

HONOLULU POLICE DEPARTMENT
POLICY
PRISONER AND COURT-RELATED ACTIVITIES

January 1, 2003

Policy Number 7.09

COURT ORDERS FOR PROTECTION

I. POLICY

- A. The safety of the public and police personnel shall be the primary consideration in serving or enforcing any court order for protection.
- B. Reasonable efforts should be made to serve any type of valid court order for protection that comes to the attention of the department.
- C. Officers shall enforce any type of valid court order for protection issued to cease and desist from any trespass, physical abuse, threat, or harassment.
- D. An officer may accompany an individual who has a court order that does not authorize police action, but only to ensure the preservation of peace and to prevent violations of the law.

II. DEFINITIONS

- A. "Court order for protection" shall mean any order from the courts that seeks to protect persons or their property rights. It shall include orders such as temporary restraining orders (TROs), restraining orders (ROs), no contact orders, protective orders, divorce decrees containing an order for protection, and other similar court orders.
- B. "Employee" shall mean anyone who performs work for the department on a full- or part-time basis, to include all HPD civil service personnel, reserve officers, contract employees, and volunteers.

III. COURT ORDER FOR PROTECTION LEDGERS

A court order for protection ledger shall be maintained by each patrol element. The ledger provides a record of all orders for protection that are received by a district, including those transferred to other districts for service. The Ledger of Court Orders for Protection, HPD-464 form, shall be used for this purpose.

IV. GENERAL RULES GOVERNING SERVICE OF ORDERS FOR PROTECTION

- A. A court order for protection shall be served only during the hours indicated on the order. In particular, a court order for protection shall not be served on premises during the restricted hours when the premises are closed to the public unless a judge has given written authorization to do so.
- B. A court order for protection is considered "served" upon a respondent if all of the following conditions are satisfied:
 - 1. Identification of the respondent has been established;
 - 2. The respondent has been made aware of the existence of the order; and
 - 3. The respondent has been provided a copy of the order.


V. SERVICE OF AN ORDER FOR PROTECTION ISSUED BY A HONOLULU COURT

An order for protection issued by a Honolulu court (Circuit, District, or Family Court) is served in one of the following ways:

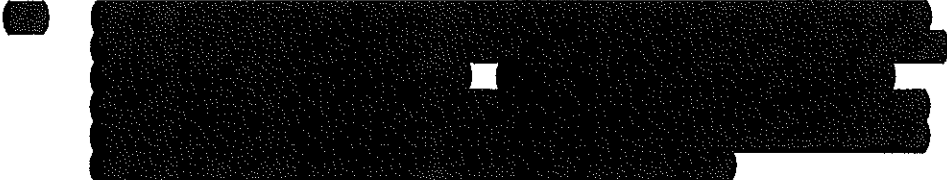
- A. The order is issued directly to the respondent in court by the judge, or the order is served by the Sheriff Division, Department of Public Safety. In both cases:
 - 1. A certified copy of the order is sent to the Records and Identification Division for recording and filing in one of the following ways:

- a. The copy is picked up and delivered by a District 1 officer at the end of the business day; or
 - b. The copy is delivered by the courts via mail.
2. Upon receipt of a copy of a served court order for protection, the Records and Identification Division shall:
- a. Initiate an HPD report to document the facts provided in the order;
 - b. Ensure that the order is entered into the Records Management System (RMS) without delay;
 - c. File the report with the Records Unit; and
- [REDACTED]
- [REDACTED]
- [REDACTED]
- B. The order may be referred directly to a district patrol command for service. In this case:
1. The petitioner is responsible for taking two certified copies of the order to the district station or substation in the area in which the respondent resides and/or works. In the event the petitioner takes the order to the wrong station, the receiving officer shall accept the document from the petitioner and then contact the correct station and immediately have the document transferred there for service.
 2. Upon receipt, the officer receiving the order shall:
 - a. Initiate an Incident Report, HPD-192 form, with the facts provided in the order;

- b. Enter the applicable information in the court order for protection ledger;
- c. Write the ledger number and the HPD report number on the top right corner of the order;
- d. Attach a Service of Legal Instrument Attempt, HPD-222 form, to the order;

- 
- f. Send the original reports to the Records Unit for filing; and
 - g. Inform his or her supervisor of the order.

- 3. The supervisor shall have an officer make attempts to serve the order.

