
ADMINISTRATIVE DIRECTIVE – 112.007
PROTECTIVE ORDERS

EFFECTIVE DATE: August 30, 1985

REVISION DATE: August 11, 2020

AFFECTS: Crime Information Center and Sworn Personnel

I. PURPOSE

Calls involving family violence are and can remain volatile situations. Victims of family violence and other offenses are eligible for legal protection through the use of protective orders. This Administrative Directive outlines the policies and procedures of the Plano Police Department in providing assistance in obtaining a protective order when required or necessary for the protection and safety of the victim.

II. POLICY

The Plano Police Department makes every effort to protect victims of family violence and other offenses from injury and abuse. Officers need to understand the dynamics that exist in situations involving family violence and other offenses.

The Plano Police Department gives full faith and credit to valid orders of protection issued by other jurisdictions.

III. GENERAL DEFINITIONS

- A. Dating Relationship – a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of: the length of the relationship; the nature of the relationship; and the frequency and type of interaction between the persons involved in the relationship.
- B. Dating Violence – an act by an individual that is against another individual with whom that person has or has had a dating relationship and 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. Dating Violence also includes acts committed against the new spouse or dating partner of someone the abuser is/was married to or in a dating relationship.
- C. Emergency Protective Order (EPO) – An order issued by a magistrate at the time of a defendant's appearance after an arrest for an offense involving Family Violence, Stalking, Sexual Assault, Aggravated Sexual Assault, Trafficking of Persons, or Continuous Trafficking of Persons. An emergency protective order is valid for not more than 91 days, nor less than 31 days.
- D. Family Violence – 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. "Family Violence" does not include the reasonable discipline of a child by a person having that duty. Family violence may also refer to the abuse of a child of the family or household by a member of the family or household. Additionally, the term family violence is used to refer to the act of dating violence as defined above.
- E. Protective Order (PO) – An order issued by a court after a formal hearing, against a specifically named individual; valid for a period of time as dictated by the court in accordance with state law. Victims of Family Violence, Stalking, continuous Sexual Abuse of a Child, Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Stalking, Trafficking of Persons, continuous Trafficking of Persons, and Compelling Prostitution are all eligible to apply for protective orders.
- F. Temporary Ex Parte Protective Order – An order issued by a court against a specifically named individual, valid for a period of time not to exceed 20 days; legally known as an "Ex Parte" order or "Temporary Ex Parte" order; may be reconsidered by the court for an extension of another 20 days on a specific date listed in the order.

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IV. PROCEDURES

A. Characteristics of Protective Orders

1. Temporary Ex Parte Protective Order

- a. IS enforceable by peace officers under Section 25.07 of the Texas Penal Code if the Temporary Ex Parte Protective Order has been served on the suspect.

2. Emergency and Protective Orders

- a. ARE enforceable by peace officers under Section 25.07, if the order specifically stipulates the action as a violation of the order AND the action is a violation of Section 25.07 of the Texas Penal Code.

3. Violations of Temporary, Emergency and Protective Orders

- a. A person commits an offense if, in violation of a protective order, the person knowingly or intentionally:

- (1) Commits family violence, or
- (2) Directly or indirectly communicates with a member of the family or household in a threatening or harassing manner, or if the order prohibits any communication with a member of the family or household, communicates in any manner except through the person's attorney or a person appointed by the court, or
- (3) Goes to or near any place specifically described in the protective order.
- (4) Possesses a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.
- (5) Harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order or condition of bond; or
- (6) Removes, attempts to remove, or otherwise tampers with the normal functioning of a global positioning monitoring system that the person is required to wear or carry as a condition of release on bond.

b. Officer's duty to enforce

- (1) The officer's duty to prevent a criminal offense is not waived because of a household relationship between the potential violator and the victim.
- (2) Officers MUST accept a certified copy of a protective order as proof of validity of the order, regardless of whether the order is on file with the Department.
- (3) Any peace officer may arrest, without warrant, persons who the officer has probable cause to believe have violated Section 25.07 of the Penal Code if the violation is not committed in the presence of the officer.
- (4) A peace officer shall arrest, without a warrant, a person the peace officer has probable cause to believe has committed an offense under Section 25.07, Penal Code, if the offense is committed in the presence of the peace officer.

(5) Confirmation of Protective Orders

- (a) If the protective order is not in hand for verification, a confirmation process will take place.

