

	<b>LANE COUNTY SHERIFF'S OFFICE POLICY</b>	Number: <b>G.O. 7.32</b>
		Issue Date: March 21, 2005
		Revision Date:
<b>CHAPTER:</b> Patrol		Related Policy: G.O. 1.16 (Law Enforcement Employee Domestic Violence), G.O. 7.14 (APA/Child/Elder Abuse)
<b>SUBJECT:</b> Stalking Law		Related Laws: ORS 163.730, ORS 163.732, ORS 163.735, ORS 163.738, ORS 163.741, ORS 153.744, ORS 163.750, ORS 163.753, ORS 163.755

**POLICY:** Employees must act reasonably and within the limits of their authority as defined by statute and judicial interpretation, insuring that the rights of both the individual and society are protected.

**RULE:** None

**PROCEDURE:**

I. Background

The 1995 State Legislature passed House Bill 2316 which significantly modified and simplified the old Stalking Law. The process for enforcing this new law is so different from the old that it is important you disregard almost all of what you knew to be true about stalking before now.

A. Legal Responsibilities

Under the provisions of ORS 163.730, this Sheriff's Office is required to perform specific duties when a complaint is initiated. ORS 163.735 requires that a uniform stalking citation be issued, if there is probable cause to believe that the crime of stalking has occurred. Additionally, an **arrest must** be made, if there is probable cause to believe the crime of "Violating a Court Stalking Order" has been committed. ORS 163.750

B. Protection from civil liabilities: ORS 163.753

ORS 163.753 does provide immunity to law enforcement officers, who are acting in good faith, from civil liability for issuing or not issuing a citation under ORS 163.735

## II. Arresting for the Crime of Stalking

- A. A deputy may arrest or issue a criminal citation based on probable cause for the crime of stalking, if:
1. The suspect knowingly alarms or coerces the victim, or a member of the victim's immediate family or household, by engaging in repeated and unwanted contact with the victim;
  2. It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and
  3. The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.
  4. At least one of the "repeated" contacts must have occurred after June 13, 1995.
- (Note) ORS 163.730 (1) defines "alarm" as to cause apprehension or fear resulting from the perception of danger.

- B. The crime of Stalking is a Class A Misdemeanor, unless the suspect has a prior conviction for the crime of Stalking or Violating a Stalking Protective Order. In that case, the crimes of Stalking or Violating a Stalking Protective Order are Class C Felonies.

## III. Issuing the Uniform Stalking Citation

- A. A police officer **SHALL** issue a (civil) Uniform Stalking Citation, if there is probable cause to believe that:
1. The suspect has INTENTIONALLY, KNOWINGLY, OR RECKLESSLY engaged in repeated and unwanted contact with the victim, or a member of the victim's immediate family or household, thereby alarming or coercing the victim;
  2. It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and
  3. The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.
  4. All of the "repeated" contact must have occurred after June 13, 1995.

B. The Uniformed Stalking Citation is not a criminal citation. It is simply a process where a Police Officer orders a respondent into court for a civil proceeding at **10:00 AM on the third judicial day** following the day of service. Use the chart below.

1. If the citation is served:	Appearance day is:
MONDAY	THURSDAY
TUESDAY	FRIDAY
WEDNESDAY	MONDAY
THURSDAY	TUESDAY
FRIDAY	WEDNESDAY
SATURDAY	WEDNESDAY
SUNDAY	WEDNESDAY

2. If Lane County Circuit Court is closed on the assigned appearance day, cite for the next court day.

C. The victim must still complete a Stalking Complaint, which will be combined on one page with the Uniform Stalking Citation.

D. An incident report will to be completed even if no criminal action is taken.

E. The deputy must re-contact the victim and inform him/her when the service is completed and the date and time of the court hearing.

F. If service cannot be completed, the victim should be referred to the District Attorney to request a Court Protective Order. In this case, the deputy must also be prepared to explain what steps were taken to locate the suspect.

G. The victim must attend the hearing. If the suspect is issued a Uniform Stalking Citation and fails to appear at the hearing, the court will immediately issue a warrant for the suspect's arrest and automatically enter a Court Protective Order. However, the Court Protective Order will not be enforceable until it is served on the suspect.

IV. Violating a Court Stalking Protective Order

A. If a Court Protective Order exists when new stalking conduct occurs, the deputy **MUST** arrest the suspect for the crime of Violating a Court Stalking Protective Order.

B. In addition to arresting the suspect for Violating a Court Stalking Protective Order, a deputy may also charge the suspect with the crime of Stalking based on the new observations, if the circumstances justify it.

V. Oregon Uniform Stalking Complaint/Citation

- A. The new Oregon Uniform Stalking Complaint and the Oregon Uniform Stalking Citation are combined on one five-part snap-out form. Each page is marked at the bottom to indicate its routing.
1. Route the original (white copy) with a copy of the police report to Circuit Court Records Section.
  2. Include the green copy as a page of the original police report.
  3. Route the yellow copy to the district attorney's office with a copy of the police report.
  4. The pink copy is "petitioner's" (victim).
  5. The goldenrod copy is "respondent's" (suspect).