- 
- 5. Upon service, the officer shall enforce all other specific orders in the document, e.g., vacating a residence, retrieving clothing, and similar provisions.
 - 6. Upon completion of service, the serving officer shall:
 - a. Enter the date and time of service in the court order for protection ledger;
 - b. Write a follow-up report, documenting the service of the order;
 - c. Write the HPD report number in the upper right corner of the proof/return of service form and ensure that the form is completely filled out;

- d. Submit a certified copy of the order, a copy of the completed proof/return of service form, the completed Service of Legal Instrument Attempt, HPD-222 form, and the follow-up report to the Records Unit; and
- e. If the proof/return of service form is not available, document the date and time of service in a police report and attach that report to the court order. The report should contain the following information:
 - (1) The type of order (i.e., TRO, injunction, etc.);
 - (2) The court case number;
 - (3) The identities of the parties involved;
 - (4) The date, time, and location of service; and
- f. Forward the original, completed proof/return of service form and a copy of the follow-up report to the appropriate Honolulu court as soon as possible.

NOTE: All District Court proof/return of service forms and copies of the follow-up reports shall be sent to the Civil Division, Honolulu District Court, and the forms must be received by 1430 hours the day before the hearing. If this deadline cannot be met:

- (1) Fax the proof/return of service form and the follow-up report to the Civil Division at the number listed on the attachment; and
 - (2) Telephone the Civil Division at the number listed on the attachment and leave a voice-mail message informing them of the incoming fax.
- 7. In the event the respondent cannot be located:
 - a. The officer shall notify his or her supervisor;

- b. The officer shall ensure that an incident report and a copy of the order are submitted to the Records Unit without delay;
 - c. The certified copies of the order shall be filed at the district station or substation until service is completed;
 - d. Each watch commander at the district station or substation shall be notified of any outstanding orders at the beginning of each watch; and
 - e. If service of the order cannot be completed within seven days, the watch commander shall contact the court.
8. In the event the petitioner takes the certified copies of the order to the wrong station, the receiving officer shall accept the document from the petitioner and then contact the correct station and immediately have the document transferred there for service.
9. The return of unserved orders and the transfer of orders between districts shall be recorded in the court order for protection ledger.

VI. SERVICE OF AN OUT-OF-STATE OR OUT-OF-COUNTY COURT ORDER FOR PROTECTION

- A. As a result of the federal Violence Against Women Act of 1994 (VAWA), all orders for protection (including out-of-state and out-of-county orders) shall be given full faith and credit.
- B. Efforts shall be made to establish the validity of each order prior to serving it.
- C. Such orders shall be served as outlined in section V above.

VII. MILITARY PROTECTIVE ORDERS

- A. Military protective orders are issued by base commanders under the authority of the Uniform Code of Military Justice. Military protective orders are administrative in nature and, therefore, not covered by the VAWA and not enforceable by HPD officers.

5-21-2010

5-21-2010

- B. The military services are required to inform civilian law enforcement agencies of issued military protective orders and will deliver a copy to the nearest police station. Upon receipt, the receiving officer shall:
 - 1. Initiate a Miscellaneous Public report for our records; and
 - 2. Attach the military order to the report.
- C. When responding to calls for service involving a violation(s) of military protective orders officers shall:
 - 1. Initiate a Miscellaneous Public report documenting the incident; and
 - 2. Enforce all applicable laws (e.g., Abuse of Family And Household Members, Harassment, Assault).

VIII. ENFORCEMENT PROCEDURES FOR COURT ORDERS FOR PROTECTION

- A. A court order for protection is effective from the date of service and is valid for the period established in the order. The most current valid order takes precedence over any previously issued order.
- B. A violation of a court order for protection is a breach of a judge's order and is punishable as a misdemeanor. The petitioner is unable to withdraw a complaint.
- C. In all cases, a complete and detailed investigation shall be completed. At a minimum, a complete investigation should include the following:
 - 1. Incident Report, HPD-192 form;
 - 2. Witnesses' statements, HPD-252 form;
 - 3. Follow-up reports;
 - 4. Constitutional Rights Warning, HPD-81 form;
 - 5. Suspect's statement;
 - 6. Photographs (of evidence, injuries, etc.);

7. Description of evidence recovered;
8. A copy of the order;
9. Documentation of the service of the order;
10. Summary of the suspect's criminal history; and

[REDACTED]

D. If the suspect is present at the scene and probable cause for an arrest exists, an arrest shall be made. A report must be completed and distributed in the same way as reports for other misdemeanor arrests.

