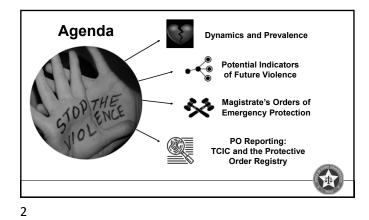
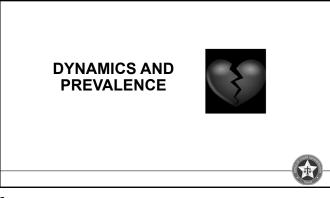
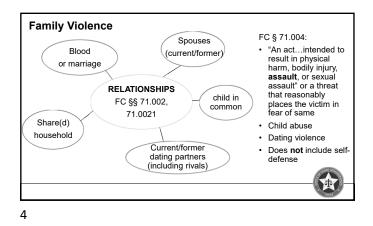
Family Violence Update



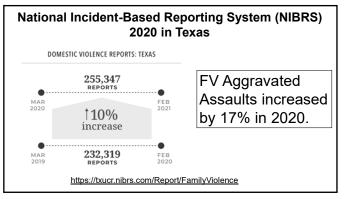
Kimberly Piechowiak Domestic Violence Training Attorney Office of Court Administration <u>Kim.Piechowiak@txcourts.gov</u>

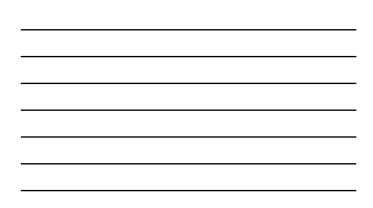


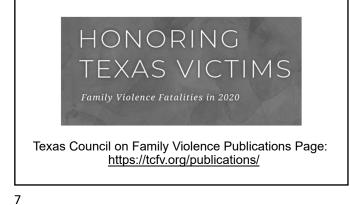










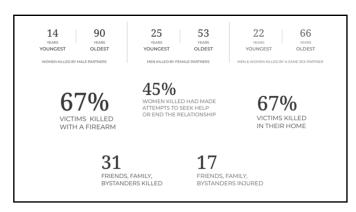


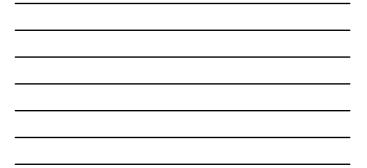
Honoring Texas Victims 2020: 228 Texans
183 Women killed by male partners
40 men killed by female partners
5 men and women killed by same-sex partners
23% Increase in Homicides from 2019 to 2020

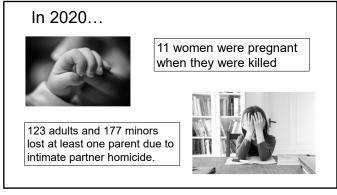
8

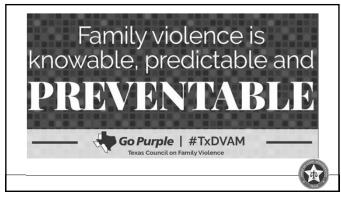
Cases of intimate partner deaths are not included in the Honoring Texas Victims report if...

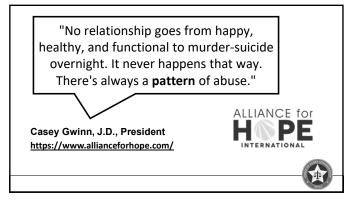
- · charges do not include murder or manslaughter
- · charges are reduced or dismissed
- the case remains under investigation
- the missing victim has not been found
- · deemed accidental death or shooting
- · determined to be self-defense or justifiable homicide

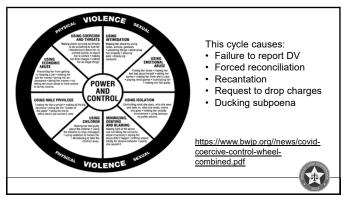


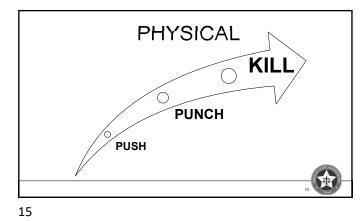


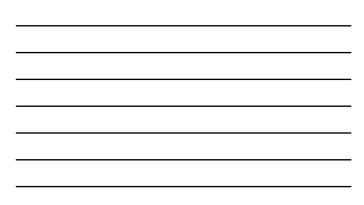










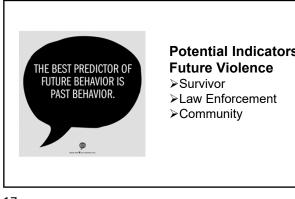


Quote from a survivor to a detective...

