

LEGAL PROCESS

28.1 RECORDS

PHILOSOPHY: The Lakewood Police Department is responsible for the service and documentation of several types of court orders. Proper records indicating actions taken by the Police Department with such orders is important to demonstrate a good faith attempt to serve and actual service of all orders. The following guidelines provide specific information required.

28.1.1 Legal Process Records

Principle: The Lakewood Police Department shall only serve court ordered documents, civil and/or criminal. Each court ordered document received by the Police Department shall have the below listed information recorded:

- A. Date / time received
- B. Type of legal process
- C. Nature of document
- D. Source of document
- E. Name of plaintiff and respondent
- F. Officer assigned for service (Refer to Standards 28.2.1 and 28.3.1)
- G. Date of assignment (Refer to Standards 28.2.1 and 28.3.1)
- H. Court docket number
- I. Date service due

28.1.2 Records of Execution of Attempted Service of Legal Process Documents

Principle: Whenever a Lakewood Police Department Officer serves or attempts to serve a court ordered legal process document the following information shall be recorded by that officer.

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

28.2 CIVIL PROCESS

PHILOSOPHY: Law enforcement agencies and the courts work together to ensure court orders are served in an efficient and safe manner. The service of specific types of orders is important to attempt to ensure the safety of citizens and the successful prosecution of violators. The guidelines provided below are meant to assist in defining the Lakewood Police Department's commitment to this process.

28.2.1 Service of Civil Process Documents

Principle: The Lakewood Police Department provides assistance to the functions of courts by attempting to provide effective service of court ordered civil process documents. The Pierce County Sheriff's Department (PCSD) or civilian process servers serve many of the civil process documents. When a Lakewood Police Department officer is serving a civil process order the following practices shall apply.

Practices:

- A. Civil Process Documents to be served:
 - 1. Subpoenas: Service of subpoenas stemming from Lakewood Police Department cases at the request of the court or prosecutor.
 - 2. Domestic Violence Orders: Orders issued pursuant to RCW Titles 10 and 26 and by any court of jurisdiction where the party to be served resides or works within the city boundaries of Lakewood.
 - 3. Mental Health Commitments: Commitments of a person to mental health facilities as provided for under RCW 71.05.150.
 - 4. Court orders issued by courts of jurisdiction specifically directing a police action. Eviction processes are handled only by the Pierce County Sheriff's Department.
- B. Domestic Violence Orders Service Practices:
 - 1. Following is a list of court orders served by Lakewood PD:
 - a. DV Restraining Orders
 - b. Orders of Protection
 - c. Anti-harassment Orders
 - d. Extreme Risk Protection Order (ERPO)
 - e. Order to Surrender Firearms
- C. Front Desk Procedures:
 - 1. The front desk Community Service Officer (CSO) receives an Order from a Petitioner
 - 2. The front desk CSO checks:
 - a. Address for Respondent
 - b. Address / Phone for Petitioner
 - c. Date of Hearing
 - 1. If hearing date has passed, look for an extension on the hearing date.
 - 2. If no extension, the order can't be served.
 - 3. The front desk CSO stamps Order on cover page and writes their LK number next to it.
 - 4. The designated CSO logs the following information in the Domestic Violence binder:
 - a. Case Number / Order Number
 - b. Date (Date the order was turned into us)

