



VIA TRANSIT POLICE DEPARTMENT

Standard Operating Procedures



Section 611 – Family Disturbances/Protective Orders

Office with Primary Responsibility:	COP	Effective Date: Prior Revision Date:	March 7, 2018 NEW
Office(s) with Secondary Responsibilities:		Number of Pages:	5
Forms Referenced in Procedure:	Texas Crime Victims Compensation Program Application, Family Violence Report,	Related Procedures:	ALL

.01 INTRODUCTION

Preservation of the peace in family disturbances is perhaps the most sensitive area of law enforcement and presents the greatest challenge and risk to officers. This procedure gives officers guidelines in the proper handling of family disturbances, family violence incidents and protective orders.

.02 POLICY

It is the policy of the VIA Transit Police Department to respond to requests for assistance in family disturbance or family/dating violence situations which occur on VIA property in order to quell potential violence.

.03 DISCUSSION

- A. The Texas Code of Criminal Procedure, Article 14.03 (a) (4) authorizes peace officers to arrest without warrant, those persons who the peace officer has probable cause to believe have committed an offense involving family violence. It is not necessary the family violence offense occur within the presence of the officer. Additionally, the warrantless arrest can occur at a place and time other than the location of the offense.
- B. The procedures which follow are not intended to establish hard and fast rules on how to handle the wide variety of family quarrels. Officers must apply common sense and logic in their resolution of family disturbances and rely on this procedure for guidance.

.04 GENERAL PROVISIONS

- A. If an officer establishes probable cause to believe a person has committed an offense involving family violence, and the offense includes the use of a weapon, choking of the victim or the offender has a history of family violence, officers are to make a reasonable effort to arrest the offender without a warrant. This includes searching for him at locations he is known to frequent, in an effort to secure his warrantless arrest. This policy does not prohibit officers from making warrantless arrests, in other circumstances, where probable cause exists for the arrest of a family violence offender. If a question arises as to whether an arrest should be made, officers contact their supervisors for guidance.
- B. In family violence cases where the offense included the use of a weapon, choking of the victim or the offender has a history of family violence, and the effort to arrest him/her without a warrant was not successful, officers should begin making efforts to secure a warrant of arrest for the offender. Officers should include details in their offense report which reflects the efforts made to arrest the offender without a warrant, and a statement recommending a warrant of arrest be obtained for the offender.
- C. In cases where a warrant of arrest will be obtained, officers are responsible for notifying CID and providing that unit with the officers' report.
- D. In cases involving any felony offense where an arrest is made, or there is a suspicion of an offense involving a child victim, the VIA Transit Police Investigator is immediately notified. Officers will contact the Investigator prior to the release of any witnesses, complainants and prior to the transporting and booking of the actor.
- E. In domestic disputes, officers are frequently confronted with conditions which appear to be both civil and criminal. It should be made clear the Department does not participate in civil matters. Officers confronting civil disputes offer



VIA TRANSIT POLICE DEPARTMENT Standard Operating Procedures



Section 611 – Family Disturbances/Protective Orders

practical suggestions or refer the parties to the appropriate agencies, remaining aware that the objective is to restore and maintain the peace.

.05 OFFICER RESPONSIBILITIES REGARDING VICTIMS OF FAMILY VIOLENCE

- A. Issue “Notice to Adult Victims of Family Violence” to the Victim (Texas Crime Victims Compensation Program Application)
- B. Complete the Family Violence Stalker form, if an arrest is made
- C. Complete the protective order application packet, if applicable
- D. Complete the State Statistical report (Family Violence Report)
- E. If a firearm is found to be at the location and the suspect is out on bond for a family violence offense, determine if this is a violation of a court order or a condition of bond. The verification of the order can be done by contacting CRT, Special Victims Unit, or the Communications Unit Information Channel.
- F. If a protective order is found on the suspect, determine if he is in possession of a firearm.
- G. If a violation of law is found, make the appropriate arrest and all details of the violation shall be included in the required reports.
- H. In cases of Family Violence to a child, immediately notify a supervisor and the Transit Police Investigator to make the scene.