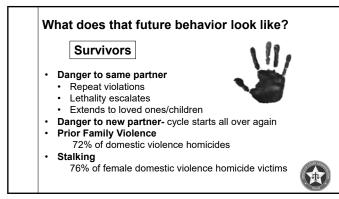
"I believe more in his ability to kill me than in your ability to keep me safe ... "

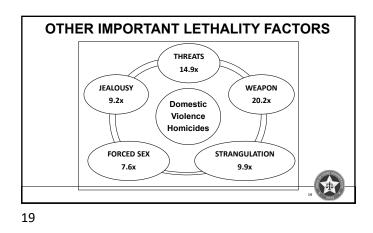


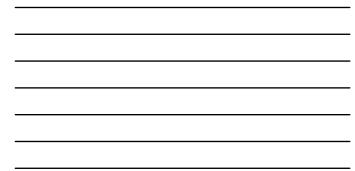
16

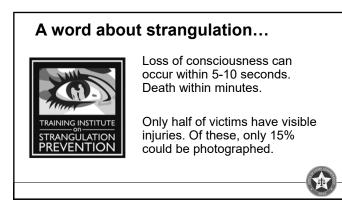


Potential Indicators of











Gabby Petito

2008 Journal of Emergency Medicine study: "43 % of women who were murdered in domestic assaults, and 45 % of the victims of attempted murder, had been strangled by their partner within the year before."

If victim survives, strangulation is ten times more likely to happen again

https://www.strangulationtraininginstitute.com/strangulation-the-red-flag-of-domesticviolence-that-we-never-discuss/

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TOOLS YOU CAN USE

Lethality/Danger Assessments https://www.dangerassessment.org/

The Training Institute on Strangulation Prevention https://www.strangulationtraininginstitute.com/

https://www.strangulationtraininginstitute.com/resources/library/ strangulation-information-graphic/

Respond Against Violence

https://www.respondagainstviolence.org/



2020-00-0 0000 000

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For more information on how to access this training online, email me at <u>Kim.Piechowiak@txcourts.gov</u>



<u>2019</u> : Occupations Code, Section 1701.253(d) mandates peace officer training on recognizing and documenting strangulation						
FREE TRAINING AVAILABLE FOR LAW ENFORCEMENT AND PROSECUTORS						
TEXAS INVESTIGATION & PROSECUTION OF STRANGULATION	<u>https://www.safvic.</u> org/about-txips/					
FREE 8-hour course designed to educate law enforcement and prosecutors about the symptoms, effects, and lethality of strangulation in the crimes of sexual assault, domestic violence, elder abuse, human trafficking, stalking, and dating/acquaintance violence.						

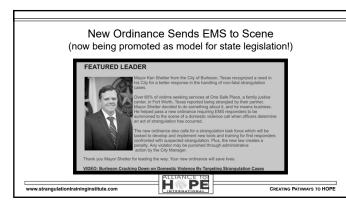
More Free Training...

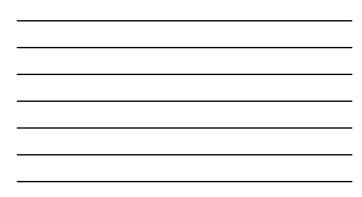
Institute for Coordinated Community Response:

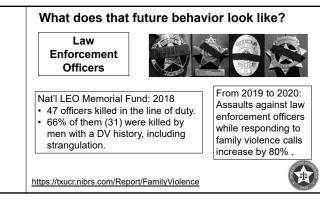
- https://instituteccr.org/roll-call/
- Strangulation Investigations
- Determining Predominant Aggressor & Self Defense
- Trauma-informed Framework for Working with Victims More to be released through May of 2022 ...

Sign up for updates at https://instituteccr.org/#newsletter







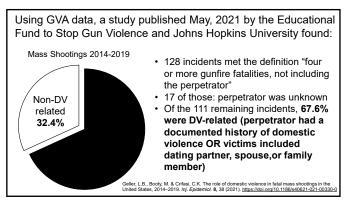


What does that future behavior look like?

