

DOMESTIC VIOLENCE

The following are response guidelines to domestic violence situations. These guidelines do not apply to cases of domestic disputes where there is no domestic violence or criminal violation, and where other intervention techniques would be more appropriate.

Domestic Violence Definition per California Penal Code Section 13700

"Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

"Domestic Violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

- (1) sexual relations between the parties while sharing the same living quarters,
- (2) sharing of income or expenses,
- (3) joint use or ownership of property,
- (4) whether the parties hold themselves out as husband and wife,
- (5) the continuity of the relationship, and
- (6) the length of the relationship.

It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated.

Felony Arrest: Make an arrest when there is reasonable cause to believe that a crime has been committed under PC 273.5.

"Traumatic Condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

Misdemeanor Arrest: Make an arrest when there is reasonable cause to believe that a misdemeanor has occurred in your presence.

Officers considering releasing the suspect shall evaluate the likelihood of a continuing offense. Any one of the following may support the likelihood of a continuing offense:

- 1) Whether the suspect has a prior history of arrests or citations involving domestic violence.
- 2) Whether the suspect is violating a criminal court-issued stay away order.

- 3) Whether the suspect has previously violated valid temporary restraining orders, stay away orders and/or emergency protective orders.
- 4) Whether the suspect has a prior history of other assaultive behavior (e.g. arrest/convictions of battery or aggravated assaults).
- 5) Statements taken from the victim that the suspect has a history of physical abuse towards the victim.
- 6) Statements taken from the victim expressing fear of retaliation or further violence, should the suspect be released.

Private Person's Arrest (Citizen's Arrest): Sworn law enforcement officers must accept a private person's arrest. Law enforcement officers shall not dissuade victims from making a lawful private person's arrest.

- 1) The officer should inform the victim of his/her right to make a private person's arrest when a crime has been committed outside the officer's presence that does not meet the requirements for a felony arrest.
- 2) Whenever possible, such discussion shall be held away from the suspect.

PC Section 13519 mandates Law Enforcement documentation of all incidents involving domestic violence.

Deputies shall write a report in all incidents involving domestic violence. Such a report shall be identified on its face as a "Domestic Violence" incident and be retrievable.

- The victim shall be provided with the case number of the report.

Verification of Restraining Orders: Whenever a complainant advises of the existence of a restraining order, the deputy shall ascertain:

- 1) Whether a restraining order is on file with the Department
- 2) Whether a restraining order is still valid as to time /duration
- 3) Whether a proof of service is on file with the Department of that the suspect was in court when the order was made
- 4) The terms of the restraining order

Arrest Criteria and Enforcement Procedures

A violation of a restraining order is a misdemeanor under PC 166.4. Make an arrest when the person named in the restraining order has violated the order in your presence **and** the complainant produces a valid copy of the order bearing a file stamp of a court and proof of service on the subject.

Once an officer verifies that a restraining order exists, but cannot verify proof of service or prior knowledge of the order by the suspect, the officer shall:

- 1) Inform the subject of the terms of that order
- 2) Admonish the subject of the order that the subject is now on notice and that the violation of the order will result in arrest. If the subject continues to violate the order after being advised of the terms, an arrest should be made.
- 3) If the suspect complies after admonishment of the terms, the officer shall make a report showing the suspect was admonished/advised of the terms of the order, the specific terms of the order the suspect was advised about, the name of the admonishing officer, the time and date.

Victim Assistance

- 1) Assist in obtaining appropriate medical attention if a compliant claims injury, whether visible or not.
- 2) Assist in making arrangements to transport the victim to an alternate shelter if the victim expresses a concern for safety or the officer determines a need exists.
- 3) Advise the victim of available community resources and the State Victim Assistance Program.