



# SAN ANTONIO POLICE DEPARTMENT GENERAL MANUAL



## Procedure 603 – Protective Orders/Conditions of Bond

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### .01 INTRODUCTION

- A. This procedure establishes guidelines for the proper handling of protective orders and conditions of bond, from their entry into the computer system to the disposition of violations through reports and arrests.
- B. The Texas Penal Code, Section 25.07, *Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Stalking or Trafficking Case*, authorizes the warrantless 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 when an officer has probable cause to believe the offense has occurred. Refer to Texas CCP Chapter 14 for additional guidance.
- C. This procedure is a cooperative effort between the Patrol Division, Special Victims Unit, the Victims Advocacy Office, the Crime Scene Unit, the Service and Security Agents Office, and The Bexar County District Attorney’s Office in order to:
  - 1. Enable service providers the ability to serve a greater number of victims of family violence;
  - 2. Provide better customer services to victims of family violence by enabling the victims to come to the substation nearest their home to report violations;
  - 3. Reduce the number of family violence cases by early law enforcement intervention as well as provide services to victims of family violence in a more timely manner; and
  - 4. Protect victims from the likelihood of future victimization through proper enforcement of protective orders and conditions of bond.
  - 5. Ultimately, enable the San Antonio Police Department to file more cases for family violence and violation of protective orders with the Bexar County District Attorney’s Office.
- D. If, during the investigation of a family disturbance situation, it is determined a violation of a protective order or a condition of bond has occurred, Subsection .06 of this procedure will be followed.

### .02 TERMINOLOGY *(For specific use within this procedure, see Glossary)*

Family Violence                      Household

### .03 TYPES OF COURT ORDERS PROHIBITING FAMILY VIOLENCE, SEXUAL ASSAULT OR ABUSE, STALKING OR TRAFFICKING

- A. *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 Sexual assault or abuse, stalking, trafficking, or other harm to the applicant sexual assault or abuse 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.



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- B. *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 or abuse, aggravated sexual assault, stalking or trafficking, prohibiting the person from committing further acts of family violence, sexual assault or abuse, stalking or trafficking or having harassing or threatening contact or going near the protected person's residence, place of employment, child care facility, or school.
- C. *Protective Order* An order of the court directed to a person after family violence, sexual assault or abuse, stalking or trafficking 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 in a protected location.
- D. *Certain Court Orders or Conditions of Bond* A condition of bond set in a family violence, sexual assault or abuse, stalking, or trafficking case by the Magistrate and related to the safety of the victim or the community.

### **.04 DURATION OF PROTECTIVE ORDERS**

#### A. Temporary Orders

- 1. A temporary order is valid for the period specified in the order, but does not exceed twenty (20) days.
- 2. 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.

#### B. Magistrate's Orders For Emergency Protection

- 1. 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. An order can last up to 91 days, if so ordered by the Magistrate when a deadly weapon was used or exhibited during the commission of the assault.
- 2. When additional protection is necessary, a protective order may be requested prior to the expiration of the magistrate's order for emergency protection.
- 3. Time periods will usually be specified in the magistrate's order for emergency protection.

#### C. Protective Orders

- 1. A protective order, unless otherwise specified within the order, is valid for two (2) years from the date the original order was granted by the court.
- 2. A protective order is not modified to extend its validity beyond the two (2) year period.
- 3. A protective order can last for a lifetime if there are reasonable grounds to believe that the applicant is the victim of sexual assault or abuse, stalking, or trafficking and ordered by the Court.
- 4. A protective order might also be extended if the offender was incarcerated at any time during the life of the protective order.

#### D. *Certain Court Orders or Conditions of Bond*

- 1. 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.