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- (b) The officer will contact Public Safety Communications via the radio and provide the situation that has occurred that potentially violates the order.
 - (c) Public Safety Communications will process the confirmation request.
 - (d) Public Safety Communications will let the officer know via the radio if the protective order condition has been confirmed or not confirmed.
- c. Request for an Emergency Protective Order
- (1) The law allows a magistrate to issue an Emergency Protective Order of a victim(s) when the defendant of an offense involving Family Violence, Trafficking of Persons, continuous Trafficking of Persons, Sexual Assault, Aggravated Sexual Assault, Indecent Assault, or Stalking appears for arraignment after arrest. The magistrate may do so on his own motion or at the request of the victim, the victim's guardian, a peace officer, or an attorney representing the state.
 - (2) An officer, following the arrest of an individual for Family Violence, Trafficking of Persons, continuous Trafficking of Persons, Sexual Assault, Aggravated Sexual Assault, Indecent Assault, or Stalking, shall provide an information sheet to each victim or legal guardian of the victim. The officer shall explain to the victim that the Emergency Protective Order application must be completed by the victim or guardian. The Officer will submit the Emergency Protective Order application to the jail if the victim wants to fill out the application while the officer is on scene.

Exception: The officer shall complete, sign, and submit the Emergency Protection Order application, if:
 - (a) The officer makes an arrest involving family violence that resulted in serious bodily injury or the use or exhibition of a deadly weapon.
 - (b) The victim requests an emergency protective order, but is not physically or emotionally capable of completing the form, or
 - (c) The officer believes the request is warranted, but the victim is incapable of completing the form and the victim's parent or guardian has refused to request an Emergency Protective Order.
 - (3) In the event that the victim(s) declines to file an Emergency Protection Order application and the officer does not believe an Emergency Protective Order is warranted, the officer will document on the Arrest Report that the victim was provided with all of the necessary information regarding an Emergency Protection Order and declined to file.

B. Administrative Procedures

- 1. Copies of the order are forwarded to the email address protectiveorders@plano.gov, which will provide a copy of the order to the following administrative personnel: Victims Services Unit and the Crime Information Center.
- 2. The Crime Information Center is responsible for entry into the NCIC and TCIC databases.
- 3. If required information is missing, the Crime Information Center or the Victim Advocate Unit will attempt to locate the required data to allow for entry into the NCIC and TCIC databases.
- 4. Information is maintained on file in the following areas:
 - a. Records of all Ex-Parte Orders, Emergency Protective Orders and Protective Orders will be kept in the Records Management System (RMS).

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- b. The Crime Information Center will update and administer RMS, tracking any necessary changes and following Records Retention laws regarding destruction of the Orders.
- C. Operational Procedures Regarding Protective Orders
- 1. Information concerning protective orders is forwarded to appropriate sector and beat personnel.
 - 2. Officers must notify the Crime Information Center of valid protective orders not on file with the Department as they become aware of them on service calls. Officers should obtain sufficient information including the "incident number," and issuing court information for entry into the Records Management System.
 - 3. Reporting Procedures
 - a. An offense report must be completed if:
 - (1) A violation of a valid emergency, temporary ex parte, or protective order has occurred, or
 - (2) Any other violation of State law is to be filed by the officer or the complainant.

Note: A valid emergency, temporary ex parte, or protective order shall include both Texas and foreign orders as authorized in Chapters 85-88 of the Family Code and Chapter 17 of the Code of Criminal Procedure.
 - b. An Information Report must be completed if an emergency, temporary ex parte, or protective order is in place, but no violations specifically stated in the order are observed and no other offenses has occurred.
 - c. A Call Response Card should be completed if the Department has received a family or associated disturbance call but neither an Offense Report nor an Information Report is required.
 - 4. Notice of Assistance Available
 - a. Officers responding to calls that may involve family violence and other similar type offenses are required to advise any possible adult victim of all reasonable means to prevent further violence including:
 - (1) A written notice of a victim's legal rights and remedies, and
 - (2) Available shelters or other community services for family violence and other similar victims.
 - b. Such notification is contained on printed handouts provided to all Field Operations Bureau personnel.
 - 5. Upon the request of a licensed firearms dealer, the Department will provide information on the existence of an active protective order on a "Prospective Transferee" in order to prevent a prohibited handgun transfer.