



Tulsa Police Department

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Policy # 120B

Effective Date 08/16/2024

Policy Name Protective Orders/Violation of Protective Orders

Approved Date 08/15/2024

Approved by Dennis Larsen, Chief of Police

Previous Date 01/23/2023

PURPOSE OF CHANGE:

Bring policy in alignment with 22 OS 40.3(A) and 22 OS 60.1.

POLICY:

Arrests will be made in protective order violations when the elements of a crime exist. Protective order violations will be treated the same as all other requests for police assistance where violence has occurred or has been threatened.

The Violence Against Women Act (VAWA) directs jurisdictions to give full faith and credit to valid orders of protection issued by other jurisdictions. Under VAWA, an order of protection is defined as any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with, or physical proximity to, another person.

The federal full faith and credit provision of VAWA applies to both criminal and civil orders of protection. Orders may differ in form, content, length, layout, and names (i.e., stay away, restraining, criminal, emergency, or temporary protection order). Additionally, there is no requirement in federal law that a victim must register the order of protection in the enforcing jurisdiction before it can be enforced.

Violation of a protective order is a misdemeanor however an officer may make a warrantless arrest if the officer has probable cause to believe a violation has occurred. Officers are not required to know the laws of the issuing jurisdiction in order to enforce orders of protection. Failure to enforce a valid order of protection based on the fact that it was issued in another jurisdiction may leave officers and departments vulnerable to liability.

SUMMARY: Procedures for answering calls involving violations of protective orders.

APPLIES TO: All police personnel.

DEFINITIONS:

DOMESTIC ABUSE (protective order) – any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years or older against another adult, emancipated minor, or minor child who is currently or was previously an intimate partner or family or household member as defined in 22 O.S. § 60.1.

EMERGENCY TEMPORARY ORDER OF PROTECTION – an order issued by a judge and served by a peace officer when the court is closed. This order is valid until the close of business the next day the court is open.

FAMILY OR HOUSEHOLD MEMBER – means parents, including grandparents, stepparents, adoptive parents and foster parents; children, including grandchildren, stepchildren, adopted children and foster children; persons otherwise related by blood or marriage living in the same household; and persons otherwise related by blood or marriage; or persons not related by blood or marriage living in the same household.

HARASSMENT – a knowing or willful course or pattern of conduct by an adult, emancipated minor, or minor thirteen years of age or older, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial distress to the person. Harassment shall include, but not be limited to, making harassing or obscene telephone calls, and causing fear of death or bodily injury.

INTIMATE PARTNER – means current or former spouses; persons who are or were in a dating relationship; persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time; and persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner but is never a necessary condition.

LIVING IN THE SAME HOUSEHOLD – means persons who regularly reside in the same single-dwelling unit; persons who resided in the same single-dwelling unit within the past year; or persons who have individual lease agreements whereby each person has his or her own private bedroom and shares common areas.

PROTECTIVE ORDER – the order issued by the judge at the hearing on the petition for an emergency protective order. Protective orders shall be for a fixed period not to exceed three years unless extended, modified, vacated, or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and the defendant.

PROCEDURES:

A. EMERGENCY TEMPORARY ORDER OF PROTECTION

1. Per 22 O.S. § 40.3 (OSCN 2024): When the court is not open for business, the victim of domestic violence, stalking, harassment, rape, forcible sodomy, a sex offense, kidnapping or assault and battery with a deadly weapon or member of the immediate family of a victim of first-degree murder may request a petition for an emergency temporary order of protection. The peace officer making the preliminary investigation shall:
 - a. Provide the victim or member of the immediate family of a victim of first-degree murder with a petition for an emergency temporary order of protection and, if necessary, assist the victim or member of the immediate family of a victim of first-degree murder in completing the petition form. The petition shall be in substantially the same form as provided by 22 OS 60.2 for a petition for protective order in domestic abuse cases;
 - b. Immediately notify, by telephone or otherwise, a judge of the district court of the request for an emergency temporary order of protection and describe the circumstances. The judge shall inform the peace officer of the decision to approve or disapprove the emergency temporary order;
 - c. Inform the victim or member of the immediate family of a victim of first-degree murder whether the judge has approved or disapproved the emergency temporary order. If an emergency temporary order has been approved, the officer shall provide the victim, or a responsible adult if the victim is a minor child or an incompetent person or member of the immediate family of a victim of first-degree murder, with a copy of the petition and a written statement signed by the officer attesting that the judge has approved the emergency temporary order of protection; and
 - d. Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order, if known. Notification pursuant to this paragraph may be made personally by the officer upon arrest or, upon identification of the assailant, notice shall be given by any law enforcement officer. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to the person.
2. When an arrest is made for domestic violence and the victim requests and is approved for an Emergency Temporary Order of Protection, the arresting officer will:
 - a. Notify the defendant that the emergency temporary order has been issued and provide the defendant with the completed copies of the petition and the pink copy of the emergency temporary order. Explain the conditions of the order to the defendant.

