

# **Attachment Seven (7)**

**Protection Orders Against Domestic Violence**

Nevada Council for Prevention of Domestic Violence

March 16, 2016

**Model Policy  
Standard Operating Procedure  
For the Enforcement of  
Protection Orders against Domestic Violence**

**Endorsed by the Nevada Sheriffs and Chiefs Association  
Lovelock, NV September 27, 2001**

Recognizing the escalatory nature of domestic violence, effective enforcement of protection orders against domestic violence constitutes homicide prevention. Accordingly, this model policy is intended to serve as a guide for law enforcement executives in formulating a written procedure relative to their respective departments to govern the enforcement of these orders.

**I. Purpose**

The purpose of this policy is to provide police officers with standard operating procedures for enforcing valid domestic violence protection orders issued in Nevada or any other state, Indian Tribe, territory or possession of the United States, Puerto Rico or the District of Columbia when that order is violated in your jurisdiction.

**II. Policy**

It shall be the policy of this department to provide all victims of domestic violence, regardless of their place of residency or origin, with the fullest protection of the law and to enforce the terms of their protection orders within this jurisdiction. **Any violation of a protection order is at least an indirect threat of harm, which requires the adverse party to be held in custody for at least 12 hours before being admitted to bail, pursuant to NRS 178.484.**

**III. Full Faith and Credit**

The Full Faith and Credit provision of the Violence Against Women Act (VAWA), 18 U.S.C. 2265 and Chapter 33 of the Nevada Revised Statutes, require that valid foreign domestic violence protection orders be recognized and enforced as if they were issued by a court in this state. A foreign order is to be enforced pursuant to Nevada law even if:

- A. The applicant in a foreign protection order would not be eligible for a protection order in Nevada.

- B. The foreign order grants the named applicant more relief than the person would have received under Nevada's protection order statute.

#### IV. Definitions

- A. The term "protection order" includes any injunction or other order issued by judicial authority for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person. There are two primary forms of protection orders against domestic violence, the temporary protection order and the extended protection order.
1. In Nevada the temporary protection order is generally valid for 30 days or until the scheduled court appearance indicated in the order.
  2. In Nevada the extended protection order is effective for a maximum of one year and is issued at a court hearing prior to the expiration of a temporary order. Some foreign protection orders may have an indefinite expiration date.
  3. Orders from other jurisdictions may not resemble Nevada protection orders in format and may be valid for varying periods of time.

NOTE: Officers should enforce a foreign protection order based upon the expiration date in the order.

- B. "Foreign" protection orders include any protection order issued by any other state, Indian Tribe, territory or possession of the United States, Puerto Rico or the District of Columbia.
- C. "Applicant" means the person named in the protection order as the party to be protected from the adverse party. Other jurisdictions may use terms such as protected party, plaintiff, petitioner, etc.
- D. "Adverse party" means the person named in the protection order who must refrain from contacting the person named as the applicant in the protection order. Other jurisdictions may use terms such as suspect, defendant, respondent, etc.
- E. A "mutual protection order" is an order that purports to restrict both parties. The applicant for a protection order is entitled to relief (e.g., protection and enforcement). Officers should be aware that the adverse party is entitled to relief **only if:**
1. The adverse party has filed a written request for a protection order; **and**
  2. The court has made a specific finding that the adverse party was entitled to a protection order. (See NRS 33.020 and 18 U.S.C. 2265.)

## V. Responding Officers Procedures

When responding to an incident involving the violation of a domestic violence protection order, the officer should take the following enforcement actions:

### A. Immediate Actions at the Scene

1. Ensure the safety of all involved.
2. Seek medical attention, if necessary.
3. Safeguard the applicant from further abuse.
4. Secure and protect the crime scene.
5. Secure any firearms or other dangerous weapons for safekeeping.
6. In accordance with departmental policy and applicable law, arrest the adverse party for offenses committed in the officer's presence and other offenses committed at the scene for which the officer has probable cause (felonies, gross-misdemeanors, domestic battery, protection order violations).

### B. Determine whether a protection order exists and is authentic.

1. The officer should make every reasonable effort to corroborate the existence of a protection order. In determining that a protection order exists, the officer may rely upon:
  - a. A copy of an order for protection against domestic violence that has been provided to the officer.
  - b. An order for protection against domestic violence that is included in the repository for information concerning orders for protection against domestic violence pursuant to NRS 33.095 or in any national crime information database.
  - c. Oral or written confirmation from a law enforcement agency or court in the issuing jurisdiction.
  - d. The statement of a person protected by a protection order that the order remains in effect, included in an examination of the totality of the circumstances.
2. An officer shall determine that a protection order is authentic if the order contains:

- a. The names of the parties' involved and specific terms and conditions that the adverse party must comply with.
  - b. Information indicating that the protection order has not expired.
  - c. Information indicating that the court which issued the protection order had legal authority to issue the order as evidenced by a certified copy of the order, a file stamped copy of the order, an authorized signature or stamp of the court which issued the order or another indication of the authority of the court which issued the order.
3. An officer may determine that a protection order is authentic based on an examination of the totality of circumstances.
  - 4.
- C. Assess whether the adverse party has been served, notified or otherwise informed of the terms and conditions of the protection order.
1. If the order is a foreign protection order, the officer should presume that the adverse party has been served, notified or otherwise informed.
  2. If the order is a Nevada order, the officer should determine whether the adverse party has been served, notified or otherwise informed by utilizing any or all of the following:
    - a. Documentation contained in the applicant's copy of the protection order.
    - b. Nevada repository for protection orders.
    - c. NCIC protection order file
    - d. Communication with the court or law enforcement agency in the issuing jurisdiction.
    - e. Statements of the applicant.
    - f. Statements of witnesses, including children, family members or neighbors.
    - g. Statements of the adverse party.
    - h. An examination of the totality of the circumstances at the scene.

