

**Burleson Police Department
Administrative Policy and Procedures**

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CALEA Standards Referenced: 1.2.5; 1.2.7a/c/d/f; 35.1.9; 55.1.1a; 55.2.1a/b; 55.2.3c

ISSUING AUTHORITY: _____

Billy Cordell, Chief of Police

- I. The Burleson Police Department has the duty to protect victims of family violence without regard to the relationship between an alleged offender and victim(s). The Burleson Police Department's duty to prevent the commission of criminal offenses, including acts of family violence, is not waived or accepted because of a family or household relationship between the potential violator and victim.
- II. Definitions
For purposes of this policy, "family violence:" and "domestic violence" have the same meaning.
The following definitions shall apply with reference to family violence:
Family Violence – the intentional use or threat of physical force by a member of a family or household against another member of the family or household, but does not include the reasonable discipline of a child by a person having that duty.
Family – Includes individuals related by consanguinity or affinity; individuals who are former spouses of each other; individuals who are the biological parents of the same child, without regard to marriage or legitimacy; and a foster child and foster parent whether or not those individuals reside together.
Household – A unit composed of persons living together in the same dwelling whether or not they are related with each other.
Member of a household – includes any former members of a household who has filed an application or for whom protection is sought as provided by the Texas Family Code.
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 a threat that reasonably places an individual in fear of imminent physical harm, bodily injury, assault or sexual assault, but does not include defensive measures to protect oneself.
Arrest Avoidance Policy – Conduct, or written or unwritten policy, which by characterizing family violence situations as civil or family matters and presuming that arrest is not an appropriate or desirable response to family violence situations, has the effect of discouraging arrests.
- III. Domestic Violence – Primary Duties:
 - A. The Burleson Police Department's primary duties when investigating complaints of family violence disturbance calls are to protect victims or potential victims of family violence, enforce applicable laws and make lawful arrests of violators. In family violence incidents where probable cause exists, officers shall arrest the alleged offender. [55.1.1]

- B. The following provisions apply in all family situations regardless of the existence of any court orders.
1. **Communications Procedure:**
 - a. The Burleson Police Department shall dispatch calls related to family violence as a CODE-2 priority unless there is a **physical altercation in progress** or weapons have been used or the threat of the use of weapons is reported. In these cases, a CODE-3 response will be utilized.
 - b. **Telecommunicators** receiving calls regarding family violence shall **obtain** the following information whenever possible **and relay all essential information to responding officers:**
 1. type of incident
 2. address of the incident or complainant
 3. name of business or apartment number
 4. determine whether an ambulance is needed
 5. whether weapons are involved
 6. whether the suspect is present
 7. if the suspect is not present, direction and mode of travel
 8. name of the complainant or caller
 9. complainant's telephone number
 - 10 whether any type of protective order is in effect
 11. any other necessary information, which shall be requested and used by personnel to determine the appropriate nature of response.
 2. Family Violence is Criminal Conduct:
 - a. Arrest is the most appropriate response to family violence crimes, which involve: **[1.2.5]**
 1. an alleged felony; or
 2. alleged breach of the peace or offense against the public peace; or
 3. any criminal offense committed, threatened or about to be committed in the officer's presence or within their view; or
 4. an alleged assault resulting in bodily injury to another person where there exists probable cause to believe that there is danger of further bodily injury to that person; or
 5. probable cause to believe there has been a violation of a court order, as defined in the Texas Penal Code, whether or not the offense has been committed in the presence of the peace officer.
 - b. The Burleson Police Department will not adopt or employ an arrest avoidance policy in response to incidents of alleged family violence. **[1.2.5]**
 - c. The Burleson Police Department shall treat all reported family violence as alleged criminal conduct. The Department shall treat requests for police assistance and/or criminal investigations from victims of family violence as it does all other requests for assistance in cases where there has been alleged physical violence **inflicted** upon a person. The Burleson Police Department shall not respond to requests for assistance from victims of family violence any less diligently than they respond to requests for assistance from other persons who have been victims of violent crimes arising in a non-domestic context.