E. In the case of a violation of a court order for protection where the suspect has left the scene, the following procedures shall be followed.

4-14-2011

1. An investigation shall be initiated as outlined in section VIII C above.
2. If probable cause exists, attempts shall be made to locate and arrest the suspect.
3. The commander of the district in which the violation originated shall be responsible for coordinating the search for and arrest of the suspect.
4. Prior to initiating an arrest, the Warrants Unit should be contacted to ensure that a penal summons has not been issued in the case. If a penal summons has been issued, the suspect shall not be arrested. Instead, an attempt shall be made to serve the penal summons.
5. A copy of the completed case shall be forwarded to the Victim/Witness Kokua Services Division, City Department of the Prosecuting Attorney, to initiate the penal summons process.

F. Probable cause for an arrest shall be determined by the totality of circumstances involved in the case. The following details may be considered:

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- G. A copy of the order for protection and documentation of service shall be attached to the arrest reports for court purposes.
- H. The arresting officer and/or Central Receiving Division personnel shall assist the screening and intake prosecutor in obtaining necessary reports to complete the case.
- I. An officer who is investigating a violation of a court order for protection and is in need of more information (e.g., the parties involved, the date of issuance, or the proof/return of service) may obtain the information in one of the following ways:
 - 1. Check the HPD computer (LRMS activity) files;
 - 2. Contact the Communications Division for a check of the HPD computer (LRMS activity) files for any information;
 - 3. Contact the Records Unit, Records and Identification Division, which has a copy of the order on file;
 - 4. Contact the patrol district station or substation that served the court order on the respondent to obtain a check of the court order for protection ledger;

- 5. For District Court orders, the officer may also call the Civil Division, District Court (see attachment), from 0745 to 1630 hours Monday through Friday; it has the original order on file;
- 6. For Family Court orders, the officer may also call the Family Court (see attachment) from 0745 to 1630 hours Monday through Friday; the court has the original order on file; and
- 7. For Circuit Court orders, the officer may also contact the appropriate Circuit Court section cited in the order.
- J. Out-of-state and out-of-county court orders for protection shall be handled in the same way as other court orders for protection.
 - 1. The officer should make a reasonable effort to determine the validity of the order.
 - 2. Efforts shall be made to enforce the order.
- K. When proof of service of an order cannot be established, the officer shall:
 - 1. Not effect an arrest;
 - 2. Serve the order on the respondent, thereby ensuring that subsequent violations will be cause for arrest;
 - 3. Document the service of the order; and
 - 4. Submit a detailed written report of the incident.

5-21-2010

IX. COURT ORDERS FOR PROTECTION DIRECTED AT DEPARTMENTAL PERSONNEL

A. Investigative Responsibilities

5-21-2010

- 1. The Criminal Investigation Section, Professional Standards Office (PSO), is responsible for completing criminal investigations of violations of court orders for protection directed at departmental employees.

11-17-2010

- 2. The Administrative Investigation Section, PSO, is responsible for completing administrative investigations of violations of court orders for protection directed at departmental employees.

B. All Cases Involving Employees

- 1. When a court order for protection is issued by a judge in the presence of the respondent employee, the employee shall:
 - a. Comply with the provisions of the order immediately;
 - b. Notify and provide a copy of the order to his or her supervisor as soon as practicable; and
 - c. Submit a Notification of Criminal Proceeding/Civil Action, HPD-195 e-form, with a copy of the order to the PSO within 48 hours and send a copy to the division-level commander.

11-17-2010

The employee's supervisor shall forward a copy of the order directly to the division-level commander.

- 2. When an employee is suspected of violating a court order for protection, the following procedures shall be followed.
 - a. In all cases, a complete and detailed investigation shall be completed. At a minimum, a complete investigation includes the following:
 - (1) Incident Report, HPD-192 form;
 - (2) Witnesses' statements, HPD-252 form;
 - (3) Follow-up reports;
 - (4) Constitutional Rights Warning, HPD-81 form;
 - (5) Suspect's statement;
 - (6) Photographs (of evidence, injuries, etc.);

- (7) Description of evidence recovered;
- (8) A copy of the order; and
- (9) Documentation of the service of the order.

b. If the suspected employee is present and probable cause for arrest exists, an arrest shall be made. The report is to be completed and distributed in the same way as other misdemeanor arrest reports.

5-21-2010

c. Patrol personnel shall notify the Criminal Investigation Section, PSO, of each case in accordance with Policy, COMPLAINTS AND INTERNAL INVESTIGATIONS.

