

**CHAPTER 4**  
**ISSUANCE, SERVICE, AND ENFORCEMENT OF COURT PROTECTIVE ORDERS**  
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## CHAPTER 4

### ISSUANCE, SERVICE, AND ENFORCEMENT OF COURT PROTECTIVE ORDERS

#### 1. PURPOSE.

a. The purpose of this chapter is to provide direction to officers who encounter situations involving the issuance, service, or enforcement of a court protective order.

b. The orders most frequently encountered by California Highway Patrol (CHP) officers are issued as a result of a domestic violence incident or an incident in which threatening behavior is exhibited, and are normally issued to prevent violent behavior by the restrained person being exhibited toward the protected person.

#### 2. GENERAL INFORMATION AND DEFINITIONS.

a. An **Emergency Protective Order (EPO)** is a court order prepared by **an officer** and issued by a judge, commissioner, or referee, by telephone or otherwise, whether or not the superior court is in session (Sections 6240-6275 of the Family Code [FAM]), when there is immediate and present danger of domestic violence, child abuse, child abduction, elder/dependent adult abuse, or stalking to a victim. Such an order restrains activity, and/or excludes the suspect from the premises, and/or determines temporary custody of minor children.

b. A **Restraining Order** is an order issued by **the court** during normal business hours. These orders are normally mailed or delivered to police and sheriff's departments for enforcement but may be mailed or delivered to the CHP for enforcement if the individual who sought the order so designates. A restraining order is available from the superior court and can grant the following eight types of relief:

- (1) An order restraining the attacker from abusing the protected person and other family members.
- (2) An order directing the attacker to leave the household.
- (3) An order preventing the attacker from entering the protected person's residence, school, business, or place of employment.
- (4) An order awarding custody of/or visitation with a minor child or children.

(5) An order restraining the attacker from molesting or interfering with minor children in the protected person's custody.

(6) An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.

(7) An order directing a party to make specified debt payments.

(8) An order directing either or both parties participate in counseling.

c. A **Gun Violence Emergency Protective Order (GVEPO)**, is an order prepared by an **officer** and issued by a judge or commissioner by telephone or otherwise, whether or not the superior court is in session, when the following conditions are met:

(1) A person poses an immediate and present danger of causing personal injury to themselves or others by having custody or control of, owning, purchasing, possessing, or receiving a firearm.

(2) A GVEPO is necessary to prevent injury to the subject of the order or another "because less restrictive alternatives either have been tried and found to be ineffective or have been determined to be inadequate or inappropriate."

d. A **Gun Violence Restraining Order (GVRO)**, also known as an Ex Parte Gun Violence Restraining Order, is an order issued by the court during normal business hours. A GVRO may be requested when there is a substantial likelihood that both of the following are true:

(1) A person poses a significant danger, in the near future, of causing personal injury to themselves or others by having custody or control of, owning, purchasing, possessing, or receiving a firearm.

(2) A GVRO is necessary to prevent injury to the subject of the order or another because less restrictive alternatives either have been tried and found to be ineffective or have been determined to be inadequate or inappropriate.

(a) Per Section 18150 of the Penal Code (PC), the following individuals may file a petition requesting the court issue a GVRO:

1 An immediate family member.

2 A law enforcement officer.

3 An employer.

4 A coworker who has substantial and regular interactions with the person for at least one year (with the approval of their employer).

5 An employee or teacher of a secondary or postsecondary school, that the person has attended in the last six months (with approval of a school administrator or a school administration staff member with a supervisory role).

