



City of Racine Police Department
Policy and Procedure

Number: 1931

Subject: Mandatory Arrest for Violations of Domestic Abuse, Child Abuse or Harassment Court Orders		
Date Issued: 06-21-85	Effective Date: 10-15-10	Revision Number: 4

POLICY:

There are specific legal guidelines that members of the Department must uphold when dealing with issues of domestic violence. These guidelines are in effect and govern the manner in which members respond to neighbor, household or family trouble calls where a Domestic Abuse or temporary restraining order (TRO)/Injunction concerning Harassment, has been issued pursuant to Section 813.12 or 813.125 of the Wisconsin Statutes.

DEFINITIONS:

Temporary Restraining Order (TRO) – a protective order signed by a judge or family court commissioner (without a hearing and only acting on the complainant’s petition) which is valid for seven days.

Injunction – a protective order signed by a judge or family court commissioner after a hearing (with both parties present) which is valid for up to two years.

Foreign Protection Order – Any temporary or permanent injunction or order as any temporary or permanent injunction or order of a civil or criminal court of the United States, of an Indian tribe, or of any other state, which is issued to prevent abuse, bodily harm, communication, contact, harassment, physical proximity, threatening acts or violence by or to a person other than support or custody orders. Thus, all tribal injunctions now issued in Wisconsin are foreign protection orders.

When Arrests Are Mandatory – Arrest is mandatory if an officer has probable cause that a person has violated one of the following:

1. A Domestic Abuse restraining order or injunction.
2. A Child Abuse restraining order or injunction.
3. A Harassment restraining order or injunction.
4. A Foreign Protection order.

MEMBER:

1. When responding to a neighbor, household or family trouble call and one of the parties tells the officer they have obtained a Domestic Abuse or Harassment temporary restraining order (TRO) or an injunction against another party, ask the complaining party to see their copy of the TRO or injunction.
 - a. If the document is produced, contact the Racine County Sheriff’s Department (RCSD) via Communications to confirm that the TRO or injunction is still in effect.
 - b. If the document cannot be produced, contact the RCSD via Communications to determine if a TRO or injunction has been issued and is still in effect.
2. If the TRO or injunction is valid and in effect, the officer SHALL (with the exception of “d” below):
 - a. Arrest and take into custody the person against whom the TRO or injunction has been issued (respondent) if the respondent is on the premises.
 - b. If the respondent is not on premises and probable cause exists to arrest the respondent for a TRO or Injunction violation, complete a neighborhood check for the respondent and if located complete the appropriate custodial arrest.
 - c. If the respondent is not on premises and cannot be located within a reasonable period of time but probable cause exists, complete a warrant recommendation to the District Attorney’s Office.

- d. TRO Arrest Exception: In the case of a TRO, if the respondent denies prior knowledge of the TRO (respondent need not have been formally served with the TRO to have knowledge) and the officer believes the respondent the officer shall “serve” the TRO on the respondent, notify RCSD and they will update CIB and Phoenix to reflect service.
- e. Prepare supplemental report (PP95A) detail the serving of a TRO.
- 3. The respondent must:
 - a. Be made aware that a valid TRO is in effect.
 - b. Immediately comply with all of the conditions of the TRO which may include:
 - 1) No phone contact with the petitioner(s).
 - 2) Maintaining a minimum distance from the petitioner(s).
 - 3) No third party involvement on behalf of the respondent to contact the petitioner(s).
 - 4) Other conditions unique to the situation as prescribed by the court.
- 4. If the respondent refuses to leave the premises or attempts to return to the premises after being informed about the TRO or injunction, arrest the respondent.
- 5. The fact the petitioner invited/let in the respondent to the premises, is not a defense for the respondent against arrest for violation of the order. However, based on circumstances including statements by the complainant and respondent, the investigating officer may elect to complete a warrant recommendation for review by the District Attorney’s Office.

**RELATED
STATUTES:**

Wisconsin §806.247(1)(b) – Definition: Foreign Protection Order
 Wisconsin §813.12 – Domestic Abuse Restraining Orders & Injunctions
 Wisconsin §813.125 – Harassment Restraining Orders & Injunctions
 Wisconsin §813.128 – Foreign Protection Order
 Wisconsin §968.075 – Domestic Abuse Incidents; Arrest and Prosecution

**RELATED
PROCEDURE:**

[1932 – Mandatory Pro-Arrest Guidelines for Domestic Violence
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