

**LANCASTER POLICE DEPARTMENT  
GENERAL ORDERS MANUAL**

<i>Effective Date</i> September 9, 2015		<i>Amended Date</i> December 13, 2017		<i>Directive</i> 7.08.1	
<i>Subject</i> Family Violence and Protective Orders					
<i>Reference</i>			<i>Approved</i>  Chief of Police		
<i>Distribution</i> All Personnel City Manager City Attorney		<i>TPCA Best Practices Recognition Program Reference</i> 7.08		<i>Review Date</i> December 13, 2017	
				<i>Pages</i> 12	

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 DEFINITIONS**

1. **Dating relationship:** has the meaning assigned by Section 71.0021(b), Texas Family Code.
2. **Dating violence:** has the meaning assigned by Section 71.0021(a), Texas Family Code.
3. **Family:** has the meaning assigned by Section 71.003, Texas Family Code.
4. **Family violence:** has the meaning assigned by Section 71.004, Texas Family Code, and includes "dating violence."
5. **Household:** has the meaning assigned by Section 71.005, Texas Family Code.
6. **Member of household:** has the meaning assigned by Section 71.006, Texas Family Code.
7. **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.

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**SECTION 4 FAMILY VIOLENCE**

**A. 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; and
  - 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; and
  - 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. In accordance with Articles 5.05 (a) and 5.05 (e), Texas Code of Criminal Procedure, 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:
  - 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 written report 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:
    - i. any type of assault (misdemeanor or felony);
    - ii. sexual assault;
    - iii. kidnapping;
    - iv. homicide;
    - v. deadly conduct;

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- vi. terroristic threat;
  - vii. interference with child custody;
  - viii. telephone harassment or any type of harassment which involves threats;
  - ix. interference with emergency telephone call;
  - x. stalking;
  - xi. violation of protective order;
  - xii. any other offense that involves a threat towards a person of the same family or household
5. An officer who investigates a disturbance call that may involve family violence, but after investigation the officer determines no offense was committed, the officer still shall document in a written report the items listed above. Documentation in the notes section of the event report (call card) or in an offense report with the offense title being "Information Report" will satisfy this requirement.
6. In accordance with Articles 5.04 and 5.05, Texas Code of Criminal Procedure, 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 the Texas Crime Information Center (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 then the officer shall make a report either orally or electronically 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 twenty-four (24) hours after the incident. **DFPS can be notified by phone at 1-800-252-5400.**
7. If an officer has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Texas Penal Code, and the officer has cause to believe that the child has been abused as defined by Section 261.001 or 261.401, Texas Family Code, the officer shall make a report, either orally or electronically with the Texas Department of Family and Protective Services (DFPS) not later than the forty-eighth (48<sup>th</sup>) hour after the hour the officer first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Texas Penal Code. The officer's offense/incident report shall include referral number, name and identification number of the employee the officer spoke with if reported orally. If the report was made electronically only the referral number will be required.
8. Officers shall conduct preliminary investigations paying particular attention to victim / witness statements, photographs of injuries, physical evidence, and all other information which would

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assist the officer in determining what occurred and what offenses if any may have been committed.

**B. 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 their 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. Officers will gather as much evidence as reasonably possible, with the view toward prosecution of the case without cooperation of the victim. Officers are required to record all family violence calls for service. A video request form will be submitted with the required county case paperwork, if a case is filed. (12-13-17)
4. If at all possible, the initial responding officers will take written and/or video statements from the victim. Written statements should be taken from witnesses and the offender, if he or she is willing. These handwritten statements may substitute for an affidavit later, so the officer should be sure that the statements contain as much detail as possible.
5. Officers will take as many photographs as necessary to document the scene and/or injuries in the following circumstances:
  - a. victim's visible injuries those that are likely to show on film, one (1) photo should include a full frontal body picture;
  - b. crime scene (such as room where offense occurred, broken items, damaged phones, phone wires pulled from wall, disarray, etc.);
  - c. weapons used in the commission of the offense; and/or
  - d. collection of evidence (the officer will book into evidence any items used in the assault or items that may be helpful to proving the case at trial)