### 3. FORMS.

a. CHP 175, Application for Emergency Protective Order. Pursuant to Sections 6240-6275 FAM, an officer may attempt to obtain an EPO when there are reasonable grounds to believe an immediate and present danger of domestic violence, child abuse, child abduction, elder/dependent adult abuse, or stalking exists and an order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, or stalking. The CHP 175 is available from Supply Services Unit.

b. EPO-002, Gun Violence Emergency Protective Order. Pursuant to Section 18125 PC, a GVEPO shall be sought when an officer believes there is an immediate and present danger involving firearms and the subject may harm themselves or others. Appropriate supervisory notification shall be made prior to seeking to obtain a GVEPO. The EPO-002 is available on the CHP Intranet site forms directory.

c. GV-100, Petition for Gun Violence Restraining Order. This form is used by law enforcement, immediate family members, or other specified persons to apply for a GVRO. This form can be located on the Judicial Council's Web site: <http://www.courts.ca.gov/formname.htm>.

d. CHP 176, Protective Order Control Log. The CHP 176 is used as a locator for court protective orders that have been issued by, served by, or mailed/delivered to the CHP for enforcement, so the existence, validity, and terms of those orders can be provided to allied law enforcement agencies responding to the scene of a domestic violence incident. The CHP 176 is available on the CHP Intranet site under Forms.

4. COMMANDERS' RESPONSIBILITY. Area commanders shall ensure their Area's Standard Operating Procedure (SOP) contains the necessary direction about local procedures for handling court protective orders, including, at a minimum:

- a. The countywide protocol which has been developed pursuant to Section 853.6 PC to assist officers in determining when cite and release is appropriate, rather than taking the arrested person before a magistrate. (Include protocol for each county within the Area's jurisdiction.)
- b. A method for the verification of the existence and validity of court protective orders issued and/or served by allied agencies within the Area's jurisdiction.
- c. Procedures for contacting the on-call magistrate, should it be necessary to issue an EPO or GVEPO.
- d. Procedures for notifying the originating court or allied agency when previously unserved protective orders are served by the CHP.
- e. Procedures for notifying the communications center that an EPO or GVEPO was issued.
- f. Procedures for transmitting a copy of the order to the communications center for verification of the terms of the order upon request by a CHP command or other allied law enforcement agency.
- g. Procedures for briefing officers on protective orders issued or served by the Area or mailed to the Area for enforcement that are believed to be valid within the Area's jurisdiction.
- h. Procedures for ensuring firearms and/or ammunition are removed from a person's possession and/or access when specified by a court order.
- i. Procedures for contacting an on-call magistrate for the purpose of obtaining a search warrant for the removal of firearms and/or ammunition pursuant to Section 1524(a)(14) PC.
- j. Procedures for documenting the steps an officer took to remove or deny access to firearms and/or ammunition from the prohibited person.
- k. Procedures for petitioning the court for a GVRO when immediate family is unable or unwilling to assist.

## 5. PROCEDURES.

- a. General. Court protective or restraining orders may be issued by a civil or criminal court in California and generally prohibit an individual from contacting, harassing, or molesting the applicant for the order. Orders may also determine

temporary custody or tenancy. In addition, some protective orders prohibit the restrained party from owning, possessing, purchasing, attempting to purchase, or otherwise obtaining a firearm and/or ammunition.

(1) All protective orders shall be entered into the State of California Department of Justice California Restraining and Protective Order System (CARPOS) after issuance, within one business day.

b. Violations. All types of orders are valid throughout California and a violation of any term of an order is a misdemeanor (refer to Sections 166[4] and 273.6 PC). Officers should carefully read any order furnished by the victim to determine the specific terms.

(1) Pursuant to Section 836(c) PC, an officer **shall** physically arrest an individual who has violated the provisions of any of the domestic violence protective orders listed below, whether or not the violation occurred in the officer's presence:

(a) Section 527.6 of the Civil Procedures Code.

(b) Section 136.2 PC.

(c) Section 646.91 PC.

(d) Section 1203.097(a)(2) PC.

(e) Section 213.5 of the Welfare and Institution Code (WIC).

(f) Section 15657.03 WIC.

(g) A domestic violence protective or restraining order issued by the court of another state, tribe, or territory when the officer has probable cause to believe the restrained person has notice of the order and has committed an act in violation of the order.

