

Emergency Protective Orders & Bond Conditions

TJCTC Magistration Workshop 2022

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Emergency Protective Orders

Code of Criminal Procedure Ch 17

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What is an EPO?

- An order separate from bond conditions that a magistrate can issue at a defendant's appearance after arrest on a case involving **family violence** or for the offenses of:
 - human trafficking,
 - continuous human trafficking,
 - sexual assault,
 - indecent assault,
 - aggravated sexual assault, or
 - stalking.

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Important!

- JPs can ONLY issue EPOs when a defendant is arrested for an **eligible offense**.
- JPs CANNOT issue other types of protective orders.
- *Where can you send people who request protective orders that you cannot issue??*

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Why are EPOs Important??

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Reasons Why EPOs Help

- Prevent future violence
- Identify appropriate & inappropriate behavior
- Reinforce that family violence is wrong
- Give a victim time to get help

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Mandatory vs. Discretionary

Mandatory

- Family violence offense that involves:
 - Serious bodily injury
 - Use/exhibition of a deadly weapon

Discretionary

- Any offense involving family violence if:
 - Magistrate believes it is appropriate
 - Or it is requested by the victim (or their guardian), a peace officer, or a prosecutor

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How Long Does an EPO Last?

Standard:

- 31 to 61 days

Mandatory EPOS where
Defendant used or exhibited
a **deadly weapon:**

- 61 to 91 days

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Terms of an EPO

Grab Bench Card 11!

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Conditions of EPOs – Practice Tip!

You **CANNOT** order the defendant to stay a minimum distance from the victim in an EPO.

You **CAN** do this as a bond condition – *we will get to that soon!*

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Required Warning

- All EPOs must have a statutory warning.
- Grab your EPO Form!

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Issuance & Service of EPO

- The victim doesn't have to be present when a magistrate issues an EPO
- The EPO is effective upon issuance
- The defendant must be served in person or electronically by the Magistrate or their designee (*usually someone at the jail*)
- Magistrate must make a record showing how it was served

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Reporting/Notification Requirements

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Protective Order Registry

- EPOs must be entered into the protective order registry maintained by OCA
- As soon as possible or no later than 24 hours after issuance
- If an EPO is modified, vacated, or expired must also be entered

<https://www.txcourts.gov/judicial-data/protective-order-registry/>

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Modifying an EPO

Must hold a hearing

Must make findings that:

- EPO is now **unworkable**
- Modifying the EPO will not endanger the victim or any person protected under the order

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Transfer of EPO

Can transfer to trial court if:

motion + notice + hearing

OR

parties agree

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Bond Conditions

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Review: What are Bond Conditions?

Bond conditions are specific obligations included as terms of the bond the defendant signs and that the defendant must meet as a condition of their release from custody.

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Authority & Examples of Bond Conditions

A magistrate may impose any **reasonable condition** of bond related to the safety of a victim or the community.

CCP Art. 17.40(a)

For example:

No additional offenses

No contact with the victim

Drug testing

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What is the purpose of bond conditions??

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Issuing Order & Notifying the Defendant

- A **written order** laying out the bond conditions must be issued and served on the defendant. The PSRS does not generate this order.
- The Damon Allen Act also required OCA to develop a form **notifying the defendant of the consequences of violating bond conditions**. This form is available on the TJCTC forms page, as well as in the PSRS.

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Mandatory Bond Conditions

Usually, bond conditions are discretionary

In certain types of cases, you must impose specific conditions.

Examples:

- Must order interlock in certain intoxication offenses
- Must order defendant not to contact child victim in certain offenses

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Let's Practice

Grab Bench Cards 8, 9, & 10!

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Discussion 1

John Doe is arrested for Boating While Intoxicated, his third offense.

What must you order as a condition of his bond?

What other conditions would you consider?

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Discussion 2

Jane Doe is charged with a 2nd degree felony possession of a controlled substance. She has a prior conviction for the same offense and several misdemeanor offenses related to drug use.

Are you required to order any specific bond conditions?

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Bond Conditions on Violent Offenses

- Magistrates **must** notify the sheriff of any bond conditions for **violent offenses** as defined by CCP Art. 15.50(3)
- Also, **must** notify of revocations, modifications, or disposition of a case involving **violent offenses**.
- This must be done no later than the day after issuance of the order releasing Defendant on bond.
- Report must include specific information & there is a form on the TJCTC website (created by DPS) for this reporting (*commonly referred to as TCIC form*)

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What are Violent Offenses for the Purpose of Notifying the Sheriff?

Grab Bench Card 8A!

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Is a Magistrate Required to Notify the Sheriff of Other Bond Conditions?

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Notifying the Sheriff & Prosecuting Attorney

Notice by Clerk

- Send copy of any order imposing bond condition(s), modifying or removing bond condition(s) to prosecutor and sheriff where the defendant resides
- No later than next business day after magistrate issues the order
- May be delayed ONLY if there is information lacking that is necessary to ensure service and enforcement
- Can be sent electronically

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Notifying Child-Care Facilities & Schools

Notice by Clerk

- Must also send a copy of an order prohibiting a defendant from going near a child-care facility or school to that facility or school
- Can be sent electronically

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Reporting/Notification Checklist

Document	When
Notification to defendant of violation of bond condition consequences	ALL orders of bond conditions + update if status changes
Copy of bond condition order to sheriff & prosecutor	ALL orders of bond conditions + update if status changes
Copy of bond condition order to childcare facility or school	Only if Defendant ordered to stay away from facility/school
TCIC bond condition form to sheriff	Violent offenses
EPO to DPS	ALL EPOs (<i>must also include suspension of handgun license if they have one</i>)
EPO to chief of police or sheriff where protected person lives	ALL EPOs
EPO to victim's last known address	ALL EPOs
EPO to childcare facility or school	Only if EPO prohibits someone from going near facility/school
EPO to protective order registry	ALL EPOs + update status if changes

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Bond Conditions vs. EPOs

Should there be both on a family violence case?

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Questions??

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