- d. The following factors shall not be used as a basis for determining whether or not to effect an arrest in family violence incidents:
 1. that the suspect lives on the premises with the victim
 2. that the suspect and the victim are or are not married or have or have not had a prior or existing co-habitation relationship
 3. whether or not a court order against the suspect is presently in effect
 4. that the victim has made prior calls to the Burleson Police Department
 5. that there may be adverse financial consequences caused by the arrest
 6. that the alleged injury is not visually apparent or verifiable to officers without further investigation
 7. if there is a permanent protective order in effect; or a victim indicates that they may be hesitant or unwilling to participate in subsequent criminal court proceedings or that prosecution and conviction may not occur despite the existence of probable cause to arrest.
 - e. When determining whether probable cause exists for an arrest for family violence, an officer, when appropriate, shall consider the following factors:
 1. whether the suspect has a prior history of arrests or citations involving family violence
 2. whether the suspect has previously violated court orders pertaining to family violence
 3. whether the suspect has a history of assaultive behavior
 4. statements obtained from the complainant; and statements obtained from the victim expressing fear of retaliation or further violence should the suspect be released.
3. Criminal Investigation:

The following provisions apply in all alleged family violence situations regardless of the existence of any court orders:

- a. **Officers** shall interview the complainant and any witnesses as fully as possible under the circumstances and investigate to determine if a crime has been committed.
- b. If the suspect is not on the premises, reasonable efforts shall be made to find the suspect and take follow-up steps appropriate under the circumstances.
- c. **Officers** investigating or responding to family violence calls, **will provide** written and oral notice to the victim(s) of their legal rights and the availability of shelters or other community services for family violence victims. This notice will be written in English and Spanish and shall comply with the provisions of the Texas Code of Criminal Procedure. [\[55.1.1a / 55.2.1a/b / 55.2.3a\]](#)
- d. Provide the use of Victim Assistance in cases of serious injury or death.
- e. A copy of the notice is attached and is incorporated as fully set out herein.
- f. Officers will inform victims of family violence that they may file a criminal complaint against the person(s) committing family violence, pursuant to relevant provisions of the Texas Code of Criminal Procedure, and provide written notices advising them of the locations where charges can be filed and the procedures to be followed in the filing of charges.

- g. Responding officers shall inquire whether there are any existing court orders. If a court order exist, but there is no copy available at the scene, officer(s) shall radio dispatch to verify if a protective order is on file and inquire as to the terms of the protective order. If there is no existing court order, officers will determine whether there is probable cause to arrest and where there is, sufficient probable cause officers will effect the arrest. In family violence incidents where probable cause exists, officers shall arrest the alleged offender.
 - h. If the offender is not on the premises upon officers' arrival, reasonable efforts will be made to locate the offender. When probable cause exists for an arrest, charges will be expeditiously filed, regardless of the officer's immediate success in apprehending the offender.
 - i. When an arrest is effected or charges filed, officers will collect and preserve all evidence, pursuant to the department's policies and procedures and Texas law, reasonably necessary to support prosecution.
 - j. When an offender is arrested by this agency and criminal charges relative to family violence are filed, no criminal charges against the family violence offender will be dismissed within seventy-two hours (72) of the date and time of arrest, even if an affidavit of non-prosecution is filed by the victim(s). No criminal charges against any family violence offender shall be dismissed without due consideration being given to the seriousness of the offense and the states' interest in prosecuting criminal offenders.
 - k. Responding officer shall prepare an offense report regarding the incident. A description and photos of the injuries will be included in the report. All initial reports and arrest reports shall indicate whether family violence has occurred or was alleged. Details will be communicated to the next watch for "close patrol".
 - l. Officers shall inquire as to whether an accusation of strangulation has occurred. If so officers will summon emergency medical personnel to the scene to evaluate and render aid to the victim per City of Burleson Ordinance CSO#781-02-2018 "Effective Response to Strangulation". Officer shall utilize a checklist approved by the Chief of Police to help evaluate the situation and provide aid to the victim.
 - m. Officers will thoroughly document the suspect's demeanor, actions, and any comments made during the act of strangulation.
 - n. Officers shall attend training that addresses the signs and symptoms associated with this offense and the severity of the crime. This training will aid officers in obtaining vital information in relation to strangulation cases, as well as ensure that the department is adhering to the standards set forth by the City of Burleson Ordinance.
 - o. If officers do not make an arrest in response to family violence or a violation of the Texas Penal Code, they shall document the reason(s) for not effecting the arrest in their offense report.
4. Investigation Involving Juvenile Victims/Witnesses:

