



CALIFORNIA  
**PARTNERSHIP TO END  
DOMESTIC VIOLENCE**

Together, We're Stronger.

Strategies  
for

working  
with

Law  
Enforcement

2016 Advocate Toolkit



# STRATEGIES FOR WORKING WITH LAW ENFORCEMENT: Toolkit for Advocates



## Introduction to the Toolkit

This toolkit has been developed by a team of domestic violence advocates from across California in collaboration with the California Partnership to End Domestic Violence. The initial idea for the development of this toolkit came from the Partnership's 2014 Statewide Public Policy Meeting, in which advocates discussed the need to address the lack of consistent enforcement of domestic violence restraining orders.

We acknowledge that there are barriers that law enforcement encounters in their efforts to address the violation of domestic violence restraining orders including a lack of prosecution of violations by some district attorney's offices, jails that are over-crowded in some communities, and in some cases, difficulty in arresting the perpetrator.

We further acknowledge that our law enforcement partners are often the first responders to restraining order violations and thus have important information to share about a violation. They also have a duty to write an incident report based on California Penal Code §13730(a) which states, "All domestic violence-related calls for assistance shall be supported with a written incident report . . . ." and to make an arrest when there is probable cause to believe that a person violated a restraining order outside an officer's presence (Penal Code §836(c)(1)).

The goal of this toolkit is to offer resources, examples and guidelines for domestic violence advocates to work effectively together with law enforcement partners to increase the safety of victims by holding people accountable for violating domestic violence restraining orders.

This document as currently written is reflective of the expertise and current wisdom of this working group. That being said we acknowledge that this topic is ever evolving and



welcome any input that would enhance the materials present. Please contact [policy@cpedv.org](mailto:policy@cpedv.org) to share additional resources for this effort.



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# Initial strategies to develop a relationship with law enforcement

## Working with Police to Enforce Restraining Orders



### 1. Research

- ☐ Research the hierarchy of the positions at the local law enforcement agency (who is in charge?)
- ☐ Find out if the police have a DV liaison
- ☐ Ask for a copy of the agency's policy on DV (CA Penal Code S13701 requires that every law enforcement agency have a policy for officers' responses to DV, including RO enforcement).

### 2. Prepare the Office

- ☐ Appoint a staff member(s) to become the point person(s) for law enforcement
- ☐ If possible, set up a phone to be used for all staff members appointed as point person(s).
- ☐ Hold a staff meeting to explain the goals of the new relationship and announce appointed staff members.
- ☐ Prepare and print pamphlets, cards, etc. to be handed out to victims through law enforcement.

### 3. Make Contact

- ☐ The Executive Director & point person(s) contact the chief of police for a meeting.
- ☐ Explain how your agency benefits the police by providing victims services. Utilize stories of success and failure of RO enforcement to help create an image of the issue for law enforcement.
- ☐ Provide pamphlets, cards, etc. for officers to use when responding to a DV call and enforcement call.
- ☐ Ask chief of police if they can appoint a DV liaison within their agency to be the point person for issues with RO enforcement and other DV issues.



- ☐ Ask chief of police if point person(s) can attend roll call to introduce themselves to all the officers and hand out printed materials.
- ☐ If allowed to attend roll calls, attend as many as possible to reinforce the importance of having relationship with DV agency. Utilize stories of success and failure of RO Enforcement.

#### 4. Follow Up

- ☐ Meet with staff again to emphasize the importance of working with law enforcement. Make sure they know if law enforcement calls, the point person on duty is contacted. Make sure they strive for positive interactions with law enforcement.
- ☐ Keep log of RO enforcement issues. This is helpful to provide law enforcement with specific times and dates when the laws were not followed by their officers.
- ☐ Check in with law enforcement regarding levels of provided pamphlets/cards. Update levels as needed.
- ☐ Check-in with DV liaison periodically. Offer to provide DV training to liaison. Invite liaison to DV specific events and groups.

## Sample Training Curriculum for Law Enforcement

### Training law enforcement – domestic violence A Community for Peace



The following is a SAMPLE outline of the domestic violence training A Community For Peace (ACFP) gives to law enforcement, specifically the Citrus Heights Police Department. This training is specific to law enforcement (LE). The endeavor is to present a comprehensive look at the issues of DV to LE that supports and enhances POST training. This includes, but is not limited to, victimology, abuser psychology, abuser tactics and strategies, children exposed to DV and how to fully utilize a DV agency.

- I. DV providers
  - a. Mission



- b. Services
- c. Funding

Historically, DV providers and LE have had “oil and water” relationships and therefore collaborations and partnerships have been limited. Generally, DV agencies were misperceived as being “extreme feminist” organizations by LE and therefore biased. These perceptions were in place before DV was criminalized.

It has taken decades for LE in general, to see DV as more than a private, marital problem. As well, it has taken time for LE perceptions about DV agencies to change.

- II. ACFP Advocates/counselors
  - a. Confidentiality Privileges
  - b. Highly Trained to respond to:
    - i. Domestic Violence
    - ii. Family Violence
    - iii. Sexual Assault
    - iv. Child abuse
    - v. Trafficking
    - vi. Elder abuse
    - vii. Bullying

Many LE agencies have little knowledge of the comprehensive services that a DV agency can provide, to include, the intersection of DV with family violence, sexual assault, child abuse, elder abuse, trafficking, and bullying for example.

- III. Trauma Informed
  - a. SAMSAH definition as template
  - b. Understanding the life cycle of trauma and the impact of trauma across the lifespan of the individual
- IV. ACFP/CHPD DVRT First Response
  - i. Progressive- DV Counselors on Patrol
  - ii. Chief and Command Staff

Chief Christopher Boyd of the Citrus Heights Police Department (CHPD) has a zero tolerance for DV in the city. This perspective is adopted by command staff and therefore creates a LE culture that seeks out to enhance their response. This produces “buy in” to work with ACFP to create a one of a kind DV response team. A Community for Peace’s DVRT First Response™ places DV counselors with officers, in the patrol car together with the





mission of responding to the full spectrum of DV and all of the related issues. This program can only be as effective as it is because of mutual respect for each other's agencies, missions, and culture. This creates a perfect union for a multi-disciplinary approach to DV issues.

Not to be overlooked, when DVRT is on patrol with LE, unequivocally, LE grows in their comprehension and integration of DV knowledge.

This is a great example of how DV agencies and LE can become wonderful allies for one another.

V. DV Myths- Causes and Solutions

- a. Examples of common myths of DV cause and solutions
  - i. It happens because he drinks
  - ii. Stop drinking and there won't be DV, etc.
- b. Those who should know the issue the best...don't
  - i. Professionals from judges, attorneys, officers, doctors, nurses etc.
  - ii. Lack of comprehensive understanding creates a disability to identifying the issue

Covering myths is important because so many still have a superficial understanding of the issue and operate from myths. If there is not a comprehensive understanding of the issue the response will be inadequate. This applies to LE, therapists, social workers, attorneys, judges and sometimes, even advocates.

This is a great place to include an exercise in identifying myths.

VI. History of Domestic Violence

- a. Historical- 753 BC
- b. Institutional
- c. Social
- d. Gender Roles/Beliefs
- e. Cultural
- f. Generational
- g. Male Privilege- Entitlement
- h. Considering the history of DV and that DV was not criminalized until the 80s, we have created a cultural tolerance to the issue and therefore, generations of ignorance and NORMALIZATION has occurred
- i. Law enforcements response to DV prior to the 80s
  - i. Interview and separate (take him to a friend's house, use a pay phone, etc.)
  - ii. Victims signs citizen arrest

This is great opportunity for an officer to share the evolution/history of how DV had been "identified and handled" in the past.

- VII. DV behavioral definition
- a. Power and control
  - b. A pattern of assaultive and coercive behaviors including physical, psychological and sexual attacks that adults or adolescents use against their intimate partners
  - c. It is a repetitive pattern, not an incident
  - d. It creates an environment
  - e. It happens to all sectors of society – races, socio-economic classes, sexual orientations

LE responds to incidents but it should be emphasized that DV as an issue, becomes a pattern and changes the home environment.

- VIII. The current understanding of DV is
- a. Abusiveness is learned behavior that a batterer engages in to establish and maintain power and control over another.
  - b. Behavior is learned through observation, belief systems, experience and reinforcement; culture, families, communities, schools, peer groups, workplaces

- IX. Psychology of abusers
- a. Beliefs – male role belief system
  - b. Normalization
  - c. Entitlement
  - d. Combination of normalization and entitlement

Not all abusers/offenders use the same strategies and tactics. There are different abuser types. When these types can be identified a much more appropriate and thorough response can be applied both for LE and advocates.