- c. 5th day: Count 5 business days back from hearing date, not counting the day of the hearing.
 - d. Hearing Date
 - e. Respondent info
 - f. Petitioner info
5. The CSO completes the Officer tracking form and attaches it to the front of the cover sheet. Run a CHRI check. Mark the appropriate box. List the findings at the bottom of the sheet.
 6. The CSO places the Order inside the binder, not in the sleeve. The Binder goes back to the turn out room.
 7. When a Cover page and Return of Service is returned, two copies are made: one copy goes to SOUTHSOUND 911 Records and one copy goes to the Petitioner.
- D. Procedures for Officers:
1. Distribution: A desk CSO shall enter protection orders into the red D.V. binder and then place the order into the front pocket of the binder. The patrol supervisor will assign the order during turn-out for subsequent service by the assigned officer.
 2. The officer receiving the Order will sign the Tracking Sheet, detach it from Order, and return it to the D.V. Binder.
 3. Serve Order to Respondent. The officer shall take any court orders awaiting service and shall make a reasonable effort to serve the orders during the shift.
 - a. Time Restraints: Officers should not attempt to serve court orders from 2300 hours to 0500 hours, unless indicators are present at the service locations that cause the officer to believe the residents/occupants are awake.
 - b. Timeframe: Officers shall attempt service within 24 hours of receipt of the order whenever practical but not more than ten days of receiving the order (RCW 7.94.060).
 - c. Documentation: When the order is successfully served, the officer shall complete the Return of Service form and return it to the DV Binder.
 1. Advise SOUTHSOUND 911 Records of Service by phone or by radio.
 2. If unable to serve due to an incomplete/incorrect address, complete the return of Service stating why the order could not be served.
 3. No Service Made: If the order is not served during the shift, indicate on the back of the Law Enforcement Information Cover Sheet the date and time that service was attempted, along with any other pertinent information. Return the order to the DV Binder. The last officer to attempt service before the expiration date needs to fill out the "other" section stating why the order could not be served.
- E. Other Civil Orders: Officers shall serve all other civil court orders listed in Section A as specified by the order. The officer shall complete and return the court papers required. If the police action taken normally requires a General Report be completed, then the officer shall complete the appropriate General Report.
- F. Questions: Any questions concerning jurisdiction of the Police Department in civil matters should be referred to the on duty patrol supervisor.
- G. Extreme Risk Protection Orders (ERPO)

1. An Extreme Risk Protection Order is intended to temporarily prevent individuals who are at high risk of harming themselves or others from possessing or accessing firearms. Family, household members and police agencies may obtain an ERPO when there is evidence that a Respondent poses a significant danger, including danger as a result of dangerous mental health crisis or violent behavior.
 2. For an ERPO there is no separate order to surrender – the order itself is the order to surrender. The service of ERPOs (and ex-parte ERPOs) takes precedence over the service of other documents, unless the other documents are of similar emergency nature. Due to the nature of these orders, the Respondent may be uncooperative and present a significant danger to police.
 3. When an officer encounters a person where an ERPO may assist their situation, the officer will explain to the person what an ERPO is and that one may be obtained at the Pierce County Superior Court.
 4. An ERPO is issued for a year. The order may not be changed. The Respondent may ask the court to cancel the order once in the 12-month period but must prove that he or she no longer poses a significant danger to self or others by having access to firearms. The Petitioner may ask the court to renew the order for another year at any time after the order has been in effect for 260 days.
- H. Officers may petition for an ERPO - Unlike all other types of protection orders, for ERPOs, a law enforcement officer may be the individual who files a petition for this type of order. (RCW 7.94.030)
1. If there is reasonable belief that a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving or otherwise having custody of a firearm, an officer may screen the situation with, and request permission from his/her supervisor to petition the court for an ERPO.
 2. Officers petitioning the court must use the mandatory ERPO petition and order forms created by the Administrative Office of the Court.
 3. The Petition and LEA Addendum should be filed in the Pierce County Superior Court (though it can be filed in District or Municipal Court) and must contain the following:
 - Allege, and support by facts, that the Respondent poses a significant danger of causing personal injury to self or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm, and be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the Respondent.
 - This requires an affidavit by the officer, made under oath, stating the specific statements, actions, or facts that give rise to a reasonable fear of future dangerous acts by the Respondent.
 - Identify the number, types, and locations of any firearms the petitioner officer believes to be in the Respondent's current ownership, possession, custody, or control.
 - Identify whether there is a known existing protection order governing the Respondent, under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW or under any other applicable statute.
 - Identify whether there is a pending lawsuit, complaint, petition, or other action between the parties to the petition under the laws of Washington.
 4. When drafting a Petition and LEA Addendum, include information relevant to any or all of the following:
 - A detailed explanation why the Respondent poses a significant danger of injuring self or others by having in his or her custody or control, purchasing, possessing, or receiving firearms;

