

Monterey County Chief Law Enforcement Officers' Association
Protocols & Agreements

Subject: Monterey County Emergency Protective Order

I. Purpose

It is the intent of the Superior Court of Monterey County and the Monterey County Chief Law Enforcement Officers Association to establish the following protocol in order to implement an efficient and trustworthy system for the issuance of emergency protective orders.

II Law Enforcement Response to Domestic Violence

It is understood that law enforcement's primary response to all domestic violence incidents shall be in accordance with the "Guidelines and Curriculum for Law Enforcement Response to Domestic Violence" issued by the Commission on Peace Officer Standards and Training (hereinafter, P.O.S.T. guidelines).

This protocol is not intended to supersede the P.O.S.T. guidelines in any way.

(See also Judicial Council of California Rule 1295.90 Revised January 1, 1994 and Family Code 6240).

It is understood that law enforcement use of the emergency protective order process is discretionary and that proper utilization of the procedure contained in the P.O.S.T. guidelines may obviate the need for an emergency protective order.

III. Judicial Component

The Presiding Judge of the Superior Court shall designate one Superior Court Judge (hereinafter, on-call Judge) to be available to orally issue protective orders at all times when the court is not in session. This duty shall rotate among the judges of the Superior Court on a basis to be determined by the Presiding Judge.

IV. County Communications Component

The Monterey County Communications Department will provide the communication link between the officer and the on-call Judge.

The communication dispatcher will accept from the requesting agency and notify the on-call Judge of the request and telephone number where the officer can be reached. County Communications will initiate the system for contacting the on-call Judge when the Judge is away from home.

The home telephone number of the on-call Judge shall be available only to County Communications and shall not be given to any citizen or requesting police agency.

V. Pre-Request Procedure

An officer responding to a domestic violence incident in which the victim requests an Emergency Protective Order shall initially evaluate the need for an emergency order in accordance with Section VII, Guideline #9A of the P.O.S.T. guidelines. Furthermore, the officer shall institute the following procedures prior to initiating a request for such an order.

- A. When appropriate make a felony arrest under P.C. 273.5 or a misdemeanor arrest.
- B. If, after an arrest, the officer has a reasonable belief that the suspect will bail out of custody and commit further violence, the officer should request additional bail from a Superior Court Judge.
- C. When an arrest is appropriate make a reasonable effort to obtain an agreement between the parties to voluntarily separate until the next court day. The officer should be reasonably satisfied that the agreement will be respected by the parties before deciding not to request an order.
- D. Make reasonable efforts to encourage and facilitate the utilization of local women's shelters for the temporary and emergency housing of the victim until the next court day.

VI. Emergency Protective Order Request Procedure

When the above alternatives are inappropriate or ineffective and the officer continues to have reasonable grounds to believe that the victim is in immediate and present danger of violence, the following procedure should be utilized in order to obtain an emergency protective order.

- A. Contact the Watch Commander to obtain his/her concurrence to initiate the telephonic request.
- B. Fill out the form entitled "Application for Emergency Protective Order" and have the protected party sign under penalty or perjury.

- C. Ask the protected party if there is any pending court action for dissolution of marriage, child custody, domestic violence or harassment involving either party. If so, obtain the case name, court and copies for court documents, if possible.
- D. Ask the protected party if there exists a current order restraining either party of affecting custody of any children. If so, obtain a copy of the order, or in the alternative, the name of the restrained party, protected party, name of the court and judge and the effective dates of the party.
- E. The office shall contact County Communications, request the on-call Judge, explain the reason for the request and give a telephone number where the officer can be reached directly.
- F. County Communications will contact the on-call Judge to notify him of the request for an emergency protective order.
- G. The on-call Judge will call the officer and speak to the officer directly.
- H. The officer is authorized by the Judge, the officer in charge shall fill out the Emergency Protective Order form including any additional orders specified by the Judge.
- I. If the order is authorized by the Judge, the officer in charge shall fill out the Emergency Protective Order form including any additional orders specified by the Judge.
- J. Prior to requesting an order regarding custody of minor children the officer shall consider assuring the safety and well-being of minor children by means of alternative emergency housing and/or the use of law enforcement powers under Welfare & Institutions Code Section 300.
- K. Serve a copy of the emergency order on the restrained party, if the party can be reasonably located and completed the "Proof of Service" section of the Emergency Protective Order form.
- L. Give a copy of the emergency order to the protected party.
- M. The officer who requested the emergency order, while on duty, shall carry a copy of the order.
- N. A copy of the emergency order shall be filed with the court as soon as possible after issuance. This requirement can be satisfied by having a copy of the order delivered to the Superior Court between 8:00 a.m. and noon the next judicial day. On completion of the current tour of duty, the

copy of the order will be retained in the restraining order files of the department.

- O. A copy of the emergency order shall be attached to any reports submitted to the District Attorney when requesting a complaint based on the domestic violence incident.
- P. An emergency protective order shall expire at the earlier of the following times:
 - 1. The close of judicial business on the fifth court day of the day of its issuance.
 - 2. The seventh calendar day following its day of issuance.

Do not count the day the order is issued.