

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

EMERGENCY PROTECTIVE ORDERS
SUBJECT

DATE: March 10, 2009

NO: D-2

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: **Emergency Protective Orders**
Protective Orders

I. POLICY

- A. It is the policy of the Stockton Police Department that when an Officer believes a person is in immediate and present danger of domestic violence based upon the person's allegation of a recent incident of abuse or threat of abuse by that person, the Officer shall assist the victim in securing an emergency protective order.

Domestic Violence as defined in section 13700 of the Penal Code is abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has a had a child or is having or has had a dating or engagement relationship

- B. It is the policy of the Stockton Police Department that when an Officer believes a child is in immediate and present danger of neglect, physical abuse, or sexual abuse by a family or household member, based on reasonable suspicion, the Officer may attempt to obtain an emergency protective order to protect the child from the abusive party.
- C. Definition of Emergency Protective Order
1. An emergency protective order is an ex-parte court order prepared by an Officer and issued by a Judge, Commissioner, or Referee, by telephone or otherwise. The officer must have reasonable grounds to believe that there is present danger of domestic violence to a victim, or reasonable grounds to believe that a child is in immediate and present danger of neglect, physical abuse or sexual abuse by a family or household member. Such an order restrains activity and/or excludes the suspect from the premises and/or determines temporary custody of minor children.
 2. Immediate and Present Danger: Reasonable grounds to believe that a person is in danger, based upon the person's allegation of a recent incident of abuse or threat of abuse by a family or household member.

II. PROCEDURES

- A. Ascertain need for Emergency Protective Order (EPO) criteria:
1. When the Officer has reasonable grounds to believe that a person is in immediate and present danger of domestic violence, based on the person's allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought.
 - a. Married parties who are living apart are still considered "family members" and still meet the criteria for an emergency protective order.

2. When the Officer has reasonable grounds to believe a child is in immediate and present danger of neglect, physical abuse, or sexual abuse by a family or household member, the Officer may request an ex-parte emergency protective order from the on-call judge.
 - a. An Emergency Protective Order is not intended as an instrument for settling child custody disputes when there is not reasonable cause to believe a child is in immediate and present danger of neglect, physical abuse, or sexual abuse. Officers should carefully evaluate child custody matters to ensure that EPO's are not abused.
3. Officers should make this determination based on the applicant's allegation of a recent incident of abuse or threat of abuse against whom the order is sought. Examples of such situations providing grounds for an emergency order are as follows:
 - a. The suspect is being arrested for a charge related to a domestic violence incident.
 - b. The suspect has a history of domestic violence.
 - c. The victim expresses fear of retaliation or further violence.
 - d. Threats of serious danger have been made to the victim or the victim's family.
 - e. A child is possibly in danger of abuse by a family or household member and the Officer wishes to grant temporary custody to another parent or guardian rather than remove the child from the home and place the child in protective custody at Mary Graham Children's Shelter.
4. If the applicant requests the order include a "move out" immediately provision, the Officer should verify that the applicant has lawful possession of the address named through marriage, rental agreement or receipts, etc.

B. Requesting the Emergency Protective Order

1. The Officer shall complete and sign the Application for Emergency Protective Order portion at the top of the EPO Form.
2. The Officer shall gain approval from a supervisor before contacting the on-call judge.
3. The Officer shall contact the on-call judge by telephone or other means and summarize the grounds for belief that an emergency protective order is appropriate.
 - a. An on-call Judge list, with phone numbers, is provided by the Presiding Judge of the Superior Court. The Officer may obtain the Judge's phone number from the Telecommunications Center. A copy of the list is also maintained in the Watch Commander's Office.
 - b. Officers will take precautions to avoid the telephone number of the Judge appearing on the telephone bill of one of the parties.
 - (1) Officers may call the Judge direct from the call location if the Judge resides within the local dialing area.
 - (2) At no time will the officers or dispatchers memo into the call history the phone number of the judge.
 - (3) If the Judge resides outside of the local dialing area or if the call will be any type of toll

call, Officers will direct Telecommunications Center personnel to call the Judge. The Judge will then be requested to telephone the Officer at the call location.

- (4) If there is no telephone at the call location, Officers should secure the use of the nearest available phone, i.e. cellular phone, neighbor, pay phone, etc.
4. Upon oral issuance of the order by the on-call judge, the Emergency Protective Order form shall be completed as per the Judge's instructions regarding restraints, and/or temporary custody.
5. In the event an EPO is declined by the Judge, Officers will submit the completed EPO Application with their Crime Report (CR) or Significant Incident Report (SIR) of the incident .