- X. Review of types of abuses
- a. Verbal abuse
    - i. What is said, how it is said, using words to pierce, does not stop talking, yells, screams, choice of words profanity, \* talking softly – using tone and association
    - ii. Knowing that it creates fear, worry, anxiety for the other person
  - b. Psychological abuse
    - i. Crazy Making Set ups, 5150 Tactic, Use her cycles as a reason for her “out of control behavior”



- ii. The intent of the abuser is to make the victim question herself, to not know what's "right or wrong"
  - iii. To create such psychological terror and uncertainty that the victim presents as unresponsive, unstable, reactive, controlling
- c. Emotional abuse
  - i. Abuse is often defined as any behavior that is designed to control and subjugate another human being through the use of fear, humiliation, intimidation, guilt, coercion, or manipulation. Emotional abuse, then, can include anything from verbal insults or threats to put-downs to constant criticism or more subtle tactics, such as repeated disapproval or even the refusal to ever be pleased.
  - ii. Creates emotional reactions
  - iii. Pushes your buttons, gets your feelings to go up and down like a roller coaster
  - iv. Victim becomes like a puppet
- XI. Other forms –Pet
  - i. Frequently, pets are abused in order to send a message of intimidation. Many times the abuser will follow through with hurting or killing a pet so that later threats will be more meaningful.
  - ii. Whose pet is it?
  - iii. Abuser's pet may be treated like royalty
  - iv. Victim or kid's pet used as manipulation – threats
  - v. How does pet respond around victim? Abuser?
- XII. Physical violence
  - a. Strangulation
    - i. 80% of ACFP clients have been strangled multiple times
    - ii. Victim response – minimization, humiliation
  - b. Choking
  - c. Suffocating

If you have a relationship with LE and work closely, adding actual cases to the training is valuable
- XIII. Sexual abuse
  - a. Normalized in DV relationships
  - b. Forced impregnation/reproductive coercion
- XIV. Characteristics the cycle of violence
  - a. Victim "pulling the trigger" at tension building (primary aggressor?)
  - b. Common Triggers that help Perpetuate the Cycle of Domestic Violence



- c. Cycle internalized assists new relationship's cycle

XV. Victim response

- a. Coping strategies
  - i. addictions
- b. Vulnerabilities
- c. Risky behavior
- d. Re- traumatization
- e. Unchecked coping strategies become survivor characteristics

It is understandable that LE has difficulty in comprehending victim response. This is a good time to re-iterate what it means to be trauma informed.

XVI. Victim recall

- a. Non-sequential
- b. Absent – may never recall pieces
- c. Recall from trigger

Many times when a victim cannot state what happened in sequential form, front and back, officers/detectives can conclude that victims are lying. It is important that they understand the impact of trauma on memory.

XVII. CEDV - children exposed to DV

- a. Partnering with CPS
- b. CHPD/ACFP/CPS Leads the way in Multi-Disciplinary Response to DV
- c. Children exposed to DV – mitigating factors – qualitative analysis
- d. What are characteristics and signs of CEDV?
- e. 273 (a) (b)
- f. Children living in violent homes produces...
- g. Sac county child death review – risk factors

It can be beneficial to have a liaison from CPS present during this portion of the training to add in their perspectives about CEDV.

XVIII. Working with victims from other communities/cultures & Historical Trauma with LE

- a. Race and culture
- b. LGBTQiA
- c. Deaf survivors
- d. Disabled
- e. Male victims

XIX. Female abusers

- a. Primary aggressor, dominant aggressor or self-defense?



- XX. Understanding multiple factors to victim leaving
  - a. Danger increases
  - b. From fear to lack of resources

- XXI. The path to ending the abuse/Victim
  - a. DV specific counseling and group
  - b. Therapy
  - c. Holistic modalities

- XXII. The path to ending the abuse/Offender
  - a. Batterer's treatment program
    - i. Where BTP fall short
    - ii. Where is the accountability?
  - b. DV specific counseling
  - c. Remembering violence is learned
  - d. Accountability/responsibility – critical pieces

- XXIII. DVRT 1<sup>st</sup> response – Patrol

It is important to include in your training how you can help LE. Can your team respond to the PD? To scene? Does an advocate go to briefings? It is also important that the DV advocate be of strong character, emotionally and psychologically balanced under pressure and that they know everything about the issue. This will make merging into a LE culture easier and more productive

- XXIV. 2<sup>nd</sup> response to scene or PD for all of Sacramento county LE
  - a. Crisis line, dispatch
  - b. Report review
  - c. Follow ups

- XXV. RO violations – preparing for...
  - a. Make multiple copies of RO and have one on you at all times
  - b. Safety plans

It is important that we share with LE what we coach, counsel, remind victims to do, when there is a RO violation.

- XXVI. Keys for victim when RO is violated
  - a. When abuser GOA –gone on arrival
    - i. Continue to call 911 every time RO is violated
    - ii. Ask or Follow up with LE
      - 1. Has there been a supplemental report made?



2. Warrant?
3. DA?
- iii. When abuser is on scene
  1. Have paper copy of RO on you at all times and ready to show to officers
  2. Stay away from abuser, include kids (dependent on the RO)
  3. Stay on phone with dispatch if possible, necessary
  4. Take a breath so there is as clear articulation of circumstances as possible
  5. If no arrest is made, and you believe there should have been one – ask the responding officers to explain why

This SAMPLE outline can be a guide for training with your local law enforcement agency. When DV agencies can augment LE training about the issue and all of its complexities and dynamics, we increase the probability of not just better responses to the issue of DV but to RO violations as well. When LE and DV agencies can come together to respond to the issue of DV, it translates into a win for the victim and their families.



## Sample Log for Contacts Regarding Restraining Order Enforcement

The following log came out of Los Angeles and is great tracking device for advocates and survivors. The idea behind the log is to be able to keep track of who is responding to restraining order violations and their responses. Not only does this provide accountability for the officers, it helps advocates and survivors keep a record which they can later use in conversations with law enforcement.

### Log of Issues with Enforcement of Restraining Orders

Date	Division/ Officers and Serial #s	Type of R/O Involved	Summary of Victim's Statement to Police** R/O Presented at Scene?	Police Response

\* Please do not provide any information identifying a victim or witness on this form. This is for statistical purposes only.

\*\*Please document the victim's statement to police, not what they tell the advocate. The details may be different.

## Sample Request for Report for Violation of Restraining Order

- For the following Letter replace the bracketed information with relevant information from your agency, case, and police department.

[DATE]

Watch Commander [NAME]

[Station/Division]

RE: Restraining/Protective Order Violation [Date\_\_\_\_\_, Time\_\_\_\_\_ and Location of incident]

I have a valid Restraining/Protective Order and the Respondent has been served. I would like to report a violation of that Order. I request that you issue a domestic violence incident report in accordance with the California Penal Code and [City] Departmental Policy which state:

All domestic violence related calls for assistance shall be supported with a written incident report... (Cal. Penal Code Section 13730(a))

Department Manual, Volume IV, Revised by Special Order No. 7, 2013 states. If a violation of the order did not occur in the presence of officers and proof of service can be established, officers shall:

- Proceed with a private person's arrest for 273.6 P.C. or 166 P.C.;  
or
- Complete an Investigative Report, Form 03.01.00, entitled "Contempt of Court," if the suspect left the scene prior to the officer's arrival.

The narrative section of related crime and arrest reports must contain the following information:

- Court case number;
- Expiration date;
- Manner in which the proof of service was accomplished and by whom; and,
- Verbatim listing of the conditions of the order.

If you have questions, please contact

---

cc Patrol Captain



## Sample Letter to Law Enforcement from Advocate

- For the following letter, please replace the bracketed portions with the relevant information from your organization, case, and police department.

[DATE]

Watch Commander

[City] Police Department, [\_\_\_\_\_] Division

[ADDRESS]

Dear Sir or Madam:

[XXX] is a client of [Organization], a domestic violence agency in [City]. [Ms. XXX] has a valid restraining order against her [RELATIONSHIP], [ZZZZ.] [Mr. ZZZ] has been served with the restraining order and a copy of the order is attached.

[Ms. XXX] informed us that, on [Date], she attempted to report restraining order violations by [Mr. ZZZ] to your division, but no report was taken. [Insert additional details here. Example: She said that she was advised to go back to court or move out of the area. Furthermore, she informed us that the officer she spoke to said that it would cost her \$30 to obtain a copy of any report that she made.]