- b. The officer providing the copies to the defendant shall sign on the PEACE OFFICER'S SIGNATURE block at the bottom of the pink copy of the Emergency Temporary Order of Protection indicating that the defendant has received the copies.
3. As soon as possible after the order is approved, officers will turn in a completed *Incident Report* and the gold copy of the completed petition and emergency temporary order to the Records Section. Place the original (white) copy of the petition and the Emergency Temporary Order of Protection forms in the District Court Liaison Officer's tray located in the Records Section.
4. If an Osage County judge issues the order, Records Section personnel will immediately fax a copy of the approved petition and the emergency temporary order to the Osage County Court Clerk's Office.
5. If a Wagoner County Judge issues the order, the officer will instruct the victim to go to the Wagoner County Courthouse on the next business day. Records Section personnel will immediately fax a copy of the approved petition and the Emergency Temporary Order of Protection to the Wagoner County Court Clerk's Office.
6. If the petition is denied, officers will turn in the pink and gold copies of both the petition and the emergency temporary protective order with the *Incident Report*. Officers will also forward the completed original (white) copies of the petition and the denied emergency temporary protective order to the District Court Liaison.
7. The District Court Liaison Officer will deliver all original (white) copies of Tulsa County petitions and Emergency Temporary Protective Orders to the Tulsa County Court Clerk's Office, Domestic Relations Division, by 0830 hours the next business day that the court is open. The Liaison Officer will mail all original (white) copies of Osage or Wagoner County petitions and emergency temporary protective orders to the Osage or Wagoner County Court Clerk's Office the next business day.

B. LOCAL JURISDICTION PROTECTIVE ORDERS

1. When presented with a copy of a protective order, officers will contact the Records Section to determine if a protective order is on file and has been served.
2. Arrest for violation of a protective order may be made if the officer has probable cause to believe:
 - a. An emergency protective order has been issued and served on the defendant or a final protective order has been granted.
 - b. A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the plaintiff or any family or household member named in the order resides.
 - c. The person named in the order has received notice of the order and has had a reasonable time to comply with such order.
 - d. The person named in the order has violated the order or is presently acting in violation of the order.
3. If the suspect is present and in violation of the protective order, arrest the suspect for violation of the protective order and any additional charges. Additional charges should also be filed as state charges.
4. If an arrest is made, officers will run a criminal history on the suspect. If the suspect has a prior conviction for Violation of a Protective Order, the charge will be a felony.
5. Complete an *Incident Report*, a *Domestic Violence Supplemental/Interview*, a *Suspect Supplemental*, and provide the victim with the *Victim's Rights Card*. Inform the victim that the report will be referred to the Family Violence Unit (FVU).

C. PROTECTIVE ORDERS FROM OTHER JURISDICTIONS

1. Any protective order should be presumed valid if all of the following are found:

- a. The order gives the names of the parties.
 - b. The order is signed by or on behalf of a judicial officer.
 - c. If the order has an expiration date and it has not expired.
 - d. The order specifies terms and conditions against the defendant.
 - e. The order contains the name of the issuing court.
 - f. The order contains the date the order was issued, which is prior to the date when enforcement is sought.
2. Responding officers must enforce the terms and conditions of the order as written. An order of protection issued in another jurisdiction is enforceable when the order appears to be valid and there is probable cause to believe that a violation of the order occurred in the enforcing jurisdiction.
3. If the suspect is present and in violation of the protective order, arrest the suspect for violation of the protective order and any additional charges. Any additional charges should also be filed as state charges, unless the suspect is a Tribal member then file all charges through the Tribe.
4. Complete an *Incident Report*, a *Domestic Violence Supplemental/Interview*, a *Suspect Supplemental*, and provide the victim with the *Victim's Rights Card*. Inform the victim that the report will be referred to the FVU.

D. SUSPECT NOT SERVED

1. If the suspect is present and the protective order has not been served, obtain a copy of the victim's protective order, and serve it on the suspect. Explain the terms and conditions set forth by the order and the consequences of future violations.
2. If service is made during normal business hours, immediately contact a dispatcher, and request they contact the county of issuance. After 1700 hours, contact the TCSO Warrants at 918-596-8984. Advise them that a protective order has been served. Document the service in the *Domestic Violence Supplemental/Interview*. If the protective order is from another jurisdiction, attempt to notify that jurisdiction.
3. It is not necessary for the suspect to actually take possession of their copy of the protective order. Once the suspect is informed of the order and offered a copy, service has been made.
4. If the suspect is not present, complete an *Incident Report* and provide the victim with a *Victim's Rights Card*. Inform the victim that the report will be referred to the FVU.
5. If the situation involves domestic violence complete the *Domestic Violence Supplemental/Interview* and a *Suspect Supplemental*.

REGULATIONS:

1. Officers shall complete an Incident Report and/or a Domestic Violence Supplemental/Interview on each reported incident of a violation of a protective order.
2. Officers shall provide all victims of domestic abuse with a Victim's Rights Card.
3. When the court is not open for business, officers shall provide a petition for an Emergency Temporary Order of Protection to either party of a domestic call when asked to do so regardless of visible injuries. If there is a request made by the parties involved for a protective order when the court is not open for business, officers will contact an after-hours judge for a determination of whether a protective order will be issued.

REFERENCES:

22 O.S. 40.3
22 O.S. 60 - 60.9
21 O.S. 644
27 T.R.O. 402 (C)
112F, *Major Crime Scenes – Sexual Assaults*
102A, *Domestic Violence*
120A Att., *Domestic Violence – Attachment*
323, *Domestic Violence/Possession of Firearms and Ammunition*