
	SURPRISE POLICE DEPARTMENT		
LEGAL PROCESS AND CIVIL MATTERS			OPS-22
Effective Date 08-04-2004	Revision Date 03-16-2023	Last Review Date 03-2023	Page 1 of 23

I. PURPOSE:

To establish procedures, processes, and guidelines regarding civil matters and the service of court orders by Surprise Police Department members.

II. DEFINITIONS:

TERM	DEFINITION
Emergency Order of Protection (EOP)	An Order of Protection that is granted by an on-call judge via the phone during days and hours when the courts are closed for business. EOPs are granted by a judge to protect a person who is in imminent danger of domestic violence. EOPs expire at the close of the next day of judicial business following the day of issue or after seventy-two (72) hours after issuance, whichever is longer, unless otherwise continued by the court.
Injunction Against Harassment (IAH)	A civil order that does not depend upon relationships, and is available if the conduct of any person is "harassment" as defined by law. An IAH prohibits a person from harassing, annoying, or alarming another person.
Injunction Against Workplace Harassment (IAWH)	A civil order granted to protect employees at an employer's place of business. Only an employer or an authorized agent of an employer may file an injunction prohibiting workplace harassment.
Order of Protection (OP)	A civil order granted by a court and signed by a judge to protect the plaintiff from future acts of domestic violence. Domestic violence is defined as any act by one member of a family or household intended to physically harm another member, a serious threat of physical harm, or the abuse of a child. In an OP, a judge can set limits on the adverse party's (defendant) behavior by specifying the conduct allowed and prohibited, such as from contacting the plaintiff or other named persons, from possessing a weapon, and/or their presence at a specific location. Failure to comply with an OP can result in arrest and prosecution.
Restraining Order	A civil order granted by a court to prohibit persons or businesses from taking specified actions. Restraining orders concern civil matters in which no police action is required, and can be granted without a crime being committed.

III. PROCEDURES:

- A. Surprise Police Department members will only become involved in civil matters to the extent necessary to preserve the peace.
- B. Civil court orders will be reviewed, verified, served, and enforced only as mandated by law or outlined in this directive.
- C. When questions arise concerning the legal process surrounding civil matters, the matter will be referred to the department's contracted Legal Advisor.
- D. When questions arise outside of normal business hours, any on-duty sergeant or lieutenant may contact the legal advisor.

IV. EFFECTIVE AND EXPIRATION TIMEFRAMES FOR OP / IAH / IAWH:

- A. ARS § 12-1809 Injunctions against Harassment and ARS § 12-1810 Injunctions against Workplace Harassment have the following effective and expiration timeframes:
 - 1. **Issued / Not Served** – Expires one (1) year from the date issued.
 - 2. **Served** – Effective upon service of the defendant, and expires one (1) year from the date of service.
 - 3. **Modified** – Effective upon service, and expires one (1) year from the date of service of the initial order.
- B. ARS § 13-3602 Orders of Protection have the following effective and expiration timeframes:
 - 1. **Issued / Not Served** – Expires one (1) year from the date issued.
 - 2. **Served Before 09/24/2022** – Effective upon service of the defendant, and expires one (1) year from the date of service.
 - 3. **Served On or After 09/24/2022** – Effective upon service of the defendant, and expires two (2) years from the date of service.
 - 4. **Modified** – Effective upon service, and expires one (1) year from the date of service of the initial order.
- C. See section VII of this directive for effective and expiration timeframes for Emergency Orders of Protection.

V. CIVIL PROCESS – AZPOINT AUTOMATED OP PROCESS: (74.2.1)

- A. The Arizona Protective Order Initiation Notification Tool (AZPoint) is Arizona's statewide automated protective order process whereby the court will electronically transmit orders of protection (OP) to the appropriate law enforcement agencies for service.
- B. AZPoint includes three portals; the Petition Portal is used by the plaintiff to submit a petition to the court; the Clerk Portal is used by any Arizona court to access a submitted petition; and the Service Portal is used by law enforcement to access, update, print, and serve protective orders.

C. An overview of the OP petition process is as follows:

1. The plaintiff enters a petition for an OP into the AZPoint Petition Portal.
2. Once the plaintiff submits the petition, it is transmitted to the Clerk Portal. Court staff at any Arizona court can access the petition via the Clerk Portal, thus the plaintiff can go to any Arizona court for a hearing with a judge and to have a protective order reviewed and possibly granted.
3. Upon approval by a judge, the AZ Supreme Court/AOC grants the OP and it is transmitted to the appropriate law enforcement agency for service within their jurisdiction.
4. The AZ Supreme Court/AOC Court Protective Order Repository (CPOR) is the central repository for OPs, IAHs, and IAWHs, and AOC will enter served protective orders into NCIC. Upon expiration or cancellation of these court orders, AOC will purge the court orders from NCIC.

Exception: Emergency orders of protection will be entered and purged from NCIC by the serving agency.

5. When advising citizens on how to obtain a protective order, department members will direct them to the AZPoint.gov website.