.06 NON-ARREST REMEDIES

- A. Temporary Separation/Re-location

In situations where family/dating violence or a violation of a court order has not occurred, officers should suggest/encourage the involved parties to re-locate to a neutral location in an effort to allow the disputants time to regain their composure. Officers may provide courtesy rides to any of the parties to a local shelter, hotel, or an alternative safe location if necessary, and shall notify the dispatcher over the radio of the projected location and beginning and ending mileage of the transporting- officer’s police unit.

- B. Referrals / Criminal Complaints / Protective Orders

If counseling is requested by either party involved in the dispute or if the victim requests assistance in filing a criminal complaint or obtaining a protective order, they shall be referred to the women’s crisis center.

- C. When damage to property is threatened or has been committed, the officers do not make an arrest since a violation of community property rights is a civil matter. The officers warn the disputants such damage to property could develop into a criminal act. The officers should advise the party to contact their attorney.

.07 CUSTODIAL ARRESTS

- A. When an assault is committed in the officers' presence, the officers shall affect an arrest.
- B. When an assault has been committed against a child and constitutes injury to a child, the officers refer to Section .05(H) of this procedure.
- C. When an assault has been committed prior to the officers' arrival, the officers should give strong consideration toward affecting an arrest when:
 - 1. Bodily injury resulted and the officer has probable cause to believe the actor committed the offense;



VIA TRANSIT POLICE DEPARTMENT Standard Operating Procedures



Section 611 – Family Disturbances/Protective Orders

2. The assault was committed with a deadly weapon; or
 3. Serious bodily injury resulted.
- D When circumstances reasonably show threatened violence may occur, the officers may affect an arrest to prevent the threatened violence, provided the threat occurs in the officers' presence or view. Officers should remain flexible when dealing with situations involving threats only, since the resourceful application of non-arrest remedies usually enables the officers to settle the immediate dispute and minimize the possibility of violence without affecting an arrest.
- E When physical injury is threatened against a child but has not been inflicted, the officer should inform the threatening party he will commit a felony if he carries out the threat. Officers may affect an arrest, even when the threat occurs outside of the officer's presence or view, when circumstances reasonably show it is necessary to prevent the assault. Officers will comply with Section .05(H) if an arrest is made.
- F. Officers may affect an arrest for any other violation(s) that they have the probable cause and legal authority to make. Examples of other possible offenses that may be encountered during a Family Violence call include PC 46.04 Unlawful Possession of a Firearm and PC 42.062 Interference with Emergency Telephone Call.

.08 PROTECTIVE ORDERS

A. General Provisions

1. The Texas Penal Code, Section 25.07, *Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case*, authorizes the arrest of an individual in violation of a Protective Order, Magistrate's Order for Emergency Protection, a Temporary Protective Order, Condition of Bond in a Family Violence Case or Violation of a Protection Order issued out of another jurisdiction.
2. If, during the investigation of a family disturbance situation, it is determined a violation of a protective order has occurred, Subsection .08(E) of this procedure will be followed.

B. *Types of court orders prohibiting family violence or stalking*

1. *Temporary Protective Order* A temporary order entered by a court when the court finds from the information contained in an application for protective order there is a clear and present danger of family violence. The court without further notice to the individual alleged to have committed family violence and without a hearing may enter a temporary order, also known as "Temporary Ex-Parte Order", for the protection of the applicant or any other member of the family or household of the applicant. This temporary protective order will only be enforceable when it has been served on the respondent. Verification of service is confirmed through the Communications Unit, information channel.
2. *Magistrate's Order For Emergency Protection* An emergency order entered by a magistrate directed to a person who has been arrested for an offense of family violence, sexual assault, aggravated sexual assault or stalking, prohibiting the person from committing further acts of family violence, having harassing or threatening contact or going near the protected person's residence, place of employment, child care facility, school, or stalking.
3. *Protective Order* an order of the court directed to a person after family violence has occurred issued to prevent an individual from engaging in violent or threatening acts against, harassing, contacting or communicating with a protected individual or being in physical proximity to another individual. (Family Code 88.002, Family Code 85.001) pg. 1316 of Texas Criminal and Traffic Law Manual
4. *Certain Court Orders or Conditions of Bond* A condition of bond set in a family violence case by the magistrate and related to the safety of the victim.



