

## Pasco Police Department Policy Manual

<b>LEGAL PROCESS</b>	<b>Chapter No 74</b>
<b>Effective Date: 04/01/2018</b> <b>Revised: 05/24/2023</b>	<b>Reference:</b> <b>Chapter 84 – Evidence &amp; Property Control</b>

Washington State has adopted legal protection to prevent and respond to abuse, violence, harassment, stalking, neglect, or other threatening behavior, through the enactment of different types of protection orders. The six enacted protection orders are:

1. Domestic violence RCW 26.50
2. Vulnerable adult RCW 74.34
3. Antiharassment RCW 10.14
4. Sexual assault RCW 7.90
5. Stalking RCW 7.92
6. Extreme Risk RCW 7.94

These civil protection orders are essential tools designed to address significant harms impacting individuals as well as communities. These civil protection orders can increase safety for victims of domestic violence, sexual assault, stalking, abuse of vulnerable adults, unlawful harassment, and threats of gun violence to obtain immediate protection for themselves apart from that criminal legal system. (HB1320)

### 74.1.1 INFORMATION, RECORDING

The Pasco Police Department is responsible for the entry and service of several types of court orders. Proper records indicating actions taken by the Police Department with such orders are important to demonstrate a good faith attempt to serve as well as actual service of orders.

The Pasco Police Department shall only serve court-ordered documents, civil and/or criminal. Both criminal and civil court orders are entered in ACCESS. Each court-ordered document received by the Police Department is recorded and includes the following:

- Date/time received
- Type of legal process
- Nature of document
- Source of document
- Name of defendant/respondent
- Officer assigned for service
- Date of assignment
- Court docket number
- Date service due

### **Concealed Pistol Licenses**

Records personnel are responsible for the process and issuance of concealed pistol licenses for the city of Pasco residents. Records personnel accept applications, fingerprint the applicant, and process the associated paperwork. The Chief approves or denies the application based on the results of the background check. The application includes the following information:

- Date and time received
- Type of document
- Nature of document
- Name of applicant
- New or renewal license, or change of information
- Date of assignment

### **Application to Purchase/Transfer Firearms**

State statute requires all gun dealers to have the purchaser of a handgun file an application with the state. Records personnel process these applications for resident applicants. In addition, Records is responsible for processing applications to transfer pistols. These applications include:

- Date received
- Type of document
- Nature of document
- Source of the document
- Name of the applicant

### **74.1.2 RECORDS OF ATTEMPTED SERVICE OF LEGAL PROCESS DOCUMENTS**

Officers generate a written record on the execution or attempted service of legal process documents. These records are maintained in Records and include the following information.

- Date and time service was executed or attempted.
- Name of officer(s) executing or attempting service.
- Name of person on whom legal process was served or executed.
- Method of service or reason for non-service.
- Address of service or attempt.

In addition to the above, employees record orders for service on the Protection/Restraining Order log and include the following information:

- Court docket number
- Court file number (if different from court docket number)
- Type of order
- Date and time received
- Note when an order is forwarded to another agency

### **74.1.3 WARRANT/WANTED PERSONS FILE**

Records maintains a record system for criminal warrants, which permits 24-hour access. An active warrants file is maintained in Records. Warrants are handled as follows:

- Warrants will be entered into WACIC for statewide retrieval in a timely manner in accordance with ACCESS policies and procedures.
- A 24-hour agency phone number is put in the miscellaneous field of the WACIC entry.
- Warrants are filed in alphabetical order with 24-hour availability for Pasco and/or other law enforcement agencies.
- Warrants are maintained as active until they are served, recalled by the courts, or purged due to expiration.
- Computer “hits” received on warrant entries from another jurisdiction shall be verified by phone and/or electronically before an arrest is made on that warrant.
  - \* Upon receiving an inquiry about a warrant entered into the system, the warrant shall be pulled from the file and “in hand” before being confirmed.
  - \* Once confirmed and a Locate received, the warrant is faxed to that agency, and the original paperwork is placed in the Out of County box until the subject gets transported to Franklin County Jail; then, the warrant is returned to Municipal Court.
- Once a person has been arrested by our agency on a Pasco warrant, the entry will be cleared from WACIC, and all original paperwork forwarded to the appropriate court.
- The Crime Analyst is responsible for the distribution of special interested/dangerous wanted persons.

### **74.2.1 SERVICE OF CIVIL PROCESS DOCUMENTS**

The Pasco Police Department provides assistance to the functions of courts by attempting to provide effective service of court-ordered civil process documents (domestic violence, sexual assault, stalking, abuse of vulnerable adults, unlawful harassment, and threats of gun violence). Officers of this department execute civil process only as defined by law in certain limited areas.

