

Restraining Orders

12018.1 TEMPORARY RESTRAINING ORDERS

(a) Receiving Temporary Restraining Orders

1. TROs will either be brought to us at our Civil Counters or they may be e-mailed to us from the courts. E-mailed TROs will be sent from courts to the Sheriff's Civil Office that has jurisdiction.
 - i. Professional staff will send an e-mail confirmation back to issuing court confirming we received the e-mail.
2. A TRO and the accompanying sheriff's instruction letter will be printed out and processed the same as any other restraining order.
 - i. If the TRO does not contain the restrained person's date of birth, the civil Deputies will ascertain that information at the time of service and note it on the "trip ticket."
3. When we receive Out of County TRO's, the entire court order must first be sent to the OCSD Teletype Unit for input into CLETS.

(b) Entry into CLETS

1. Family Code 6380 (d)(1)[1] requires that information regarding proofs of service of protective order, including a TRO, input into CLETS within one business day of the service.
2. The Chief Clerk of each Civil Office will designate a "Restraining Order" desk/ basket for the Deputies to place served TROs.
3. All Deputies must place served TROs on this desk by 1600 hours of each work day.
 - i. If a Deputy is unable to return to the office by 1600 hours, they will call Teletype while in the field and have the Proof of Service entered into CLETS.
 - ii. Deputies will place their completed worksheet with notes that it was entered into CLETS via the telephone into the Restraining Order basket by the end of their shift.
 - iii. The next business day prior to 0800 hours, the professional staff will close out the case and fax a courtesy copy of the Proof of Service to both Teletype and the Court.
 - iv. Proof of Service will indicate that it was previously sent to Teletype telephonically.
4. The Chief Clerk will designate a professional staff member whose priority will be to process the served TROs and fax all proof of services of restraining orders to:

[REDACTED]

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- i. OCSD Teletype will be responsible for entering all Proofs of Services received by the Sheriff's Civil Detail into CLETS. \
 - ii. The Court Protective Order Unit will receive a courtesy copy of the Proof of Service.
- (c) Fees:
 - 1. All TRO's brought to us that are based on the threat of violence or stalking will be served at no cost.
 - i. These services will be billed to the court.

Reference

POST ORDER 13-02

12018.2 FIREARM RELINQUISHMENT ON DOMESTIC VIOLENCE, CHILD AND ELDER ABUSE AND WORKPLACE VIOLENCE TRO'S

- (a) Court Forms and Admonishment
 - 1. On page two of court forms DV-110, CH-120, and EA-120, the restrained person is advised they must turn in any firearms that they possess or control to the police or sell or store them to / with a licensed gun dealer within 24 hours.
 - i. They then must show proof that the firearm was turned in, sold or stored within 48 hours from the time the order was served. \
 - ii. When serving a restraining order, the Deputy shall admonish the restrained person of the firearms relinquishment order. Deputies should read the firearms admonishment in the Restraining Order verbatim to the restrained person
- (b) Surrendering Firearms
 - 1. If the restrained person wishes to immediately surrender the firearm(s), the Deputy will do the following:
 - i. Ensure the turnover is done in a safe manner; request a back-up Deputy if needed.
 - ii. Immediately render the firearm safe and separate the ammunition.
 - iii. Have the weapon serial numbers run through the Automated Firearms System (AFS) to ensure they are legal and not involved in any prior crimes.
 - iv. Depending on the AFS data, conduct a further investigation to determine if the restrained person committed any crimes by possessing the weapon(s).
 - v. Request a DR number and an FCN number.
 - vi. Fill out the Orange County Sheriff's Department Property Receipt Form. Mark the safekeeping box and include the serial number for each firearm that was relinquished.
 - vii. Give the restrained person their copy of the Property Receipt.

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- viii. The weapon(s) will be booked into Sheriff's Property/Evidence utilizing the policies and procedures outlined in the OCSD Patrol Operations Manual (POM) Section 9 - Evidence and Section 44 -Tagging and
- ix. Booking Property. Envelopes containing firearms should be clearly marked, "FIREARM."
- x. Complete a property report. For more information about a property report, refer to the OCSD Patrol Operations Manual (POM) Section 39 – Report Forms.
- xi. Advise the restrained person that they may be charged the actual cost incurred by OCSD for the storage of the firearm.

(c) Firearms Search Laws (TRO)

- 1. The issuance of a temporary or permanent restraining order does not give a law enforcement agency the right to conduct a warrantless search and seizure of the restrained person's property.
 - i. If the protected person claims that the restrained person has firearms and the restrained person denies possession, admonish the restrained person of his legal obligations and the risk of incarceration if they disobey the court order.
 - ii. If the protected person has specific information about the restrained person's possession of firearms in violation of a restraining order, consider whether there is sufficient information to obtain a search warrant.
- 2. Write thorough notes on your return so the court can make a determination if the restrained person is in contempt of the order.

Reference

POST ORDER 07-11

California State Sheriffs' Association Civil Procedures Manual

California Family Code