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### **.05 COMPUTER SEARCHES AND LOCATIONS FOR PROTECTIVE ORDERS**

- A. Officers will be notified of the issuance of a Protective Order when a person's identity is checked using the Mobile CAD system.
- B. Officers requesting detailed information concerning protective orders, temporary orders, or magistrate's orders for emergency protection may contact the Communications Unit Information Channel to obtain information on all types of protective orders and conditions of bond in applicable cases.
- C. As a backup when the computer system is not functioning, a copy of protective orders, temporary orders, and magistrate's orders for emergency protection are kept on file in the Communications Unit.
- D. Copies of magistrate's conditions of bond in a family violence case will be handled in the following manner:
  - 1. When a person's identity is checked on a laptop, a high priority return will advise the officer of the issuance of a condition of bond associated with this person. This return will advise officers as to what specific conditions of bond has been ordered by the court.
  - 2. If the officer determines that an individual has violated the condition of bond as listed on the return, the officer or dispatcher will call the Magistrates Office at 210-335-1371 to verify the condition of bond is still active.
  - 3. If the bond is active, the officer will arrest the individual and proceed in accordance with GM 601, *Prisoners*.
  - 4. The officer will get a hard copy of the bond at the Magistrate's office and attach it to his paperwork when booking the individual.
- E. It is possible for a protective order, temporary protective order, or magistrate's order for emergency protection to exist and not be in the computer system or on file in the Communications Unit files due to a time lapse between the time an order is issued and the time it reaches the Department. In these cases the officer must see the complainant's copy of the protective order or magistrate's order for emergency protection, or temporary protective order before making an arrest. Temporary protective orders must have been served on the respondent in order to be a violation of Penal Code 25.07.

### **.06 ARRESTS FOR VIOLATIONS OF PROTECTIVE ORDERS, CONDITIONS OF BOND, OR MAGISTRATE'S ORDERS**

- A. Notification by the Communications Unit or via an electronic return that a protective order, temporary protective order, or magistrate's order for emergency protection or a condition of bond 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 or condition of bond. 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 the Communications Unit information channel.



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- B. Protective orders and magistrate's orders for emergency protection, and temporary protective orders or condition of bond may contain numerous prohibitive terms. Generally, a person commits a Class A misdemeanor if, in violation of a protective order or magistrate's order for emergency protection or temporary protective order or condition of bond, he knowingly or intentionally:
1. Commits family violence; (3<sup>rd</sup> degree felony PC 25.07)
  2. Communicates:
    - a. Directly with the protected individual or a member of the family or household in a threatening or harassing manner;
    - b. A threat through any person to a protected individual or member of the family or household; or
    - c. In any manner with the protected individual or member of the family or household except through the person's attorney or a person appointed by the court, if the order prohibits any communication with a member of the family or household;
  3. Goes to or near any of the following places as specifically described in the protective order:
    - a. The residence or place of employment or business of a member of the protected individual, a family or household; or
    - b. Any child care facility, residence, or school where a child protected by the protective order normally resides or attends; or
  4. Possesses a firearm.
  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.
- C. 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, Child Abuse or Neglect, Sexual Assault or Abuse Case, Stalking or Trafficking* 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:
1. The officers will arrest the offender without a warrant when the offense is committed within the officer's presence or view; or
  2. If the offender is no longer at the scene, the officer will exhaust all reasonable efforts to locate the offender and make a warrantless arrest if the offender is located. In no event should a reasonable amount of time exceed two hours.
  3. If the officer is unable to locate and arrest the offender without a warrant within a reasonable amount of time, the officer will begin efforts to secure a warrant for the arrest of the offender. Officers will include details in their offense report which reflect the efforts made to arrest the offender without a warrant, and a statement recommending a warrant of arrest be obtained for the offender. In all cases where a warrant of arrest is recommended, the officer will notify the appropriate follow up unit, and detail the name of the detective or officer contacted in the details of his offense report
- D. A reasonable effort to locate the offender will include searching for the offender at locations he is known to frequent in an effort to secure his warrantless arrest. In no event should a reasonable amount of time exceed two hours.



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*NOTE: 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.*

- E. In cases where a warrant of arrest will be obtained for a violation of Texas Penal Code 25.07 officers are responsible for notifying the appropriate unit and providing that unit with the officers' report. The respective substation CRT Officers will prepare warrants during their business hours. The Special Victims Unit or Night CID Unit will prepare warrants at all other times.
- F. Officers should be aware there are private attorneys who may obtain protective orders on behalf of their clients. As a result, some protective orders may enumerate prohibited conduct which does not constitute a violation of Chapter 25.07 of the Texas Penal Code. Officers are only authorized to arrest an offender who violates a protective order by engaging in conduct prohibited by Chapter 25.07 of the Texas Penal code.
  - 1. In determining whether to arrest, with or without a warrant, officers should read the protective order carefully. Conditions listed as prohibited conduct in any protective order must also be prohibited conduct in Chapter 25.07 of the Texas Penal Code in order to constitute an arrestable offense.
  - 2. Additionally, conditions enumerated in Chapter 25.07 of the Texas Penal Code as prohibited conduct must be specifically enumerated in any protective order in order to constitute an arrestable offense.