- a. Officers will follow the established protocol per City of Burleson Ordinance Article X "Protection of Children Exposed to Unjustified Violence". Officers shall utilize a checklist approved by the Chief of Police to help evaluate the incident and provide aid to the child. Officers shall attend training that addresses the protocol for responding to children exposed to violence. The protocol includes but is not limited to the following:
 1. Officers shall identify and document in the offense report any child under 18 years of age who were present in the home and their level of exposure to the incident.
 2. Seek and locate a parent or adult caregiver who can assume responsibility for the immediate care of the children.
 3. Determine if child protective services should be contacted.
 4. Prepare for possible questions from children by learning as much as you can about the status of the incident prior to talking with children.
 5. Provide information to parents or caregivers and then children.
 6. Officers should attempt to speak with the child/children to help them understand what is happening and assess their wellbeing when the caregivers are cooperative.
 7. When speaking with children, consider speaking in private when it is appropriate. Be aware of who is present when speaking with children and how that may affect their responses.
 8. Speak with the child at eye level about what happened and what is going to happen next.
 9. When talking with children you need to validate the children's emotional response.
 10. Respond to questions in a straight forward and concise manner.
 11. Assist the protective parent with comforting the child.
 12. Assist the protective parent in understanding any coordinated services available to the child.
 13. Assist the protective parent with understanding the impact of domestic violence on children.
 14. Assess for ongoing threats to safety.
 15. Take steps to increase the physical safety of the children in the home.
 16. Provide and offer to review with parents/caregivers the brochure on Children Exposed to Violence.
 17. Develop a plan for follow-up.
5. Protective Orders Procedures:
 - a. The immediate arrest of offenders or the filing of criminal charges against offenders is the appropriate response to a violation of a permanent protective order. It is not necessary for the suspect to be present for an arrest to be made subsequent to the reported incident of family violence or for criminal charges to be filed.
 - b. Each law enforcement agency shall accept a certified copy of the protective order as proof of the validity of the order and it is presumed the order remains valid unless the order contains a termination date that is past or is more than two (2) years old from its' entry date. The age of the order shall be determined starting with the date on which the order was signed.

- c. When necessary to verify the existence of a protective order, in those circumstances where victims do not have a copy of a protective order or the copy is not certified, **officers** shall radio the dispatcher to determine if a protective order is on file.
 - d. Officers have the option of requesting a Magistrate's Order of Emergency Protection for victims of domestic violence. The order must be requested at the time of an arrest for domestic violence, as it can only be granted at arraignment.
6. Felonies:
When a family violence incident involves an alleged felony, officers shall presume that arrest is appropriate. When probable cause exists to believe that a felony has been committed and there is probable cause to believe that a particular person committed the felony, responding officers shall arrest that person without a warrant, consistent with Texas law regarding felony cases arising in a non-domestic context. **[1.2.5]**
7. Misdemeanors:
Arrest shall be presumed appropriate in response to family violence **incidents, which** involve an act of physical violence or criminal conduct directed toward the victim.
8. Criminal Trespass:
In addition, but not in lieu of arrest for violation of a protective order and or assault, arrests shall also be made for criminal trespass and attempted trespass pursuant to relevant provision of the Texas Penal Code.
- C. Information and Reporting Systems:
When an officer has reason to believe that an offense involving family violence has occurred, officers shall make a written report which shall include the information prescribed in the Texas Code of Criminal Procedure and: **[1.2.7]**
1. A written account of the reason for not arresting, if no arrest is made, unless the report indicates the suspect is still at large;
 2. A description of the suspect, when necessary
 3. A **detailed** narrative of the incident
 4. A departmental code identifying the incident as one involving family violence
 5. Information on witnesses and
 6. Notations regarding other family violence reports if there is personal knowledge of those reports by the responding officer.
- D. The Burleson Police Department has established a code for identifying and retrieving family violence reports.
- E. In order to ensure that officers responding to calls are aware of the existence and terms of permanent protective orders, the Burleson Police Department has established procedures to provide adequate information or access to information for law enforcement agencies of the names of persons protected by a protective order and of persons to whom protective orders are directed.