When service is to be completed by Pasco Police Department for any the [six civil protection orders](#) listed in HB1320, the following practices shall apply:

1. It is the clerk of the court’s responsibility to provide Pasco Police Department with a copy of any order issued under HB1320, as well as the petition for a protection order and any supporting materials, electronically forwarded on or before the next judicial day when Pasco Police is the law enforcement agency specified in the order for service upon the respondent;
2. Service of an order issued under HB1320, must take precedence over the service of other documents by law enforcement unless they are of a similar emergency nature;
3. Where personal service is required, the first attempt at service (electronic or paper) must occur within 24 hours of receiving the order from the court, whenever practicable, but not more than five days after receiving the order. Records may attempt service electronically prior to sending out to officers via Legal Atom. If the first attempt is not successful, no fewer than two additional attempts should be made to serve the order, particularly for respondents who present heightened risk of

lethality or other risk of physical harm to the petitioner or petitioner's family or household members. Officers shall document all attempts at service on a return of service form and submit it to Records to forward to the court in a timely manner. Records personnel shall document electronic attempts;

4. If service cannot be completed within 10 calendar days, the law enforcement officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification. Law enforcement shall continue to attempt to complete service unless otherwise directed by the court. In the event that the petitioner does not provide a service address for the respondent or there is evidence that the respondent is evading service, the law enforcement officer shall use law enforcement databases to assist in locating the respondent;
5. If the respondent is in a protected person's presence at the time of contact for service, the law enforcement officer should take reasonable steps to separate the parties when possible, prior to completing the service or inquiring about or collecting firearms. When the order requires the respondent to vacate the parties' shared residence, law enforcement shall take reasonable steps to ensure that the respondent has left the premises and is on notice that his or her return is a violation of the terms of the order. The law enforcement officer shall provide the respondent with copies of all forms with the exception of the law enforcement information sheet and the return of service form;
6. The officer who serves a protection order on a respondent with the knowledge that the respondent requires special assistance due to a disability, brain injury, or impairment shall make a reasonable effort to accommodate the needs of the respondent to the extent practicable without compromise to the safety of the petitioner;
7. Proof of service must be submitted to the court on the return of service form. Records will send the proof of service via a process service carrier. The form must include the date and time of service and each document that was served in order for the service to be complete, along with any details such as conduct at the time of service, threats, or avoidance of service, as well as statements regarding possession of firearms, including any denials of ownership despite positive purchase history, active concealed pistol license, or sworn statements in the petition that allege the respondent's access to, or possession of, firearm; or
8. If attempts at service were not successful, the return of service form showing that the order was not served, and stating the reason it was not served, must be returned to the court by the next judicial day following the last unsuccessful attempt at service. Each attempt at service must be noted and reflected in computer aided dispatch records, with the date, time, address, and reason service was not completed.

Per [RCW 9.41.075](#), the CPL shall be revoked by a law enforcement agency immediately upon the law enforcement agency's receipt of an order to surrender and prohibit weapons or an extreme risk protection order, other than an ex parte temporary protection order, issued against the licensee.

#### **Civil Process Documents to be Served:**

Officers shall serve all other civil court orders as specified by the order. The officer shall complete and return court papers called for in the service request. If the police actions taken usually require an incident report to be completed, then the officer shall complete the appropriate incident report.

- Subpoenas: Service of subpoenas stemming from Pasco Police Department cases and at the court or prosecutor's request.

- Mental Health Commitments: Commitments of a person to mental health facilities as provided for under [RCW 71.05.150](#). An order to detain may be issued under [RCW 71.05](#) -Under Joel's Law, an immediate family member, guardian, or conservator of a person, or a federally recognized Indian tribe, if the person is a member of the tribe, can file such a petition with Superior Court. A conservator can only apply on behalf of the respondent if they are an adolescent (ages 13-17).
- Court orders issued by courts of jurisdiction specifically directing a police action.

#### **Domestic Violence Orders Service Practices:**

- Distribution: Records places orders in the on-duty watch commander box.
- Attempts to Serve: Patrol sergeants are responsible for the distribution of orders.
- Enforcement of orders at time of service: Police officers that are able to personally serve an order upon a respondent will take reasonable steps to ensure that the respondent is in compliance with the order at the time of service. The following guidelines will apply:
  - Civil orders do not automatically give an officer the right to enter a private residence.
  - If an officer believes an arrest may be justified at the time of service, the on-duty police supervisor will be notified.

#### **Extreme Risk Protection Orders**

A petition for an extreme risk protection order may be filed by a law enforcement agency. If filed by a law enforcement agency, the petitioner (law enforcement agency) shall make a good faith effort to provide notice to an intimate partner or family or household member of the respondent and to any known third party who may be at risk of violence. The notice must state that the petitioner intends to petition the court for an extreme risk protection order or has already done so, and include referrals to appropriate resources, including behavioral health, domestic violence, and counseling resources.