- A recent act or threat of violence by the Respondent against self or others, whether or not such violence or threat of violence involves a firearm;
 - A pattern of acts or threats of violence by the Respondent within the past twelve months including, but not limited to, acts or threats of violence by the Respondent against self or others;
 - Any mental health issues of the Respondent indicating that might contribute to dangerousness;
 - A violation by the Respondent of a protection order or a no contact order issued under chapter 7.90, 7.92, 10.14, 9A.46, 10.99, 26.50, or 26.52 RCW;
 - A previous or existing ERPO issued against the Respondent;
 - A violation of a previous or existing ERPO issued against the Respondent;
 - A prior arrest or conviction of the Respondent for a crime that constitutes domestic violence as defined in RCW 10.99.020;
 - The Respondent's ownership or access to, or intent to possess firearms;
 - The unlawful or reckless use, display, or brandishing of a firearm by the Respondent;
 - The history of use, attempted use, or threatened use of physical force by the Respondent against another person, or the Respondent's history of stalking another person;
 - Any prior arrest of the Respondent for a felony offense or violent crime;
 - Corroborated evidence of the abuse of controlled substances or alcohol by the Respondent; and
 - Evidence of recent acquisition of firearms by the Respondent.
5. Complete the Law Enforcement Information Sheet (LEIS). The LEIS should include Respondent's full name, date of birth, address, and other identifying information (e.g. height, weight, eye color, driver's license, etc.)
 6. Attempt to notify family or household members of the Respondent and any known third party who may be at risk of violence. Officers will attempt notification prior to filing the petition, if possible, and if not possible, officers will notify after filing the petition. If the ERPO petition is done in conjunction with an incident for this there was a General Offense Report, document notification or attempts in a Supplemental Report under the original case number. If not, a General Offense Report should be created to document the ERPO steps taken.
 7. Officers must attest in the Petition that they have provided such notice, or attest to the steps that will be taken to provide such notice.
 8. If the Petitioner is a law enforcement officer or agency, the address of record must be that of the law enforcement agency.
 9. Upon receipt of the Petition, the court shall order a hearing to be held not later than fourteen days from the date of the order and issue a notice of hearing to the Respondent for the same.
 10. Information for the public and family members is available on line and in the ERPO brochure.
 11. Officers will also provide referrals to appropriate resources, including mental health, domestic violence, and counseling resources.

12. Submit completed forms to the appropriate court clerk. The clerk will assign the petition a case number and provide a date and time for the hearing. If a temporary order is not requested, the hearing to issue the order may take place in up to 14 days.

I. Ex-Parte Extreme Risk Protection Orders

1. This temporary order is issued by the court without notification to the Respondent. Petitioners may request that an ex parte ERPO be issued before a full hearing on the Petition, by including facts in the Petition that based on personal knowledge the Respondent poses a significant danger of causing personal injury to self or others in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm. It would be helpful to note as well that providing notice of the hearing to Respondent increases the danger to the Petitioner or others.
2. If a court finds there is reasonable cause to believe that the respondent poses a significant danger of causing personal injury to self or others in the near future by having in his or her custody or control, purchasing, possessing, or receiving a firearm, (and may also note that providing notice increases danger to the Petitioner or others), the court shall issue an Ex-Parte ERPO.