D. Accessing and Assigning AZPoint Orders of Protection:

1. Sergeants assigned to the Patrol Operations Division (POD) will check the AZPoint service portal at the beginning of each shift to check for new OPs that require service in the City of Surprise. POD Lieutenants will monitor the portal for compliance.
2. Sergeants will assign new OPs to an officer for service as soon as possible, preferably during briefing. Documents that are available to print from the portal include:
 - a. Order of Protection – Print this document for service and provide to the defendant.
 - b. Petition – Print this document for service and provide to the defendant.
 - c. Defendant Guide Sheet – Print this document for service and provide to the defendant.
 - d. Service of Process Information Form – This form may be viewed and/or printed for use during service; however, this form **will not be** provided to the defendant upon service, as it contains confidential information. The top of the form contains a warning in **red: DO NOT SERVE THIS FORM ON THE DEFENDANT. DESTROY WHEN SERVED.**

3. The officer or supervisor who accesses and prints an OP for service, must document the retrieval in the **service attempts section** by entering the following information:
- Date and time of retrieval.
 - Location – SPD.
 - Comments – This section will include the following:
 - Name and PIN of the assigned officer.
 - Name and PIN of supervisor who assigned the OP.
 - A comment regarding access/printing for service.**Example:** Accessed/printed OP #1234 for service.

Service Attempts - PO Case #7354		
Date and Time of Attempted Service	Location of where Service was Attempted	Comments
4/5/2019 1200hrs	n/a	accepted order from Jurisdiction X
4/5/2019 1300hrs	Jim's Gym	Confirmed defendant had tattoo on left arm
4/6/2019 1700hrs	Goldie's Bar	attempted to serve defendant didn't show to work

Officer Badge 123 4/9/2019 2345hrs

- E. Service of AZPoint Orders of Protection - Officers will make every effort to serve the OP in a timely manner.
- Officers will thoroughly review court orders prior to service to determine the specific conditions that have been given by the court.
 - Caution will be used to not confuse the petition with the actual court order, as the court often does not grant all the conditions requested in the petition.
 - Officers will thoroughly read and inspect the court order to ensure it is served to the appropriate person.
 - Officers will verify identity, by obtaining identification of the person to whom the court order is to be served. In the event no identification is available, the officer will ask relevant questions, (spelling of full name, name suffix Jr., Sr., date of birth, etc.) as to the identity of the individual to whom the court order is to be served.
 - If the name or DOB has been determined to be listed incorrectly on the court order, the serving officer will provide updated and accurate information upon entry into the portal.

5. Unless otherwise directed by the order of protection or petition, officers will serve and explain both the court order and petition to the defendant, and provide the defendant with a copy of both documents.
6. Service Attempts Continued to Subsequent Shift/s - If the OP cannot be served during the assigned officer's shift, the officer will return all documents to the on-duty sergeant, who will reassign the OP to another officer for service.
 - a. The officer who hands the OP off to the on-duty sergeant will log into the portal and document the following information in the **service attempts section**:
 - 1) Date and time that the OP was handed off to the on-duty sergeant.
 - 2) Location – SPD.
 - 3) Comments – This section will include the following:
 - Name and PIN of the on-duty sergeant to whom the OP was handed to.
 - Reason for nonservice of OP during the shift.
Example: Busy with radio traffic entire shift.
 - b. The officer to whom the OP is reassigned will log into the portal and document the following information in the **service attempts section**:
 - 1) Date and time that the OP was reassigned.
 - 2) Location – SPD
 - 3) Comments - This section will include the following:
 - Name and PIN of the assigned officer.
 - Name and PIN of the supervisor who reassigned the OP.
7. Documenting Service Attempts – All service attempts will be documented in the AZPoint portal.
 - a. All unsuccessful service attempts and successful service will be entered into the AZPoint portal as soon as possible, but no later than the end of the officer's regular shift. If possible, this information should be updated upon the unsuccessful service attempt or actual service by accessing the AZPoint portal by MDC.
 - b. Service efforts will continue until all possibilities for service have been exhausted.
 - c. Law enforcement agencies will have 15 days to serve an OP.

- d. If after 15 days, service is unsuccessful and the status code of the OP turns **red**, a sergeant will assign an officer to contact the plaintiff to request additional information for purposes of service.
 - 1) Once the officer makes contact or attempts contact with the plaintiff and documents the information in the AZPoint portal, the OP status code will turn **yellow** again because the department has satisfied the statutory requirement of notifying the plaintiff.
 - 2) The officer will document in the **petitioner comments box** the date/time of contact and the information learned from that contact.
8. Unsuccessful Service Entries – All unsuccessful service attempts will be entered into the AZPoint portal as soon as possible, but no later than the end of the officer's regular shift. Officers will enter all service attempts into the portal by searching for the appropriate OP, going to the **service attempts section**, and completing the following **mandatory** fields:
 - a. Date and time of the service attempt.
 - b. Location of the service attempt.
 - c. Provide a reason for nonservice.
Example: Attempted service at workplace, but defendant was not at work.
9. Successful Service Entries – Upon successful service of the OP, the officer will access the AZPoint portal, search for the appropriate OP, and enter the information into the **Declaration of Service** screen.
 - a. It is important that the service information for OPs is updated as soon as possible, but no later than the end of the officer's regular shift. If possible, this information should be updated upon service by accessing the AZPoint portal by MDC.
 - b. Should internet issues be encountered, officers should continue attempting entry until completion occurs, or advise an on-duty supervisor.
 - c. The serving officer will contact the plaintiff to inform him/her that the OP has been served.
10. Transfers between Agencies - If during service attempts, officers learn that the defendant can be located in another jurisdiction, the officers will document the new address in the call notes and/or incident report (if applicable) and contact their immediate supervisor, or the on-duty sergeant or lieutenant, for approval to update the AZPoint portal with the new information and transfer the OP to another agency for service.