- Law enforcement petitioners are allowed to petition after hours for a temporary extreme risk protection order using an on-call after-hours judge, as is done for approval of after-hours search warrants.

Service of notice of hearing and petitions, ex parte extreme risk protection orders, and extreme risk protection orders should take precedence over the service of other documents unless the other documents are of a similar emergency nature ([RCW 7.94.040](#); [RCW 7.94.060](#)).

Officers serving a notice of hearing and petition for an extreme risk protection order should attempt service within 24 hours of receipt of order whenever practicable.

Officers assigned to serve an extreme risk protection order should make reasonable efforts to personally serve the order no more than 10 days after the Pasco Police Department received the order ([RCW 7.94.060](#)).

If the officer cannot complete service upon the respondent within ten days, the officer shall notify the petitioner. The petitioner shall provide information sufficient to permit such notification. ([RCW 7.94.040](#); [RCW 7.94.060](#)).

The officer serving any extreme risk protection order, including an ex parte order, shall ([RCW 7.94.090](#)):

- Request that any firearms and any concealed pistol license be immediately surrendered and issue a receipt for the surrendered items. The officer should ensure the original receipt is forwarded to Records.

- Take into custody any firearms discovered in plain view or pursuant to consent or other lawful search.
- As soon as practicable, but by the end of his/her shift, submit the proof of service to Records.

All firearms collected shall be processed in accordance with the Property and Evidence Policy and the Court Order Surrendering of Firearm(s) or Other Dangerous Weapon(s) Procedure.

### **Questions**

Any questions concerning jurisdiction of the Pasco Police Department in civil matters should be referred to the on-duty watch commander.

### **74.3.1 EXECUTION OF CRIMINAL PROCESS DOCUMENTS**

Pasco Police Department personnel shall adhere to state law, case law, and court practices when obtaining and executing criminal court orders. In addition, the following practices shall apply.

#### **Search Warrants**

- Franklin County Superior Court search warrants are valid throughout the State of Washington.
- District Court search warrants are only valid within the county issued. Pasco Police officers may obtain search warrants for property in another county through the appropriate district court.
- Search warrants are generally valid for three days (72 hours) from the time issued unless otherwise stipulated by the issuing judge.
- Per [RCW 10.31.040](#), an officer may not seek a search warrant granting an express exception to the requirement for the officer to provide notice of his or her office and purpose when executing the warrant.

Telephonic or electronic search warrants can be obtained when it is impractical for the officer or detective to go to court or the judge's house. Use the current practices dictated by the Franklin County Prosecutor and/or current court ruling.

#### **Arrest Warrants**

- Franklin County Superior Court felony arrest warrants are valid within the United States.
- Misdemeanor arrest warrants can be valid statewide.
- Temporary felony warrants are valid within the State of Washington.
- Per [RCW 10.31.040](#), an officer may not seek an arrest warrant granting an express exception to the requirement for the officer to provide notice of his or her office and purpose when executing the warrant.

When executing warrants, officers use the least amount of physical force necessary to achieve the arrest or seizure.

#### **Civil Anti-harassment, Criminal Protection/No Contact Order**

Violations of these orders constitute a criminal offense. Officers may be mandated to make an arrest in accordance with [RCW 7.105.450](#) and [RCW 9A.46](#). If an arrest is not mandated by law, officers may choose to cite and release based on their discretion.

Individuals may be immune from certain aspects of the criminal process. When a situation occurs, and immunity is claimed, if the officer is in doubt, contact the appropriate prosecutor for guidance. Complete a written case report on all cases where immunity is claimed and/or granted.

#### **74.3.2 EXECUTION BY SWORN PERSONNEL**

Only commissioned personnel are authorized to serve arrest warrants.

#### **74.4.1 PROPERTY ACQUIRED THROUGH LEGAL PROCESS**

All personnel shall submit property seized through any legal process to evidence **except** seizure of vehicles, which are documented in both the case narrative and on a department vehicle impound report.

Identify each item by description, identifying numbers (if any), and owner/business information from where the item was seized. Document circumstances surrounding the evidence seized in the case report. Evidence personnel is responsible for all evidence once it is accepted into evidence storage.

Policy 84.1.7 outlines the methods for disposition of property acquired through any legal process. Refer to [RCW 63.32](#) and [RCW 69.50](#).

#### **74.4.2 REPORTS USED IN LIEU OF OFFICER'S PRESENCE IN COURT**

The Pasco Police Department uses Pasco Municipal Court for adjudication of misdemeanor criminal offenses and traffic infractions.

The court permits the use of written reports or sworn affidavits, as appropriate, in lieu of an officer's presence at preliminary court appearances and arraignments.