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6. Officers may make entry and intervention on private premises during domestic disturbances when:
  - a. Any involved party of the domestic dispute requests intervention regardless of the objections of any other involved party(s).
  - b. The dispute is occurring in the officer's presence and causes a breach of the peace; or if they have probable cause to believe that immediate entry is necessary to prevent bodily injury or render aid to any injured person. In this situation, if none of the involved parties in the domestic disturbance request entry, or if they refuse entry, the officers should consider the nature of the refusal and other relevant circumstances in assessing whether or not to make immediate entry.
  - c. After an officer has entered a private premise on the consent of any involved party and there is no longer any breach of the peace, the officer should leave.
  - 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. Officers should use previous call history, criminal histories of the parties involved, visual clues (broken property, injuries, etc.), officers training, experience and other helpful tools in determining if they have reasonable grounds.
  - e. Where one disputant locks out another disputant, officers will not assist the displaced party in forcing entry.
  - f. 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.
7. In order to reduce tensions between the non-violent disputing parties and to minimize the potential for violence, officers should attempt to apply the most appropriate non-arrest remedy involving the least police intervention necessary.

**C. ARREST CONSIDERATIONS**

1. Where family violence occurs in an officer's presence, the officer shall arrest the assailant for applicable violations.
2. Where an assault occurs prior to an officer's arrival, the officer shall arrest the assailant if he has probable cause to believe that the suspect:
  - a. caused bodily injury; or
  - b. used a deadly weapon
3. Officers should arrest when all of the following circumstances exist:

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- a. family violence resulting in bodily injury has occurred prior to an officer's arrival;
  - b. evidence is present to support probable cause that indicates a clear assailant and victim;  
and
  - c. both the assailant and the victim are still present
4. When attempting to determine whether to make an arrest for family violence, an officer, when appropriate, shall consider:
- a. the suspect's prior history for family violence;
  - b. the suspect's prior history of other incidents of assault;
  - c. statements obtained from the victim and/or witnesses;
  - d. statements made by the victim expressing fear of retaliation of further violence should the suspect not be arrested; and
  - e. physical evidence that tends to support the victim's allegation of bodily injury

**D. DELAYED ARREST**

1. When an officer has determined that probable cause exist, but the suspect has fled the scene then the officer should make a reasonable effort to locate the offender and make an arrest when an arrest would be lawful according to Article 14.03, Texas Code of Criminal Procedure. If the offender cannot be quickly located, then 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
2. Generally an arrest should be made within twenty-four (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.

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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. EXTENDED DETENTION**

1. If there is probable cause to believe the violence will continue if the person is immediately released from jail after posting bond, the arresting agency may hold the person for a period of not more than four hours after bond has been posted.
2. The four (4) hour hold may be extended for an additional period not to exceed forty-eight (48) hours, but only if authorized in a writing directed to the person having custody of the detained person by a magistrate who concludes that:
  - a. the violence would continue if the person is released; and
  - b. if the additional period exceeds twenty-four (24) hours, probable cause exists to believe that the person committed the instant offense and that, during the ten (10) year period preceding the date of the instant offense, the person has been arrested:
    - i. on more than one occasion for an offense involving family violence; or
    - ii. for any other offense, if a deadly weapon, as defined by Section 1.07, Texas Penal Code was used or exhibited during commission of the offense or during immediate flight after commission of the offense (Article 17.291, Texas Code of Criminal Procedure)

**F. WEAPONS**

1. When a specific weapon(s) is present at the scene of a domestic dispute and the officers reasonably believe that the weapon(s) may become involved in the dispute, the officers shall seize the weapon(s). Also, if one of the parties requests that the weapon(s) be removed, the officer shall do so.
2. If an officer receives or removes a weapon, he shall inform the owner that the weapon can be reclaimed from the property division of the police department.

**G. CRIME VICTIM ASSISTANCE NOTIFICATION**

1. The Criminal Investigation Division Technician will notify the Crime Victim Assistance Volunteers of all offenses involving family violence. Notification will be made by providing a copy of the offense report and emergency protective order, if issued.

**SECTION 5 PROTECTIVE ORDERS**

**A. APPLICATIONS**

1. Section 82.002, Texas Family Code, defines who may apply for a protective order.

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2. A Victim Services member may help an eligible victim prepare the application for a final protective order or accompany the person to the Protective Order Unit of the Dallas County District Attorney's Office.
3. An officer investigating a family or dating violence incident should refer the victim or other persons of the household to the department's Victim Services Division.

**B. DUTY TO ENTER INFORMATION INTO STATEWIDE LAW ENFORCEMENT INFORMATION SYSTEM**

1. Section 86.0011, Texas Family Code, requires the law enforcement agency of the jurisdiction in which the protected person lives to enter information about an original or modified protective order, including an emergency protective order, into the statewide law enforcement system (TLETS) that is maintained by the Texas Department of Public Safety.
2. The Communications Division is responsible for registering protective orders in TLETS and maintaining files of current and expired protective orders.