VIA TRANSIT POLICE DEPARTMENT Standard Operating Procedures



Section 611 – Family Disturbances/Protective Orders

C. Duration of protective orders

1. Temporary Orders
 - a. A temporary order is valid for the period specified in the order, but does not exceed twenty (20) days.
 - b. On the request of an applicant or on the court's own motion, a temporary order may be extended for additional twenty (20) day periods.
2. Magistrate's Orders For Emergency Protection
 - a. A magistrate's order for emergency protection is valid on issuance and remains in effect until the sixty-first (61st) day but not less than 31 days after the date of issuance.
 - b. When additional protection is necessary, a protective order may be requested prior to the expiration of the magistrate's order for emergency protection.
 - c. Time periods will usually be specified in the magistrate's order for emergency protection.
3. Protective Orders
 - a. A protective order is valid for two (2) years from the date the original order was granted by the court.
 - b. A protective order is not modified to extend its validity beyond the two (2) year period.
4. Certain Court Orders or Conditions of Bond: A court order or a condition of bond is valid until the case is adjudicated or the court order or condition of bond is rescinded.

D. Computer searches and locations for protective orders

Officers needing to determine if a protective order, temporary order, or magistrate's order for emergency protection is in effect may contact Dispatch or Utilize the in car computer system to obtain information.

E. Arrests for violations of protective orders, conditions of bond, or magistrate's orders

1. Once the Officer becomes aware that a protective order, temporary protective order, or magistrate's order for emergency protection, is active and knowledge of the person involved, coupled with a violation of the order, allows an officer to arrest for violation of a protective order, magistrate's order for emergency protection or temporary protective order. In the case of a temporary protective order, verification of service on the respondent is required prior to arrest. Whether or not a temporary protective order has been served may be verified through Dispatch.
2. If an officer, establishes probable cause to believe a person has committed an offense prohibited by Chapter 25.07 of the Texas Penal Code, *Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case*, and the offense included the use or possession of a weapon, an assault, threats of bodily injury or the offender has a history of family violence, the following shall occur:
 - a. The officers will arrest the offender without a warrant when the offense is committed within the officer's presence or view; or
 - b. If the offender has fled the scene the officer will exhaust all reasonable efforts to locate the offender and make a warrantless arrest. In no event should a reasonable amount of time exceed two hours.



VIA TRANSIT POLICE DEPARTMENT Standard Operating Procedures



Section 611 – Family Disturbances/Protective Orders

- c. If the officer is unable to locate and arrest the offender (without a warrant) within a reasonable amount of time, the officer will contact a supervisor and write a report on the incident.
3. In the event the offender's conduct does not constitute a violation of Chapter 25.07 of the Texas Penal Code, the officer will handle the incident in the same manner as any civil matter.
4. Reconciliatory actions or agreements made by the persons affected by the order, do not affect the validity of the order or the duty of a peace officer to enforce a violation of Chapter 25.07 of the Texas Penal Code. A protected person may not be arrested for a violation of the order in which they are protected.

F. Persons in violation of temporary protective orders shall be arrested for violations of the order.

G. Report responsibilities

1. An offense report is prepared whether or not an arrest is made for a violation of a protective order, magistrate's order for emergency protection, temporary protective order, or condition of bond in a family violence case. The offense is carried as a violation of P.C. 25.07, *Violation of Certain Court Orders or Conditions of Bond in a Family Violence case*.
 - a. The court which issued the protective order is listed as the complainant;
 - b. The person(s) protected by the court order is listed as either the reporting person(s) or as witness(es) to the violation of the court order;
 - c. The details of the offense report list the specific violation(s) of the protective order; and
2. When an arrest is made for an act of family violence, the officer shall obtain necessary information to obtain a magistrate's order for emergency protection in the event the complainant, the officer, an attorney, or a magistrate requests a magistrate's order for emergency protection while the arrested person is being magistered.
3. Information necessary for the officer to obtain to apply for a magistrate's order for emergency protection includes the following:
 - a. Names of individuals, including children, covered by the court's order (dates of birth are also necessary);
 - b. Addresses and telephone numbers of residence and place of employment;
 - c. Addresses and telephone numbers of child care facilities or schools attended by children; and
 - d. The distance, in yards, necessary for the respondent to maintain for the protection of the victim.