- Austin, 1966 (UT) -killed mother and wife; ultimately killed 14 people and wounding 31 Boston Marathon, 2013 –DV arrest in 2009
- Orlando, 2016 -previously strangled ex-wife
- Nice, France 2016 -killed 84 and injured 300; DV arrest in 2009
- Sutherland Springs, 2017 multiple DV
- incidents and convictions San Jose, CA, May 2021- killed 9 co-workers;
- 2009 court records revealed DV and sexual assault allegations Gun Violence Archive (GVA)
- https://www.gunviolencearchive.org/about Gun violence incidents from over 7,500 law enforcement, government, media, and commercial sources



Community: Mass killings



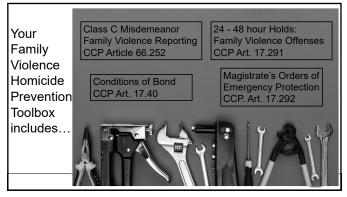
WHICH IS WHY ...

"We must make **misdemeanors** matter. We must realize that true success is not prosecuting a murderer, it is preventing the murder."

Source: Casey Gwinn, "Making Misdemeanors Matter", 3 Homefront (1998).



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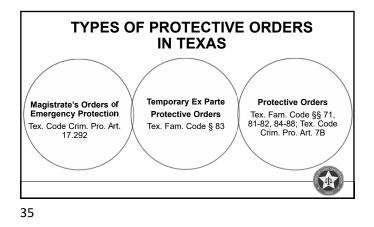
Acronyms AKA Alphabet Soup

- MOEP: Magistrates Order of Emergency Protection
- PO: Protective Order
- **TExPO:** Temporary Ex Parte Order
- TCIC: Texas Crime Information Center
 - **NCIC:** National Crime Information Center
- NICS: National Instant Criminal Background Check System
- Checks available records in NCIC, III, and the NICS Index to determine if prospective transferees are disqualified from receiving firearms.



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Similarities among the types:

- · Criminally enforceable provisions
- Available for same types of crimes/behaviors
- Confidentiality protections/procedures
- · Notice to protected parties
- Required to be entered into the Texas Crime Information Center by law enforcement agencies
- Required to be entered into the Protective Order Registry by issuing court



MAGISTRATE'S ORDER OF EMERGENCY PROTECTION

For Suspect: Cooling off period For Victim: Zone of safety For Police: Opportunity to protect



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Magistrate's Order for Emergency Protection Tex. Code Crim. Proc. Art. 17.292

Most common type of protective order issued in Texas
 Only available after an arrest for:

- Family violence
 Sexual assault (and some related offenses)*
- Stalking*
 Trafficking*
 Mandatory only in FV offenses involving serious injury or deadly weapon
 Tied to places, not people
 Relatively quick and easy process

- Short duration: 31 to 91 days

*No family or household relationship required

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WHO CAN REQUEST AN MOEP?

An MOEP can be requested by:

- the victim of the criminal offense;
 a guardian of the victim;
- an attorney representing the state;
- a peace officer; or
- the court.

Tex. Code Crim. Proc. Art. 17.292(a)



How Can an MOEP Help Survivors?

- An MOEP may prohibit an offender from: Committing family violence, sexual assault, stalking or stalking; Threats and harassment; Coming within a specific distance of certain locations;
- Possessing a firearm;
- Communication in any manner with victim(s) except through attorney or court appointed person if good cause is shown.



Tex. Code Crim. Proc. Art. 17.292(c)

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Confidentiality of Protected Places

- Locations required in <u>unless</u> magistrate finds address should be omitted for the safety of the protected party or parties.
- CCP Art. 17.294 Upon request, the court may protect the applicant's mailing address by requiring protected person to: · disclose mailing address to the court;
 - · designate another person to receive any notice or documents
 - · disclose the designated person's address to the court
- The court can require that the court clerk:

related to the order; and

- Redact address from public records of the court, and
- maintain a confidential record for use only by the court, or a law enforcement agency for entry into TCIC

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MODIFICATIONS - CCP17.292 ART. (J) • Both notice and hearing are required. · Notice to all parties, including requestor, and state's attorney. Bonus Tip: invite a victim advocate to confer with the protected person. Check with PD or prosecutor's office, or call (800) 799-SAFE to find one in your area. Moving party must show Unworkable

· Will not result in greater danger for any protected party



Can a Victim Violate the PO?