- (1) During normal working hours, the officer initiating the report or the officer's supervisor shall notify the Criminal Investigation Section.
- (2) At all other times, the officer initiating the report or the officer's supervisor shall notify the on-duty Criminal Investigation Division lieutenant, who in turn shall notify the Criminal Investigation Section lieutenant
- (3) Notification should be made from the scene immediately upon determining that a crime has been committed.

5-21-2010

d. Upon being notified, the PSO shall assist the patrol officers. If a suspected employee needs to be located and arrested, the PSO shall direct the investigation and search.

e. Copies of all reports shall be sent or faxed to the PSO no later than the end of the initiating officer's tour of duty.

- f. If a report of a violation is received via 9-1-1, the dispatcher shall immediately notify the on-duty supervisor in the Communications Division. The on-duty supervisor shall prepare a written report of each call and send it through channels to the Criminal Investigation Section, PSO, no later than the end of the watch.
- 3. Section 134-7(f), HRS, prohibits the possession of firearms and ammunition by anyone named as a respondent in certain court orders for protection during the period the order is in effect unless the order specifically permits the possession of firearms and ammunition.
 - a. Court orders governed by this law are those that restrain a person from contacting, threatening, or physically abusing anyone.
 - b. The court order will contain specific wording imposing the prohibition or permitting the possession of firearms and ammunition.
 - c. Even if a court order permits an officer to retain his or her firearms and ammunition while on duty, the department may determine independently that the circumstances of the case warrant the surrender of all firearms and ammunition. This prohibition shall be enforced administratively; see section IX C 2 below.

4-20-2011

C. Cases Involving Officers

1. Service of an Order

- a. When a court order for protection is issued by a judge in the presence of the respondent officer, the following shall apply.

4-20-2011

- (1) The officer and the officer's supervisor shall comply with section IX B 1 above.

11-17-2010

(2) The officer's division-level commander or second in command shall promptly report the facts and circumstances of the order to the Chief of Police so that a final determination can be made about the officer's retention of firearms and ammunition.

b. When a court order for protection is issued outside the presence of the respondent officer and the order is taken to the district patrol command in the area of the officer's residence for service, the following shall apply.

(1) District patrol command personnel shall:

- (a) Review the order and all documentation related to its justification;
- (b) Initiate an HPD report;
- (c) Enter the order in the court order for protection ledger;
- (d) Make the necessary records check for firearms;
- (e) Notify the officer's division-level commander or second in command to pick up and serve the order as soon as possible; and
- (f) Assist in the service of the order at an officer's residence (when assistance is requested by the officer's commander or second in command).

(2) A court order for protection naming an officer as respondent shall be served by the officer's division-level commander or second in command. The commander or second in command shall:

- (a) Serve the order on the officer;

(b) Ensure that the officer understands and complies with the order;

11-17-2010 (c) Promptly report the facts and circumstances of the order to the Chief of Police so that a final determination can be made about the officer's retention of firearms and ammunition;

(d) Forward a copy of the order to the PSO; and

11-17-2010 (e) Ensure that the officer informs the PSO of the service of the order via a Notification of Criminal Proceeding/Civil Action, HPD-195 e-form.

2. Full Surrender of Firearms and Ammunition

a. The officer will be ordered to surrender all firearms and ammunition (both city-owned and privately owned) if any one of the following applies:

● [REDACTED]

● [REDACTED]

● [REDACTED]

b. In cases of this sort, the Human Resources Division (HRD) shall prepare the memo of notification requiring the surrender of all firearms, ammunition, and other equipment for the Chief's signature.

c. The officer's division-level commander or second in command shall:

- (1) Order the officer to surrender all firearms (to include supplemental and privately owned firearms), ammunition, and other equipment;
- (2) Ensure that all firearms are accounted for by checking the records of the Firearms Unit, Records and Identification Division;
- (3) Initiate a miscellaneous public report and evidence report documenting the court order and the surrender of the firearms, ammunition, and other equipment;
- (4) Have the surrendered firearms, ammunition, and other equipment, along with all documentation, submitted to the Property and Supply Section, Finance Division (for city property), and to the Evidence Unit, Records and Identification Division (for personal property).
- (5) Direct the officer to obtain a temporary identification card from HRD;
- (6) Notify the officer that all special duty privileges have been suspended as of the time of notification, and inform HRD of the suspension;
- (7) Direct the officer to wear appropriate civilian attire (without a firearm) during court appearances and all other on-duty activities; and
- (8) Notify the commander of the division where the officer is to be assigned of the circumstances of the order for protection and arrange for the special assignment of the officer.