[Ms. XXX] reported to your division that, in early [DATE], [Mr. ZZZ] [describe behavior here. Example: texted her saying that he did not want to see her with anyone else. She tried to show an officer with your division the text, but the officer refused to look at the text. Ms. XXX also reported that Mr. ZZZ used her cell phone number to transfer all of her calls to his phone. Ms. XXX knew this was occurring because her friends told her that they tried to call her, but Mr. ZZZ answered the calls and hung up when they recognized his voice.]

The attached restraining order prohibits [Mr. ZZZ] from describe condition of order that has been violated. Example: contacting or harassing Ms. XXX, and from taking any



action to keep her under surveillance.] The actions taken by [Mr. ZZZ], as described above, clearly violate the restraining order.

State law and [City] Departmental Policy require that you take a report in [Ms. XXX's case.] Penal Code §13730(a) states, "All domestic violence-related calls for assistance shall be supported with a written incident report . . . ." In addition, [LAPD Department Manual, Volume IV (revised by Special Order No. 7), states that if the violation of a domestic violence restraining order did not occur in the presence of an officer and proof of service can be established, then the officer shall complete an Investigative Report (Form 03.01.00) for Contempt of Court if the suspect is no longer at the scene.]

Moreover, Family Code §6228 states that "state and local law enforcement agencies shall provide, ***without charging a fee***, one copy of ***all*** domestic violence incident report face sheets, one copy of ***all*** domestic violence incident reports, or both, to a victim of domestic violence upon request."

For these reasons, we respectfully ask that you take a report from [Ms. XXX] regarding [Mr. ZZZ's] restraining order violations and that you provide [Ms. XXX] with a free copy of the report. It is critical that law enforcement take restraining order violations seriously and document these violations. Acting now can help save further problems and further violence in the future.

Thank you for your attention to this matter. If you have any questions, please feel free to contact me at [Phone Number].

Sincerely,

[Signature]

[Organization]



## Sample Commendation Letter for Law Enforcement

- This letter should be used when your client has had a positive experience with law enforcement. Letters like this are a great way to express gratitude for those doing their jobs well. Additionally by acknowledging work that is done well, your agency and law enforcement can begin to build a positive relationship and rapport.
- Replace the bracketed information with relevant information from your agency, case, and police department.

[DATE]

Dear Chief [\_\_\_\_],

I am writing to commend Officer [XXXX] on helping a victim of intimate partner violence. In one of his [Type of Report Filed] Police Reports they exhibit great knowledge of the effects trauma has on victims. In this report they state [that the victim had difficulty discussing the events that transpired due to the trauma she had undergone.]

Experiencing domestic violence is highly traumatic by nature. Experiencing trauma can greatly affect victims' ability to do many things, including but not limited to recalling events in linear ways. Acknowledgement of this is instrumental in providing sound support for victims. These actions show that Officer [XXXX] has an understanding of intimate partner violence and cares about the members of their community. It is officers like [XXXX] that help bridge the gap between law enforcement and service providers. We truly express gratitude for all Officer [XXXX] does. We look forward to continuing this partnership with [City] Police Department to work toward ending domestic violence.

Thank you for your time.

Sincerely,

[XXXXXX]

[Agency]

Cc: Officer



## Sample Victim Information Card

### Safety Information Card



**RAINBOW**  
S E R V I C E S  
Providing help & hope

*You may be in an abusive relationship if your partner:*

- Has a bad and unpredictable temper
- Threatens to hurt you
- Constantly humiliates and insults you
- Is excessively jealous and controlling
- Has ever pushed you, thrown things at you, strangled you, or forced you to have sex
- Limits your access to money, the phone, or the car
- Prevents you from seeing your family and friends
- Makes you feel afraid

*If these experiences are part of your life, you are not alone and Rainbow Services is here to help.*

#### **Rainbow Services Can Help.**

**Call our 24-Hour Hotline:  
(310) 547-9343**

**If you are in immediate danger, call 911.**

*Our services include:*

- Emergency and transitional shelter
- Individual and group counseling
- Case management
- Parenting classes
- Child enrichment programs
- Legal assistance
- Safety planning

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### Tarjeta de Información de Seguridad



**RAINBOW**  
S E R V I C E S  
Providing help & hope

*Usted puede estar en una relación abusiva si su pareja:*

- Tiene un mal e genio impredecible
- Le amenaza con hacerle daño
- Le humilla e insulta constantemente
- Es excesivamente celoso y controlador
- Alguna vez la empujó, la aventado artículos, la estranguló, o la forzó a tener relaciones sexuales
- Le límite acceso al dinero, al teléfono, o al automóvil
- Le impide ver a su familia y amigos
- Le hace sentir miedo

*Si estas experiencias son parte de su vida, usted no está sola y Rainbow Services está aquí para ayudarle.*

#### **Rainbow Services puede ayudar.**

**Llame a nuestro teléfono de emergencia que está disponible las 24 horas al día:  
(310) 547-9343**

**Si usted está en peligro inmediato, llame al 911.**

*Nuestros servicios incluyen:*

- Refugios de emergencia y de transición
- Consejería individual y grupos de apoyo
- Manejo de casos
- Clases de padres
- Programas de enriquecimiento infantil
- Asistencia legal
- Planeando para su seguridad



# Domestic Violence Protocol for Law Enforcement 2015: Police Chief's Association of Santa Clara County

Adopted February, 2015      POLICY STATEMENT

Domestic violence is a serious community problem which affects individuals of all races, religions, sexual orientations, and socio-economic backgrounds. It impacts people of all ages including seniors and juveniles.

Santa Clara County Law Enforcement Agencies, in conjunction with the Santa Clara County District Attorney's Office, agree to respond to acts of domestic violence as crimes. Victims of domestic violence will be treated with respect and dignity and will be given all available assistance by law enforcement personnel responding to an incident of domestic violence.

The Domestic Violence Protocol for Law Enforcement provides guidelines and establishes standards for public safety call takers, dispatchers, first responders and investigators in handling domestic violence incidents. The Protocol seeks to interpret and apply statutory and case law relating to domestic violence incident response and investigation. Particular attention is given to protecting victims of domestic violence, including children, other members of the household and pets, through enforcement of restraining orders, medical care, and working with support agencies to provide alternate shelter, relocation services, counseling and legal services. Local agency training programs and materials will supplement information provided in the Protocol.

All Law Enforcement Agencies must have written policies and standards for officers' responses to domestic violence calls (PC 13701).

This protocol will be updated annually as new legislation, research and best practices are reviewed periodically by the Domestic Violence Council Protocol sub-committee in order to maintain an effective and sensitive response by the law enforcement community to this serious problem. The Community College Chiefs of Police also support this protocol.

---

Sheriff Laurie Smith Date

Chair, Police Chiefs' Assoc. of Santa Clara County

---

Chief Ronald Levine Date

Chair, College and University Police Chiefs' Assoc.  
of Santa Clara County

## Police Chiefs' Association Of Santa Clara County Membership

- CALIFORNIA HIGHWAY PATROL  
Captain Les Bishop

- MOUNTAIN VIEW POLICE DEPARTMENT  
Chief Max Bosel

- CAMPBELL POLICE DEPARTMENT  
Chief David Carmichael

- PALO ALTO POLICE DEPARTMENT  
Chief Dennis Burns

- GILROY POLICE DEPARTMENT  
Chief Denise Turner

- SAN JOSE POLICE DEPARTMENT  
Chief Larry Esquivel

- LOS ALTOS POLICE DEPARTMENT  
Chief Tuck Younis

- SAN JOSE STATE UNIVERSITY POLICE  
DEPARTMENT  
Chief Peter Decena

- LOS GATOS- MONTE SERENO POLICE  
DEPARTMENT  
Chief Matt Frisby

- SANTA CLARA COUNTY DISTRICT  
ATTORNEY'S OFFICE  
D.A. Jeffrey Rosen

- MILPITAS POLICE DEPARTMENT  
Chief Steve Pangelinan

- SANTA CLARA COUNTY SHERIFF'S  
OFFICE  
Sheriff Laurie Smith

- MORGAN HILL POLICE DEPARTMENT  
Chief David Swing

- SANTA CLARA POLICE DEPARTMENT  
Chief Michael Sellers

- SUNNYVALE DEPARTMENT OF PUBLIC  
SAFETY  
Chief Frank J. Grgurina

# College And University Police Chiefs' Association Of Santa Clara County Membership

- **FOOTHILL-DE ANZA POLICE DEPARTMENT**

Chief Ron Levine

- **STANFORD DEPARTMENT OF PUBLIC SAFETY**

Chief Laura Wilson

- **SAN JOSE CITY AND EVERGREEN COMMUNITY COLLEGE POLICE DEPARTMENT**

Chief Antonio Delgado

- **WEST VALLEY-MISSION COLLEGE POLICE DEPARTMENT**

Chief Kenneth Tanaka

- **SAN JOSE STATE UNIVERSITY POLICE DEPARTMENT**

Chief Peter Decena

## Acknowledgment

The Domestic Violence Protocol for Law Enforcement was developed in 1993 at the request of the Police Chiefs' Association of Santa Clara County and the Domestic Violence Council. Participants in this work included:

Joyce Allegro, Judge, Santa Clara County Superior Court

Cynthia Sevely, Judge, Santa Clara County Superior Court

Margaret Johnson, Judge, Santa Clara County Superior Court

Mike Barbieri, Sergeant, Los Gatos Police Department (retired)

Melanie Bertelsen, Sergeant, San Jose Police Department

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Significant changes in the protocol for 2015 are highlighted in bold text.