(2) Pursuant to Section 853.6 PC, a person arrested for a misdemeanor violation of a **domestic violence** protective order **shall** be taken before a magistrate instead of being released, unless the arresting officer determines the offense is not likely to continue or resume and no persons or property would be endangered if the individual were to be released. **Before this section can be implemented, however, each city, county, or city and county must develop a protocol to assist officers in determining when arrest and release is appropriate, rather than taking the arrested person**

**before a magistrate.** Each county shall also establish a committee to develop the protocol.

NOTE: Cite and release does not apply to crimes specified in Section 1270.1 PC, including Sections 243(e)(1), 273.5, 273.6 (if the detained person made threats to kill or harm, engaged in violence against, or has gone to the residence or workplace of the protected party), and 646.9 PC.

(3) The officer shall, pursuant to Section 13701(b) PC, make a lawful arrest of the person without a warrant and take that person into custody, whether or not the violation occurred in the presence of the arresting officer.

(4) The officer shall, as soon as possible after the arrest, confirm with the issuing authorities or CARPOS that a true copy of the protective order has been registered (unless the victim provides a copy of the order). The conditions of the order must be reviewed to determine if a violation has occurred.

c. Pursuant to Section 18120 PC, a person subject to either an GVEPO or a GVRO shall not have in their custody or control, own, purchase, possess, or receive any firearms or ammunition while that order is in effect.

(1) Pursuant to Section 18205 PC, every person who owns or possesses a firearm or ammunition **with knowledge** they are prohibited from doing so by a GVEPO or GVRO **is guilty of a misdemeanor.**

d. Pursuant to Section 6389 FAM, a person subject to a domestic violence protective order is required to relinquish possession or control of any firearms immediately upon service of a protective order or within 24 hours of the service of the order (if the firearms are not in their immediate possession or control).

e. Out-of-state protective or restraining orders may be issued by a state, tribal, commonwealth, military tribunal, or territorial court related to domestic or family violence. These orders shall be enforced in the same manner as those that have been issued in California.

(1) Individuals must register the out-of-state order with a court clerk in California. If there is no evidence the order has been registered, officers should attempt to obtain an EPO.

(2) Officers shall ensure the registered out-of-state order or EPO is entered into CARPOS, within one business day.

f. Restraining Orders.

(1) Restraining orders are issued by the court during normal business hours. The orders are usually mailed or delivered to police and sheriff's departments for enforcement, but may be mailed or delivered to the CHP for enforcement if the individual who sought the order so designates. If an order is mailed or delivered to the Department for enforcement, it shall be entered onto the CHP 176. A file shall be established to store orders mailed/delivered to the CHP for enforcement.

(2) An officer responding to the scene of a domestic violence incident, child abuse, child abduction, elder/dependent adult abuse, stalking incident, or an incident involving threatening behavior will need to determine if one or more of the parties involved in the incident are subject to a restraining order which prohibits contact from other involved parties. Additionally, officers will need to ensure the involved parties are not subject to an order prohibiting the possession of firearms and/or ammunition.

(3) Whenever a complainant at the scene advises of the existence of a court order and the existence of the order is not personally known to the officer, they shall ascertain both the existence of the order and proof that the suspect has been served or otherwise notified of the terms of the order (i.e., present at the hearing).

(4) This can be determined through inquiry into the CARPOS. This system began operation in February 1991, and was revised in July 1995, to allow for the entry of both served and unserved protective or restraining orders. Officers shall advise the communications center they are looking for information on the existence of protective or restraining orders. This information will be found in the last portion of a "hit." The law enforcement agency that entered the order into CARPOS must then be contacted for verification that the order is still valid.

(a) Verification. An order is verified if the complainant shows a copy of the order bearing the file stamps of the court, the order is already on file with the CHP, or if the law enforcement agency that entered the order into CARPOS has been contacted. The order will be on file with the Department if it has been mailed or hand-delivered to a CHP office. The communications center or Area office should be contacted for the specific terms of the orders on file with the CHP. If the order is on file with another law enforcement agency, the officer shall request the communications center contact the issuing agency for verification of the specific terms of the order.