- a. Sergeants/lieutenants will approve an OP transfer to another agency for service only if all service locations in Surprise have been exhausted.
 - b. Officers will document the name of the supervisor approving the transfer in the portal prior to transfer.
 - c. Officers must document the reason for the transfer to the new agency in the **Reason for Transfer** field.
11. OP/IAH Defendant In-Custody at MCSO Jail – If a department member becomes aware of an OP/IAH defendant who is in custody at MCSO Jail that requires service, the following process will occur:
 - a. MCSO custody will be confirmed by contacting the jail.
 - b. The AZPoint portal will be queried to verify the OP/IAH.
 - c. The OP/IAH will be transferred to the **MCSO Jail** via the portal for service on the defendant.
- F. Order of Protection Status codes – The AZPoint service portal contains color codes to reflect the status of each OP. Sergeants/lieutenants monitoring the AZPoint portal for OPs will pay close attention to the status of OPs that are assigned to SPD and follow-up with officers as necessary.

1. The status codes are as follows:

Status Codes	Status Code Descriptions
	Order Has Been Served
	Pending Order/Ready for Service
	Order Has Not Been Served Within 15 Days
	Order Modified by Court
	Dismissed or Expired

2. Modified Orders (**orange**) – When an OP is modified by the court, the department will receive an immediate email notification via the AZPoint system. The status of the OP will turn **orange** and will remain **orange** in the portal for the remainder of the service period. When notified of a modification, the following procedure will occur:

- a. A supervisor will immediately contact the officer who has been assigned the OP and advise him/her to cease service attempts of the OP because of a modification by the court.
 - b. The modified OP may be assigned to the same officer, if available, or to a new officer for service.
 - c. The officer assigned service of the modified OP will update the AZPoint portal **service attempts section** indicating the assignment of the modified OP as follows:
 - 1) Date and time that the modified OP was reassigned.
 - 2) Location – SPD.
 - 3) Comments - This section will include the following:
 - Name and PIN of the assigned officer.
 - Name and PIN of the supervisor who reassigned the OP.
- G. Access to the AZPoint Portal – All department members will have the ability to access the AZPoint portal.
 1. POD access to the portal is crucial as it will be the responsibility of POD sergeants to check the portal at the beginning of each shift to assign new OPs to officers during briefings.
 - a. POD lieutenants will monitor the portal to ensure timely service of OPs.
 - b. POD officers will require access to print forms for service, update service attempts and actual service, reassignments, transfers, and other information as necessary.
 - c. Front Desk CSOs may require access for informational purposes.
 2. Administrative Services Division (ASD) access – ASD personnel may require access to the portal for informational purposes.
 - a. Communications Section may require access to the portal for informational purposes to assist officers in the field.
 - b. The Records Unit may require access for informational purposes to assist officers, citizens, or personnel from other law enforcement agencies.
 3. Criminal Investigations Division (CID) access – CID personnel, including VAU, may require access to the portal to assist plaintiffs, and for service, investigative, or informational purposes.
 4. Professional Development Division (PDD) access – PDD personnel may require access to the portal for informational purposes.

5. Professional Standards Unit (PSU) – PSU personnel may require access to the portal for informational purposes.

VI. CIVIL PROCESS – **SEMI-AUTOMATED** OP / IAH / IAWH PROCESS: (74.2.1)

- A. While AZPoint is Arizona’s statewide automated protective order process, there may be occasions when agencies are required to receive and serve paper copies of OPs, IAHs, or IAWHs.
- B. IAHs and IAWHs – For IAHs and IAWHs, plaintiffs may enter the petition information into AZPoint, but upon issuance of the court order, the court will provide the plaintiff with a paper copy of the petition, order, and service declaration because many jurisdictions charge a fee for service of IAHs and IAWHs. Therefore, IAHs and IAWHs will not be assigned to specific law enforcement agencies for service in the portal as are OPs.
 1. The plaintiff must arrange for service and pay the fee, if applicable. No fee will be charged if it is a dating relationship or if the plaintiff is a victim of sexual violence.
 - a. For service, the plaintiff may enlist the assistance of law enforcement, constables, or process servers.
 2. Should SPD receive a paper copy of an OP, IAH, or IAWH for service, the AZPoint portal will be accessed to see if the order has been entered into the system.
 - a. If the order **exists in the AZPoint portal**, the assignment and service process as outlined in section IV of this directive will be followed.
 - b. If the order **does not exist in the AZPoint portal**, the plaintiff will be referred back to the issuing court.
- C. Service of OPs Issued by Another State – If an OP is issued by another state, but needs to be served on a defendant in AZ, the issuing jurisdiction and the serving jurisdiction (the state of issuance and the state where service is to occur) will communicate and coordinate the service of the OP on the defendant. Once served, proof of service will be provided to the issuing jurisdiction for entry into NCIC.