*1st Example: If the actor drives by the neighborhood grocery store, observes the protected person's vehicle parked in the parking lot, and slashes the tires on the vehicle, there is no violation of the protective order. Even if the protective order specifically states the actor cannot cause damage to the protected person's property, this conduct is not prohibited by Chapter 25.07 and should be handled as Criminal Mischief.*

*2nd Example: The actor is in possession of a firearm when he drives by a residence where the protected person is staying temporarily. Upon examining the protective order, possession of a firearm is not listed as prohibited conduct within its body. Although Chapter 25.07 specifically enumerates possession of a firearm as prohibited conduct, because it is not enumerated in the body of the protective order, it is not a violation of that order. While the actor may be arrested for a weapons offense violation, he cannot be arrested for the violation of the protective order.*
- G. 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.
- H. 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.
- I. It is a Third Degree Felony if;
  - 1. The offender has previously been convicted under Chapter 25.07 two or more times or;
  - 2. Has violated the order or conditions bond by committing an assault or the offense of stalking.
- J. Persons arrested for violations of protective orders, magistrate's orders for emergency protection or temporary protective orders or violations of conditions of bond are processed in accordance with GM Procedure 601, *Prisoners*.

### **.07 PROCEDURE FOR VIOLATIONS OF TEMPORARY PROTECTIVE ORDERS**

- A. Persons in violation of temporary protective orders shall be arrested for violations of the order.
- B. Officers, as directed by the temporary protective order, may be required to do the following:



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1. To accompany the person obtaining the order to the residence covered by the order while the person takes possession of the residence;
2. If the person excluded from the residence occupies the residence, to inform the person the court has ordered the person excluded from the residence;
3. Protect the person obtaining the order while they take possession of the residence; and
4. If the person excluded from the residence refuses to vacate the residence, stand by while the person who has obtained the order takes possession of their necessary personal property.

### **.08 REPORT RESPONSIBILITIES**

- A. 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, sexual assault, stalking or trafficking 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, Child Abuse or Neglect, Sexual Assault or Abuse, Stalking or Trafficking case*.
  1. The court which issued the protective order is listed as the complainant;
  2. 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;
  3. The details of the offense report list the specific violation(s) of the protective order; and
  4. A copy of the protective order, temporary protective order, condition of bond, or magistrate's order for emergency protection is attached to the copy of the offense report submitted to the Magistrate's Office.
    - a. Officers may photocopy the protective order, temporary protective order, condition of bond, or magistrate's order for emergency protection on file in the Communications Unit. In the case of temporary protective orders, officers will attach a print out of the verification of service; or
    - b. Officers may photocopy the reporting person's copy of the protective order or magistrate's order for emergency protection, which shall be returned to the reporting person before checking into service. In the case of a temporary protective order proof of service on the respondent must be included.
- B. When an arrest is made for an act of family violence, sexual assault, stalking or trafficking, 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 magistrated.
- C. Information necessary for the officer to obtain to apply for a magistrate's order for emergency protection includes the following:
  1. Names of individuals, including children, covered by the court's order (dates of birth are also necessary);
  2. Addresses and telephone numbers of residence and place of employment;
  3. Addresses and telephone numbers of child care facilities or schools attended by children; and
  4. The distance, in yards, necessary for the respondent to maintain for the protection of the victim.



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- D. Officers responding to family disturbance calls or other violent situations where family violence is evident or suspected shall comply with Procedure 604 – Family Disturbances/Violence.

### **.09 OFFICER/UEDI RESPONSIBILITIES**

#### A. Patrol Division Officers/UEDEs

1. Make the scene of family violence/violation of protective order or bond calls to make the appropriate report;
2. Verify through the communication unit, the validity of the protective order or the presence of a condition of bond or call the Magistrate's office at (210) 335-1371 in situations involving a violation of a condition of bond;
3. Use caution when contacting the parties. Inquire into the presence or possession of firearms.
4. 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 Information Channel.
5. If a court order is found on the suspect, determine if he is in possession of a firearm.
6. If a violation of law is found, make the appropriate arrest.
7. Refer to Procedure 701, *Crime Scene Duties*, if a weapon is suspected of being used in a felony offense.
8. Place weapons taken as evidence in the property room as directed in GM Procedure 606, *Impounding Property*, if weapon is not suspected of being used in a felony offense.
9. Officers may seize firearms if there is a fear that the weapon will be used in a criminal act in the future. Officers must have the legal authority to seize firearms. Officers will refer to Procedure 502 regarding warrantless seizures. Officers should seek the guidance of their supervisor if further doubt exists.
10. Officers and UEDIs will inquire into the presence of firearms at the location and will discuss safety options with the victims and persons present at the location. Safety options include, but are not limited to, placing the firearms in the property room to prevent the suspect from gaining access to the firearms. All safety options discussed with the victim must be documented in the police report.
11. If the victim has visible injuries due to a violation of a protective order or condition of bond which included an assault, check with the dispatcher to see if a UEDI/Crime Scene Unit Investigator is available. If a UEDI/Crime Scene Unit Investigator is available, wait until the investigator is completed with the collection of any evidence, including taking pictures of the victim and his/her injuries;
12. Provide the victim of family violence with SAPD Form #2089-DV, *Domestic Violence Supplemental Form* and the SAPD Form #2089-TA, *Family Violence Threat Assessment Checklist* for the victim to complete;
13. If no UEDI/Crime Scene Unit Investigator is available, advise the victim they must report to the local substation at their earliest opportunity to have photographs taken of their injuries. Services to victims of family violence/violation of a protective order, will be provided at the substations seven (7) days a week, twenty-four (24) hours a day; and
14. Adhere to this procedure regarding arrests and information collection. Complete and file the appropriate report.