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# 1. Definitions

A. 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 another (13700(a) PC).

B. Cohabitant means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship (includes same sex relationships). 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 (13700(b) PC).

C. Cross-Reporting refers to mandated reporting of suspected child abuse as required under 11165, 11166 and 11172(a) PC and mandated reporting of suspected abuse of elders and dependent adults as required under 15610, 15630 and 15640 WI.

D. Dating Relationship means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations.

E. Deadly Weapon means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 PC (12028.5 (3)).

F. Domestic Violence is abuse committed against an adult or any minor who is a spouse, former spouse, cohabitant, former cohabitant, a person with whom the suspect has had a child or is having or has had a dating or engagement relationship (13700(b) PC). Same sex relationships are included.

G. Domestic Violence Order is a type of restraining order which is issued pursuant to the Domestic Violence Prevention Act, (Family Code Sections 6200-6389), or the Uniform Parentage Act (Family Code Sections 7710 and 7720), or in connection with a dissolution, legal separation or annulment (Family Code Sections 2045, 2047, and 2049), or in cases of elder or dependent adult abuse (Welfare and Institutions Code Section 15657.03), or Juvenile Court orders issued pursuant to Welfare and Institutions Code Section 213.5. This includes all local Domestic Violence related orders from other states, counties, tribal courts and juvenile courts.

H. Dominant Aggressor means the person determined to be the most significant, rather than the first aggressor. In identifying the dominant aggressor, the officer shall consider

the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the history of domestic violence between the persons involved, and whether either person acted in self defense (PC 13701(b)).

I. Emergency Protective Order (EPRO) is a type of restraining order issued by Judge or Commissioner at any time, whether or not Court is in session. It is intended to function as a temporary restraining order if a person is in immediate and present danger of domestic violence, elder or dependent adult abuse, child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative or where stalking exists. It can also function as an order (when no custody order is in existence) determining temporary care and control of minor children of the above- described endangered person (Family Code Section 6250). An EPRO shall be offered even when an arrest is made.

J. Firearm is any device designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

K. Officer is defined as any law enforcement officer as defined by Penal Code Sections 830.1 - 830.32.

L. Peaceful Contact Order - No hitting, grabbing, throwing objects, damaging property, or pulling the phone cord out of the wall; knocking over, or breaking furniture; swearing at, or about, the victim; tearing up important papers; stopping the victim from leaving the house; making threats to hit, harm or kill the victim; arguing with the victim or a family member; arguing or shouting so loud that the neighbors are disturbed; having your friends come over and do any of the above; and do anything that makes the victim, or the family, frightened, hurt, injured, upset, or disturbed.

M. Pro-Arrest Policy refers to a philosophical position in which physical arrest shall be made in every situation where an arrest is legally permissible; absent exigent circumstances.

N. Restraining Order is an order, which requires a person to refrain from doing a particular act or acts. It is issued by the Court, with or without notice, to the person who is to be restrained. A restraining order will remain in effect for a set period of time (usually five years), which is stated on the face of the order. If no time period is stated on the face of the order, the effective time period is 3 years. Also see P below, order can be up to 10 years. A Juvenile Court restraining order is good for no more than 3 years.

O. Stalking means willfully, maliciously, and repeatedly following or willfully, maliciously, and repeatedly harassing another person and making a credible threat with the intent to place that person in fear for his or her own safety, or the safety of his or her immediate family (646.9 PC).

P. Stay Away Order (sometimes referred to as a “No Contact” Order) is a type of restraining order in a criminal, juvenile delinquency (a Juvenile Probation order can be in effect until the offender’s 21st birthday) or civil case involving domestic violence upon a good cause belief that harm to, or intimidation, or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, by the defendant. A Stay Away Order typically orders a person to stay away from the victim and/or other specified locations. A criminal Stay Away Order may remain in effect for up to 10 years. The sentencing court in a criminal case may issue an order restraining the defendant from any contact with the victim for up to 10 years, regardless of whether the defendant is sentenced to prison or jail, or is placed on probation for any domestic violence related offense (PC 136.2).

Stay Away Orders are issued pursuant to Penal Code Section 136.2 while a criminal prosecution is pending. Orders may also be issued pursuant to the Civil Harassment Prevention Act (Code of Civil Procedure Section 527.6)

Workplace Violence Safety Act (Code of Civil Procedure Section 527.8), Uniform Parentage Act (Family Code Sections 7710 and 7720, Domestic Violence Protection Act 6200 - 6389 Family Code), or in connection with a dissolution, legal separation, or annulment (Family Code Sections 2045, 2047, and 2049). Civil Restraining Orders may be issued for a maximum of 5 years, but may be renewed for the period set forth in the order. Restraining Orders may be issued for a maximum of 10 years pursuant to 646.9(h) PC. The Juvenile and Dependency Court can also issue restraining orders pursuant to W&I Section 213.5 if the minor meets the qualifications listed under sections (a), (b) and (c) of this section.

PC 136.2 authorizes a court, on a showing of good cause, to include in a domestic violence protective order a grant to the petitioner (victim) the exclusive care, possession, or control of any animal owned or kept by the petitioner (victim), and respondent (domestic violence perpetrator). PC 136.2 also authorizes the court to order the respondent (domestic violence perpetrator) to stay away from the animal and to forbid the respondent from taking, concealing, threatening, or harming the animal.

Q. Temporary Restraining Order is a type of restraining order, which requires a person to refrain from doing a particular act or acts. It is issued by the Court, with or without notice to the person who is to be restrained. A temporary restraining order will remain in effect until a formal court hearing can be held. Authorizes a private, postsecondary educational institution to seek a temporary restraining order and injunction on behalf of a student, and, at the discretion of the court, any number of other students at the campus, when a student has suffered a credible threat of violence made off campus, “which can reasonably be construed to be carried out or to have been carried out at the school campus. CCP 527.85 (NOTE: Does not apply to public schools).



R. Trafficking is depriving or violating the personal liberty of another person with the intent to effect or maintain a felony violation of PC 266 (procurement for prostitution), PC 266h (pimping), PC 266i (pandering), PC 267 (abduction for prostitution), PC 311.4 (using a minor to create obscene matter), or P.C. 518 (extortion), or to obtain forced labor or services (PC Section 236.1)

S. U-Visa - Created by the Victims of Trafficking and Violence Prevention Act, enacted in October 2000. It is available to noncitizens who: 1) have suffered substantial physical or mental abuse resulting from a wide range of criminal activity, and 2) have been helpful, are being helpful or are likely to be helpful with the investigation or prosecution of the crime. The U-visa provides eligible immigrants with authorized stay in the United States and employment authorization.

T. Victim means a person who is a victim of domestic violence.

## 2. Common Charges

A situation involving domestic violence may result in a violation of one or more of the following sections of the Penal Code: (This list is not exhaustive.)

1. 136.1 - Intimidating or dissuading a witness.
2. 148 - Resisting arrest.
3. 166 - Violation of a court order – typically criminal court order.
4. 187 - Murder.
5. 207 - Kidnapping.
6. 236/237 - False imprisonment.
7. 236.1 - Human Trafficking.
8. 240 - Assault.
9. 243(a) - Battery.
10. 243(e) - Battery - Spousal/cohabitant/parent of suspect's child/former spouse/fiancée/fiancé/dating and former dating relationship abuse.
11. 243(d) - Battery with serious bodily injury.
12. 243.25 - Battery of an elder or dependent adult, who knew or should have known that the victim is an elder or dependent adult.
13. 245(a)(1) - Assault with a deadly weapon.
14. 245(a)(4) - Assault by means of force likely to produce great bodily injury.
15. 246(a) - Shooting at an inhabited dwelling.
16. 261.5 - Unlawful sexual intercourse.

