General Order

Houston Police Department

ISSUE DATE:	NO.
September 6, 2024	600-06

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 600-06, dated March 7, 2018

SUBJECT: FAMILY VIOLENCE

POLICY

Each employee shall provide a proactive, victim-centered, and trauma-informed approach to family violence. Each employee shall thoroughly investigate all family violence incidents, regardless of the identity of the alleged suspect and/or victim.

Article 5.04 (a) of the Texas Code of Criminal Procedure (CCP) states: "The primary duties of a peace officer who investigates a family violence allegation or who responds to a disturbance call that may involve family violence are to protect any potential victim of family violence, enforce the law of this state, enforce a protective order from another jurisdiction as provided by Chapter 88 of the Texas Family Code, and make lawful arrests of violators." Accordingly, each officer shall enforce criminal laws to the fullest extent possible in the protection of potential or actual victims of family violence.

This General Order applies to all employees.

DEFINITIONS

Family Member. For this General Order, a person who is related by blood or marriage to an individual, as defined by section 71.003 of the Texas Family Code, including:

1. The individual's spouse or former spouse.
2. The other biological parent of the individual's child (without regard to marriage).
3. The individual's parents, grandparents, and other ancestors, whether biological or through adoption.
4. The individual's siblings, whether biological or through adoption.
5. The individual's children, grandchildren, and other descendants, whether biological or adopted.
6. The individual's foster children and foster parents.
7. The individual's aunts, uncles, nephews, nieces, and cousins, if they share a common biological or adopted ancestor with the individual.
8. Any family member of the individual's current spouse.
9. Any family member of the individual's former spouse with whom a child of the marriage is shared.

Family Violence. An act defined by section 71.004 of the Texas Family Code, including:

1. An act by an individual against a family member or household member that is intended to result in physical harm, bodily injury, assault, or sexual assault, or a threat that reasonably places that person in fear of the same.
2. An act of abuse by a family member or household member against a child, meeting the criteria specified in section 71.004 (2) of the Texas Family Code.
3. An act of dating violence, as defined by section 71.0021 of the Texas Family Code, that involves a person with whom the individual has a continuing relationship of a romantic or intimate nature.

Household Member. For this General Order, an individual who is part of the same household, as defined by sections 71.005 and 71.006 of the Texas Family Code, whether a family member or not, including:

1. A person living together in the same dwelling with the individual.
2. A person who previously lived in the same dwelling with the individual.

1 OFFICER'S RESPONSIBILITIES

When any person alleges family violence, the officer shall remain at the scene and investigate the allegation(s) to determine if any person committed an offense and prevent any further commission of family violence.

In addition to the requirements of General Order 600-27, **Initial and Follow-Up Investigations**, the responding officer(s) shall, as circumstances and officer safety permit, complete all the following tasks:

a. Attempt to determine whether any parties at the scene possess a firearm in violation of state or federal law. If any person is in violation of such laws, the officer shall seize and tag the firearm(s) in the Property Division on hold for the Major Assaults & Family Violence Division (MAFV). For certain federal violations, the officer shall also route the incident report to any other division required by applicable policy (e.g., Major Offenders Division).

b. Encourage, without coercion, the voluntary surrender of any firearm at the scene from all parties if the officer determines the firearm poses a substantial threat to the victim. The officer shall take custody of such firearm(s) and shall contact MAFV for authority to tag as "safekeeping."

c. Ask the parties about injuries, including those clothing may conceal or are otherwise not readily apparent (e.g., strangulation or internal injuries). An officer of the same sex as the injured party may be needed for further investigation.

d. Determine whether the victim felt physical pain, especially when the victim has no visible injuries. When determining if there is bodily injury and the victim does not complain of physical pain, the officer shall consider any visible marks on the victim and how the suspect made contact with the victim.

e. Encourage the victim to document any stalking behavior by the suspect (e.g., shadowing, following, or threatening the victim, a family member or household member of the victim, or someone currently dating the victim, or threatening any such person's property).

f. Determine whether any person committed any other criminal offense related to family violence (e.g., terroristic threat, harassment, unlawful restraint, injury to elderly, violation of protective order or certain court orders, burglary, criminal trespass, and interfering with an emergency request for assistance).

