid order exists, but cannot verify proof of service and the suspect is still on scene, the officer will:
 - 1. Inform the suspect of the order and its conditions. Advise the suspect that if he/she does not comply with the order, it will result in his/her arrest.
 - 2. The victim will normally supply the officer with a Proof of Service form (Judicial Form 1296.40). The officer will complete the form and make it an attachment to his/her report. If the victim is unable to provide a proof of service form, Officers can obtain a blank form from Headquarters. Officers must then complete and turn in the form. The service is not legal without it.
 - 3. Contact Headquarters and advise that the suspect admonishment has been made, giving the date, time, name and I.D. number of officer, and call number.
 - a. Officers must complete the proof of service form and turn it in at Headquarters.
 - 4. If the suspect refuses to comply with the admonishment, advise the victim of the right to make a citizen's arrest for the appropriate violation.

- B. When an officer verifies that a valid order exists but cannot verify proof of service and the suspect has left the scene, the officer will advise the victim that the order has to be served prior to any enforcement action.

V. RECORDS SECTION RESPONSIBILITY

- A. All restraining orders will be received and maintained by the Records Section.
 - 1. Records will be responsible for reviewing all orders to ensure the following information is available:
 - a. Complete names of parties involved.
 - b. Superior Court stamp.
 - c. Judge's signature.
 - d. Expiration date or date of the next hearing.
 - e. Conditions of the order.
 - f. Determine whether or not proof of service was completed.
 - (1) If personal service is required, see IV A 1-4.
 - 2. After confirmation of all information is made, the order will be placed in an "original" copy file and the information entered into CLETS.
 - a. This file will be maintained and updated as the orders are reviewed
 - b. "Expired orders" will be kept for a minimum of one year after their expiration.
 - 3. If a proof of service form is attached to a crime/arrest report, headquarters personnel will make a photocopy of the form and attach it to the order in the "original" copy file.
- B. Records personnel will make copies of court orders when requested to do so by an officer.