17. 262 - Spousal rape, eliminates the reporting and corroboration requirements. Now consistent with P.C. 261.
18. 270.6 - Leaving California with the intent to avoid paying spousal support, after having notice that a court has made a temporary or permanent order.
19. 273.5 - Abuse of spouse, former spouse, cohabitant, former cohabitant, parent of suspect's child, fiancé, current or previous dating relationship.
20. 273.6 - Violation of a protective order (Cross ref to CCP 527.85 pg. 9). Typically family law or civil protective orders.
21. 273a - Child abuse/endangerment.
22. 368 - Crimes against elder or dependent adults.
23. 417 - Brandishing a weapon.
24. 418 - Forcible entry into the home of another.
25. 422 - Criminal threats.
26. 591 - Malicious destruction of a telephone line.
27. 591.5 - Unlawful removal, damage of wireless communication device, or obstructing use of such device to summon law enforcement.
28. 594 - Vandalism.
29. 597a - Cruelty to Animals.
30. 603 - Forcible entry with damage to property.
31. 646.9 - Stalking.
32. 653m(a) - Obscene or threatening calls or electronic contacts.
33. 653m(b) - Making repeated, annoying telephone calls or electronic contacts.
34. 653m(e) - 653m (a) and (b) are violated when a person knowingly permits any telephone or electronic communication under the person's control to be used for the purposes prohibited by these subdivisions.
35. 29825 - Restrained person possess or attempt to purchase firearm.
36. 25400 - Possession of a concealed firearm.
37. 18250 - Confiscation of firearms (Authority for seizure).
38. 25850(a) - Possession of a loaded firearm.
39. 653.2 - Electronically distributing, publishing, e-mailing, or making available for download, personal identifying information of an electronic message of a harassing nature, about another person, with the intent to place the person in reasonable fear for his or her safety, or his or her immediate family's safety, and for the purpose of imminently causing the person unwanted physical contact, injury or harassment by a third party.
40. 528.5m - Knowingly and without consent, credibly impersonating another actual person through or on an Internet Web site or by other electronic means, for purposes of harming, intimidating, threatening, or defrauding another person.



41. 647(j)(4) - Recording image of intimate body part under circumstances where both parties understand the image is to remain private and then distributing image with the intent to cause serious emotional distress (revenge porn).
42. 664 - Attempt of any of the above.

### 3. Frequently Used Telephone Numbers

Adult Protective Services: 408-975-4900 or 1-800-414-2002

Asian Americans for Community Involvement: 408-975-2739

Bay Area Legal Aid: 1-888-330-1940

California Victim Compensation Board: 1-800-777-9229 or Santa Clara County 408-295-2656

Child Protective Services (child abuse hotline): 408-299-2071 (ofc) 408-975-5851 (fax)

Community Solutions: 877-363-7238

DFCS Joint Response: (Access through individual department dispatch centers)

County Communications: (for duty judge after hours) 408-299-2501

Family Court: (M-F, 8 AM to 5 PM) 408-534-5702

Family Violence Center: 408-277-3700

Next Door Solutions to DV: 408-279-2962

YWCA Silicon Valley Support Network Program: 1-800-572-2782

Victim Notification Service: 1-800-464-3568

SV Faces - Victim-Witness Assistance Program: 408-295-2656

Maitri, Santa Clara County, South Asian Hotline: 1-888-862-4874

## 4. 911 Call-Taker/Dispatcher Response

A. A 911 recording is often the key piece of evidence in a domestic violence trial and will be played in front of the judge or jury in open court. The 911 recording may end up serving as the only account of what happened if a victim later recants or refuses to testify. Accordingly, extra time and attention should be given to bringing out as many details about the reported incident as possible. Given the nature of these types of incidents the caller may be recanting, minimizing, traumatized or confused. Extra care and patience in handling these calls may be required.

B. The dispatcher who receives a domestic violence incident call shall dispatch officers to every reported incident. The dispatcher should, when warranted, give a domestic violence incident call the same priority as any other life threatening call and should, whenever possible, dispatch at least two officers to the scene.

C. No dispatcher or 911 call-taker, in speaking with a victim of domestic violence, should inquire as to the victim's desire to "prosecute," or "press charges." Any comment or statement which seeks to place the responsibility for enforcement action with the victim is inappropriate.

D. During the initial call for assistance, the call-taker should ask:

1. Do you need an interpreter? What language?
2. Where is the emergency? What address? What apartment number?
3. Is this a gated Community? What is the pass code?
4. Who am I speaking to (spell name)?
5. Are you the victim? If no, what is your relationship to the victim?
6. Who hurt you?
7. What has happened? Is it occurring now?
8. Has anyone been injured? If yes, is an ambulance needed?
9. Has anyone been threatened?
10. Is the suspect present? Is he/she in the same room? Can he/she hear you? What is his/her name? Please describe the suspect and their clothing, and, if not present, where are they?
11. Does the suspect have current access to weapons? If yes, what kind?
  1. Where are they located?
12. Is the suspect under the influence of drugs, alcohol or prescription medication? If yes, what?
13. Does the suspect have any mental health issues?





14. Are children present? How many? Ages?
15. Are there previous incidents of domestic violence involving the suspect and victim?  
Have the police been to this address before? If yes, how many times?
16. Does the victim have a current restraining order?
17. Is the suspect on probation or parole?
18. Is the suspect a minor? Is the victim a minor?

Additional questions may be appropriate, and the call-taker should always prioritize questions based on training and experience to adapt to the current emergency.

E. The safety of domestic violence victims, whether the threat of violence is immediate or remote, should be the primary concern of 911 call-takers. The 911 call-taker should advise the victim to ensure his/her safety. For example, suggest that a victim wait for officers at a neighbor's house or remain on the 911 line.

F. Upon receipt of a medical report or phone contact made by a medical professional where domestic violence per Penal Code Section 13700 is alleged, the agency of jurisdiction shall respond unless circumstances such as distance or lack of personnel do not allow for quick response. If the agency of jurisdiction cannot respond, the agency shall request a courtesy report be taken by the local jurisdiction and submitted as soon as practical to the agency of jurisdiction (where the domestic violence incident occurred).

G. Prepare the recording for the detective and the District Attorney's Office.

## 5. Patrol Officer Response/Investigation

### A. ENFORCEMENT OF LAWS IN DOMESTIC VIOLENCE INCIDENTS

#### Felony

1. An arrest shall be made in the event that there is probable cause to believe that a felony has occurred. All suspects arrested should be booked into the County Jail or Juvenile Hall. A pro-arrest policy should be implemented by all agencies.
2. If an officer has probable cause to believe that a felony has occurred, an arrest shall be made irrespective of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.

## Misdemeanor

1. The suspect shall be arrested in the event that a misdemeanor domestic violence incident occurs in the officer's presence. Such situations include, but are not limited to, an officer who witnesses an act of domestic violence, a violation of a verifiable restraining order or illegal possession of a weapon.
2. When a misdemeanor domestic violence assault or battery has been committed outside the officer's presence, and the victim is the suspect's spouse, former spouse, cohabitant, former cohabitant, fiancée, parent of his or her child, or a person with whom the suspect has had or is having an engagement relationship or a current or prior dating relationship, a peace officer may arrest the suspect without the need of a private person's arrest. This will also apply if the assault or battery involved a person age 65 or older where the elderly victim is related to the suspect by blood or legal guardianship (PC 836(d)).

PC 836(d) makes it possible for officers to arrest when the crime does not take place in their presence where both of the following circumstances apply.

- a. The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
- b. The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.
3. An arrest shall be made if the officer has probable cause to believe that the suspect has violated a domestic violence protective order, restraining order, emergency protective order, or elder abuse/dependent adult protective order, even when the crime did not occur in the officer's presence (PC 836). When a police officer makes an arrest for violating Penal Code sections 243(e) or 273.5, the peace officer is not required to inform the victim of their right to make a citizen's arrest (PC 836).
4. In situations involving suspected mutual combat or where mutual protective orders have been issued under subdivision 10 (commencing with Section 6200) of the Family Code, prior to making an arrest, the officers shall make reasonable efforts to identify, and may arrest, the "dominant aggressor" involved in the incident without a warrant (PC 836 (3)).
5. Persons arrested for crimes specified in PC 1270.1, including the following crimes, cannot be released at the scene:
  - i. PC 243(e)(1) - misdemeanor domestic violence
  - ii. PC 273.5 - domestic violence with corporal injury
  - iii. PC 422 – where the offense is punishable as a felony



- iv. PC 273.6 or 166 – violation of a protective order if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party; or
- v. PC 646.9 - stalking

These arrestees must be taken to jail, after which they may post bail. If they are to be released for more or less than the scheduled bail or on their own recognizance, a hearing must be held in open court pursuant to PC 1270.1. (Note: No cite and release). A judge or magistrate may, with respect to a bailable felony offense or a misdemeanor offense of violating a restraining order, increase bail without a hearing, provided an oral or written declaration of facts justifying the increase is presented under penalty of perjury by a sworn police officer. If the arrestee is a juvenile, he or she must be taken to Juvenile Hall.