When an officer meets a victim away from the victim's residence or the incident location, the officer may return to that location to investigate a complaint of family violence and verify the safety of any other persons involved. The officer shall not participate in the division of property

but may escort the victim into the location to secure items of immediate necessity (e.g., clothes, medication, identification, baby items, food). The officer should advise any person asking questions regarding the division of property to seek private legal counsel.

If an officer needs information about a Magistrate's Order of Emergency Protection (MOEP) or protective order, clarification whether an individual is a family member or household member, or assistance determining if the scene meets the criteria for family violence, the officer shall contact MAFV's Family Violence Unit (FVU) or the appropriate district attorney's office for clarification.

Resources and Referrals

When investigating family violence, the officer shall take the following actions, as applicable:

a. **Domestic Abuse Response Team (DART):** When investigating a family violence allegation or disturbance involving continuous family violence, strangulation, or serious bodily injury, the officer shall request the assistance of a Victim Services Division DART unit, if available, which allows the victim to speak with a victim's assistance advocate at the scene.

b. ***Texas Crime Victim's Rights Card*:** The officer shall give adult victims of family violence, stalking, and/or terroristic threat the department-issued *Texas Crime Victim's Rights Card* (*Blue Card*), which contains written notice of their legal rights, possible remedies, and the availability of social services and community resources. The officer shall also give a *Blue Card* to guardians of child victims or vulnerable adult victims if the guardian is not a suspect. The officer completing the incident report shall document in the incident report that an officer provided the victim or guardian with a *Blue Card*.

   The officer shall make every reasonable effort to help the victim or guardian understand all available options. If the officer determines the victim or guardian needs additional guidance or assistance, the officer shall request a DART unit to speak with that person. If a DART unit is not available, the officer shall refer the victim to the Victim Services Division to speak with a victim advocate or to the FVU to speak with an investigator.

c. **Texas Department of Family and Protective Services (TDFPS):** Under the Code of Criminal Procedure, an officer investigating a family violence allegation or responding to a disturbance call that may involve family violence shall determine if the address of any involved person is a licensed foster home or a verified agency foster home listed in TCIC. The officer may also obtain this information by contacting the TDFPS at 1-800-877-5300. Upon determining that an involved person resides at a foster care facility, the officer shall verify the location's required license (if on-scene) and immediately notify the TDFPS, as outlined in General Order 600-15, **Incidents Involving Vulnerable Persons**.

2 ARREST AND CHARGES AGAINST THE SUSPECT

When the officer has probable cause to arrest the suspect for a family violence offense that has just occurred, the officer **shall** arrest the suspect if on scene, except as noted in this General Order. There is no requirement that the officer witness the offense. The officer shall make every reasonable effort to identify the primary aggressor by completing a thorough investigation. The officer shall not arrest both parties without contacting an on-duty field supervisor to discuss the facts of the case and determine if there is cause to arrest both parties.

The officer shall not base a decision on whether or not to make an arrest, file charges, or file a to-be warrant on any of the following:

a. The victim's willingness to prosecute or any person's willingness to cooperate with the investigation or future proceedings.

b. The officer's ability to separate the victim and suspect.

c. Statements from the victim or suspect that they will separate.

d. Statements from any person that the violence will not occur again or that an arrest may cause financial hardship.

The officer shall file the highest family violence charge possible when filing criminal charges. If the victim is unwilling to prosecute, the officer shall still list the victim as the complainant when filing charges and act as the affiant. If an officer files a to-be warrant for family violence, the officer shall follow the documentation requirements outlined in General Order 500-07, **Filing Class B or Higher Charges**.

When an officer makes an arrest for any family violence (including a Class C misdemeanor) or stalking offense, the officer shall obtain as much contact information (e.g., name, telephone number, email) as possible from the victim or a responsible person designated by the victim. The officer shall include such contact information in the victim information sections of the incident report, charges, and the booking information sheet, if applicable. Personnel at the applicable jail are not responsible for obtaining this information.