NOTE: The fact that an order has not been registered or included in the repository for information concerning orders for protection against domestic violence pursuant to NRS 33.095 or in any national crime information database

**is not grounds** for a law enforcement officer to refuse to enforce the terms of the order unless it is apparent to the officer that the order is not authentic.

NOTE: For information concerning enforcement of orders served by mail, see Attorney General Opinion No. 2001- 31.

- D. If the officer cannot verify that the adverse party was served with the protection order or informed of the terms and conditions of the order, the officer shall:
1. Serve a copy of the order if available, or
  2. Follow the steps outlined in section VI for notification.
- E. Determine if probable cause exists to believe that the adverse party has violated the protection order.
1. Review the terms and conditions of the protection order.
  2. Establish probable cause for violation of the terms and conditions of order by the adverse party by utilizing any or all of the following:
    - a. Statements of the applicant.
    - b. Statements of the adverse party.
    - c. Statements of witnesses, including neighbors or children.
    - d. Corroborating evidence obtained through the investigation.
    - e. Any other factor that leads the officer to believe a violation of the protection order has occurred.
- F. If, pursuant to B, C and E above, the officer determines that an authentic protection order has been served/noticed and that probable cause exists that the order has been violated, the officer shall:
1. If the adverse party is present, arrest the adverse party for violation of the terms and conditions of the protection order (and for any other violations committed at the scene); or
  2. If the adverse party has fled the scene:
    - a. Make every effort to immediately locate and arrest the adverse party.

- b. If the adverse party cannot be located, take a report and submit for an arrest warrant and/or an investigation in accordance with department policy.
3. Conduct risk assessment and provide assistance to the applicant for their immediate safety.

NOTE: NRS 178.484 requires that a person arrested for violation of a protection order shall be held in custody for at least 12 hours before being admitted to bail if the arresting officer determines that the violation is accompanied by a direct or indirect threat of harm. As set forth in section II (Policy), any violation of a protection order is at least an indirect threat of harm.

NOTE: NRS Chapter 33 provides immunity to a law enforcement officer who enforces an order for protection against domestic violence issued by the court of another state, territory or Indian tribe based upon a reasonable belief that the order is valid or who refuses to enforce such an order based upon a reasonable belief that the order is not valid (NRS 33.090).

#### **G. AN OFFICER SHALL TAKE THE FOLLOWING ACTIONS IN ALL CASES:**

1. Conduct risk assessment and provide assistance to the applicant for their immediate safety.
2. Provide the applicant with the information concerning assistance required by NRS 171.1223, including referring the applicant to the appropriate court, advocacy organization or community services for safety planning.
3. Take a report and conduct a follow up investigation according to department policy.
4. Document and report any indirect or direct threat against the applicant/victim by the adverse party and make a reasonable attempt to notify the applicant of the threat.

#### **VI. Notification of Protection Order**

Pursuant to NRS 33.070 and Attorney General Opinions 2000-02 and 2001-31, in the event an officer is conducting a standard wants and warrants check on an individual and is advised by the communications section that an active NCJIS protection order file "hit" exists for the individual and the protection order has not been served, the officer shall notify the adverse party of the protection order by taking the following actions:

- A. Verify the identity of the adverse party.
- B. Obtain the specific terms and conditions of the order and write them on the corresponding form provided by the department.
- C. Give the completed form to the adverse party or orally inform the adverse party of the terms and conditions of the order.
- D. Provide the adverse party with a copy of the appropriate set of notices (temporary or extended).
- E. Have the adverse party sign the notification form if practicable. If the adverse party refuses to sign the form, write, "refused" on the signature line.
- F. Inform the adverse party of the name, location and hours of the issuing court to obtain a copy of the order.
- G. Inform the adverse party that the adverse party now has notice of the provisions of the protection order and that a violation of any terms and conditions of the order will result in the adverse party's arrest.
- H. Request that the communications center update the protection order file with:
  - 1. Date and time notification was provided to the adverse party.
  - 2. The name and identification number of the officer who gave the notification.
  - 3. Information from the protection order hit concerning the terms and conditions of the order.
- I. Upon completion of the notification form, the issuing officer will also complete a report for the department's files.
- J. If at any point during this process the adverse party makes a threat against the victim, the officer shall make a reasonable attempt to notify the victim and document the threat in the officer's report.

## **VII. Communication Section Responsibilities**

- A. Receive and maintain hard copies or electronic files of active protection orders that contain provisions pertaining to locations in the jurisdiction, including applicant's residence, place of employment, childcare, school or other locations.
- B. Provide available information concerning status and/or content of protection orders in the Repository, upon request by law enforcement personnel.

C. Following notification pursuant to Section VI above, update the State Enter Notice Screen (SENS) with the following information:

1. The date and time that notification was provided to the adverse party.
2. The name and identification number of the officer who gave notification.
3. Information from the protection order concerning the terms and conditions.

#### **VIII. Violations of Federal Law.**

A. If a foreign protection order is violated in Nevada, it is likely that there has also been a violation of federal law. These federal laws include but are not limited to:

1. Interstate travel to commit domestic violence, 18 U.S.C. 2261
2. Interstate stalking, 18 U.S.C. 2261A
3. Interstate violation of an order of protection, 18 U.S.C. 2262
4. Illegal possession of firearms and ammunition, 18 U.S.C. 922 (g) (8)

B. The officer should refer these violations to the appropriate federal authorities in accordance with departmental procedures (e.g., contact the US Attorney's Office, Federal Bureau of Investigation, Bureau of Alcohol, Tobacco & Firearms, Bureau of Indian Affairs, etc.).

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