- F. The following information shall be entered in the CAD system upon the receipt of the protective order. The information should be immediately retrievable by means of a "FLAG" to alert field personnel that a protective order exists.
1. Names of the person(s) protected by the order;
 2. Address (residential and business) of the person(s) protected by the order;
 3. Names of the person(s) to whom the order is directed;
 4. Expiration date of the protective order (either specified or by operation of law)

IV. Domestic Violence Involving Police Officers:

The Burleson Police Department will not employ any officer convicted of family violence before or during employment with the City unless the person can provide documentation showing exemption to federal law.

A. Potential Sworn Personnel:

1. All officer applicants will be required to acknowledge any prior criminal convictions including domestic violence. If the candidate cannot provide documentation that **they are** not subject to the above mentioned law **they** will be declared ineligible for employment.
2. The applicant will be given written notice that they are responsible for arranging to have the conviction expunged, set aside or pardoned if **they** wishes to be considered for employment with the Burleson Police Department. The applicant will be rejected until documentation proving such exemption to the law is provided by the applicant. The applicant will then be allowed to re-apply in one year.

B. Responsibilities of Existing sworn Personnel:

1. Any officer employed by the Burleson Police Department who is involved, arrested or convicted of family violence will immediately provide written notice to the office of the Chief of Police. The arrest must be reported regardless of the date of the conviction, location of the court establishing conviction, or whether or not the conditions of the conviction are exempt.
 - a. Officers may be required to provide additional documentation as deemed necessary when requested by the Office of the Chief. All documentation will be forwarded to the City Attorneys for review.
 - b. Any officer who fails to cooperate with these requests are subject to disciplinary action up to and including termination.
 - c. Failure to disclose knowledge of the existence of a conviction may result in department disciplinary action up to and including termination.
 - d. The City Attorney's review will conclude if the officer is subject to the Federal weapon ban; or
 - e. If the officer is exempt from the federal weapon ban, documentation should be placed in the officer's personnel file to reflect the exemption.
2. If it is determined, the officer is subject to the weapons ban the attorney's office will notify the Chief of Police who will recover all weapons and ammunition issued to the officer. The matter will then be referred to the office of the Chief of Police for determination of the officer's continued employment status.

C. Arrest Procedures (involving employees):

1. Refer to departmental policy on family violence procedures under “III” of this policy.
2. If an employee becomes the complainant or respondent to a protective order or is arrested in another jurisdiction, the employee must notify their supervisor immediately.

V. Intervention in Employee Domestic Violence:

It is the policy of this department to use early prevention strategies in order to avoid or minimize the occurrence and effects of domestic violence. [22.1.7a]

A. The goal of the department is to accomplish the following in regard to domestic violence: [22.1.7f]

1. Heighten awareness
2. Provide guidance for employee, supervisors, and management
3. Identify warning signs
4. Establish intervention by referral to EAP. [35.1.9h]

B. Prevention and Intervention:

1. The Department will respect the confidentiality and autonomy of its employees to direct their own lives, to the fullest extent permitted by state law. The Department will provide assistance to employees to include but not limit to: [22.1.7b/c / 35.1.9h]
 - a. Resource and referral information [22.1.7d]
 - b. Work schedule adjustment or leave necessary to obtain medical treatment, counseling or legal assistance. [22.1.7d]
2. In order to provide non-punitive avenues of assistance to employees, their partners and other family members before an act of domestic violence occurs, the Department will provide confidential referrals to reputable counseling services. [22.1.7c/d]
3. Non-supervisory personnel with knowledge of suspected abuse or violence involving employees of this Department must report this information to their immediate supervisor.
4. Supervisors will monitor their employees for warning signs of domestic violence. If warning signs exist, intervention measures must be taken. [22.1.7d / 35.1.9f]
5. Supervisors will receive appropriate training to meet requirements of the position. [22.1.7f]

VI Domestic Violence involving Non-Sworn Employees:

Any non-sworn employee arrested or convicted of Family Violence or who becomes the complainant or subject of a protective order must report this immediately to their supervisor. At that time, the necessary procedures will be initiated to determine what action should be taken.