Non-Arrest of On-Scene Suspect

The officer shall notify an on-duty field supervisor when the officer does not make a warrantless arrest for family violence when there is bodily injury to any person and the suspect is at the scene. The supervisor shall respond to the scene, review the facts of the case, and determine if probable cause exists for arrest. If probable cause exists, the supervisor shall follow the procedures outlined in General Order 500-07, **Filing Class B or Higher Charges**.

If the district attorney's office declines charges, the officer may arrest the suspect if the facts support an arrest for Class C Assault or the officer has a different cause for arrest.

Release of Suspect

State law requires victims be notified prior to the release of a suspect charged with a family violence or stalking offense. Non-HPD personnel at the applicable jail facility complete this task.

State law also provides that persons charged in family violence cases may be held an additional four hours after bond has been posted if there is probable cause to believe the violence will continue when the suspect is released. When an officer determines the facts of the case indicate the four-hour hold is necessary, the officer shall contact the Harris County Central Records Sergeant's Office at 346-286-1223 and document the reasons for the hold in the incident report. In Montgomery or Fort Bend County, the officer shall notify the appropriate jail facility instead. The officer may also obtain an additional 48-hour hold order (after bond is posted) in writing from a magistrate. The officer shall then follow the same procedures for the four-hour hold.

3 DOCUMENTATION

As mandated by the Texas CCP, an officer shall complete a thorough incident report when the officer investigates a family violence or stalking incident, responds to a disturbance that may involve family violence, or receives an allegation of family violence. The officer shall not refer a person to another location to make an original report.

If the facts of the case indicate the incident is family violence or is related to family violence, the officer shall route the incident report to the FVU by placing a "Y" in the field choice box pertaining to family violence and place the correct family violence offense as a report title, if applicable. When unsure whether to route the report to the FVU, the officer shall contact and consult with FVU personnel. If FVU personnel are unavailable, the officer shall route the report to the FVU for determination. Regardless of the disposition of the suspect (e.g., not arrested, arrested for a non-family violence offense, detained for Notification of Emergency Detention), the officer shall title the report with the highest offense (family violence or otherwise).

When writing the incident report, the officer shall document all the following, as applicable:

a. The names of the victim and suspect and the relationship between them.

b. Descriptions of the demeanor of the victim and suspect.

c. Any spontaneous or excited utterances (*res gestae*) statements made by any party.

d. Interviews with any witness or possible witness in the household, including children.

e. Description of any destruction or disarray, or lack thereof, at the scene.

f. Any visible or reported injuries (e.g., location and description).

g. The date, time, and location of the incident(s) and any known prior history of family violence.

h. Disposition of the incident including the facts leading to the decision not to make an arrest.

i. The on-duty field supervisor's name the officer contacted, if required by policy.

j. An alternate telephone number of a close relative that will remain in contact with the victim.

k. The presence of any firearm in the household or at the incident location.

l. That an officer provided the victim with a *Blue Card*.

m. Any notification reference numbers (e.g., Department of Family and Protective Services).

Strangulation Supplement

In addition to other required documentation, an officer responding to a call involving impeding breath or strangulation in Harris, Montgomery, or Fort Bend Counties shall complete the respective county's *Strangulation Supplement* with the victim. The officer shall complete the form rather than having the victim complete the form. Each form is located on the department's Intranet

Portal. The officer shall upload a copy of the form to the incident report via Intellinetics and forward the original *Strangulation Supplement* to FVU via inter-office mail.

If the officer makes an arrest in Montgomery or Fort Bend County, the officer shall place a copy of the form with the *Montgomery County Blotter Charges* or *Fort Bend County Warrant Information Sheet*, as applicable.