C. Issued Orders

1. The Officer who requested the Emergency Protective Order shall:
 - a. Provide a copy of the Order to the protected party.
 - b. Advise the protected party that the Emergency Protective Order shall expire no later than 5:00 p.m. on the fifth court day after it was issued, or on the seventh calendar day, whichever comes first.
 - c. Advise the protected party they must contact Victim/Witness at the District Attorney's Office before 10:00 a.m. the next court day if a more permanent Order is desired. This is crucial to obtain a Temporary Restraining Order before the EPO expires.
 - d. Serve a copy of the order on the restrained party, if the party can be reasonably located, and sign off the EPO.
 - (1) If the restrained party is not available to be served, two copies of the EPO will be left with the protected party. In such cases, the protected party will be admonished to retain the restrained person's copy so that it can be served by an Officer at a later time, if necessary. In any event, the EPO will still expire at 5:00 p.m. on the fifth court day after it is issued, or on the seventh calendar day, whichever comes first.
 - e. Once service is made, Officers must complete a supplemental report to any original CR or SIR.
 - f. The Officer serving the EPO is responsible for signing off the Proof of Service on the goldenrod copy of the EPO and making this copy an attachment to any subsequent reports. The goldenrod copy will normally be kept at Headquarters unless the issuing Officer is still in possession of it.

D. "HAZARD" Information

1. Once an EPO has been obtained, Officers must relay the following information to Headquarters personnel **BEFORE** securing from the call. Headquarters personnel will enter it into CLETS and also forward the information to the Telecommunications Center.
 - a. DR number of the report/EPO.
 - b. Victim's last name, first name and DOB.
 - c. Suspect's last name, first name and DOB.

- d. If the suspect was served or not.
 - e. The location(s) of restraint.
 - f. The expiration date of the order.
 - g. The judge issuing the order.
2. The following format and abbreviations will be used for entering EPO information into the "HAZARD" format:
- a. EPO: Emergency Protective Order.
 - b. VIC: Victim of an EPO.
 - c. SUS: Suspect of an EPO.
 - d. J: Judge who issued the order.
 - e. SRV: Indicates if the suspect has been served. A blank spot after SRV field indicates the suspect has not been served.
 - f. OFF: Officer who served the suspect.
 - g. ADD: Address person is restrained from.

E. Reports and Forms

- 1. All incidents involving the issuance of an EPO must be documented on an appropriate crime/arrest report or SIR.
- 2. All reports involving an EPO must be reviewed by a Supervisor and turned in prior to securing.
 - a. The white and goldenrod copies of the EPO will be turned in with any reports.
- 3. Special Considerations:
 - a. The DR number must be handwritten in the appropriate box at the top right corner of the EPO form.
 - b. The protected party's telephone number must be written after the protected party's name on the white copy of the EPO only.

F. Records/Headquarters Responsibilities

- 1. Headquarters personnel will enter into CLETS, EPO information provided by the Officer.
- 2. Headquarters personnel shall make a photo copy of the information provided by the Officer and send it to the Telecommunications Center using the pneumatic tube system. This information will be entered into Premise History by the Telecommunications Center.
- 3. The goldenrod copies of the EPO shall be maintained by Records personnel. The file shall be updated on a daily basis. Expired EPO's will be purged by Records personnel.
- 4. The original (white) copy of the EPO will be scanned as an attachment to the report.

5. Records personnel will update and delete expired EPO information from the "HAZARD" field on a daily basis.

G. Telecommunications Center Responsibilities

1. Once the Telecommunications Center has been notified that an EPO will be obtained on a call, the call must be retrieved and modified as follows:
 - a. The call type will be modified to reflect that an EPO was issued. The letters "EPO" will be added to the call type information field. Examples:

<u>Initial call</u>	<u>Change to</u>
415F	415EPO
273.5	273EPO
243	243EPO
245	245EPO

- b. If the initial call type does not fall within the above examples, the final call type shall be changed to 415EPO.

Example: 962 changed to 415EPO

2. Telecommunications Center personnel will enter the EPO information received from Headquarters into Premise History. This will include:
 - a. All addresses the restrained party is restrained from.
 - b. The name of the restrained party.
 - c. The name of the victim.
 - d. The date the EPO expires.
3. EPO Premise History information will be removed from the system the day following the Order's expiration.

H. Enforcement Procedures

1. When a violation of any Emergency Protective Order has occurred, the Officer shall verify the restrained party has been served, then arrest in accordance with all other Restraining Order procedures.
 - a. To show that a subject has previously been served, Officers making an arrest for violation of an EPO must attach a copy of the signed goldenrod copy (kept at Headquarters) with the arrest report.
 - b. A Law Enforcement Officer shall not be held civilly or criminally liable if he or she acted in good faith in requesting and enforcing an Emergency Protective Order as defined in section 6272 of the Family Code.