1 Proof of Service. After verifying the order, the officer must also have proof the violator was either served or is aware of the terms of

the order before the violator may be arrested for violation of a restraining order. Any one of the following constitutes proof of service or notification and must be documented in the body of the arrest report:

- a Complainant shows a copy of the proof of service.
- b The order states the suspect was present in court when the order was issued.
- c A CHP officer previously admonished the suspect of the existence and terms of the order, served it on the suspect, and prepared a CHP 216, Arrest-Investigation Report, or CHP 202, Driving Under the Influence Arrest-Investigation Report. The communications center or Area office should be contacted for verification that a copy of the report is on file.
- d Proof of service is on file with another law enforcement agency and can be verified.

2 No Verification and/or Proof of Service. If a victim does not have a copy of the order and the officer is unable to verify its existence and proof of service, the officer cannot execute an arrest of the suspect for violation of the order. The complainant shall be told they have the right to make a private person's arrest of the suspect for violation of the order. Whether or not an arrest is made, or the suspect is released, a CHP 216 or CHP 202 shall be prepared. The field-generated or misdemeanor case number shall be provided to the complainant.

(b) Multiple Orders. If more than one civil order exists regarding the same parties (Section 6383 FAM) and neither an EPO has precedence in enforcement, nor a no-contact order has been issued, officers shall enforce the order that was issued last. If there are both civil and criminal orders regarding the same parties and neither an EPO, which has precedence in enforcement, nor a no-contact order has been issued, officers shall enforce the criminal order issued last.

g. Emergency Protective Orders.

(1) An EPO is a type of court protective order that may be obtained by an officer at any time of day or night (Sections 6240-6388 FAM) utilizing a CHP 175. An EPO expires no later than the close of judicial business on the fifth court day or the seventh calendar day following the day of issuance. An

EPO can only be issued by an on-call magistrate when reasonable grounds have been asserted that an immediate and present danger of domestic violence, child abuse, child abduction, elder/dependent adult abuse, or stalking exists, and an EPO is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder/dependent adult abuse, or stalking.

(2) Gun Violence Emergency Protective Orders. A GVEPO is a type of court protective order that may be obtained by an officer at any time of the day or night (Section 18125 PC) utilizing an EPO-002. A GVEPO can only be issued by an on-call magistrate when reasonable grounds have been asserted that a person poses an immediate and present danger to themselves and/or others by having custody or control of, owning, purchasing, possessing, or receiving a firearm and/or ammunition, and a GVEPO is necessary to prevent injury to themselves or others. Once the restrained person has been served, an officer must file a copy of the order with the court as soon as practicable, but not later than three court days, after issuance. A GVEPO expires 21 days from the date the order was issued.

(a) Appropriate supervisory notification shall be made prior to seeking to obtain an EPO or GVEPO.

(3) Relinquishment of Firearms.

(a) Emergency Protective Order.

1 If a person receives a domestic violence protective order, the issuing officer shall ensure the person relinquishes possession or control of any firearms in their immediate possession or control upon service of a protective order (Section 6389 FAM).

(b) Gun Violence Emergency Protection Order.

1 If a person receives a GVEPO, the issuing officer shall ensure all reasonable steps are taken to remove the person's access to firearms and/or ammunition that are under their possession, custody, or control. If the subject of the GVEPO does not willingly surrender their firearms and/or ammunition to the Department or a local law enforcement agency, officers shall seek a search warrant to remove the items pursuant to Section 1524(a)(14) PC.

2 If the location to be searched during the execution of the warrant is jointly occupied by the restrained person and one or more other persons, and an officer finds a firearm and/or ammunition in the

restrained person's possession, custody, or control, but the firearm and/or ammunition is owned by a person other than the restrained person, the firearm and/or ammunition shall not be seized if both of the following conditions are satisfied:

a The firearm and/or ammunition is removed from the restrained person's possession, custody, or control and stored in a manner that the restrained person does not have access to or control of the firearm and/or ammunition.

b There is no evidence of unlawful possession of the firearm or ammunition by the owner of the firearm and/or ammunition.