#### B. UEDIs/Crime Scene Unit Investigators



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1. For a felony violation of a protective order or condition of a bond offense, process the scene in accordance with GM Procedure 701, *Crime Scene Duties*.
2. Upon receiving a call for misdemeanor violation of a protective order or conditions of bond involving family violence shall make the scene and contact the officer assigned the call;
3. When available, respond and take pictures of the victim and his/her visible injuries. Also, take pictures of any crime scene, if one is present;
4. Write the appropriate crime scene search report and package it along with SAPD Form #2089-DV which has been filled out and signed by the victim, to the Special Victims Unit.
5. Complete and route the SAPD Form #2089-TA *Family Violence Threat Assessment Checklist* to the CRT Office at the appropriate substation.

### C. Police Service Agents

1. When a victim of family violence/violation of a protective order or conditions of bond presents his/herself at a substation, the police service agent will first determine whether an offense report has already been made.
  - a. If no report has been made, the police service agent will have a CRT officer, if available, or an officer come in from the field to make the report.
  - b. If an offense report has been made, the police service agent will request a UEDI/ Crime Scene Unit Investigator come in from the field to take photographs and complete SAPD Form #2089-DV.
  - c. In the event that a UEDI/Crime Scene Unit Investigator is not available, the police service agent will have the victim complete SAPD Form #2089-DV and take digital pictures of the victim and his/her injuries.
  - d. The police service agent will refer to GM Procedure 408, *Digital Photography*, for handling of Digital Images.
  - e. The police service agent will then package the completed SAPD Form #2089-DV along with any photographs and route to the Special Victims Unit.
  - f. The police service agent will complete and route the SAPD Form #2089-TA *Family Violence Threat Assessment Checklist* to the CRT Office at the appropriate substation.

### D. Crisis Response Team

1. When a crisis response team member makes a location where a victim of family violence/violation of protective order/condition of bond is injured due to an assault and has not had pictures taken and/or has not filled out SAPD Form #2089-DV, the CRT shall provide the form for the victim to complete and take pictures of the victim and any injuries.
2. Digital images will be handled in accordance with GM Procedure 408, *Digital Photography*.
3. The crisis response team will route the completed SAPD Form #2089-DV and a copy of the offense report, if available, to the Special Victims Unit.
4. The CRT will complete the SAPD Form #2089-TA *Family Violence Threat Assessment Checklist* and provide for the victim's safety per the CRT Standard Operating Procedures.
5. 6. A court may order a suspect in a family violence case or a violation of a protective order, temporary ex-parte order or condition of bond order case to turn over firearms to the police department.





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7. Upon order of the Court, property room, personnel, the assigned CRT substation personnel, and the designated third party assigned by the court will coordinate the surrender of any firearms, as ordered by the court. The assigned CRT substation personnel will return the required documents to Pretrial Services, as instructed by the court.
8. Pursuant to the court order, a firearm may not be returned to a suspect except by further order of the court.

### E. Special Victims Unit

1. Upon receipt of the packets from the UEDIs/Crime Scene Unit Investigators, police service agents, or crisis response teams, a supervisor shall inspect the information included in the packets for completeness.
2. Cases where further information is required, shall be assigned to a detective to complete.
3. Criminal cases will be investigated in accordance with the SOP of the Special Victims Unit.
4. Should a victim of family violence/violation of protective order/condition of bond present his/herself to the Special Victims Unit, the detective with walk-in case responsibility shall handle the case according to the SOP of the Special Victims Unit.