



LINCOLN POLICE DEPARTMENT GENERAL ORDERS

NUMBER: 1625
TOPIC: PROTECTION ORDERS
ISSUED BY: JAMES PESCHONG, CHIEF OF POLICE
DATE: 1-1-2015
SUPERSEDES: G.O. 1625, 2014
REFERENCE: N.R.S. 42-357, 42-924 et seq., 28-311.09

I. POLICY

The diligent enforcement of protection orders is an important means to prevent domestic violence. The Lincoln Police Department will investigate the violation of protection orders and restraining orders to determine if a crime has been committed, and when probable cause exists, arrest persons found in violation.

the respondent have an opportunity to be heard, however, protection orders are often issued ex parte.

II. PROCEDURE

A. Definitions

1. Restraining Order: A term broadly applied to many kinds of court orders that forbid the respondent from doing some act. This term is most often used to refer to orders issued in divorce cases, pursuant to N.R.S. 42-357.
2. Domestic Abuse Protection Order: A court order issued to provide protection to a victim of domestic violence or a victim of stalking, pursuant to N.R.S. 42-924, et seq. Protection orders prohibit the respondent from imposing any restraint upon the applicant, and from threatening, assaulting, molesting, attacking or disturbing the peace of the applicant. A domestic abuse protection order may also include a provision that excludes the respondent from the premises occupied by the applicant.
3. Harassment Protection Order: A court order issued to provide protection to a victim of harassment, pursuant to N.R.S. 28-311.09.
4. Exclusionary Order: A restraining order or protection order that contains a provision excluding the respondent from the premises occupied by the applicant.
5. Respondent/Defendant: The adverse party, against whom a protection or restraining order is issued.
6. Applicant/Plaintiff: The person who sought the protection order or initiated the court case.
7. Ex parte: A legal term meaning "on one side." Most court orders are issued only after a hearing where both the plaintiff and

B. Application for Protection Orders

1. Application is made at the offices of the District Court Clerk.
2. Officers may refer persons to Voices of Hope or to the Victim/Witness Unit for assistance in determining eligibility or applying for a protection order.

C. Issuance and Service of Protection Orders

1. Upon receiving an application for a protection order, the District Court judge may elect to issue the order ex parte, if the court believes that immediate protection is needed. In this case, the court sets a future hearing date at which time the respondent may contest the continuation of the order in effect.
2. Alternatively, the court may find that an ex parte order is not needed, in which case the court will schedule a hearing date where the applicant and the respondent may be heard. The court will then determine whether to issue a protection order.
3. All protection orders, whether issued ex parte or after a hearing, are in force for one year unless rescinded or modified by the court.
4. Officers may encounter protection orders that have been issued by the District Court in another Nebraska judicial district. Protection orders are valid statewide.
5. Protection orders are served by county sheriffs. Evidence that the order was served is an element of the crime.

D. Investigation of Violations

1. Officers shall conduct investigations of alleged violations of protection orders, restraining orders, and exclusionary orders

- to determine if a criminal offense has occurred.
2. Officers conducting such investigations shall read the order, if available, and verify its accuracy and currency. Applicants for protection orders are provided a certified copy of the order by the issuing court.
 - a. Copies of orders issued in Lancaster County that carry criminal penalties are on file at the Lancaster County Sheriff's Office, and can be verified by radio or telephone with the Emergency Communications Center.
 - b. Verification of orders issued by other Nebraska courts may require contacting the court that issued the order, or the Sheriff's Office in the county where the order was issued, if the contents or currency of the order is in dispute.
 3. Officers investigating alleged violations must determine:
 - a. Whether the order in question is an order that carries criminal penalties.
 - (1) Protection orders always carry criminal penalties.
 - (2) Juvenile Court issued restraining orders carry criminal penalties, similar to protection orders.
 - (3) Restraining orders issued in divorce cases, which exclude the respondent from the premises occupied by the petitioner carry criminal penalties. These orders may be captioned in various ways, such as "Restraining Order" or "Exclusionary Order." It is the content of the order itself, not the caption or title, which determines whether criminal penalties apply. Therefore officers must read the order to determine if it contains an exclusion provision. These orders are valid until there has been a final decree, unless rescinded or modified by the court.
 - (4) Other kinds of restraining orders and other court orders generally do not have criminal penalties for violation. These orders can be enforced only through a civil contempt proceeding. Officers should seek advice from the city or county attorney's office when there is a question in this regard.
 - b. Whether the order has been served. This may be determined by several methods, such as:
 - (1) The respondent admits that he or she has been served with the order;
 - (2) Checking directly with the issuing court;
 - (3) Checking with the Emergency Communications Center or sheriff's office.
 4. Officers shall conduct all appropriate investigation to collect and preserve evidence of protection order violations.
- E. Arrest of Violators
1. If the investigation reveals probable cause to believe that the respondent has violated the order after service, the officer shall arrest the offender. If the offender is not present, the officer shall initiate appropriate follow-up.
 2. Persons arrested for violations of such orders shall be lodged in jail, as required by law, and may not be cited and released.
 3. If officers determine that the order has been issued, but that the respondent has not yet been served, they should attempt to arrange with the Lancaster County Sheriff's Office for the order to be served at that time. The respondent may be detained on-site for up to 45 minutes to accomplish service. In the event he or she attempts to leave contrary to an officer's orders, he or she may be arrested for failure to comply.
- F. Reports
1. All alleged violations of protection orders, restraining orders, exclusionary orders, or similar court orders require an Incident Report.
 2. Officers shall also complete other reports that may be necessary to fully document the case.