NO! Per Tex. Pen. Code § 25.07(e)



"A peace officer investigating conduct that may constitute an offense under this section for a violation of an order may NOT arrest a person protected by that order for a violation of that order."

Tex. Fam. Code §§ 81.007, 85.026; Tex. Code Crim. Pro. Arts. 5.06, 7B; Tex. Pen. Code § 25.07(e)

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- For 50% of victims, the PO stopped the violence.
- For the other half, violence was significantly reduced.
- PO is only one component of a safety plan.
- Weakness enforcement, especially in rural areas
- Law enforcement difficulties in determining predominant aggressor
- Fewer resources
- Local politics

A: Yes, if CJ personnel know about them and then actually do something about them.

https://thecrimereport.org/2018/01/23/do-orders-of-protection-actually-shield-victims/

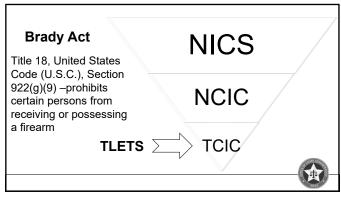
Protective Order Reporting: Two Types

Both are mandatory.

- **Texas Crime Information Center**
- Maintained by DPS
- Courts send protective order information to law enforcement agencies, which then enters it into the TLETS system.
- Law enforcement has primary access.
- Protective Order Registry
- Maintained by the Texas Office of Court Administration
- Courts (through their clerks) enter basic information, and upload signed applications and orders
- Accessible by courts, prosecution agencies, and law enforcement, with very limited public access.



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NICS ACT RECORD IMPROVEMENT PROGRAM (NARIP)

Requires states to report all Brady disqualifiers (from purchasing or receiving a firearm) to NICS

Per 18 U.S.C. § 922(g)(1-9), disqualifiers include:

Felony convictions

Mental health commitments

Misdemeanor convictions of domestic violence Protective orders against intimate partner or his/her child, i.e.

permanent orders, NOT MOEPs



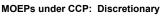
Question: Why do we care? Short Answer: Full Faith And Credit 18 USC § 2265; Tex. Fam. Code §§ 88.003, 88.004



- POs from Texas are enforceable in other states
- POs issued in other states are enforceable in Texas
- Long Answer Coming Up...

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Firearms Possession



Magistrate \underline{may} forbid an accused from possessing a firearm unless the person is licensed peace officer in full time employment by state agency or political subdivision (CCP art. 17.292 (c)(4))

Except: Mandatory suspension of state handgun license (CCP art. 17.292(I))

Protective order under FC. 85.026: Mandatory

"It is unlawful for any person, other than a peace officer, as defined by section 1.07, penal code, actively engaged in employment as a sworn, fulltime paid employee of a state agency or political subdivision, who is subject to a protective order to possess a firearm or ammunition."



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Federal Firearms Possession Prohibition

Title 18, United States Code (U.S.C.), Section 922(g)(9)Gun Control Act Of 1968 (GCA)

Qualifying protective order

- Issued after notice and an opportunity for a hearing;Prohibits harassing, stalking, or threatening the accused's:
- intimate partner, or
 the intimate partner's child; AND
- Does at least one of the following:
- contains a finding the accused poses credible threat of physical harm to protected persons, OR
- prohibits use, attempted use, or threat of physical force capable of inflicting bodily injury to the protected persons



FIREARMS POSSESSION PROHIBITION - SUGGESTIONS TO COURTS

Prohibit possession of firearm under CCP Art. 17.292(c)(4)

AND



Warn the defendant orally and in writing that the federal firearms prohibition may apply during the term of the Magistrate's Order.

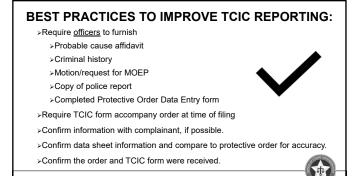


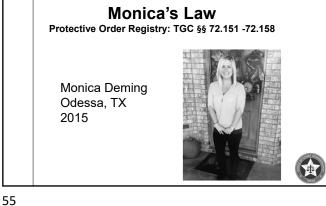
Sending the order

To Law Enforcement for TCIC entry

- The *magistrate shall* send a copy of the order to either Chief of police (if victim resides in municipality), OR
- Sheriff (if victim resides outside municipality)
- Include completed TCIC data entry form
- https://www.txcourts.gov/media/1450049/protective-order-tcic-data-entry-form.pdf • To Victim
- The clerk shall send a copy of the order to the victim at the victim's last known address as soon as possible

When? By the end of the following business day How? May be sent electronically





5.

