

TEXARKANA, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL

<i>Effective Date</i> February 1, 2008		<i>Amended Date</i>		<i>Directive</i> 7.08.1	
<i>Subject</i> Family Violence					
<i>Reference</i>					
<i>Distribution</i> All Personnel City Manager City Attorney		<i>TPCA Best Practices Recognition Program Reference</i> 7.08.1 Family Violence		<i>Review Date</i> January 1, 2017	
				<i>Pages</i> 5	

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to establish procedures concerning the handling of family violence and domestic disturbance situations.

SECTION 2 POLICY

It is the policy of the Department that officers responding to situations involving allegations of family violence shall protect the victim, without regard to the relationship between the alleged offender and victim. All officers will adhere to state law related to family violence situations, and officers will make an arrest of a violator regardless of the family or household relationship between the violator and the victim when probable cause exists to make an arrest. It is also every officer's duty whenever possible to prevent the commission of criminal offenses, including acts of family violence regardless of the family or household relationship between the potential violator and victim.

SECTION 3 PROCEDURES

A. Definitions

1. **Family Violence** – means (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse, as defined by the Texas Family Code Sections 261.001(1)(C), (E), and (G), by a member of a family or household toward a child of the family or household; or (3) dating violence, as that term is defined by the Texas Family Code Section 71.0021.

2. **Dating Violence** - means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself. For purposes of this title, "dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate

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nature. The existence of such a relationship shall be determined based on consideration of (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship".

2. **Family** – includes individuals related by birth or marriage, individuals who are former spouses of each other, individuals who are the biological parents of the same child, without regard to marriage, and a foster child and foster parent, whether or not those individuals reside together.
3. **Household** – means a unit composed of persons living together in the same dwelling, whether or not those individuals are related to each other.
4. **Member of a Household** – includes a former member of a household who has filed an application or for whom protection is sought as provided by Section 71.04 of the Texas Family Code.
5. **Protective Order** – an order issued by a court of competent jurisdiction which may, among other things, prohibit a party from: committing family violence, directly communication with a member of the family or household in a threatening or harassing manner, or going to or near the residence or place of employment or business of a member of the family or household.

B. Duties of Officers

1. The duties of a police officer who investigates a family violence allegation or who responds to a disturbance call that may involve family violence are to:
 - a. Protect any potential victim of family violence.
 - b. Enforce the law.
 - c. Make lawful arrests of violators.
2. The officer shall advise any possible adult victim of all reasonable means to prevent further family violence, including:
 - a. Written notice of a victim’s legal rights and remedies.
 - b. The availability of shelter and other community services for family violence victims.
3. The written notice required above is available in the form of hand out material supplied by the Department.
4. Officers shall notify the victim of their right to a “Pseudonym For Family Violence Survivors” form. If the victim wishes to have the officer complete a pseudonym form, then the offense report will reflect the victim’s pseudonym name. The pseudonym form will NOT go to CRC. The pseudonym form will go directly to Investigative Services along with a copy of the offense report and a copy of the victim’s statement.
5. In accordance with the Texas Code of Criminal Procedure, Article 5.05 (a) and 5.05 (e), officers who investigate a family violence incident or respond to a disturbance call that may involve family violence shall make a written report. The written report shall include but is not limited to:

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- a. The names of the suspect and complainant.
- b. The date, time, and location of the incident.
- c. Any visible or reported injuries.
- d. A description of the incident and a statement of its disposition.
- e. Officers shall complete the Texas Department of Public Safety Family Violence Form (Red Form) for all family violence incidents or any disturbance call that may involve family violence. This includes but is not limited to the following offenses when there is a family/household relationship between the offender and the victim:
 - 1. Any type of Assault (Misdemeanor or Felony)
 - 2. Sexual Assault
 - 3. Kidnapping
 - 4. Homicide
 - 5. Deadly Conduct
 - 6. Terroristic Threat
 - 7. Interference with Child Custody
 - 8. Telephone Harassment or any type of Harassment which involves threats
 - 9. Interference with Emergency Telephone Call
 - 10. Stalking
 - 11. Violation of Protective Order
 - 12. Any other offense that involves a threat towards a person of the same family or household
- 6. In accordance with the Texas Code of Criminal Procedure 5.04 and 5.05 (a) (1), officers are required to determine if the address of a family violence incident or the address of any person involved in the family violence incident matches the address of a foster home. If the family violence occurred at a licensed foster home or a verified agency foster home listed in TCIC or if the name of any person involved in the family violence incident matches the address of a licensed foster home or a verified agency foster home listed in TCIC, the officer shall make a report to the Texas Department of Family and Protective Services (DFPS). The officer's report to DFPS must include all of the information in the officer's incident/offense report, and the report must be submitted to DFPS within 24 hours after the incident. **DFPS can be notified by phone at 1-800-252-5400. Police reports can be faxed to (512) 491-1967.**

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7. Officers shall conduct preliminary investigations paying particular attention to victim / witness statements, photographs of injuries, physical evidence, and all other information which would assist the officer in determining what occurred and what offenses may have been committed.