J. Serving an Order to Surrender Firearms

1. Advise the Respondent/Restrained Person that the court has ordered that all firearms and ammunition in his or her custody, control or possession and any CPL must be temporarily turned over to law enforcement for safe-keeping.
2. Explain to the Respondent/Restrained Person this is a temporary court order, law enforcement will retain the firearms, and he or she can contest it at the hearing.
3. If the Respondent/Restrained Person refuses to surrender firearms, or all firearms, and/or CPL, advise him or her that possessing or acquiring a firearm or CPL is prohibited and that violating the order may subject the Respondent/Restrained Person to criminal and civil penalties. If he or she continues to refuse, that is a violation of law and the Respondent/Restrained Person is subject to arrest.
4. If the Respondent fails to comply with the surrender of firearms as directed by the order, complete a report using the court order case number to be submitted as the officer's sworn statement and execute the arrest.
5. If needed, conduct any search permitted by law, and/or execute a writ if one has been authorized by the court, to ensure all firearms in the Respondent/Restrained Person's custody, control or possession have been obtained.
6. Take possession of all firearms that are surrendered, in plain sight, or discovered pursuant to a lawful search. For victim safety, every lawful effort shall be made to obtain any and all firearms at the time of the order service, rather than asking the Respondent/Restrained Person to bring firearms to the agency at a later date.
7. If the Respondent/Restrained Person is not physically located where his/her firearms and CPL are located, in order to reduce the risk of lethality and harm, transport or follow him or her to retrieve all firearms and the CPL.
8. If a Restrained Person is served in court or via mail/publication, he or she may surrender firearms and CPL to law enforcement within 48 hours or receiving notice, rather than immediate surrender.
9. Complete the Proof of Surrender form included with the court order.
10. Provide a receipt for all surrendered firearms and CPL to the Respondent/Restrained Person. Keep a copy for agency files. The original is to be filed with the court within 72 hours after the service of the order.

11. Notify SS911 Records that the order was served and firearm(s)/CPL were surrendered.
12. Deliver the firearms and CPL to the Evidence Unit and book the firearms according to agency procedure.
13. Complete and sign the Return of Service form and mark the appropriate box for surrender of firearms. Note that every box must be marked for each document that was required to be served or the court may not find that the service was complete and the Respondent/Restrained Person may argue he or she was not properly served.
14. Mail a copy of the Return of Service to the Protected Person. If requested by the Protected Person, attempt to call him or her to confirm service.
15. If service on the Respondent/Restrained Person cannot be completed within ten days of receipt, notify the Protected Party.

K. Surrender of Firearms and CPL at Police Station

1. Surrender by appointment

- a. The Respondent will be directed to call a Police Department and request to speak to an officer about surrendering their firearms and CPL.
- b. The responding officer will schedule an appointment for acceptance of firearms and CPL. If an appointment is made, the Property Unit, Patrol Lieutenant, Sergeants and officers scheduled to work that shift will be notified.
- c. Appointments will be accepted at all times of the day, seven days a week.
- d. At the appointed time the surrendering Respondent will come to the Police Department. The firearms (unloaded) and CPL must remain in the Respondent's vehicle. No firearms will be brought into the building by the Respondent.
- e. The responding officer will meet the Respondent inside the building, and walk together to the vehicle. The officer will retrieve the firearms and CPL in the parking lot.
- f. The officer will take the surrendered firearms and CPL into the property room while the Respondent waits in the lobby.
- g. Officers will contact SS911 Records to check WACIC/NCIC to ensure that any firearm is not listed as stolen and that all identified firearms have been surrendered. SS911 Records will print a copy of the results of the search to be included in the officer's report.
- h. The officer will enter a specific code used by the agency for firearms surrendered as a result of Orders to Surrender.
- i. A copy of the evidence entry form listing the firearms will be provided to the Respondent along with a property receipt.
- j. Property personnel will fully photograph every firearm surrendered to record the condition of the surrendered weapons.
- k. The officer will use the original court order case number and will write a supplemental narrative report to the original case file.
- l. The completed supplemental narrative and list of surrendered firearms and CPL will be forwarded

to SS911 Records by the end of the officer's shift.

- m. SS911 Records will modify the WACIC/NCIC entry that all firearms have been surrendered.