NOTE: All efforts to remove/secure firearms and/or ammunition shall be documented on a CHP 202 or CHP 216.

(4) Contacting the On-Call Magistrate. Procedures for contacting the on-call magistrate will vary from county to county. Commanders shall ascertain the procedures applicable for their counties of jurisdiction and place these procedures into their Area SOPs. Do **not** use the victim's telephone to contact the on-call superior court judge. This will ensure the judge's telephone number does not appear on the victim's monthly telephone statement.

(5) Communications Center Notification. Once an EPO or GVEPO has been issued, the officer shall notify the communications center so that the information from the order can be entered into the CARPOS, within one business day. A copy of the order should be transmitted to the communications center so the terms of the order can be verified upon request by a CHP command or allied law enforcement agency.

(6) Distribution. Distribution of the multiple copies of the EPO or GVEPO shall be made as follows:

(a) A copy to the court (to be transmitted by the Area court liaison officer).

(b) A copy to the restrained person when the order is served. If the officer is unable to serve the restrained person, a copy should be left with the protected person for future service (EPO only).

(c) A copy to the protected person (EPO only). Officers should advise the protected person to make several copies of the order and keep at least two copies at each location where the restrained person is restrained from. (This will assist officers who may be called to enforce the order at a future time.)

(d) A copy to be filed at the Area office with the CHP 216 or CHP 202.

(e) An additional copy shall be transmitted to the communications center with dispatch responsibility for the Area office. (This will allow the order to be verified when there is no one available at the Area office to do so.)

h. Service of Orders. A CHP officer may be requested to serve EPOs, GVEPOs, and restraining orders.

(1) Service at the Time of Issuance. An EPO and GVEPO are the only orders that will be both issued and served by a CHP officer. If the person to be restrained can be reasonably located, the officer shall explain the terms and serve the order.

(2) Service of a Previously Unserved Order While at the Scene of a Domestic Violence or Stalking Incident. During the response to a domestic violence, child abuse, child abduction, elder/dependent adult abuse, stalking incident, or an incident involving threatening behavior, the officer may determine the victim has previously obtained an EPO, GVEPO, or restraining order that has not yet been served. The person to be protected should have one or more copies of the unserved order. If the victim so requests and the person to be restrained can be reasonably located, the officer shall explain the terms of the order to the restrained person and serve the order. The officer shall complete the proof of service section at that time on all copies of the order that are available at the scene and inform the restrained person that failure to comply with the terms of the order will result in arrest. Notification shall be documented on the CHP 216 or CHP 202 and the case number provided to the complainant on the CHP 173, Domestic Violence Referral (with local information inserted).

(3) Service of a Previously Unserved Order at a Location Other than the Scene of the Incident. An officer may, while performing normal duties, be requested to serve a previously issued but unserved EPO, GVEPO, or restraining order. If the protected person has an additional copy of the unserved order (either the restrained person's copy or a photocopy of the protected person's copy) and the person to be restrained is readily available for service, the officer shall inform the person to be restrained of the terms of the order, serve the person with a copy, and complete the proof of service section on all copies of the order that are available at the scene. The restrained person shall be notified that failure to comply with the terms of the order will result in arrest. A CHP 216 or CHP 202 shall be completed to document the service of the order.

(4) Retention of a Copy with Proof of Service Information. When there are insufficient copies of an unserved order for the officer to complete the proof of service information on a copy for both parties involved and still retain a copy for CHP use, service information shall also be indicated on a CHP 173. The CHP 173 will then be provided to the protected person. A copy of the order with proof of service completed shall be taken to the Area office for copies. After copying, the order with original proof of service shall be delivered to the court and a copy mailed to the protected person.

(5) Communications Center Notification. After service of an order, the officer shall contact the communications center and provide the relevant service information so that the updated information can be entered into the CARPOS, within one business day.

i. Processing of Served Orders. Once an order has been served, the issuing court or Area/agency must be notified.

(1) Emergency Protective Orders and Gun Violence Emergency Protective Orders.