C. Patrol Procedures

1. Domestic disturbance calls should be assigned to two officers. A single officer should not answer a domestic disturbance call without a back-up unless immediate intervention is necessary to prevent an assault or other act of family violence.
2. Officers responding to a family disturbance should:
 - a. Take charge of the situation immediately.
 - b. Separate the involved parties to prevent assault.
 - c. Control access to weapons and the movement of all persons involved.
 - d. Attempt to ascertain the facts of the dispute by allowing each person to explain his/her version of the quarrel.
 - e. Avoid embarrassing the disputants in front of any children who may be present.
 - f. Remain impartial and tactful in an effort to reduce tension and find a peaceful resolution to the dispute.
3. Entry and Intervention
 - a. Where one of the parties to a domestic dispute requests police intervention, the officers may enter the premises over the objection of the other party(s).
 - b. Where one party is locked out by the other party, the officers shall not assist the evicted party in making a forcible entry.
 - c. Where both parties to a domestic dispute refuse to admit the officers, the officers shall respect their wishes unless there are reasonable grounds to believe that their presence is necessary to prevent an assault or other act of family violence.
 - d. If both parties to a domestic dispute request the officers to leave, the officers shall do so unless there are reasonable grounds to believe that their presence is necessary to prevent an assault or other act of family violence.
 - e. If either party involved in a domestic dispute is a member of the Department, a supervisor will respond to the location and ensure that all proper procedures are followed and circumstances fully documented. The supervisor will notify the employee's Division Commander.

D. Delayed Arrests

1. When an officer has determined that probable cause exist but the suspect has fled the scene, the officer should make a reasonable effort to locate the offender and make an arrest when an arrest would be lawful according to the Texas Code of Criminal Procedure, Chapter 14 Arrest without

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Warrant, Section 14.03. If the offender cannot be quickly located, the officer should base his decision about the reasonableness of a delayed arrest based upon the following factors:

- a. The possibility of further violence.
 - b. The apparent vulnerability of the victim.
 - c. The suspect's history of violent behavior.
 - d. Threats made by the suspect.
 - e. The nature of the initial crime.
 - f. The involvement of deadly weapons.
 - g. The proximity of the suspect.
1. Generally an arrest should be made within 24 hours. When completing the Arrest Report, officers shall articulate the specific facts which compelled them to make a delayed arrest in the interest of protecting the victim and preventing further violence.
 3. Officers shall consult their supervisor prior to making a family violence arrest when there has been a significant delay since the offense occurred.

E. Protective Orders

1. Officers should be familiar with the Texas Code of Criminal Procedure 17.292, Magistrates Order for Emergency Protection.
2. Although a protective order is not required in all cases, officers shall inform the victim of their rights to be protected and inform them of the Protective Order process. If the victim indicates that he/she wishes to apply for a protective order, the officer shall assist the victim in completing the application. The officer shall complete both pages including the application to the judge and the TCIC data entry page.
3. If the officer has arrested the suspect in a family violence case, the application should be attached to the Magistrates Warning form. The Magistrates Warning form and the accompanying application for Protective Order shall be placed in the judge's box in the patrol room. The judge will issue the order when the defendant is brought before the judge to be warned and advised of his/her rights.
4. If an officer/investigator obtains a warrant for the assault charge, the application for a protective order shall be attached to the warrant to be filed in CRC. When the warrant is served, the application should be attached to the Magistrates Warning form. The Magistrates Warning form and the accompanying application for a Protective Order shall be placed in the judge's box in the patrol room. The judge will issue the order when the defendant is brought before the judge to be warned and advised of his/her rights.
5. In all cases where the application for a Protective Order has been completed, the officer shall document in the Arrest Report that the application has been attached to the Magistrates Warning form.

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6. Officers made aware of the existence of a protective order (issued under the Texas Family Code) upon responding to the scene of a domestic disturbance should first examine the order to determine the expiration date and the conditions of the order which may have been violated. If determined to be valid, the order shall be enforced immediately as per the Texas Penal Code. In accordance with the Texas Family Code 88.003, officers shall enforce the terms of a Protective Order issued by a court of another state in the same manner as if it were a Protective Order issued by a court of this state.
7. Violation of a temporary order issued under the Texas Family Code does not constitute grounds for arrest for violation of a protective order. However, if a person has been served with a temporary protective order and the language in the order prohibits that person from going to the residence, place of employment or business of a member of the family, the officer should consider making an arrest for Criminal Trespass, Texas Penal Code 30.05 if the officer believes the arrest may an appropriate resolution to situation and the officer can lawfully make the arrest and the offense has occurred in their presence.
8. Divorce decrees are civil in nature. Enforcement of a divorce decree is not the responsibility of a police officer, and officers shall refrain from taking any enforcement action when presented with a legal document entitled "Divorce Decree and/or Settlement".
9. Persons arrested for an offense involving Family Violence may be held for a period of not more than four hours after bond has been posted, if there is probable cause to believe the violence will continue if the person is immediately released. This period may be extended only if authorized in a writing directed to the person having custody of the detained person by a magistrate who concludes that the violence would continue if the person is released.
10. In no way may such a period of detention exceed 24 hours.

F. Responsibility

1. All members of the Department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.