- 6. If a victim only informs a law enforcement office of a prior unreported incident and has no complaint of pain or physical injury at the time of the current report, the officer shall make a good faith effort to inform the complainant of his/her right to make a private person's arrest (the arrest must fall within the statute of limitations). If the complainant chooses not to exercise that right, the officer shall submit a report to the District Attorney or Juvenile Probation Department for review. The arrest must fall within the statute of limitations and meet the requirements listed above in paragraph (3).

## B. HANDLING OF THE INCIDENT

1. The existence of the elements of a crime shall be the sole factor that determines the proper method of handling the incident. The following factors, for example, ARE NOT to influence the officer's decision to investigate or arrest in domestic violence incidents except as they relate to the elements of the crime:

- a. The relationship or marital status of the suspect and the victim, i.e., not married, separated, or pending divorce;
- b. The fact that the victim and suspect are of the same gender;
- c. Whether or not the suspect lives on the premises with the complainant;
- d. The existence or lack of a temporary or other restraining order;
- e. The potential financial consequence of arrest;
- f. The complainant's history or prior complaints;
- g. Verbal assurances that violence will cease;
- h. The complainant's emotional state or state of sobriety;
- i. Injuries are not visible;
- j. The location of the incident, i.e., public or private;



- k. Speculation that the complainant may not follow through with the criminal justice process or the arrest may not lead to a conviction;
- l. The suspect is a juvenile. Officers should be aware that Juvenile Court orders can be in effect until the offender's 21st birthday. Juvenile restraining orders can remain in effect for up to 3 years from the date of issue, whether or not the juvenile proceedings continue;
- m. The complainant's immigration status;
- n. Whether or not the suspect is present in a restraining order case; and
- o. If the suspect is a law enforcement officer, follow the procedures outlined on page 48.

2. Once a suspect is arrested on a misdemeanor offense, he/she should be 18 booked into the County Jail or Juvenile Hall.

3. The officer should interview the victim, suspect, children, roommates, and any available neighbor witnesses. Interviews should be digitally recorded if possible. A warrant check, Domestic Violence Restraining Order System (DVROS) check, criminal history check and Juvenile Probation status check should also be conducted.

4. An officer shall make no statements which would tend to discourage a victim from reporting an act of domestic violence or requesting a private person's arrest. A peace officer who accepts a private person's arrest is immune from civil liability for false arrest or false imprisonment when, 1) at the time of the arrest, the officer had reasonable cause to believe that the arrest was lawful, 2) the arrest was made pursuant to PC 142, i.e., a victim or witness demanded that the officer receive a private person's arrest, or, 3) the arrest was made pursuant to a charge, upon reasonable cause, of the commission of a felony by the person to be arrested (PC 847). As noted above, a private person's arrest is not required in cases involving intimate partner assault or battery or in cases involving violations of domestic violence protective or restraining orders where an officer has probable cause to believe that the person to be arrested has committed the offense. (PC 836.)

5. Pursuant to Penal Code section 13700 et seq., an officer responding to an incident of domestic violence shall prepare a Domestic Violence Incident Report irrespective of the wishes of the victim or the presence or absence of the suspect.

#### C. INVESTIGATION OF DOMESTIC VIOLENCE CASES

1. Officers arriving at a domestic violence scene should conduct a thorough investigation and submit reports of all incidents of violence and all crimes related to domestic violence. If the incident occurred in another jurisdiction, the patrol officer will evaluate the severity and immediacy of the situation and if appropriate contact that jurisdiction to determine which agency will take the initial report and/or which agency will investigate. If the other

agency (agency of jurisdiction) is not able or willing to respond to the victim's location or meet the victim at an alternate location, the agency that had first contact with the victim will complete a courtesy initial police report. If the initial agency is not doing the follow up investigation, the report will be forwarded to the agency of jurisdiction for follow up.

2. The following steps should be included in an officer's investigation and subsequent report:

- a. Arrival at scene
  - i. Determine location and condition of victim, suspect, children and pets.
  - ii. Determine if any weapon is involved or in the home. Confiscate and collect as evidence any weapons or firearms used in the incident. If the incident involves any threat to human life or physical assault, officers shall take temporary custody of any firearm or deadly weapon in plain sight or pursuant to a consensual search or other lawful search. If unable to book the weapon (other than firearms) due to size or other extenuating circumstances, photograph the weapon (PC 18250).
  - iii. There are three specific instances when a search warrant for weapons can be requested (PC 1524(a)(9)-(11):
    - 1) At the premises occupied or under the control of, the person arrested for a domestic violence incident involving a threat to human life or a physical assault as provided in PC 18250 above.
    - 2) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody of, a person described in W&I 8102(a). W&I 8102(a) permits a peace officer to confiscate a firearm or other deadly weapon from a person who is detained for examination of his or her mental condition.
    - 3) When the property or things to be seized include a firearm/ammunition that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms and/or ammunition pursuant to Family Code 6389 (restraining order prohibiting abuse or excluding from dwelling) and:
      - a) the prohibited firearm and/or ammunition is possessed, owned, or in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Family Code 6218 and,
      - b) the person has been lawfully served with that order, and
      - c) the person has failed to relinquish the firearm as required by law.



Note: Consider contacting the on-call Deputy District Attorney in charge of search warrants.

- 4) Provide appropriate level of aid to injured parties.
  - 5) Separate suspect, victim, and witnesses. (Victim should be out of suspect's view.)
- b. Preliminary investigation
- i. Interview everyone separately – victim, suspect, children, other witnesses. Officers are strongly encouraged to audio record these statements.
    - ii. If a person being interviewed speaks a language other than English, the interview should be conducted in the individual's primary language by a qualified interpreter. An investigating officer may need to call for another bilingual officer fluent in that language, a telephone interpreter, a qualified civilian interpreter, or arrange for other certified professional translation services. Avoid using third party individuals (children, family members, neighbors, or bystanders) for interpretation except during exigent circumstances. Once the exigent circumstance has passed, the officer should utilize a qualified interpreter. Document the names and personal information of all witnesses and interpreters.
  - iv. Document names and ages of all children who were present and/or residing in the home at the time the offense occurred or who were not present but reside in the home. Also document the names, addresses and ages of children present in the home at the time of the incident, who may not be related to the victim and/or suspect AND children who may not reside in the home but whose parents are involved in the domestic violence incident. Children in this context does not include cases in which the victim or suspect are juveniles.
    - 1) (Note also that suspected child abuse must be cross-reported as required pursuant to PC 11166).
  - v. Ask victim and suspect if they have pain even if there are no visible injuries. Determine if there are indications of strangulation. Victims should be encouraged to seek medical attention if there has been strangulation even if there are no visible injuries. **Is the victim's throat sore or voice hoarse? Did the victim lose consciousness?**
  - vi. Ask the victim if she/he has been forced to have sex against her/his will.
  - vii. Ask the victim if suspect has any guns or ammunition.
  - viii. Document and **photograph** the victim's, suspect's, and child's condition and demeanor including:
    - Bruises, cuts, marks, pulled hair or other injuries.