2. Assist Outside Agencies

- a. If a court order is the result of another agency's case report, the officer will create a new case number and complete an "assist other agency" case report.
- b. The officer will contact SS911 Records to check WACIC/NCIC to ensure that the firearms are not listed as stolen. SS911 Records will print a copy of the results for the officer to include in the report.
- c. A copy of the evidence entry form listing the surrendered firearms will be provided to the Respondent who surrendered them.
- d. The firearms will be inventoried and booked in to the property room under the court order case number and the officer will write a supplemental narrative report to the original case.
- e. The completed supplemental narrative and list of surrendered firearms and CPL will be forwarded to SS911 Records by the end of the officer's shift.

L. Storage of Firearms

- 1. Firearms and CPLs surrendered under RCW 9.41.800 will be stored pursuant to the procedures in the Department Property and Evidence Manual. These procedures should include the following steps:
 - a. The surrendered firearms will be inventoried and booked into the property room. The inventory will include the individual's name, address, phone number and the court order case number.
 - b. Record the firearms serial numbers and the CPL number.
 - c. Record the date the firearms and CPL were accepted for storage.
 - d. Prepare a property receipt form and provide a copy to the individual who surrendered the firearms and CPL.
 - e. Secure the firearms per departmental policy.
 - f. Conduct any test firing per departmental policy.

M. Return of Firearms and CPL

- 1. The Respondent must have proper identification and authority from the court for the firearms and CPL to be returned. In addition, Protected Person or family members could be at greater risk after a firearm is returned, so notification will reduce the risk of violence or lethality.
- 2. Firearms surrendered pursuant to a court order will only be returned to the rightful owner pursuant to proof of a specific court order revoking the Surrender Order and granting the release of the firearms at issue, subject to Respondent's eligibility to possess firearms.
 - a. Prior to the return of a firearm or CPL, the Evidence Staff shall ensure confirmation of the following:
 - Ensure that twenty-four hours have elapsed from the time the firearm was obtained by law enforcement officers (RCW 9.41.345), unless the firearm was seized in connection with a domestic violence call pursuant to RCW 10.99.030, in which case the Evidence Staff must

ensure that five business days have elapsed from the time the firearm was obtained.

- When Evidence Staff receive the Respondent/Restrained Person's request to return firearms, Evidence Staff will notify the Protected Person and/or family or household members that the Respondent/Restrained Person has requested the return of surrendered firearms and/or CPL.
- Efforts to reach the Protected Person will continue until the Protected Person acknowledges notification. Notification of the Protected Person will include explanation that they have the right to ask the court to renew the Order to Surrender Firearms. (Best practice is to notify the Protected Person and others at the time the Respondent/Restrained Person requests return so that the Protected Person may file a petition renewing the protection order at the same time that Evidence Staff is determining the Respondent/Restrained Person's eligibility to possess firearms/CPL. If Evidence Staff waits until after determining the Respondent/Restrained Person's eligibility, then the Protected Person only has 72 hours to renew the protection order, as Evidence Staff may only hold firearms 72 hours after determining Respondent/Restrained person is eligible to possess firearms.)
- The individual and/or owner are otherwise eligible to possess a firearm, regardless of the status of this particular order.
- The individual to whom the firearms are to be returned is the individual from whom the firearms were obtained, or an authorized representative of that individual, or another person identified by a court order.
- Proof of a court order authorizing release of the firearms or CPL.
- The protection order has expired by its terms or is dismissed and is no longer in effect.
- The order was a temporary order that has expired and the court denied a motion for a permanent order.
- The order has been modified by the court and the person is no longer prohibited from possessing firearms.
- The firearms are not required to be held for evidence or another reason.
- If the owner is eligible to possess firearms but the agency has knowledge the owner lives with a person who is ineligible to possess firearms (felon, disqualifying DV convictions, no-contact and protection orders), the firearms may not be released without a court order. Felons and others disqualified from possession are prohibited from actual or constructive possession.
- If a person other than the Respondent/Restrained Person claims title to any firearms surrendered, and he or she is determined by the agency to be the lawful owner of the firearm, the owner shall be advised that he or she may request of the court that the firearm shall be returned to him or her. The court must advise the owner that he or she could be subject to criminal penalties if he or she allows the Restrained Person/Respondent to have custody, control, or possession and so the lawful owner must agree to store the firearm in a manner such that the Restrained Person/Respondent does not have access or control of the firearm. The court must also determine that the firearm is not otherwise unlawfully possessed by the owner.

