

To Arrest for an EPO or Restraining Order Violation

The order must be valid. The violation occurred within the dates of the order.

The restrained party must have been served. Verbal service by law enforcement is valid service with documentation (Family Code 6383 (e)).

The restrained party must intentionally violate the order.

The protected person cannot void a court order. The terms and conditions of a protection order remain enforceable notwithstanding the acts of the parties. (PC 13710, 13711)

Conflicting Orders:

With conflicting orders, the EPO takes precedence in enforcement.

If more than one order has been issued, the no-contact order takes precedence.

If there is a criminal and a civil order, but no EPO or no-contact order, enforce the criminal.

If there are two or more orders of same type (civil or criminal), enforce the most recently issued order.

Service of Restraining Orders:

Upon request, law enforcement agencies shall serve the party to be restrained at the scene of a domestic violence incident or at any time the party is in custody. (PC 13710 (c)).

A protected party with a restraining order needing to be served should have a **Superior Court Proof of Service Form**. Serve the order and sign this form or use a **Proof of Service Form**. Forward to agency so service can be entered into CLETS (FC 6383 (b))

Officers shall have served and un-served EPO's entered into CLETS.

Firearms Restrictions:

Persons restrained under a domestic violence court order are prohibited from possessing or having control of a firearm (PC 29825(b)) **OR** acquiring or purchasing or attempting to purchase or acquire a firearm (PC 29825(a)).

Restrained parties shall relinquish all firearms in their possession within 24 hours of service of the order (CCP 527.9) or immediately when requested by a law enforcement officer. (FC 6389)

Court can issue a search warrant under PC1524 for firearms not relinquished under a DV, Stalking or Elder Abuse DV.



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EPO'S and Restraining Orders

A Quick



Emergency Protection Orders Family Code 6275

A law enforcement officer who response to a situation in which they believe the grounds for issuance of an EPO exist **shall** inform the victim that they may ask the officer to request an EPO.

An officer **shall** request an EPO when a belief the person requesting the EPO when a belief the person requesting the EPO is in immediate and present danger.

EPO Grounds Family Code 6250

A judicial officer may issue an EPO where a law enforcement officer asserts reasonable grounds to believe any of the following:

- (a) 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.
- (b) A child is in immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident of abuse or threat of abuse by family or household members.
- (c) A child is in immediate and present danger of being abducted by a parent or relative, based on a reasonable belief that a person has an intent to abduct the child or flee with the child from the jurisdiction or based on an allegation of a recent threat to abduct the child or flee with the child from jurisdiction.
- (d) An elder or dependent adult is in immediate and present danger of abuse, based on an allegation of a recent incident of abuse or threat of abuse by that person. No order shall be issued **solely** on an allegation of financial abuse.

AND...under PC 646.91

A person is in immediate and present danger of stalking under PC646.91.

Family Code 6211- Definition of Domestic Violence for an EPO

Domestic Violence is abuse against:

- A) A spouse or former spouse
- B) A cohabitant or former cohabitant (includes household members)
- C) A person who is or has been in a dating or engaged relationship
- D) A person who has a child in common
- E) A child of a party
- F) Any other person related by consanguinity or affinity within the second degree. (Grandparents, parents, children, grandchildren, siblings, in-laws, step relations).

Restraining Orders—PC 273.56 (Civil Orders)

EPO—Obtained by a peace officers and is good for 5 court days or 7 calendar days; whichever is sooner.

TRO—An order issued by a family law Court and is good for approximately 21 Days unless extended.

Order after Hearing—Issued after Hearing on a TRO. Domestic Violence Prevention Act and Elder Abuse Orders good for up to 3 years.

Order from other states, the District of Columbia, US Territories, and other Tribal Orders.

Arrest

Under PC 836 © an arrest shall be made for DV restraining order violations committed in or out of your presence when:

You have probable cause to believe a willful violation has occurred

Suspect has notice of the order

PC 166 (c)(1) - Criminal Orders

May be issued during probation, valid up to 10 years.

Criminal Court Protective Order –Issued while a case is pending in court

Post Conviction Criminal Protective Order—Criminal court may issue a restraining order for up to 10 years following a felony or misdemeanor conviction for PC 273.5, PC 646.9, or other DV offense.

Investigation

Finding a suspect in the company of a victim is not sufficient for prosecution. Interview the victim to find out how it is they are together, and who initiated getting together. Include the reasons they are together, how long they have been together and what led to the call to law enforcement today.

When serving orders advise both parties that only a judge can change an order. Document the notification in your report.