
KANSAS CITY, KANSAS POLICE

GENERAL ORDER

SUBJECT: Civil Court Orders

ORDER NUMBER: 70.03
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RESCINDS: 70.03 Issued 12/10/2010

REFERENCE: CALEA [Ch.74](#)

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U.G. Ord. 22-35

CONTENTS:

I. PURPOSE

II. CIVIL COURT ORDER PROCEDURES

III. PROTECTION ORDERS

IV. VEHICLE REPOSSESSIONS

I. PURPOSE

- A. To familiarize all personnel with Departmental policy concerning civil court orders and the officer's responsibility for enforcing or assisting in the service and enforcement of such orders.

II. CIVIL COURT ORDER PROCEDURES

- A. Officers will bear in mind that it is not normally within the domain of the Police Department to assist in the enforcement of civil court orders.

1. Protection from Abuse, Protection from Stalking orders and emergency and domestic violence related restraining orders, however, will be served or enforced in accordance with General Order 40.06, Domestic Violence and General Order 40.22, Stalking.
2. Emergency Child Protection Orders will also be enforced in accordance with the Uniform Child Custody Jurisdiction Enforcement Act (KSA 38-1336).

- a. Temporary Emergency Child Custody Orders will be enforced. A Supervisor will be notified of the enforcement. These Court Orders must be registered in the State of Kansas if issued by a court of another state. In the event that you are in receipt of an emergency custody order issued by another state, a welfare check will be conducted on the child. If the child is found to be a Child in Need of Care, the child will be taken into protective custody and placed at JIAC. If there are no indications that this child is in danger, the Officer will document the findings and instruct the parent in possession of the out of state order that the order must be registered in the state of Kansas. The parent will be directed to respond to the Clerk of the District Court in the Unified Government West Building. The child will be left and the Officer will document the incident on a Miscellaneous Report. The emergency order must be current and must accompany the parent who is to receive custody.

- b. In the event that more than one child custody order has been issued; the emergency order will prevail if it is the most current order. A supervisor will respond to the scene if this occurs.
 - c. Officers will do a Juvenile Contact Only Report in the event that an emergency court order is enforced. If the officer has probable cause to believe the child is in danger the child should be taken into Police Protective Custody in accordance with General Order 40.02, Juvenile Procedures.
 - d. Officers will not enforce Child Custody Orders that are not of an emergency nature unless ordered by a Kansas Court.
 - e. Officers will adhere to all school policies whenever no court order is available.
3. The documentation procedures outlined in section II B 2 a-f will be followed for serving domestic violence and protection from abuse orders. A copy of the report will then be forwarded to the Operations Bureau for recording.

- B. Unless an officer is specifically instructed to act upon a civil court order by the Chief of Police, the Chief's designate, a Deputy Chief, the Unified Government Legal Department or a judge, officers will make it clear to all individuals involved that the Police Department's scope of authority does not encompass the enforcement of civil court orders, with the exception of emergency protection from abuse or protection from stalking and domestic violence related restraining orders

1. Approved requests will be made through the office of the Operations Bureau. The office of the Operations Bureau will develop permanent records of any such request. The minimum information for such record and entry shall consist of the following:
 - a. Date and time received
 - b. Type of legal process (summons)
 - c. Nature of document
 - d. Source of document
 - e. Name of the subject of the summons
 - f. Division Commander assigned responsibility for service
 - g. Date of assignment
 - h. Court docket number
 - i. Date service due
 - j. Date of service
 - k. Location of service

