



# How Cities Can Protect Employees Through Workplace Violence Restraining Orders

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## Presentation Roadmap

- 1. Overview, Legislative History,  
Purpose, and Definitions**
- 2. Petition Process**
- 3. Case Examples**
- 4. Final Thoughts**

## Overview

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A WVRO is a civil court order that imposes the following on the subject individual:

- Personal conduct orders;
- Stay-away orders;
- Firearms prohibitions; and
- Other orders as determined by the court

## Legislative History

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- **ENACTMENT:** In 1994, the California Legislature enacted the Workplace Violence Safety Act; codified as California Code of Civil Procedure section 527.8 ("Section 527.8")
- **INTENT:** According to its authors, the express intent of Section 527.8 was to address the "growing phenomenon" of workplace violence in California
- **PURPOSE:** Section 527.8 was signed into law for the purpose of enabling public and private sector employers to prevent violence against their employees by petitioning the courts for injunction relief



## Purpose

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Section 527.8 allows an employer (e.g., a city) to petition the court for a temporary restraining order (“TRO”) and/or WVRO on behalf of an employee (or employees) who has (or have) suffered **unlawful violence** and/or a **credible threat of violence** in the workplace (so long as act not constitutionally protected)



## Definitions: “Unlawful violence”

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“**Any assault or battery, or stalking ... , but shall not include lawful acts of self-defense or defense of others**”



## Definitions: “Credible threat of violence”

“A knowing and willful **statement or course of conduct** that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose”



## Definitions: “Course of conduct”

“A pattern of conduct composed of a series of acts over a period of time ... evidencing a continuity of purpose, including:”

- following or stalking an employee to or from work;
- entering the workplace;
- following an employee during hours of employment;
- making telephone calls to an employee; or
- sending correspondence to an employee by any means (e.g., e-mail, interoffice mail, etc.)



## Petition Process: Step 1

Determining whether to file a petition:

- Fact gathering: talk to employee(s), witness(es), supervisor(s), legal counsel;
- Cooperation of the victim(s);
- Identify subject individual;



## Petition Process: Step 2

Drafting petition papers:

- Petition for Workplace Violence Restraining Orders (WV-100)
  - Affidavit detailing description of conduct
  - Declaration(s) of victim(s), witness(es), and/or supervisor(s)
- Confidential CLETS Information (CLETS-001)
- Notice of Court Hearing (WV-109)
- Temporary Restraining Order (WV-110)
- Civil Case Cover Sheet (CM-010)



## Petition Process: Step 3

### Filing petition papers:

- All forms and supporting papers must be filed with the appropriate court (check court website)
- If TRO is requested, the court will usually grant or deny the request on the same day of filing
  - A TRO may be issued if the petition provides reasonable proof that (1) an employee has suffered unlawful violence and/or a credible threat of violence and (2) **great or irreparable harm would result to the employee if the TRO is not issued**



## Petition Process: Step 4

### Serving the subject individual:

- Any adult who is not a party to the action may execute service of process (e.g., police officer, deputy sheriff, process server, etc.)
- All papers must be served (along with additional forms)
- Must complete and file Proof of Personal Service (WV-200)
- Service must be executed at least 5 days before the hearing



## Petition Process: Step 4

### Prepare for hearing:

- The hearing will usually be set 21 days after the petition is filed
- If a TRO is issued, it remains in effect until the hearing (once the subject individual is served)
- Coordinate witness testimony and other evidence
- Be prepared for a contested hearing



## Petition Process: Step 4

### Hearing:

- Court must find by **clear and convincing evidence** that subject individual engaged in **unlawful violence** or made a **credible threat of violence**
  - e.g., substantially more likely than not to be true; high probability of truth
  - *higher* than “preponderance of the evidence”
  - *lower* than “proof beyond a reasonable doubt”



## Petition Process: Step 5

WVRO is issued:

- If issued, a WVRO will impose the following on the subject individual:
  - Personal conduct orders;
  - Stay-away orders;
  - Firearms prohibitions; and
  - Other orders as determined by the court



## Petition Process: Step 5

Personal conduct orders: subject individual may not:

- Harass, molest, strike, assault, batter, abuse, destroy personal property or, or disturb the peace of the employee;
- Commit acts of violence or threaten the employee;
- Follow or stalk the employee during work hours;
- Contact the employee, either directly or indirectly, in **any** way;
- Enter the employee's workplace;
- Take any action to obtain the employee's address



## Petition Process: Step 5

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Stay-away orders: subject individual must stay at least [100] yards away from:

- Employee
- Employee's workplace, home, school, vehicle, etc.
- Employee's children
- Any other location(s) requested in petition



## Petition Process: Step 5

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Firearms prohibitions:

- Subject individual may not own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition

## Case Examples

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1. Citizen in public library
2. Citizen in public park
3. Citizen in City Hall
4. Elected City Clerk

## Final Thoughts

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- Section 527.8 supports the explicit public policy which requires employers to both **provide a safe and secure workplace** and also to **take reasonable steps to address credible threats of violence in the workplace**
- Petitioning the court for a TRO and/or WVRO is an important, proactive measure that should be utilized by public entities to comply with public policy and, most importantly, to protect their employees