

**MARIN COUNTY SHERIFF'S OFFICE  
PATROL SERVICES POLICY AND PROCEDURE MANUAL**

**GENERAL ORDER  
PAT-09-01  
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**Date  
Rev: October 18,2000**

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**EMERGENCY PROTECTIVE ORDERS**

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The purpose of this order is to provide for implementation of Section 6240 of the Family Code et seq. and Section 646.91 of the Penal Code as amended to become effective January 1, 2000.

In essence, this statute allows a police officer to phone an on-call judge and get an emergency restraining order against a member of a household when there are reasonable grounds to believe that a person is in immediate danger of domestic violence, child abuse, elder or dependant adult abuse, workplace violence, or civil harassment.

The emergency order expires at the end of the fifth court day after issuance or the seventh calendar day, whichever is earliest.

It shall be the policy of the Sheriffs Office to provide emergency protective service to victims of domestic violence, child abuse, elder or dependant adult abuse, workplace violence, or civil harassment whenever necessary to protect life and property and preserve the peace. Members should note that no crime need be committed, but merely the recent threat of abuse is required to obtain an emergency protective order.

A judicial officer may issue an ex-parte emergency protective order whenever a law enforcement officer asserts reasonable grounds to believe either or both of the following:

- ✓ That a person is in immediate and present danger of domestic violence, child abuse, elder or dependant adult abuse, workplace violence, or civil harassment 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.
- ✓ That 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 the family or household member.

There must be a Superior Court Judge, Commissioner or Referee available to orally issue emergency protective orders. During court hours, emergency protective orders may be issued in court or by telephone.

Upon the application of a law enforcement officer for the issuance of an emergency protective order, the judicial officer MAY issue an emergency protective order protecting the applying party. The order may include a determination for temporary care of any minor children involved.

The order shall be issued without prejudice to any party. The fact that the endangered person has left the residence because of abuse does not affect the availability of an emergency protective order.

All emergency protective orders shall expire at the close of business on the fifth court day following the date of issuance or the seventh calendar day following the date of issuance, whichever is earliest.

The member shall reduce the order to writing after communicating with the judicial officer and obtaining the judicial officer's order that the emergency protection order be issued. California Judicial Council Form 1295.90 (Rev. 1/1/2000) shall be used for this purpose. The deputy must personally carry a copy of the order until the end of his/her shift. The order must be distributed by giving copies to the restrained party, the protected party, and the court.

The Sheriffs Office shall use every reasonable means to enforce the order.

A member may not be held civilly or criminally liable for acting in good faith in enforcing an order.

The protected person shall be instructed to contact the District Attorney's Victim/Witness program at 499-6450, as soon as possible after issuance of an emergency protective order to obtain a permanent protective order.

Whenever a member is assigned to contact the victim of abuse or threatened abuse, the member shall, in the case of abuse, complete a crime report. In cases of threatened abuse, an incident report must be completed. The person making the report shall be advised that he or she may apply for an emergency protective order. The top half of the Application for Emergency Protective Order shall be completed by the member.

The member shall contact the on-duty judicial officer by calling the Chief Bailiff at 499-7393 during court hours, and the Communication Center at 499-7234 during times that the courts are closed.

The judicial officer shall be advised of the information contained in the application. The judicial officer may also solicit additional information from the applicant. This information must then be added in writing to the application and crime report.

The area of the form titled, "Emergency Protective Order" shall be completed according to the judicial officer's specific instructions.

Members shall attempt to serve the person restrained if the person can be reasonably located. If the restrained person is served, complete the proof of service at the bottom of the form. The original (white copy) of the Emergency Protective Order shall be forwarded to the Records Section by the end of the member's duty shift. The Records Section shall forward this original to the Marin County Superior Court Clerks Office before the end of the next judicial business day.

A copy of the Emergency Protective Order (canary copy) shall be served upon the restrained person. A copy of the Emergency Protective Order (pink) shall be given to the protected person. The protected person shall be instructed to maintain possession of his or her copy at all times. The person will also be given a copy of the Marin County Restraining Order Information Sheet. The goldenrod copy shall be carried by the Officer completing the forms until the end of his/her shift. This copy will then be attached to the Crime Report for the incident, and forwarded to the Records Section.

As soon as possible, and in no event later than the end of the investigating member's shift, the investigating member shall copy the emergency protective order and transmit a copy to the on-duty supervisor of the Communications Division.

The Communications Division shall enter the emergency protection order into the Restrained Persons' file in the California Law Enforcement Telecommunications System.

Officers in good faith shall use every reasonable means to enforce an emergency protective order.

Persons who members determine have violated an emergency protective order shall be arrested and booked in the County Jail rather than be released on citation.

If a person contacts an employee with a completed Temporary Restraining Order during hours that the Court Floor is open, saying that the Court Clerk said that it was too late in the day to present the TRO to a judge for his or her signature, the employee will notify the Communication Center. The Communication Center will dispatch a Patrol Deputy to contact the person. The Patrol Deputy will contact the Chief Bailiff to arrange a meeting with a judge so that the judge can review the Temporary Restraining Order for his or her signature.

Family Code of California, sections 6240 et seq., Section 13519 California Penal Code and Section 646.91 California Penal Code were used in revising this order.

This order may be indexed as:

- ✓ Emergency Domestic Violence Protective Orders
- ✓ Court Orders, Emergency Protective
- ✓ Domestic Violence, Emergency Protective Order
- ✓ Child Abuse, Emergency Protective Order
- ✓ Elder Abuse, Emergency Protective Order
- ✓ Dependent Adult Abuse, Emergency Protective Order
- ✓ Workplace Violence, Emergency Protective Order

✓ Civil Harassment, Emergency Protective Order

A copy of form 1295.90 (Rev. January 1, 2000) Emergency Protective Order is attached.

**By order of**

ROBERT DOYLE  
SHERIFF