- I. The record entries should be capable of cross reference so that the information can be retrieved by means of the court's assigned number or the subject's name as well as date of service action.
2. When directed to serve a civil court order the assigned officer (or officers) will document a minimum of five (5) service attempts within a period not to exceed ten (10) days from date of issue. Each attempt will be documented on an investigative report. Officers will use the same complaint number. The documentation for each attempt will include:
 - a. Address where the service was attempted.
 - b. Date.
 - c. Time.
 - d. Name of officer(s) who attempted service.
 - e. If applicable, the reason that it was not successfully served.
 - f. Any unusual occurrence surrounding the service.
3. The documentation will then be forwarded to the person that instructed the officer to serve the civil court order.
4. After five (5) attempts, or if information has been developed to lead the officer to believe service is impossible, the civil court order and accompanying paperwork will be returned to the Division Commander with the specific reason that the officer believes that service is impossible documented.
- C. Upon arrival at the scene of a confrontation involving a civil court order, the officer's primary purpose is to maintain peace and to enforce all applicable state criminal statutes and Unified Government ordinance violations.
 1. Officers will make a concerted effort to resolve a dispute involving a court order using sound judgment. Violations of any other ordinances or statutes may also be cited by the officer. Valid justifiable reasons for affecting arrests will be required.
 2. If it is determined that Protection From Abuse, Protection From Stalking or Trespass is involved, the procedure outlined in Section III, will be applied by officers.
- D. Officers will initiate an Investigative Report complete with complaint number and disposition any time they are dispatched, requested to assist, or take official action in a situation involving a civil court order.
- E. Out of State civil court orders.
 1. Officers will not enforce an out-of-state civil court order unless directed by the Chief of Police or a Bureau Director except with regard to Protection From Abuse, Protection From Stalking and domestic violence orders.
 2. When an officer enforces an out of state protection from abuse, protection from stalking or domestic violence order a commander will immediately be notified.

III. PROTECTION ORDERS

- A. Officers will bear in mind that it is not normally within the domain of the Police Department to assist in the enforcement of Civil Court Orders (G.O. 70.03 Civil Court Orders).
- B. Officers will act on civil court orders primarily in three instances that involve a breach of criminal law KSA 21-5427(a)(3).
 1. Protection from Abuse Orders that protect abused persons when no divorce action is pending.
 2. Protection from Stalking Orders that restrain a person(s) from following, harassing, telephoning, contacting, or communicating with the plaintiff; restrains a person(s) from abusing, molesting, or interfering with the privacy rights of the victim; restrains the person(s) from entering upon the victim's residence or the immediate vicinity thereof; or ordering or restraining other acts deemed necessary.
 3. Restraining orders that apply to pending divorce proceedings. (KSA 60-1607)
- C. K.S.A. 12-4301 states that as a condition of release on a charge of a domestic violence related charge the suspect shall have a condition of release prohibiting contact with the alleged victim for a period of at least 72 hours. Violators of this restriction will be arrested and charged with KSA 21-5427(a)(3) and booked into the Wyandotte County Jail.
- D. If an officer has contact with an individual and has probable cause to believe he/she has violated a Protection Order, a felony arrest will be made, and the subject charged with KSA 21-5427(a)(3).
 1. Officers will ask the victim if the violation of the protection order placed the victim in fear for their safety. Officers will document the victim's response in the Investigative Report.
- E. If a victim advises an officer that an individual has violated a Protection Order and the suspect is no longer on the scene, an Offense Report will be completed utilizing KSA 21-5427(a)(3) and an Investigative Report completed.
 1. Officers will ask the victim if the violation of the protection order placed the victim in fear for their safety. Officers will document the victim's response in the Investigative Report.
- F. A record of all valid Protection From Abuse Orders will be maintained in the ALERT computer system for verification by the field supervisor or officer. The records will be reviewed and periodically updated by the Sheriff's Department.
- G. Officers are authorized to serve Protection From Stalking Orders (PFS) and Protection From Abuse Orders (PFA's) to the subject of the court order under certain circumstances.
 1. An officer will serve PFS and PFA's when the officer is at a scene and both the Victim (petitioner) and the subject of the PFS or PFA is present. The victim should have two (2) certified copies of the PFS or PFA in her or his possession. The victim will give the officer one of the certified copies. The officer will serve the subject on the spot. Once served, the officer will record his or her name, serial number, and the date and time the PFS or PFA was served on the