Note: OPs/IAHS issued by other states will not be entered into AZPoint because this system is designed to maintain and track AZ orders only.


VII. EMERGENCY ORDERS OF PROTECTION: (74.2.1)

- A. Emergency Orders of Protection (ARS § 13-3624) – The on-call or IA court judge is available by phone to issue emergency orders of protection during times when the courts are closed.

B. Procedures to obtain an Emergency Order of Protection (EOP) are as follows:

1. Officers will contact the Maricopa County IA court judge at:

Phone: 602-876-8240
Fax: 602-253-2645
Email: IACA@MCAO.maricopa.gov
2. Officers will advise the judge of the circumstances surrounding the request for the EOP, and express that there are reasonable grounds to believe that a person is in immediate and present danger of domestic violence based upon an allegation of a recent incident of actual domestic violence.
3. If the judge finds that the person's life or health is in imminent danger, the judge may issue an Emergency Order of Protection.
4. If the judge grants an EOP, officers will complete the top part of page one of the Emergency Order of Protection form (POD-020, refer to the image of the EOP form below) as completely as possible and fax or email it to the judge for completion and signature.
5. The officer will include the following information on the form:
 - a. SPD Incident Number - The incident number will be assigned to the EOP as the case/tracking number.
 - b. Expiration Date – EOPs expire at the close of the next day of judicial business following the date of issue or after seventy-two (72) hours after issuance, whichever is longer, unless otherwise continued by the court.
 - c. Plaintiff information.
 - d. Defendant information.
6. Officers will advise victims how to obtain a regular order of protection that is good for one year by accessing the AZPoint.gov website, and explain that the emergency order of protection expires at the close of the next day of judicial business following the day of issue or seventy-two (72) hours after issuance, whichever is longer, unless otherwise continued by the court.

 **Maricopa County Superior Court**
201 W. Jefferson St., Phoenix, AZ 85003

Maricopa County IA Court Judge: Ph. 602-876-8240; FAX 602-253-2645; Email JACA@MCAO.Maricopa.gov

EMERGENCY ORDER OF PROTECTION	SPD Incident Number [Abstract]
ORDER EXPIRES AT 5:00 PM on Pick Date	County MARICOPA
PLAINTIFF	State AZ

First, Middle, Last _____ Date of Birth _____

And on behalf of the minor members or Protected Persons listed below: (List name and DOB)

V.					
DEFENDANT IDENTIFIERS					
SEX	RACE	DOB	HT	WT	
EYES	HAIR	Arizona Prohibits Release of Social Security Numbers			
DRIVER'S LICENSE #		STATE	EXP. DATE		

Defendant's Address: _____

CAUTION: ☐ Weapon alleged in Petition ☐ Estimated Date of Birth _____

WARNINGS TO DEFENDANT: This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. § 2205). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. § 2262). **Only the court, in writing, can change this order.**

A peace officer has reasonable grounds to believe that Plaintiff is in immediate and present danger of domestic violence based on an allegation or a recent incident of violence and has stated those grounds to a judicial officer. This judicial officer finds that Plaintiff's life or health is in imminent danger and authorizes the issuance of this Emergency Order of Protection.

IT IS ORDERED:


☐ **NO CRIMES.** Defendant shall not commit any crimes against Plaintiff or Protected Persons.

☐ **NO CONTACT.** Defendant shall have no contact with Plaintiff except through attorneys, legal process, court hearings, and as checked: ☐ Phone ☐ Email/Fax ☐ Mail ☐ Other:

☐ **NO CONTACT.** Defendant shall have no contact with Protected Persons except through attorneys, legal process, court hearings, and as checked: ☐ Phone ☐ Email/Fax ☐ Mail ☐ Other:

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 **Maricopa County Superior Court**
201 W. Jefferson St., Phoenix, AZ 85003

SPD Incident Number [Abstract] _____

THE COURT FURTHER ORDERS:

☐ **RESIDENCE.** Plaintiff is granted exclusive use and possession of the residence listed below.

PROTECTED LOCATIONS. Defendant shall not go to or near Plaintiff's or Protected Person's:

☐ Residence (leave blank if confidential):

☐ Workplace (leave blank if confidential):

☐ School/Other: _____

☐ **ARIZONA FIREARMS LAW (A.R.S. § 13-3624(D) (4)).** The court finds that Defendant may inflict bodily injury or death on Plaintiff and, therefore, Defendant is prohibited from possessing or purchasing a firearm for the duration of this order.

OTHER ORDERS:

Date: _____ Order issued by: _____

Judicial Officer's Name and Court

WARNING: This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order. Even if the plaintiff initiates contact, you could be arrested and prosecuted for violating this protective order. If you do not want the plaintiff to contact you, you have the right to request a protective order against the plaintiff, but orders are not automatically granted upon request. Legal requirements must be met.

NOTICE: Violations of this order should be reported to a law enforcement agency, not the court.