8-18-2003

- d. When served with the order, the officer shall comply with all of its provisions immediately.

3. Partial Surrender of Firearms and Ammunition

- a. The officer will be permitted to retain department-issued firearms and ammunition while on duty only if all three of the following apply:

- [REDACTED]
- [REDACTED]
- [REDACTED]

- b. In such cases, the division-level commander or second in command shall:

- (1) Order the officer to surrender all firearms and ammunition except those issued by the department;
- (2) Ensure that all firearms are accounted for by checking the records of the Firearms Unit, Records and Identification Division;
- (3) Initiate a miscellaneous public report and evidence report documenting the court order and the surrender of the firearms and ammunition;
- (4) Have the surrendered firearms and ammunition, along with all documentation, submitted to the Evidence Unit, Records and Identification Division, for storage;

11-17-2010

11-17-2010

(5) Authorize the officer to possess only issued firearms and ammunition and only during periods in which the officer is on duty;

(6) Have the issued firearms and ammunition retrieved and retained during periods in which the officer is off duty.

(a) The equipment shall be stored in accordance with standard written procedures.

(b) For audit purposes, the command shall retain documentation reflecting each issuance and retrieval of the officer's firearms and ammunition;

11-17-2010

(7) Notify the officer that all special duty privileges have been suspended as of the time of notification, and inform HRD of the suspension; and

(8) Direct the officer to wear appropriate civilian attire (without a firearm) during court appearances.

c. When served with the order, the officer shall comply with all of its provisions immediately.

4. Noncompliance

a. If an officer refuses to comply with an order to surrender any firearms, ammunition, and/or other equipment, the division-level commander shall initiate an administrative investigation and forward the completed report to the Administrative Review Board via the PSO. (If the officer's refusal violates the court order, a criminal investigation shall be initiated as well.)

- b. The division-level commander shall use relevant laws and authority to recover the firearms, ammunition, and/or other equipment as soon as possible.

5. Movement Between Elements

If an officer moves from one element to another while a court order for protection is in effect, the first division-level commander shall ensure that the second division-level commander is informed of the circumstances of the order at the time of the move.

6. Expiration of Court Order

- a. When the court order for protection is no longer in effect, the division-level commander or designee where the officer was originally assigned shall verify the order to dissolve the court order for protection.

In cases from the District Court, the division commander shall verify via the Internet (see attachment) that the court order for protection has been dissolved.

The division commander shall submit a to/from report through the chain of command to the Chief of Police requesting the return of the officer's firearms and ammunition. Verified copies of the order dissolving the court order for protection must be attached.

- b. When the Chief of Police approves the officer's request, HRD shall send a letter to the officer confirming the approval.
- c. When the officer receives confirmation of the approval from HRD, the command shall assist the officer in retrieving his or her equipment from the Property and Supply Section and the Evidence Unit. In addition, the commander shall send a recommendation through channels to HRD regarding the officer's eligibility for special duty.

8-18-2003

D. Cases Involving Civilian Employees

1. A court order for protection naming a civilian employee as respondent may be served in court or by the district patrol command. If the order is served at the employee's place of work, the serving officer(s) shall notify the employee's command beforehand.

2. When served with a court order for protection, a civilian employee shall:

11-17-2010

[a. Comply with the requirements listed in sections IX B 1 a-c above; and

b. Surrender all firearms and ammunition in accordance with the terms of the order.

11-17-2010

[3. The employee's supervisor shall forward a copy of the order directly to the division-level commander.

LOUIS M. KEALOHA
Chief of Police

Attachment

Post on bulletin
board for one week

Policy first issued
March 7, 1997

TELEPHONE CONTACT NUMBERS

Civil Division, District Court

To obtain more information about an order



To fax a proof/return of service form



To inform the court of an incoming fax



Family Court



INTERNET ACCESS TO COURT RECORDS

1. Go to the Hawaii State Judiciary site at <http://www.courts.state.hi.us/index.jsp>
2. Select "Legal References."
3. Select "Search Court Records."
4. Select "Enter Ho'ohiki," "proceed to Ho'ohiki Case Seaching," and "Enter."
5. Select the case by "Case ID" number, by last and first name or business name, or by court and case type and year.