

COOLIDGE POLICE DEPARTMENT		
	CHAPTER 74 LEGAL PROCESS CALEA Standard(s):	General Orders
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74.1 ENFORCEMENT OF COURT ORDERS

A. Municipal police officers generally do not have the authority to enforce civil court orders other than those related to domestic violence, harassment and, in certain limited circumstances, child custody. Other civil court orders, such as judgments for damages, or eviction orders, may only be enforced by constables or deputy sheriffs. Any questions related to court orders should be referred to a supervisor.

B. The Department is mandated by law to serve orders of protection issued by a municipal court if the order can be served within Coolidge City Limits and, by policy, serves injunctions prohibiting harassment upon the request of the Plaintiff.

C. If orders or other court paperwork is served on the Department, the following information will be recorded by the Records Division

1. Date and time received;
2. Type of process, civil or criminal;
3. Nature of the document;
4. Source of the document;
5. Name of plaintiff/complainant and/or name of defendant/respondent;
6. If the document is to be served, the officer assigned for service, the date that the officer was assigned, and the date service is due; and
7. Court docket number.

D. The Records section will route all orders that must be served to the applicable on-duty patrol sergeant/officer for service. The sergeant will log receipt of the order and assign it to an officer for service. The serving officer shall complete the service, sign and complete the Certificate of Service form, and return it to the sergeant to be logged and returned to Records with any copies.

E. If the order cannot be served, the officer shall return all paperwork to the on-duty patrol supervisor, who shall pass the paperwork onto the oncoming shift supervisor for service. If every reasonable attempt has been made to service the order, then the supervisor will return the paperwork to the Records Section.

F. The Records Section shall send the Certificate of Service completed by the officer, along with any attached forms, back to the originating court. If the officer is unable to complete the service, the officer will note in an appropriate space on the Certificate of Service the dates of attempts and the reason for non-service. The Certificate of Service should contain (at a minimum) the following information:

1. Date/time of service was executed/attempted.
2. Name of Officers(s) executing/attempting service.
3. Name of person on whom legal process was served.
4. Method of service/reason for non-service.
5. Address of service/attempt.

74.2 INJUNCTIONS AGAINST HARASSMENT

A. A person may request the court to issue an Injunction Against Harassment whenever the person believes they are being subjected to harassment. Generally, such orders are issued when one person is seriously alarming, annoying or harassing another person, but the people are not involved in a domestic relationship (neighbors or former business associates, for example).

B. When it issues an Injunction Against Harassment, the court may order a person not to commit harassment, order a person not to contact another person or go to a specific place, and may enter other orders that the court believes are necessary.

C. A copy of the order is presumed to be a valid existing order of the court for one year from the date of service on the defendant.

D. A person who violates an Injunction Against Harassment may be subject to arrest for violating A.R.S. §13-2810, "Interfering with Judicial Proceedings." A person who has violated an injunction against harassment should, in most circumstances, be physically arrested and booked. If an officer believes that the immediate arrest of a violator should not occur due to unusual extenuating circumstances, the officer must first receive the approval of a supervisor.

74.3 ORDERS OF PROTECTION

A. An Order of Protection is a court order issued for the purpose of restraining/prohibiting a person from committing an act of domestic violence. A copy of the order is presumed to be a valid existing order of the court for one year from the date of service on the defendant.

B. An Order of Protection may:

1. order a person not to commit acts of domestic violence
2. grant one person exclusive possession and use of a shared residence or a pet
3. order a person not to go to a specific place
4. order a person not to contact a specific person or persons
5. order a person not to possess or purchase a firearm (and to surrender all firearms to the local police department)
6. include other orders that the court believes are necessary

C. If exclusive use of a residence is provided in the order, the order may also permit the excluded person to retrieve belongings, if accompanied by a law enforcement officer.

D. In situations where an officer is the first to inform a defendant of the existence of an Order of Protection, and the plaintiff has a copy of the order that an officer can use to serve the defendant, the officer shall serve the defendant giving a copy of the order to the defendant. The officer shall then advise the violator that he or she has been served with an Order of Protection, and any continued violation of the order shall be treated as a violation of A.R.S. §13-2810, "Interfering with Judicial Proceedings" and the violator will be arrested. Whenever an officer serves an Order of Protection on a defendant, the officer must complete an Affidavit of Service and route it to the appropriate court.