DECLARATION OF SERVICE

The undersigned, being first duly qualified by law, certifies that Defendant was served with a copy of this Emergency Order of Protection on _____ at _____ (Date) (Time) ☐ a.m. ☐ p.m. at _____

(Address where Defendant was served)

Reporting Peace Officer and ID No. _____ Serving Peace Officer and ID No. _____

SURPRISE POLICE DEPARTMENT _____ Serving Agency _____

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FOD-020, New 01/20

C. Service of the EOP:

1. When the defendant is served, the Declaration of Service section at the bottom of page two will be completed and signed by the officer.
 - a. Officers will request that Communications enter the EOP into NCIC.
 - b. Upon expiration of the EOP, Communications will purge the EOP from NCIC.
2. If the defendant cannot be served during the officer's regular shift, the EOP will be turned over to the next on-duty shift sergeant. That sergeant will be responsible for reassigning the EOP for continued service attempts.
3. The service process will continue until the morning of the next day of judicial business. At this time, the EOP will be forwarded to the SPD Records Unit for retention.
4. If the defendant is in custody and the EOP has been served, officers will document this on the Form IV and in the incident report.

D. The serving officer will distribute the EOP as follows:

1. A copy of the EOP will be given to the plaintiff.
2. A copy of the EOP will be given to the defendant when served.
3. A copy of the EOP will be forwarded to Communications as soon as possible after service for entry into NCIC.
4. The original copy of the EOP with the Declaration of Service section completed will be routed to the SPD Records Unit, who will scan and attach a copy to the incident in RMS. The Records Unit will also forward a copy of the completed EOP to the Maricopa County Superior Court.

E. Retention of EOP:

1. Records Unit – The Records Unit will retain the original copy of the EOP until it expires.
2. Communications Section – The Communications Section will retain the ACIC/NCIC entry records of the EOP for one year.

VIII. VIOLATIONS AND ENFORCEMENT OF COURT ORDERS:

A. Violations and Enforcement of Orders of Protection (OP) and Injunctions Against Harassment (IAH).

1. Per ARS § 13-3602.Q, the provisions for cite and release under ARS § 13-3883.A.4 and ARS § 13-3903 do not apply to arrests made for violations of orders of protection (OP) and emergency orders of protection (EOP), and per ARS § 12-1809.M, the provisions for cite and release under ARS § 13-3903 do not apply to arrests made for violations of injunctions against harassment (IAH).
2. Based on the provisions of ARS § 13-3602.Q and ARS § 12-1809.M as indicated in section 1 above, a subject for whom there is probable cause to believe has violated an OP, EOP, or IAH will be arrested and booked into jail for interfering with judicial proceedings, ARS § 13-2810.
3. The following procedure will be followed:
 - a. Probable cause exists to believe that the defendant violated the OP or IAH.
 - b. Confirmation of Court Order - For an OP or IAH granted by any jurisdiction, the officer will confirm, or request Communications to confirm the validity of the court order, the conditions, and service on the defendant via the AZPoint portal.
 - c. When an OP or IAH is confirmed, officers will request a copy of the court order and the declaration of service. The copy of the court order and declaration of service will be submitted to the Records Unit as part of the reporting process, for charging purposes.

- d. If for any reason the officer is not able to confirm the validity and conditions of the OP or IAH through the above means and the plaintiff has a signed and stamped copy of the court order along with the declaration of service, the case will be submitted to the Prosecutor's Office for review and consideration for a complaint to be issued.
 - e. Officers will **not** send the victim to the City Court to request an Order to Show Cause or Contempt Hearing.
 - f. Vacating a Court Order - Only the court can vacate an OP or IAH. Merely because the defendant violated the terms of an OP or IAH and the plaintiff did not notify the police does not mean the court order is no longer valid. It does not matter whether the plaintiff violated the terms of the OP or IAH. An OP or IAH is valid for a period of one year from the date of service unless revoked or rescinded sooner by the granting court or a court of higher authority than the granting court.
3. Right to Access - Officers will not accompany a defendant in an order of protection or injunction against harassment while that person enters a location which the order prohibits the defendant from entering, nor "standby" while that person enters the location to obtain personal effects or for any other reasons. Defendants requesting such assistance will be referred back to the court to obtain an order to that effect.

EXCEPTION: If the order authorizes an officer to accompany the defendant and/or to conduct a civil stand by, a supervisor may approve an officer to do so.

B. Enforcement of Out-of-State Orders of Protection and Injunctions:

1. In accordance with ARS § 13-3602.U, "A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory, or a tribal court will be accorded full faith and credit and will be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction."
- a. ARS § 13-3602.U.4 states, "A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory, or an Indian tribe if the order was given to the officer by any source.
 - b. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect.
 - c. A peace 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.