Implementation Schedule

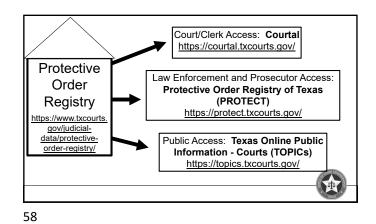
- Launched September 1, 2020: Access and training for pilot clerks/courts
- October 15, 2020: Mandatory entry within 24 hours for all filed applications and issued protective orders.
- Since then...
 - Public access feature enabled for final protective orders.
 - Grant access to law enforcement and prosecution agencies.
 - Conduct training and disseminate awareness information to advocacy groups.
 - Implement 2021 legislative changes.
 - Outreach to courts not yet entering records.
 - Continual adaptation and technical assistance.

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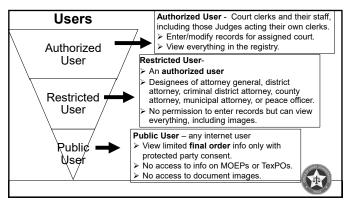
Texas' Decentralized Court System

- 254 Counties
- 2746 Trial Courts with 3116 Judges
- Protective Order Registry Numbers (as of April 12, 2022)
 - Total Orders: 79,503 (excluding applications)
 - Magistrates' Orders of Emergency Protection: 59,343
 - Temporary Ex Parte Protective Orders: 11,201
 - Protective Orders (final/permanent): 8,959
 - Number of publicly accessible protective order records: 119
 - Number of Counties that have entered orders: 80%

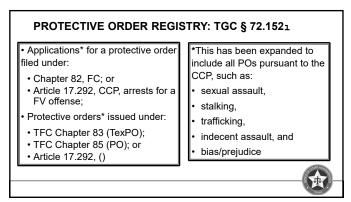






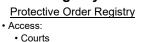






Important Differences between TCIC and the Protective Order Registry Texas Crime Information Protective Order Registry

Center
 Access:
 Law enforcement only
 Limited information due to character limits and no image of the order
 Feeds into federal databases NCIC and NICS
 Data entry may occur up to 4 days after is issued



- Prosecution & Police AgenciesPublic (extremely limited)
- Entry within 24 hours
- Includes actual image of order
- Includes expired orders
- Registry does NOT replace TCIC
 A parallel process
 Web-based

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Question: Why do we care? Long Answer: Full Faith And Credit

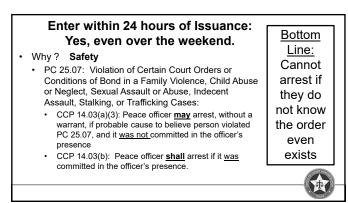
18 USC § 2265; Tex. Fam. Code §§ 88.003, 88.004



PO may be "inscribed on a tangible medium or may be stored in an electronic or other medium if it is retrievable in a perceivable form." Certified copy not required.

Law enforcement may determine that there is probable cause to believe that a PO exists by relying on <u>any relevant information.</u>

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Benefits

- Courts
- Sentencing decisions
- . MOEP and bond decisions
- Law Enforcement
 - PO available sooner than in TCIC
 - Can see entire order, not just TCIC hit
 - Good faith enforcement after hours
- Investigation/prosecution
 Active expired orders and applications
 - Orders involving prior applicants/witnesses •
 - Advocates (PDs/Prosecution)

 - Safety planning History of abuse •

Helps to:

abuse.

witnesses.

Get broader picture of

Contact information for

Connect the dots



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Quick Overview:

Application/request is filed:

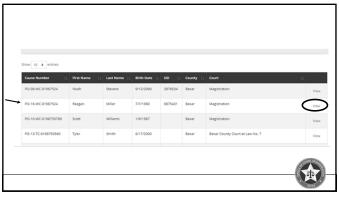
- Within 24 hours, Court Clerk goes to <u>https://courtal.txcourts.gov/</u>, enters email, and receives link to gain access to the registry.
 - Enters basic information, such as cause number, respondent and protected party information, date of application, etc.
 - Uploads PDF of application to the registry •

Court issues order:

