

RENO POLICE DEPARTMENT GENERAL ORDER

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Legal Advisor: Karen Fraley /s/		
Approving Deputy Chief:		
General Order No: P-130-05	Issued: January 4, 2006	Supersedes: 3/256.000
	Reissued:	Revised:
General Order Title: CHILD CUSTODY CASES		

POLICY

Background

NRS Chapter 125A, Uniform Child Custody Jurisdiction and Enforcement Act, provides the laws and guidelines regarding child custody issues.

NRS 125A.545 commonly referred to as the "full faith and credit act" allows law enforcement to make custody determinations based on orders issued outside the jurisdiction:

NRS 125A.545 Recognition and enforcement. A court of this state shall accord full faith and credit to an order issued by another state and consistent with the provisions of this chapter which enforces a child custody determination by a court of another state unless the order has been vacated, stayed or modified by a court having jurisdiction to do so pursuant to NRS 125A.305 to 125A.395, inclusive.

Issues

Validity of Court Orders and Decrees

Legal requirements exist which are prerequisite to the issuance of a valid court order or decree awarding child custody. The absence of one or both requirements negates the court's authority to award custody. The two requirements are:

1. Jurisdiction over the parties involved.
2. Representation, meaning the parties involved must have been present or represented by counsel. A divorce decree awarded by default on behalf of one party is insufficient to award custody, and therefore, the court issuing the order would have had no jurisdiction to award any custody and any custody award would thus not be valid.

DEFINITIONS

“**Of any court**” is herein defined as any court that has jurisdiction over both parties regardless of whether that court is a Nevada court or a court of another state.

Jurisdiction is herein defined as the power, right, or authority to interpret and apply the law. Usually the court that has jurisdiction is the court that issued the original divorce and/or custody decree. In order to know jurisdiction of the original court order both parties must either be present or represented by counsel.

PROCEDURES

Officers’ Responsibilities

1. Determine if the child’s (children’s) health or welfare is in jeopardy. If the welfare of the child is a concern, officers should place the child into a safe environment within the guidelines of Nevada Revised Statutes and Department General Orders regarding juvenile procedures.
2. Determine if any crimes have been committed or are being alleged, and handle according to applicable laws and Department guidelines.
3. Review and enforce the most current court order concerning the involved parties.
4. Consult with the on-call District Attorney whenever a problem exists with interpreting the decree or a situation remains unclear.
5. When handling child custody cases, officers will notify their immediate supervisor of the circumstances. No arrests or disposition of custody will be made without prior supervisory approval.

Out of State Decrees

In instances where a custody decree has been granted in another state, and the child is currently in Nevada with a parent having no legal right to the child or to custody of the child, and who refuses to return the child, determination will be required of the following:

1. **Examine the divorce decree for custody details, such as duration of visitation rights, if any, limitations, and the nature of the decree, e.g., granted by default or through representation.**

When it is not possible to examine the custody decree due to the custodial parent being out of state, a reading of the decree over the telephone, or a teletype abstract is sufficient.

Authorized readings or abstracts of the decree may be accepted and relied upon only from

law enforcement officials and members of the court. Whenever any such reading or abstract is relied upon by a member of this Department, an incident report will be made listing the reader's name, agency, and other information necessary to indicate an authorized reading or abstract was received. This is necessary in order to determine that the court had jurisdiction to initially issue the decree. An abstract or copy of the decree should be requested by Department members whenever possible.

2. **Ascertain whether the non-custodial parent has obtained a subsequent custody decree from a court in Nevada. The most current custody decree takes precedence over all previous decrees issued.**

Nevada Decrees

When both parties are residing in Nevada, the above procedures are equally applicable.

Flight Cases

Officers should comply with Nevada Revised Statute 200.357, Law Enforcement Officer Required to Take Child into Protective Custody if Child in Danger of Being Removed from Jurisdiction.

Arrests

Whenever it is determined that a parent is in violation of Nevada Revised Statute 200.359, that parent may be arrested and booked on the felony charge of NRS 200.359, Detention, Concealment, Removal of Child from Person Having Lawful Custody in Violation of Court Order. Consultation with an on-call District Attorney will be made whenever a problem exists in interpreting the decree or a situation remains unclear.