2. Additionally, in accordance with Title 18 U.S.C.2265.(a), “Any protection order (for domestic violence or stalking) issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) will be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were the order of the enforcing State or tribe.”
 3. Therefore, an officer should enforce orders of protection and injunctions the same as if they were the order of an Arizona court.
 4. A peace officer who makes an arrest pursuant to ARS § 13-3601, ARS § 13-3602, or ARS § 12-1809 is not civilly or criminally liable for the arrest if the officer acts on probable cause and without malice (ARS § 13-3602.T and ARS § 12-1809.P).
- C. Violations of Restraining Orders - Officers will not take any enforcement action unless a separate criminal offense is in progress or has occurred. The complainant will be advised to contact the judge who signed the order because enforcement of restraining orders is generally a civil matter and police action is not authorized.
- D. Civil Court Orders and Evictions:
1. Writ of Restitution - Officers will not arrest persons who refuse to obey a writ of restitution. Should officers come into contact with a constable of a justice court requesting aid in service of a writ of restitution, and the subject refuses to obey the writ, officers will refer the constable back to their issuing court for an arrest warrant to be granted in the name of the violating party. Officers will maintain the peace and only arrest the subject if the subject commits a criminal violation.
 2. Referral - Officers who are requested to enforce a writ of restitution will advise the requesting party to contact the Maricopa County Sheriff's Office, Civil Division for enforcement.
 3. Civil Court Orders for Seizure of Property - Officers will not seize any property, personal or otherwise, pursuant to a civil court order. The plaintiff will be instructed to contact the Maricopa County Sheriff's Office, Civil Division, for execution of these orders.
 4. Serving Court Orders on the Mentally Ill (See OPS-24, Individuals with Mental Illness or In Crisis).
- E. Assisting Civil Process Servers:
1. Surprise Police Department members should refrain from getting involved in situations with civil process servers, other than to keep the peace.

2. When an officer is dispatched to assist a process server, the officer's role is to prevent any breach of the peace.
 - 1) Process servers act as officers of the court, but they do not possess any greater authority than the normal citizen does.
 - 2) Process servers are not authorized to force entry into private residences. They may not commit a trespass, engage in an act of violence, or engage in activity that would not be lawful for any private person to engage in.
 - 3) Process servers may peaceably enter upon private property, walk up sidewalks and driveways, knock on doors or otherwise engage in activity that may legitimately be carried out by other delivery persons or citizens.
 - 4) Process servers may carry firearms in the course of their employment to the same extent and subject to the same restrictions as any other person.

IX. RECEIPT AND SERVICE OF CITY COURT WITNESS SUBPOENAS: (72.2.1)

- A. The Surprise Police Department will serve witness subpoenas issued by the Surprise Municipal Court, when requested by the Surprise City Prosecutor's Office. The following procedure will occur:
 1. Receipt of Court Witness Subpoenas - Court witness subpoenas will be received by the Records Unit during normal business hours. The receiving employee will enter the subpoena into the WANTS Table in RMS.
 - a. Once all mandatory fields have been completed, the receiving employee will scan the document, save, name the document (example: cv1100082 court order), and attach it to the file.
 - b. A physical copy will be filed in the Court Witness Subpoena Book held in Records.
 - c. Notification – Once the subpoena is entered into RMS, Records will notify the on-duty POD sergeant of the entry and provide copies of the subpoena for service, along with the Summary Contact/Confidential form.
 - d. Assignment - The on-duty sergeant will assign the subpoena to an officer to attempt service during the course of their shift.
 2. Service of Court Witness Subpoenas
 - a. Officers will inform Communications of all service attempts and the reason for nonservice so the attempts can be logged into the WANTS Table in RMS by Communications. Service attempts will occur up to the court date on the subpoena.

- b. Declaration of Service - The serving officer will complete the Declaration of Service, sign the form, and return it with the Summary Contact/Confidential form and any copies of the subpoena to the Records Unit.
 - c. The Records Unit will be responsible for scanning and uploading the completed and signed Declaration of Service to the WANTS Table in RMS.
- 3. Nonservice of Court Witness Subpoenas - If the officer is unable to serve the court witness subpoena, the officer will do the following:
 - a. Advise Communications of all service attempts and the reason for nonservice so the attempts can be logged into the WANTS Table in RMS by Communications.
 - b. If the subpoena cannot be served during the assigned officer's shift, the officer will return all documents to the on-duty sergeant, who will pass them onto the next on-duty sergeant for reassignment to an officer for continued service attempts.
 - c. If the subpoena cannot be served by the court date on the subpoena, all associated documents will be returned to the Records Unit who will shred the subpoena and return the summary contact sheet to the court indicating the subpoena was not served.

X. MISCELLANEOUS CIVIL MATTERS:

A. Boundary Disputes:

- 1. Officers will not make arrests over a boundary dispute unless a violation of the criminal law has occurred. If a criminal violation has occurred, the appropriate enforcement action should be taken. Parties will be advised that this is a civil matter and that any physical or criminal damage by either party may result in criminal charges, regardless of which party originally committed the civil wrong.

B. Civil Standbys - The primary function of the Surprise Police Department when called to civil standbys is to preserve the peace and protect the lives and property of citizens. The purpose of a civil standby is to allow for the peaceful removal of personal property (not children) from a residence. Personnel will not become involved in the interpretation of civil court orders regarding the division of property or child custody issues.

1. General Procedures for Response to Civil Standbys –

- a. At least two officers should be dispatched for situations where the potential for violence exists.