28.3 CRIMINAL PROCESS

PHILOSOPHY: The execution of criminal court orders/warrants is an essential part of investigative follow through and

successful prosecution. The primary goal is to gain compliance from those that are listed in a criminal court order and the Lakewood Police Department is proactive in attempting to gain such cooperation.

28.3.1 Execution of Criminal Process Documents

Principle: Lakewood 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:

Practices:

- A. Search Warrants: Normally, the Criminal Investigations Unit (CIU) will respond to assist with the preparation of search warrants, obtaining a judicial signature, and service of the warrant. Simple warrants (non-occupied property and records) may be obtained by officers assigned to other units or sections when those officers have previous experience in Pierce County search warrant procedures. Officers shall always notify their supervisor of their intent to seek and/or serve a search warrant.

- 1. Search Warrant Territorial Limits:

- a. Pierce County Superior Court: Warrants issued by Superior Court are valid throughout the state.
- b. District Court: A warrant issued by a District Court is valid only in the county of issuance.
- c. Lakewood Municipal Court: A warrant issued by the Lakewood Municipal Court is valid only within the city limits of Lakewood.

- B. Arrest Warrants: In accordance with state and local laws and practices, a citation or summons can be issued to a subject charging them with either a misdemeanor or gross misdemeanor when enough probable cause exists to issue it. This is the more customary way of charging suspect(s). Arrest warrants are only obtained directly by Lakewood officers when an immediate need exists to take someone into custody.

- 1. Arrest Warrant Territorial Limits:

- a. Felony Arrest Warrants: Felony arrest warrants issued by Superior Courts are valid within the United States.
- b. Misdemeanor Arrest Warrants: Misdemeanor arrest warrants issued through district or municipal courts are valid statewide.

- 2. Arrest Warrant Expiration Dates: Each warrant will have an expiration date on it if applicable.

- 3. Execution of Lakewood Arrest Warrants:

- a. Patrol Section: When calls for service permit, officers should attempt to serve Lakewood arrest warrants. The below listed practices shall be followed:
 - 1. Execution Attempts: All warrant execution attempts shall have two officers present. The officer shall check the warrant in WASIC or through SOUTHSOUND 911 Records to ensure it is still active prior to any attempt to execute it. Officers shall not attempt to execute warrants at residences from 2300 hours to 0500 hours, unless indicators are present at the service location that cause the officer to believe the residents/occupants are awake or a supervisor approves the attempt.
 - 2. Attempt Execution Documentation: An officer shall record on the back of the warrant copy all attempts made to execute the warrant. The officer shall include the date, time, officer's name, and location of attempt. If the warrant is executed, then the required incident report shall be completed.

- b. Other Jurisdiction Misdemeanor Warrants: When an officer comes into contact with a subject that has a misdemeanor warrant from this state or any other state the officer shall confirm the warrant, take that person into custody, and transfer custody to the law enforcement agency actually holding the warrant.

If the agency holding the warrant refuses to extradite or accept custody, the subject may be released if there are no local charges. Refer to Standard 1.2.6.

- c. Felony: When an officer comes into contact with a subject that has a felony warrant from this state or any other state, the officer shall confirm the warrant, take that person into custody, and book the person into the Pierce County Detention and Corrections Center (PCDCC). The officer shall complete the necessary General Report for the arrest.

28.3.2 Execution by Sworn Personnel

Principle: Only general authority commissioned police officers may execute arrest warrants.