**C. DUTY TO STANDBY FOR CERTAIN PROTECTIVE ORDERS**

1. Court orders issued under Sections 86.003 and 86.004, Texas Family code, require peace officers to standby at the respondent's residence while the respondent vacates the residence pursuant to the order.

**D. ARREST FOR VIOLATION OF PROTECTIVE ORDER**

**1. Mandatory Arrest**

- a. An officer investigating an alleged protective order violation under Sections 25.07 (Violation of Certain Court Orders or Condition of Bond in Family Violence) or 38.112 (Violation of Protective Order Issued on Basis of Sexual Assault), Texas Penal Code, shall arrest the actor as required by Article 14.03(b), Texas Code of Criminal Procedure, if:
  - i. the officer determines the order is valid; and
  - ii. the violation occurs in the officer's presence

**b. Discretionary Arrest**

- i. An officer may arrest an actor who the officer has probable cause to believe has committed an offense under Sections 25.07 or 38.112, Texas Penal Code, when the offense is not committed in the officer's presence.
- ii. An officer may arrest an actor who violates a protective order under Section 25.071 (Violation of Protective Order Preventing Offense Caused by Bias or Hate), Texas Penal Code, if the offense is committed in the officer's presence. Unless otherwise provided by law, if the offense is not committed in the officer's presence, the actor must be arrested pursuant to an arrest warrant.

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**E. EX-PARTE ORDER, PEACE BOND AND RESTRAINING ORDER**

**1. Enforcement**

- a. These instruments are issued through civil proceedings and are not criminally enforceable, except for:
  - i. Section 25.07, Texas Penal Code, provides for a criminal offense if a person violates a condition of a temporary ex-parte order issued under Chapter 83, Texas Family Code, if it can be shown that the person was served with the order.
- b. If a protected person wants the civil order enforced because of the respondent's violation of the order, the protected person should be referred to the court that issued the instrument and the officer should at the least note the information under the event number notes section and provide the protected person with the event number.

**2. Order May Serve as Warning Notice**

- a. Any of these instruments may, however, serve as an appropriate notice for the purpose of enforcing a penal law, if the:
  - i. instrument prohibits certain conduct;
  - ii. penal law requires the person be notified that the conduct is prohibited; and
  - iii. officer is able to establish that the respondent was aware of the prohibited conduct (A person given notice through one of these instruments that the person is prohibited from entering onto the protected person's property and ignores the order and enters onto the property would serve as the required "notice" under the Criminal Trespass statute)

**F. FAMILY VIOLENCE PROTECTIVE ORDERS**

- 1. Section 82.002, Texas Family Code, allows any adult, not just a family member or a member of a household, to apply for a protective order to protect a child from family violence.
- 2. A violation of a family violence protective order is a separate offense under Section 25.07, Texas Penal Code, from any other offense and will be enforced in accordance with Article 14.03, Texas Code of Criminal Procedures.

**G. DATING VIOLENCE PROTECTIVE ORDERS**

- 1. Section 82.002, Texas Family Code, enables an adult member who has had a continuous dating relationship of a romantic or intimate nature with an abusive partner to apply for an order to protect the victim and the victim's child from further violence.

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2. A violation of a dating violence protective order is a separate offense under Section 25.07, Texas Penal Code, from any other offense.
3. Enforcing this protective order will be in accordance with this directive, Section 5, Subsection D.

**H. PREVENTING OFFENSE CAUSED BY BIAS OR PREJUDICE PROTECTIVE ORDERS**

1. Article 6.08, Texas Code of Criminal Procedures enables a victim of an offense under Title 5, "Offenses Against Persons," Texas Penal Code, or under Sections 28.02 (Arson), 28.03 (Criminal Mischief), or 28.08 (Graffiti), Texas Penal Code, to apply for an order under, Title 4, Texas Family Code, to protect the victim when bias or prejudice as described by Article 42.014, Texas Code of Criminal Procedure, motivated the commission of the offense.
2. Section 25.071, Texas Penal code, makes it a separate offense for a person to violate a protective order issued under Article 6.08, Texas Code of Criminal Procedure, by engaging in certain conduct.
3. Enforcing this protective order will be in accordance with this directive, Section 5, Subsection D.

**I. STALKING PROTECTIVE ORDERS**

1. At any proceeding related to an offense under Section 42.072, "Stalking," Texas Penal code in which the defendant appears before the court, a person may request the court to render a protective order under Title 4, Texas Family Code, for the protection of the person.
2. Enforcing this protective order will be in accordance with this directive, Section 5, Subsection D.