- Torn clothing.
  - Smeared make-up.
  - If victim is pregnant, a senior or juvenile.
  - If any of the parties are under the influence of alcohol, drugs, or prescription medication.
  - Condition and disarray of the house.
- ix. Inquire about, elicit details about, and document any allegations of previous reported or unreported acts of domestic violence or child abuse. For example asking: When was the first time he hit you? What happened then? How often does he hit you?
- x. Document size relation of victim and suspect.
- xi. In apparent "mutual combat" situations, try to determine who was the dominant aggressor (dual arrests shall be discouraged, when appropriate, but not prohibited per Penal Code Section 13701). Please refer to the dominant aggressor chart found on page 51 and attempt to make the following determinations:
- Was one party in actual fear of the other?
  - Did one party escalate the level of violence, i.e., did one party react to a slap by beating the other party?
  - Was one party physically larger and stronger than the other?
  - Was there a history of violence or pattern of control by one of the parties against the other? Against other people?
  - Who has access to and control of resources?
  - Who has injuries that do not appear to be consistent with statements made?
  - Was one party usually the aggressor?
  - Did any injuries appear to be defense wounds?
  - Which party will be in greater danger if nothing is done?
- xii. Check for the existence of any restraining orders against the suspect. If victim has a restraining order against suspect, obtain a copy of the order and valid proof of service (proof of service is not necessary if the suspect was in court when the order was issued). If no copy is available, contact the Department of Justice Domestic Violence Restraining Order System (DVROS/CLETS) to verify the existence of the order (Family Code Section 6383(d)). If there is no order, inform victim how to get an order.
- xiii. The officer shall advise the victim of the availability of an EPRO and civil restraining orders in every case even if the suspect is arrested and in criminal situations where the victim is fearful. The officer is required to request the protective order if the officer believes the person requesting the order is in immediate and present danger even if the victim does not



want the order. The judge should hear your concerns and will make the decision whether or not the EPRO will issue. (Victim should be out of suspect's view.) If possible, prepare the form before calling the on-duty judge. An emergency protective order shall have precedence in enforcement over any other restraining or protective order (criminal or civil) if all of the following requirements are met: (1) the emergency protective order protects one or more persons who are already protected under another restraining or protective order, (2) the emergency protective order restrains the same person who is restrained under the other order, and (3) the provisions of the emergency protective order are more restrictive than the provisions of the other order.

- xiv. If victim has a restraining order, which has not yet been served on suspect, verbally inform the suspect of the order and note in the report including case number of the Restraining Order. If victim has an extra copy of the order, serve on the suspect and fill out proof of service. If the officer does not have an additional copy of the order, he or she shall give verbal notice of the terms and conditions of the order. This shall constitute service and notice for purposes of PC 273.6 and 12021(g). This also includes protective orders issued for protection of elders/dependent adults, their family members, household members or conservator, stalking victims and workplace violence victims (CCP 527.8, FC 6383 and W&I 15657.03). Within one business day of service, the law enforcement agency serving the protective order shall enter the proof of service directly into the DOJ Domestic Violence Restraining Order System (DVROS), including the officer's name and employing agency, and shall transmit the original proof of service to the issuing court (FC 6380(d)). If a suspect is given verbal notice of the Order, the officer must advise the suspect to go to the local Family Court to obtain a copy of the Order containing the full terms and conditions of the Order (FC 6383(g)).
- xv. When serving any protective order, including but not limited to criminal, civil and Emergency Protective Orders, law enforcement officers shall request the immediate surrender of firearms and ammunition rather than having to wait 24 hours for the person to self-surrender the firearms and ammunition. County Firearm Removal Protocols should be followed.
- xvi. Note information concerning the victim's whereabouts for the next few days in the police report. Obtain any emergency/secondary contact information. This should include name, relationship, telephone number(s) and address. If the victim is a juvenile, obtain contact information from the parents or guardians.





- xvii. Request from the victim, information regarding the suspect's media accounts including account identifying information such as user names and passwords.
  - xviii. An officer **shall**, pursuant to their department's policies, conduct a **threat assessment** or Lethality Assessment for First Responders and may put the victim in immediate contact with a domestic violence advocate. (See **"Lethality Assessment for First Responders" form at the end of this protocol.**)
3. The "protected person" cannot be in violation of his or her own protective order.
- a. Officers shall enforce a restraining order even if it has been issued in another jurisdiction, provided that the order identifies both parties and on its face is currently in effect.
  - b. Document if the defendant has made any threats against anyone.
4. If suspect taken into custody:
- a. Document spontaneous statements by the victim and/or suspect.
  - b. Prevent communication between suspect and victim/witnesses/children.
  - c. Advise suspect of Miranda rights. The Miranda Admonition should be read to suspects in their primary language by a qualified interpreter.
  - d. Conduct interviews and document statements of the suspect. If a "violent felony" is alleged, the interview of the suspect will be electronically recorded as outlined in the Santa Clara County Police Chiefs' Association's "Recording of Violent Suspect Statement Protocol." See PC 667.5(c) for a listing of violent felonies.
  - e. Evaluate the suspect for danger to self or others under 5150 W&I. If appropriate, complete a 5150 W&I form for jail mental health staff.
5. Photographs.
- i. Document and photograph the condition of crime scene (i.e., disarray of physical surroundings).
  - ii. Ensure that the victim's and suspect's visible injuries are photographed. Make sure that the photos taken preserve the dignity of the victim as much as possible and photograph their faces for identification purposes.
  - iii. Encourage the victim, or parent or guardian if the victim is a juvenile, to contact the investigating agency/follow-up investigator if further bruising appears.
6. Firearms and Ammunition.
- i. If necessary for the protection of officers or other persons present, inquire of the victim, alleged abuser, or both, whether a firearm/ammunition or other



- deadly weapon is present at the location and confiscate any firearm/ammunition or deadly weapon discovered pursuant to paragraph “v.” below, and note this in the report (13730(3) PC). If an EPRO is issued, request the immediate surrender of firearms once the perpetrator is served. (Family Code 6389). A search warrant can also be obtained. (See Pg. 20.)
- ii. Check in the Consolidated Firearms System (CFS) and Prohibited Armed Persons (PAP) file to determine if firearms are registered to any involved person or if any involved person is prohibited from owning firearms.
  - iii. Seize any firearm/ammunition or other deadly weapon located in plain sight, discovered pursuant to a consensual search or other lawful search, as necessary for the protection of officers or other persons present (18250 PC).
  - iv. Seize any firearms possessed in violation of 29800(a) PC – convicted felons, or 29805 PC – other specified misdemeanor convictions.
  - v. If a firearm is confiscated, issue a receipt to the owner describing the firearm and listing the serial number or other known identifier. Explain that the weapon will be returned within five business days after the owner or possessor demonstrates compliance with PC sections 33850 and 33855 (must apply to the State Department of Justice for a determination of whether he or she is eligible to possess a firearm). If the weapon is seized as evidence of a crime or the owner of the firearm is subsequently prohibited from possession by a restraining order, the firearm will not be returned (PC 33850, 33855, 34000). If the person does not file the receipt with the court within 48 hours after being served with the protective order, it is a violation of the protective order. (Refer to Firearms Relinquishment Protocol for further details).

#### 7. Medical treatment.

- i. Obtain authorization for release of medical records from victim, or from parent or guardian if the victim is a minor, if possible.
- ii. Document extent of injuries/treatment, if known.
- iii. Obtain names, addresses, and phone numbers of fire and emergency medical personnel treating the victim, if possible.
- iv. Transport or call for transport of victim and children to a hospital for treatment when necessary, or stand by until victim or children can safely leave. “Children” does not include a minor suspect.
- v. If there is reasonable suspicion of child abuse or neglect, a cross-report must be made to DFCS and officers must follow the Joint Response Protocol.
- vi. Determine if a party had been strangled. When appropriate, call for immediate medical care and advise to seek medical care even if there is no visible injury.

#### 8. Completing Crime Report.

- i. Maintain objectivity in reporting. Avoid personal opinions regarding comments from victim/suspect.
- ii. Ensure that elements of all involved crimes are included in the report and document:
  - Any injuries victim and suspect have sustained.
  - That victim received the Domestic Violence Resource Card per Penal Code Section 13701(i).
  - Past history of violence and check for existence of a restraining order.
  - Prior domestic violence incidents at that address involving the alleged abuser or victim.
  - Statements of victim, suspect, and all witnesses including children.
  - Physical evidence obtained.
  - Probation/parole status.
  - Whether alcohol, illegal drugs or prescription drugs were involved by the alleged abuser.
  - Names, ages and relationship of children who were present and/or residing in the home at the time the offense occurred or who were not present but reside in the home AND children who may not reside in the home but whose parents are involved in the domestic violence incident.
  - Names, addresses and ages of children present in the home at the time of the incident, who may not be related to the victim and/or suspect. Include information on their whereabouts after the incident.
  - If any pets were threatened, harmed, or there is evidence of animal abuse.
  - Whether the officer found it necessary, for the protection of the officer or other persons present, to inquire of the victim, abuser, or both, whether a firearm or other deadly weapon was present at the location (13730 PC).
  - Any emergency/secondary contact information. This should include name, relationship, telephone number(s) and address.
  - All e-mail addresses should be obtained.
  - All cellular and text messaging contact information should be obtained.
  - Obtain all employment information.