(a) Orders Issued and Served by the Same Area. The serving officer shall:

1 Notify the communications center, requesting the information from the order be entered into the CARPOS, within one business day.

2 Provide the court copy of the order to the court liaison officer, who shall transmit it to the court of jurisdiction as soon as is reasonable after the court opens.

3 Enter the information from the order onto the CHP 176 and retain the Area office copy of the order for the case file.

4 Transmit an additional copy to the communications center with dispatch responsibility for the Area office. (This will allow the order to be verified when there is no one available at the Area office to do so.)

(b) Orders Issued by One Area and Served by Another Area. The serving officer shall:

1 Notify the communications center, requesting the information from the order be entered into the CARPOS, within one business day.

2 After photocopying the order for the serving Area's files, provide the Area office and court copies of the order to the *issuing Area's court liaison officer*, who shall update the CHP 176 and transmit the copy of the order showing proof of service to the court of jurisdiction as soon as is reasonable after the court opens.

3 An additional copy shall be transmitted to the communications center(s) with dispatch responsibility for the issuing and serving Area offices. (This will allow the order to be verified when there is no one available at the Area office to do so.)

4 Enter the information from the order onto the serving officer's Area CHP 176.

(c) Orders Issued by an Allied Agency and Served by the Department.  
The serving officer shall:

1 Provide a copy of the order showing service information to the Area's court liaison officer, who shall enter the information on the CHP 176, file a copy with the Area, and transmit the order to the *issuing allied agency*.

a It is the responsibility of the allied agency to enter information from the order into the CARPOS, within one business day, and transmit the copy of the order showing proof of service to the court of jurisdiction as soon as reasonable after the court opens.

(2) Restraining Orders and Gun Violence Restraining Orders. Officers serving a previously unserved restraining order shall provide a copy of the order showing service information to the Area's court liaison officer, who shall:

(a) Enter the information on the Area CHP 176.

(b) File a copy with the Area.

(c) Transmit an additional copy to the communications center with dispatch responsibility for the Area office. (This will allow the order to be verified when there is no one available at the Area office to do so.)

(d) Transmit a copy to the allied agency with jurisdiction over the protected person's residence. The allied agency is required to enter the information from the order into the CARPOS, within one business day.

(e) Transmit the copy of the order showing proof of service to the court of jurisdiction as soon as reasonable after the court opens.

j. Retention of Orders. The Department's copy of a served order shall be retained consistent with the retention of the CHP 216 or CHP 202. Some orders mailed/delivered to the CHP for enforcement may be permanent orders or orders that are valid until the restrained person is no longer under the jurisdiction of the issuing court. These orders shall be retained indefinitely or until notification is received from the court that they are no longer valid.

k. Filing of Orders.

(1) Orders with a Corresponding CHP 216, Arrest-Investigation Report, or CHP 202, Driving Under the Influence Arrest-Investigation Report. Copies of protective orders issued or served by the CHP for which there is a corresponding arrest-investigation report shall be attached and filed with the report.

(2) Orders Where No Corresponding CHP 216, Arrest-Investigation Report, or CHP 202, Driving Under the Influence Arrest-Investigation Report, Exists. A separate file shall be established by each Area to store orders mailed/delivered to the CHP for enforcement.

l. CHP 176, Protective Order Control Log. A CHP 176 shall be maintained by Areas to provide information to law enforcement officers as required by Section 6382 FAM. The log is to be used as a reference source for the information on the orders themselves and is not to be released outside the Department. The log shall contain an entry for each EPO and GVEPO initiated by the Area, all EPOs and GVEPOs initiated by other law enforcement agencies and served by the Area, all temporary restraining orders served by the Area, and all other orders mailed to the Area for enforcement purposes.

(1) Content. Entries shall include the name and address of the complainant; dates of issuance and expiration; Area or agency initiating the order; identifying case number; name of person being restrained; addresses/locations restrained from; whether or not the order was served; if served, the date and time of service; and any relevant comments.

(2) Retention. Control logs shall be retained for four years from the date of the latest entry on each page.