

## 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, E-filed, or faxed 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 instructions will be printed out and processed the same as any other restraining order.

#### (b) Entry into CLETS

1. Family Code 6380 (d)(1) requires that information regarding proofs of service of protective order, including a TRO, is input into CLETS within one business day of the service.
2. All Deputies must notify civil clerical of served TROs by 1600 hours of each work day.
3. A professional staff member will be assigned to process the served TROs and email all proof of services of restraining orders to: Teletype [REDACTED] and JPU
  - i. OCSD Teletype will be responsible for entering all Proofs of Services received by the Sheriff's Civil Detail into CLETS.
  - ii. The JPU 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.

### 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

# Orange County Sheriff-Coroner Department

## Custody and Court Operations Manual

### *Restraining Orders*

---

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.
  - 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.
  - viii. The weapon(s) shall be booked into any OCSD evidence location in accordance with the OCSD Policy Manual Section 802 - Property and Evidence.
  - ix. Complete a property report.
  - x. 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.

# Orange County Sheriff-Coroner Department

## Custody and Court Operations Manual

### *Restraining Orders*

---