E. A person who violates an Order of Protection may be subject to arrest for violating A.R.S. §13-2810. A person who has violated an order of protection should, in most circumstances, be physically arrested and booked. If an officer believes that the immediate arrest of a violator should not occur due to unusual extenuating circumstances, the officer must first receive the approval of a supervisor.

74.4 OUT OF STATE ORDERS OF PROTECTION

A. Under Arizona law, an officer may presume the validity of any court order issued by another state, tribe, or U.S. Territory that is related to domestic or family violence. Such orders are, by law, to be enforced as if issued in Arizona. An order is “related to domestic or family violence” if it is an injunction or other order and was issued to prevent violent or threatening acts, or harassment against, contact, or communication with or physical proximity to another person. An officer may also rely on the statement of the person protected by the order that the order is currently in effect.

B. An officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

74.5 EMERGENCY ORDERS OF PROTECTION

A. The Emergency Order of Protection is a court order that is obtained telephonically from a judge by a police officer. An emergency order of protection may provide many of the same protections as provided by an Order of Protection. An Emergency Order of Protection is to be issued in situations where a person is in immediate and present danger of domestic violence, based on an allegation of a recent incident of actual domestic violence, and the courts are closed (nights, weekends and holidays). An emergency order expires at the end of the next day that the court is open, unless extended by the court.

B. Once served, the Emergency Order of Protection has the same force in law as a regular Order of Protection.

C. A person who violates an Emergency Order of Protection may be subject to arrest for violating A.R.S. §13-2810.

74.5.1 Procedure for Obtaining an Emergency Order of Protection

A. If a victim so desires, and an officer has reasonable grounds to believe that the victim is in immediate and present danger of domestic violence based on the allegation of a recent incident of actual domestic violence, then the officer should draft an emergency order, including the grounds for the order and the provisions that are requested, and shall then contact an available judge. The officer should advise the judge of the grounds for the order. If the judge issues the order, the officer shall write the order, sign it on behalf of the judge and provide a copy to the protected party.

B. Any Emergency Order of Protection is required to be served in order to be effective, but service of an Emergency Order may be done in person or verbally by the officer. The officer shall document the service of the order and verbally

notify the Sheriff's Department of the issuance and service of the order as soon as feasible.

C. The original of an emergency order shall be filed with the court as soon as practicable after it has been issued. A notice of service shall also be filed with the court.

D. If an officer obtaining an Emergency Order of Protection cannot make service on the defendant, the officer shall give the protected party all copies of the order. Should the defendant return to contact the victim and another officer is called, that officer will then complete service on the defendant.

74.6 PRELIMINARY INJUNCTION (DIVORCE AND CASES INVOLVING OUT OF WEDLOCK BIRTHS)

A. Divorce Cases - A Preliminary Injunction issued pursuant to dissolution of marriage (divorce) or legal separation is a court order that, similar to an Order of Protection, may subject the person violating it to arrest for violating A.R.S. §13-2810, "Interfering with Judicial Proceedings."

This Preliminary Injunction is generally issued at the outset of an action for divorce, legal separation or annulment, usually applies to both parties, and states that the parties are prohibited from:

- a. transferring, encumbering, concealing, selling, or otherwise disposing of any joint, common or community property of the parties except in the usual course of business or for the necessities of life, without the written consent of the parties or the permission of the court;
- b. molesting, harassing, disturbing the peace of, or committing an assault or battery on the other party or any natural or adopted child of the parties;
- c. removing any natural or adopted child of the parties then residing in Arizona from the jurisdiction of the court without the prior written consent of the parties or the permission of the court;
- d. removing the other party or the children of the parties from an existing insurance coverage or cancelling insurance coverage.

2. In addition, exclusive use of the residence may be ordered, and the order may include other relief the court believes is appropriate.

B. Out of Wedlock Births – this preliminary injunction is intended to maintain the status quo after paternity is established, but prior to the issuance of a court order establishing custody, access and related matters.

1. The preliminary injunction applies to both parties, and states that the parties are prohibited from:
 - a. molesting, harassing, disturbing the peace of, or committing an assault or battery on the other party or any natural or adopted child of the parties;
 - b. removing any natural or adopted child of the parties then residing in Arizona from the jurisdiction of the court without the prior written consent of the parties or the permission of the court;
 - c. removing or causing to be removed any child of the parties of the parties from any existing insurance coverage, including medical, hospital, dental, automobile or disability insurance.
 - d. requiring that both parties maintain all insurance coverage in full force and effect.

C. A person who violates either of these Preliminary Injunctions may be subject to arrest for violating A.R.S. §13-2810.