- b. At all times, officers will preserve the peace but not provide legal advice or an opinion as to the interpretation of the judge's order or ownership of the property being disputed.
- c. Officer/s will take the appropriate enforcement action if any criminal activity arises from the civil standby. If appropriate, the officer/s should warn the violator that their actions could result in their arrest.
- d. No forced entry or damage will be made to the residence.
- e. If the order sets forth a particular item or items to be relinquished, and the defendant does not release the property, the officer will advise the complainant that an order to show cause will need to be requested from the court, and will refer the party to the appropriate court having jurisdiction over the matter.
- f. In situations where there is a dispute over property that is not listed in the court order or involving property of non-custodial children, the officer will refer the parties to the appropriate court having jurisdiction over the matter for resolution.
- g. Civil standby requests will be handled Monday through Sunday between the hours of 0800 and 1900. Any supervisor or officer at the scene of a civil standby can deviate from the timeframe if it is in the best interest of the parties involved and the Department.
- h. An on-duty POD lieutenant, sergeant, or the Department legal advisor should be contacted to answer questions.
- i. Prior to responding to the location, the requesting party will be advised by the officer/s on the guidelines for police involvement.
 - 1) Property - Only items needed for day-to-day living may be taken such as clothes, medicines, baby food, etc., unless otherwise indicated in a court order.
 - 2) If any party present expresses concern about any of the items taken, the items should be left at the residence and the parties advised to consult the court or their attorneys for clarification.
 - 3) Removal Time - It is the citizen's responsibility to have the necessary assistance to remove the property in a timely manner.

2. Non-Court Ordered Civil Standbys - Officers will not routinely become involved in non-court ordered civil standbys, unless otherwise specified by a supervisor.

- a. When a call for service is entered by Communications, supervisors will grant exceptions for medicine or essential items, and to maintain the peace or to protect individuals and property.

- b. Officers should remain at the scene for up to fifteen (15) minutes on non-court ordered civil standbys. If additional time is required, the party will be advised to contact the court for a court ordered civil standby.

3. Court Ordered Civil Standbys - When officers are called for a court ordered civil stand-by for one party to retrieve specific personal property from a residence, the following guidelines will be adhered to:

- a. In situations where the matter cannot be resolved between the parties, or a court order is not honored by the defendant or complainant, an IR will be completed. Officers should refer the complainant to the issuing court.
- b. Officers should remain at the scene for up to thirty (30) minutes on court ordered civil standbys. For civil standbys that require police presence in excess of thirty (30) minutes, the officer will contact the on-duty supervisor.

4. Considerations for dispatching an officer to a civil standby:

- a. When there is a threat of violence or physical injury - There should be a reason to believe that police presence will be needed to prevent physical injury such as, someone at the residence has shown or threatened violence in the past.
- b. When the person making the request:
 - 1) Has a legal right to enter the premises, such as a tenant or partial owner, and
 - 2) Has been involved in prior domestic violence calls at the location.
- c. When the requestor has an order of protection authorizing the removal of property from the premises.

C. Child Custody Disputes:

- 1. Custody of children generally rests with either of the natural parents, and only a Court of Record can take a child from their custody except in child abuse cases. When a dispute over custody arises and the police are summoned the responding officer will:
 - a. When a court orders a child into the custody of one parent and the other seizes the child, charges of custodial interference or access interference should be submitted for review to the appropriate prosecutorial office if the following conditions exist:

- 1) Charges of Custodial Interference may be filed against the non-custodial parent if the certified court order lists the specific dates and times the child is to be returned to the custodial parent.
 - 2) Charges of Access Interference may be filed against the custodial parent if the certified court order lists the specific dates and times the child is to be given to the non-custodial parent for visitation.
 - 3) In those cases in which the court order is vague and ambiguous on the dates and times for return/visitation, the parties are to be referred back to the court for clarification.
 - 4) If a certified copy of a court order is produced and an Incident Report is taken, both parties must be questioned regarding the issuance of any subsequent court orders and this must be noted in the report.
 - b. If no court order exists, action should be taken if the parent with custody of the children is a flight risk or there appears to be a danger to the health or morals of the children. The action will be dependent upon the circumstances but may range from an arrest of the parent to taking custody of the children, see ARS § 13-1302(A)(2).
 - c. If physical violence is threatened or committed, or when the non-custodial parent is present at the victim's location or is believed to be en route to the victim's location, officers will be dispatched and take whatever action is appropriate to protect the child and to preserve the peace.
2. Out-of-state custodial orders require a different process and must be filed/registered in Arizona before enforcement can occur. In these situations, officers should address any safety issues as a call for service, but would not enforce the court order for custody.
- D. Damage by Children or Dogs:
1. While some elements of a criminal violation may be present in damage to property by small children or dogs, the Department will not act as a collection agency to recover damages. The parties will be advised:
 - a. Parents/owners may be financially liable for each civil wrong committed by their children or dogs.
 - b. The complainant may pursue civil action against the parents/owners.

- c. If a dog is involved, the owner will be reminded of the licensing and leash laws.
- d. If the problem is aggravated or recurring, an officer will take an Incident Report to document the incident.

E. Labor Disputes:

- 1. Uniformed members of this Department will not enter any buildings, structures, or premises in which a labor dispute is in progress unless such entry is necessary to perform the duties of a police officer.
- 2. In cases involving a labor dispute, the participants (employees) of the grievance may picket while on public property surrounding the private property of the subject (business) of the labor dispute. The participants may also protest at the residence of a member of the business subject to the same restrictions given below. Participants may not:
 - a. Block the flow of traffic entering and exiting the property or driveways or traffic aisles needed to access the business or residential property or the public streets.
 - b. Violate a valid court order/injunction prohibiting certain actions (e.g., picketing distances, time of day, etc.).
 - c. Engage in illegal, violent behavior such as assault, threats, intimidation, misconduct involving weapons, and other offenses that would be a breach of the peace. In such instances where a crime is committed, appropriate enforcement action may be taken.