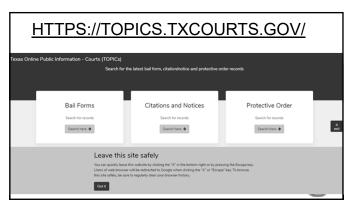
- · Within 24 hours, Court clerk accesses registry using same process Searches registry for the application/request record
 - Adds information about the order, such as type, issue date, expiration
 - date, etc. · Uploads PDF of order to the registry



Texas (PROTECT)		🏝 Hello, Kim Piechowi
Q Search for	Protective Order	
County of Issuance	Court of Issuance	
		-
Respondent Last Name	Respondent Alias	
Respondent State Identification Number		
Protected Person Last Name	Protected Person Alias	
	Q Search for County of Issuance Respondent Last Name Respondent State Identification Number	Q. Search for Protective Order County of fissuance Court of fissuance Respondent Last Name Respondent Alias Respondent State Identification Number Number



 Sec. 72.154. Public Access to PO Registry Public can search for <u>permanent</u> POs only, by county of issuance, Respondent's name, and/or year of Respondent's birth. Public access is NOT available for MOEPs, TexPOs, or images of any applications or orders. 				
Publicly accessible i • Issuing court; • Case number; • Respondent's information • full name, • county of residence, • birth year, and • race or ethnicity;	nformation: • Date issued; • Date served; • Date of expiration	Available <u>only</u> with express written consent by the Protected Party		



Number: PO-60-TCC-019875000 Attem rem: County Count at Lue No. 1. Other Order against.	Atho				
ravis County Court at Law No. 1				60-TCC-019875000	Cause Number: PO-
ctive Order against				rt Law No. 1	Court : Travis County Court
				st	A Protective Order again
me : Grant Parker Jr.				Grant Parker Jr.	Full Name :
lear: 1984				1984	Birth Year :
nce County : Travis				Travis	Residence County :
White				White	Race :
ty: Non-Hispanic				Non-Hispanic	Ethnicity :
	RATION	ORDER EXPRATIO	ORDER VACATED ON	ORDER MALEDIPROVIDED ON	ORDER ISSUED ON
LUED ON ORDER MALEDPROVIDED ON ORDER VACATED ON ORDER VACATED ON		9/3/2021	N/A	9/3/2020	9/3/2020
White Nor-Hopanic	WATION			White Non-Hapanic order MALED/ROVDED on	Race : Ethnicity : ORDERISSUED ON

TIPS FOR JUDGES

- Notate type of offense on the order, if possible.
- 17.292 CCP: number of days calculates expiration date
 - Minimum is 31 days
 - Maximum is 91 days
- If you do magistration on the weekend, but cannot get the MOEP to your clerk before the 24-hour deadline for data entry:
 - Discuss whether you should be added as a user so that you can do the data entry and meet the deadline.
 - If need more assistance, contact <u>OCA-LegalSupport@txcourts.gov</u> All current procedures for MOEPs, such as sending copies to
 - victims and law enforcement, stays the same.
- System is built to allow edits and corrections.



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TIPS FOR CLERKS

- Scan/save document as a PDF and save to a file on your computer BEFORE attempting data entry.
- Do not submit photos into the registry
- All current procedures for POs, such as sending info to victims and law enforcement, stays the same.
- · System is built to allow edits and corrections.
- Protected party information that you enter, including minors, NEVER goes to the public site.
- · Registry is for orders issued beginning in October of 2020.



2021 Legislative Changes to PO Registry

HB 3774, Article 13 amended Sections 72.151 – 72.158 Gov't Code:

- Specifically include MOEPs and POs issued under CCP Chapter 7B for sexual assault or abuse, stalking, trafficking, or bias/prejudice.
- Remove vacated orders from the public access website, if protected party had given consent to publish.
- Orders OCA to entirely remove orders that are vacated as "the result of an appeal or bill of review from a district or county court."
 - Orders that have been deemed legally invalid
 - OCA has 3 days to remove once notice is received from court clerk



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For More Information:

https://www.txcourts.gov/judicial-data/protective-order-registry/ FAQs: https://www.txcourts.gov/judicial-data/protective-orderregistry/authorized-user-information-instructions/fag/

On-demand webinar video:

https://txcourts.zoom.us/rec/share/bEv7OBj-

X37DT4KvrsYGFgaEs8_vWie950qsuQfnGT9RYM12YUTupmddd WHyll1c.nlq1fTMyWmkUp5ai

For other questions or assistance related to the Protective Order Registry, please contact:

OCA-LegalSupport@txcourts.gov