- backside of the victim's PFS or PFA, which will be given back to the victim.
2. The PFS and PFA will include a page for Notice of Service. The officer will separate the Notice of Service page and fill out all appropriate information. A complaint number will be placed on the completed Notice of Service page in the upper right hand corner.
 3. The Notice of Service page will be faxed to the Sheriff's Office at 573-2868. The officer will ensure this is done before going back in service. A copy will be made of the Notice of Service, which will be maintained by the Department, along with any other reports required for the incident, which will be forwarded through regular channels. The original Notice of Service will be sent via inter-department mail to the Sheriff's Department's Civil Process Division.
 4. The officer will notify a supervisor that he or she served a PFS or PFA, as well as any other information from the call that the supervisor should be made aware of. Any unusual circumstances should be clarified with the officer's supervisor.
 5. An officer that serves a PFS or PFA will write an Investigative Report, and any other required reports, documenting the circumstances surrounding the service of the PFS or PFA. This report will include the name of the petitioner (victim) and respondent, the information required in General Order 70.03 (section II A 2) along with a brief summary of what transpired at the scene.
- I. A record of Restraining Orders in a divorce action that provides for the use, occupancy, management and control of certain property will not normally be maintained by the Department. The officer and the supervisor must determine whether probable cause exists to believe the order is current and valid.
 1. When properly served to the Chief of Police and on file, the Police Department has the authority to evict a party from a specific residence or household and secure the residence for one person to the exclusion of the other person involved. (KSA 60-3107)
 - J. Officers will make a concerted effort to resolve a dispute involving a court order using sound judgment.
 - K. Officers will initiate an Investigative Report, complete with disposition, anytime they are dispatched, requested to assist, or take official action in a situation involving enforcement or service of Protection From Stalking Order or Protection From Abuse Order.
 - L. Under Federal Law, Protection From Stalking Orders, Protection From Abuse Orders and Restraining Orders issued by a court in another state do not have to be registered in Kansas to be valid in Kansas. Officers are therefore authorized to enforce such out of state court orders when appropriate. When officers encounter an out of state Restraint, Protection From Stalking Order or Protection From Abuse Order, a commander will be notified and consulted to determine the validity of the order.
1. A replevin order issued through a district court judge or magistrate. Such an order shall be delivered to the County Sheriff for enforcement.
 2. The Self Help Repossession Statute authorizes a creditor to take possession of a motor vehicle without a replevin order and without the consent of the debtor provided that it can be done without a breach of the peace.
 - a. The creditor is not required to obtain a replevin order if possession can be taken without entry into a dwelling and without the use of force or other breach of the peace. However, the creditor may not take possession of the collateral until after there has been a default and the consumer has been given the notice and right to cure.
 - b. A creditor, acting under the Self Help Repossession Statute has no authorization to violate the criminal code.
- B. Communications Responsibility: When a call taker receives information from a credit bureau, repossession agency, or other company or agent regarding a vehicle they have or are about to repossess, the call taker will record the vehicle information, location, and repossession in the vehicle repossession book.
 1. Officers will not be dispatched to the scene of a vehicle repossession to assist in the process of repossession.
 2. Any unusual circumstances require notification of the communications supervisor and, if necessary, a field supervisor, for determination before processing the call.
 - C. An officer's response to a vehicle repossession will be limited to maintaining the peace and enforcing criminal law violations, unless specifically instructed to act on the order by the Chief of Police or a Bureau Director. Violations of Unified Government ordinances or state statutes may be enforced by the officer.
 - D. Officers will not allow a creditor to use the officer's presence to cast an image or perception that they are utilizing the officer's police authority to exert control over the vehicle.
 - E. Officers encountering an individual involved in repossession will adhere to the following guidelines:
 1. Identify the individual to determine if he or she is a repossession with sufficient written authority to act on behalf of the lien holder. Check any documentation the repossession may have to verify the vehicle identification number, showing that the lien holder has a valid interest in the vehicle (name should appear on title) and there has been a default by purchaser. If these conditions are met and there is not a disturbance with the debtor the repossession has a right to the vehicle.
 2. If a breach of the peace develops among the creditor and debtor the creditor will be advised to seek a replevin order from the District Court in order to obtain possession of the vehicle.
 - a. Such orders are delivered to the county Sheriff for enforcement.

IV. VEHICLE REPOSSESSIONS

- A. A creditor can repossess a motor vehicle in one of the following ways:

3. Officers encountering other types of unusual circumstances shall contact a supervisor for a determination.
4. In all cases the primary unit on the scene will complete an Investigative Report on the incident, documenting all participants and the circumstances surrounding the incident.