**J. PROTECTIVE ORDER FOR VICTIM OF SEXUAL ASSAULT**

1. A person who is the victim of an offense under Section 21.02 (Continuous Sexual Abuse), 21.11 (Indecency with a Child), 22.011 (Sexual Assault), or 22.021 (Aggravated Sexual Assault), Texas Penal Code, a parent or guardian acting on behalf of a person younger than seventeen (17) years of age who is the victim of such an offense, or a prosecuting attorney acting on behalf of the person may file an application for a protective order under this chapter without regard to the relationship between the applicant and the alleged offender.
2. Enforcing this protective order will be in accordance with this directive, Section 5, Subsection D.

**K. EMERGENCY PROTECTIVE ORDERS**

1. Article 17.292, Texas Code of Criminal Procedure, enable the issuance of an emergency protective order for an offense involving family violence or an offense under Sections 22.011 (Sexual Assault), 22.021 (Aggravated Sexual Assault), and 42.072 (Stalking), Texas Penal Code.
2. An emergency protective order may be issued at the time of the arrested person's arraignment for an offense described in this section on the magistrate's own motion or on the request of:
  - a. the victim of the offense;

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- b. the guardian of the victim;
  - c. a peace officer; or
  - d. the attorney representing the state
3. Enforcing this protective order will be in accordance with this directive, Section 5, Subsection D.
  4. Officers who arrest a subject for any offense where an emergency protective order can be issued shall complete an emergency protective order application. The application should state, whether or not the victim is requesting the order or the officer is requesting the order.
  5. Officers will complete the emergency protective order application entirely, including but not limited to the victim's personal information, residential information, work information, victim's children's personal information (whether or not they were involved in the offense), children's school or daycare information and all of the suspect's information, including vehicle information. The emergency protective order application will be included with the officer's arrest paperwork at Tri-City Jail.
  6. Officers who do not arrest a subject for an offense where an emergency protective order can be issued shall complete an emergency protective order application entirely, except for offenses where a citation will be mailed to the suspect (Class C misdemeanors) and case filed with the City of Lancaster Municipal Court. The emergency protective order application will be included in the officer's case paperwork that is forwarded to the Criminal Investigation Division.
  7. If an officer/investigator obtains an at-large warrant for the assault charge, then the application for a protective order shall be attached to the warrant and forwarded to Dallas County. When the warrant is served, the judge should issue the order when the defendant is brought before the judge to be warned and advised of his or her rights.
  8. In all cases where an emergency protective order application is completed, the officer shall document in the offense report and arrest report (if arrest is made).

**L. FOREIGN PROTECTIVE ORDERS**

1. Validity of Order
  - a. A foreign protective order is valid if the order:
    - i. names the protected individual and the respondent;
    - ii. is currently in effect;
    - iii. was rendered by a tribunal that had jurisdiction over the parties and the subject matter under the law of the issuing state, including the District of Columbia, Commonwealth of Puerto Rico, United States Virgin Islands, United States military

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tribunal, Indian tribe or band and an Alaskan native village having jurisdiction to issue protective orders; and

iv. was rendered after the respondent was given reasonable notice and an opportunity to be heard consistent with the right to due process, either:

1. before the tribunal issued the order; or

2. in the case of an ex-parte order, within a reasonable time after the order was rendered

b. A protected individual seeking enforcement of a foreign protective order establishes a prima facie case for its validity by presenting an order that is valid on its face.

**2. Enforcement of Foreign Protective Orders**

a. An officer on determining that there is probable cause to believe that a valid foreign protective order exists and that the order has been violated is required by law to enforce the foreign protective order as if it were an order of a tribunal of this state. (Section 88.004(a), Texas Family Code)

b. An officer who determines that an otherwise valid foreign protective order cannot be enforced because the respondent has not been notified or served with the order is required by law to inform the respondent of the order and make a reasonable effort to serve the order on the respondent. After informing the respondent and attempting to serve the order, the officer shall allow the respondent a reasonable opportunity to comply with the order before enforcing the order. (Section 88.004(d), Texas Family Code)

c. The registration or filing of an order in this state under Section 88.005, Texas Family Code, or the presentation of a certified copy of the protective order is not required for the enforcement of a valid foreign protective order under Chapter 88, Texas Family Code. (Section 88.004(b) and (e), Texas Family Code)

**M. DIVORCE DECREES**

1. 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."

**N. SCOPE OF 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.