Fort Bend County Documentation

In addition to other documentation requirements, an officer responding to a call in Fort Bend County shall complete the *Fort Bend County Area Domestic Violence Checklist* with the victim. The officer shall complete the form rather than having the victim complete the form. This form is on the department's Intranet Portal. The officer shall upload a copy of the completed form to the incident report via Intellinetics and forward the original to FVU via inter-office mail. If the officer makes an arrest, the officer shall place a copy of the form with the arrest packet outlined in General Order 500-07, **Class B or Higher Charges**.

4 MAGISTRATE'S ORDER OF EMERGENCY PROTECTION (MOEP)

When an officer makes an arrest for an offense involving family violence or stalking, the officer shall explain and offer the victim (or the victim's guardian, if the guardian is not a suspect) the option of requesting a MOEP, which is an order issued by a judge after the suspect's arrest that provides immediate, short-term protection to the victim until the victim obtains a permanent protective order. Employees should encourage victims to further seek a protective order from the district or county attorney's office in the county where the victim resides.

At the victim's request, an officer may request a MOEP through the appropriate district attorney's office when filing criminal charges on a Class B or higher family violence offense (including child abuse when the suspect is a family member or household member) or any stalking violation (regardless of relationship between the victim and the suspect). An officer may also request a MOEP from a municipal court judge for Class C assault.

Under unusual circumstances (e.g., the victim is unconscious), the officer may request a MOEP on the victim's behalf if the victim is unable to make such request. The officer shall clearly state the reasons why the victim is unable to request the MOEP in the officer's probable cause statement and in the incident report.

When a victim requests a MOEP, the officer shall complete the appropriate MOEP process for the county in which the officer is filing charges. For Harris County, the officer shall indicate in DIMS that the victim requested a MOEP by placing a "Y" in the field choice box pertaining to the MOEP.

In Montgomery County, the officer shall complete the MOEP form within the *Montgomery County Blotter Charges*. In Fort Bend County, the officer shall make the selection on the *Fort Bend County Area Domestic Violence Checklist* and provide a copy of the form to Fort Bend County Jail personnel with the officer's probable cause statement.

5 ENFORCEMENT OF CERTAIN COURT ORDERS

When a suspect violates an order (e.g., MOEP or protective order) in an officer's presence, the officer shall arrest the person. When the suspect violates an order outside of the officer's presence, the officer may make a warrantless arrest if sufficient probable cause exists. The officer shall file charges pursuant to General Order 500-07, **Filing Class B or Higher Charges**.

No person (including the protected person) may give any other person permission to violate an order. Only the issuing court may change an order. Reconciliatory actions or agreements made by the protected person do not affect the validity of such order and do not diminish the officer's duty to enforce the order. An officer investigating a violation of an order shall not arrest persons protected by the order for a violation of such order.

After FVU receives a MOEP or protective order from the courts, FVU shall enter the order into TCIC and file the order at Homicide Division.

Protective Orders

An officer shall accept a certified copy of a protective order as proof of its existence and shall presume the order valid for two years, unless:

a. The order contains a termination date that has expired.

b. The clerk of the court notifies the officer the order has been vacated or modified.

c. The court granted a protective order that expressly has a longer period of validity.

If the complainant does not have a certified copy of an order issued in Texas, the officer may check TCIC for the order's existence but shall also verify the order's validity by contacting the FVU. After hours, officers shall contact Homicide Division or the district attorney's office in the county from which the court order was issued. The officer shall read the order carefully as it may contain both prohibited criminal acts (including but not limited to those acts in section 25.07 of the Texas Penal Code) and prohibitions that are civil in nature (e.g., orders to pay child support or alimony) that are not criminally enforceable.

An order from another jurisdiction or county in Texas is presumed to be valid if it appears valid on the order's face. An officer shall enforce an order of protection from other states' courts, military courts, tribes, or territories as if a Texas state court issued the protective order.

Temporary and *Ex Parte* Protective Orders

An officer may enforce a temporary or *ex parte* protective order only if the suspect has been served with it. The officer shall verify that the suspect has been served with the temporary or *ex parte* protective order by contacting the clerk of the court that issued the order.

J. Noe Diaz, Jr.
Chief of Police