

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:
PROTECTIVE ORDER OR
INJUNCTION HAND-CHECKS**

DATE: March 23, 2022

APPROVED

Memo# 2022-008

BACKGROUND

A review of the Duty Manual discovered updates are necessary to bring it into alignment with best practices.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 4104 RESPONSIBILITY OF ASSIGNED UNIT(S): *Revised 03-23-22*

To establish the corpus of the crime, the officer will run a warrant check on the suspect. If a "hit" is identified, *officers may contact* Communications *to request they* ~~members~~ *will* contact the *Records Division of the Sheriff's Department in the County where the* ~~"hit" originated Santa Clara County Sheriff's Office Records Division (Restraining Order Registry)~~ to verify that an active *Protective* ~~Restraining~~ Order or Injunction is on file. (Orders issued prior to 8/96 are not in the Registry and will have to be hand-checked by Warrants. Although EPROs are also retrievable from CLETS, "Stay-Away" orders require a hand-check by Warrants.)

If an order is on file but service has not been accomplished and the suspect was not in court when the order was issued, the assigned officer will give notice of the terms of the order to the suspect. Once advised, an arrest may be made if the suspect refuses to comply with the terms of the order. If there is documentation that the defendant was in court when the order was made, no further service is necessary for an arrest to be made.

Once service is completed by an officer, they will advise the Warrants Unit of this fact, along with their name and badge number, and the date and time of service. This verbal notification will provide sufficient proof of service to establish a willful violation in the event that a subsequent police response is required before the "Proof of Service" form

can be delivered to Warrants. Pursuant to 6383 of the Family Code, the officer should then complete a Proof of Service form if available from the petitioner, or complete a Verbal Service form (available from the Warrants Unit), and deliver it to the Warrants Unit by the end of their shift.

A General Offense Report (Form 200-2-AFR) with an offense code of either 273.6 (Violation of Domestic Violence Order) or 166 (Violate Court Order) must be completed each time the officer has determined that an order is on file, or alleged to be on file, and there is a violation, or an alleged violation, even if the suspect is no longer present at the scene. Details should include:

- The specific terms of the Order or Injunction
- The identity of all persons involved in the conflict and how they were identified
- The specific circumstances which will indicate a knowing and willful disregard of the order
- When the Warrants Unit was contacted

L 4104.5 HAND-CHECK WHEN A SUSPECTED PROTECTIVE ORDER OR INJUNCTION IS NOT DISCOVERED THROUGH A RECORDS CHECK:

Added 03-23-22

If there is reason to believe a protective order or injunction may exist, but the protected person cannot produce a copy, and a "hit" is not discovered on a records check, then an inquiry should be made with the agency that would be responsible for placing the order on file. Typically, this would be the Records Division of the Sheriff's Department in the county where the court proceeding took place. That agency should be contacted and a "hand-check" for the order should be requested. The officer may request this be done through Communications or the officer may contact the appropriate agency directly.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:RL