F. Landlord Tenant Act:

- 1. Under the Residential Landlord Tenant Act and Mobile Home Residential Landlord Tenant Act, disputes between a tenant and a landlord are generally civil in nature. This act provides in part:
 - a. A landlord cannot take the personal property of a tenant for non-payment of rent (i.e., tools, clothing). However, upon the service of a Writ of Restitution or Writ of Execution, the landlord should hold the tenant's personal property up to 60 days, after which the landlord may deal with the personal property as provided by law.
 - b. A landlord cannot lock out a tenant for non-payment of rent until the service of a Writ of Restitution or similar court order.

- c. The landlord may utilize techniques such as lock out, seizure of property, etc., in the following situations, as they are not protected by the Residential Landlord Tenant Act:
 - 1) Transient occupancy in hotels or motels.
 - 2) Hospitals, rehabilitation facilities, or similar medical facilities.
 - 3) Housing incidental to social service programs such as residential substance abuse counseling.
- d. Many leases contain a right of entry clause, which allows a landlord to inspect the tenant's premises for a number of reasons. When disagreements regarding this occur, officers should advise the tenant to check their lease. If this does not resolve the difficulty, participants will be advised to consult an attorney for civil remedies.
- e. Abandonment of personal property means absence of the tenant from the dwelling unit, without notice to the landlord, for:
 - 1) At least five (5) days if the rent for the dwelling unit is outstanding and unpaid for five (5) days and none of the tenant's personal property is in the dwelling unit.
 - 2) At least seven (7) days if rent for the dwelling unit is outstanding and unpaid for ten (10) days and there is no reasonable evidence other than the presence of the tenant's personal property that the tenant is occupying the residence.
- f. The landlord will hold the tenant's personal property for a period of fourteen (14) calendar days after the landlord retakes possession of the dwelling unit. If the landlord holds the property for this period and the tenant makes no reasonable effort to recover it, the landlord may donate the personal property to a qualifying charitable organization as defined in section 43-1088 or otherwise recognized charity or sell the property.
 - 1) The landlord can sell the property for outstanding and unpaid rent or other costs covered in the lease agreement.
 - 2) For any questions, the party should be told to consult the statutes.

G. Mechanic's Lien:

1. A lien is a “right.” Some liens take the form of a document, but not all. When the owner of a vehicle and the owner of a business have entered into an agreement regarding repairs to a vehicle and the amount to be charged, the owner of the business will hold a lien on the vehicle and can hold the vehicle until the agreed upon charge for services on the vehicle has been paid (ARS § 33-1022).
 - a. Verbal agreements are binding. Once the customer agrees verbally to have work completed for a certain fee, the customer must pay once the work is completed. If the customer is upset about the quality of the work, refer the customer to an attorney.
 - b. If business owners give up possession of the vehicle, they also give up the lien.
 - c. Mechanic's liens in tow situations:
 - 1) **Do not** apply to towing situations where the owner of the vehicle has not given consent for the tow.
 - 2) **Do** apply to towing situations if the owner gave consent and agreed to the tow charge.
 - 3) Officers should advise both the vehicle owner and the tow company that the tow company could choose to sue the vehicle owner.
 - d. Matters involving valid mechanic's liens are civil matters, and officers will not take enforcement action, except to preserve the peace.
 - e. If there is **no** valid mechanic's lien (either the owner did not agree to the work or the amount of the charge), the vehicle must be released to the owner. Failure to do so is considered theft.
 - 1) Officers should advise both the vehicle owner and the garage that the garage may choose to sue the vehicle owner to recover the reasonable value of its work.

H. Repossession of Property:

1. When a person buys certain articles, such as on a time payment plan, the agency lending the money for purchase may retain a security interest in the article until the loan is fully repaid. Examples include vehicles and business equipment. Unless otherwise agreed, if the purchaser does not make payments on the loan when due, the lending agency has the right to take possession of the item on the strength of this interest with or without court action (i.e., repossession of collateral). If the lending agency proceeds without a court order:

- a. It may only repossess when the repossession can be accomplished without a breach of the peace.
- b. If a breach of the peace appears to be imminent or actually occurs (i.e., fighting, challenging to fight, verbally asking the reposessor to stop, etc.), the officer will inform the agent of the lending company that the right to repossess by private individual is terminated. The agency may try again at a later time or may pursue a court order.
- c. Officers may take appropriate enforcement action against any party who commits a criminal offense.
- d. If the agent(s) persists in an attempt to repossess after being advised that the right has been terminated, the agent may be arrested for trespassing, theft, assault or any other offense committed.

I. Self-Service Storage Lockers:

1. Owners of self-service storage locker facilities have the right to take possession of personal property stored in locker spaces if rent is unpaid and due.
2. If rent payments are 30 days past due, the storage locker owner may sell the property.
3. These rights only apply if the rental agreement contains warnings to the tenant that the storage locker owner has these rights.
4. Violation of these statutes are not a crime. ARS § 33-1701 and following. Complainants should be advised to contact a private attorney.