- The word "children" does not include a juvenile suspect or victim who should be dealt with as the suspect or victim and not as a child witness.
- iii. If a valid restraining order prohibits firearms possession or ownership by a person involved in the incident, the officer shall make record in the crime or incident report of:
- Inquiries made to determine if the restrained person possesses any firearms/ammunition.
  - The results of efforts made to locate and seize any unlawfully possessed firearms/ammunition, including requesting a search warrant (see page 20).
- iv. If a violation of a restraining order is alleged:
- In the police report, describe the specific terms of the order that were violated by the restrained person.
  - Attach a printout of the order from DVROS.
  - Request of records or communications personnel that information on the reported violation is entered into the Domestic Violence Restraining Order System (DVROS). (See the California Department of Justice Information Bulletin #02-05-BCIA, dated April 4, 2002.)
  - If the order that was violated was issued out of Family Court, collect or photograph a copy of the order, including proof of service if any.

9. When documenting a domestic violence-related crime, identify the report as a domestic violence incident on the face of the report as required by Penal Code Section 13730(c).

10. If a victim spontaneously states that prosecution is not desired, the victim should be told that the decision to prosecute is made by the District Attorney. Officers shall not advise victims of domestic violence that the victim has the authority to "press" charges or "drop" charges.

11. Officers shall furnish victims with the following information:

- A "Domestic Violence Resource Card" which includes the phone number for the Victim/Witness Assistance Center in Santa Clara County (408-295-2656) and the toll free number for the California Victim Compensation and Government Claims Board (1-800-777-9229).
- The card shall also include the names and phone numbers of shelters or counseling centers and state that domestic violence



or assault by a person who is known to the victim or who is the spouse of the victim is a crime. The California Victim Compensation and Government Claims Board can authorize a cash payment or reimbursement to an adult victim of domestic violence for specified expenses. Counseling funds for children may also be available for those identified in the police report. Victims should be encouraged to contact a 24-hour domestic violence crisis hotline in order to receive important information about safety issues and services that are available to them.

- The card shall also include the statement that the victim has a right to have a domestic violence advocate and a support person of the victim's choosing present at any follow-up interview by law enforcement authorities, prosecutors, or defense attorneys (679.05 P.C.). Officers should strongly consider providing additional DV resource cards to support persons, friends and family at the scene.
- The Attorney General's/SCCO card on Marsy's Rights (Prop 9).
- Inform the victim of their right to request in writing that the landlord change the locks of their dwelling unit within 24 hours when they are the victim of domestic violence, sexual assault, or stalking. The victim must give the landlord a copy of the police report or restraining order (which was written in the last 180 days). The landlord must also give the victim a key to the new locks. The victim also has the right to change the locks if the landlord fails to do so, regardless of any provision in the lease to the contrary. The victim must then give the landlord a key to the new locks. If the victim and restrained person live together the victim can make the same request of the landlord in writing but needs to provide the landlord with a copy of the restraining order (written within the last 180 days) that excludes the perpetrator from the tenant's dwelling unit (CC 1941.5, CC1941.6).

## 12. When completing a Probable Cause Affidavit or Juvenile Contact

Report, officers will ensure that the following information is provided:

- a. The officer shall complete all applicable sections of the Affidavit or Juvenile Contact Report forms, including non-narrative portions.



- b. The narrative portion of the Affidavit or Juvenile Contact Report shall thoroughly detail the injuries received and how they were inflicted. The officer should not merely check one of the boxes to indicate extent of injuries, as this information is often subjective. If the injury involved is "complaint of pain only," this fact shall be explicitly stated. This is necessary to avoid calling the officer back to clarify the Affidavit. If a felony arrest is made on an injury involving complaint of pain with no visible injuries, the officer shall give a detailed description of the force used, including type of force, number of blows inflicted, etc. (i.e., fist, open hand slap, etc.).

A description of the extent and severity of the pain is also necessary.

- Does the victim have difficulty breathing?
- Does the victim have difficulty standing or moving?
- Is the victim experiencing other restrictions as a result of the injuries?

c. The officer shall note whether the victim has received medical attention, and the results, if known. Officers should inform the victim to seek medical attention. The victim, or the parent or guardian if victim is a minor, should be asked to sign a medical release form.

d. Strangulation attempts shall be explicitly described. It should be noted whether hands or a ligature device was used. The force of the attempt should be detailed. If present, consider additional charges of 664/187 PC, attempted murder, 245 PC, assault with force likely to produce great bodily injury, or 243(d) PC, battery with serious bodily injury.

- Did the victim lose consciousness?
- Does the victim have difficulty breathing or swallowing?
- Are there any marks visible on the victim's neck?
- Does the victim complain of a hoarse or raspy voice as a result of the injuries?
- Is there indication of petechiae (rupture of the small capillaries, usually in the eyes, head or neck area above the point of constriction)?
- Photograph injuries.

e. In any domestic violence incident, the officer shall note on the Probable Cause Affidavit or Juvenile Contact Report whether an Emergency Protective Order was granted by a judge or was declined by the victim.

f. If there is a taking of a hostage or the barricading of a location by the perpetrator the officer is authorized to use an electronic amplifying or recording device to eavesdrop on

and/or record, any oral communication within a particular location in response to the taking of the hostage or the barricading of a location if:

- (1) the officer reasonably believes that an emergency situation exists involving the immediate danger of death or serious physical injury to any person; and
- (2) the officer reasonably determines that the emergency situation requires that eavesdropping occur immediately; and
- (3) there are grounds upon which an order could be obtained pursuant to 18 U.S.C. 2516(2) for the offenses specified in it (i.e. murder, kidnapping, or other crimes dangerous to life, limb, or property, and punishable by imprisonment for more than one year). PC 633.8.

g. A police officer may request a higher bail and any special conditions of bail either orally or in writing for the defendant by making a declaration (i.e. probable cause affidavit) under the penalty of perjury setting forth facts and circumstances in support of his or her belief that the scheduled bail amount is not sufficient to ensure the defendant's appearance in court or to ensure the protection of a domestic violence victim (PC 1270.1). The crimes specified are serious felonies, violent felonies, threatening a witness, domestic violence felonies, domestic violence misdemeanors, criminal threats, stalking and domestic violence restraining order violations if the defendant made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of the protected party. Juvenile suspects are not eligible for bail.

## 6. Follow-up investigation

A. All domestic violence reports prepared by officers pursuant to Penal Code Section 13700 et seq. or Welfare and Institutions Code section 213.5, should be reviewed and given follow-up investigation as needed.

B. Follow-up investigations should be geared to the requirements of the District Attorney's Family Violence Unit.

1. Follow-up investigations should include the following:
  - a. Verify the inclusion of all investigative steps described in the previous section regarding patrol officer response/investigation.
  - b. Obtain medical records and medical release forms, if available.

- c. Preserve a copy of the 911 recording involving the original call(s) for assistance, as needed.
- d. Interview/re-interview the victim, witnesses, and suspect as necessary.
  - 1. Follow-up interviews should be recorded. If a “violent felony” is alleged, the interview of the suspect will be electronically recorded as outlined in the Santa Clara County Police Chiefs’ Association’s “Recording of Violent Suspect Statement Protocol.” See PC 667.5(c) for a listing of violent felonies, and all reenactments should be video recorded.
  - 2. If on-scene language interpretation assistance was provided by a family member, neighbor, or other uncertified person, it is necessary to re-interview the victim or witnesses by a qualified interpreter, such as a qualified bilingual officer, telephone/language line interpreter or a qualified civilian interpreter. Avoid using third party individuals (children, family members, bystanders or neighbors) to translate statements.
- e. When a victim has suffered an injury, follow-up photographs should be taken 48 hours after the physical abuse and note changes to injuries. Ensure photographs are taken if injuries were not photographed by the field officer.
- f. Remind victim of their right to have a domestic violence advocate and a support person of their choosing present at the interview. The domestic violence advocate must advise the victim of any limitations on the confidentiality of communications between the victim and the advocate. If the presence of the person would be detrimental to the purpose of the interview, the support person and/or advocate can be excluded.
- g. Contact the victim to inform him/her of the status of the case and the intended referral to the District Attorney or Juvenile Probation.
- h. Record names, addresses, and phone numbers of two close friends or relatives of the victim who may know the victim's whereabouts 6-12 months from the time of the incident.
- i. Conduct a complete CJIC, CII and NCIC criminal history check of the suspect and victim. **Run a records check to see if any law enforcement agency has previously responded to a domestic violence call at the same address involving the same alleged abuser or victim (PC 13730(c)(2)).** When appropriate, conduct a Juvenile Probation records check. Also conduct queries on the suspect in the Consolidated Firearms System (CFS), Prohibited Armed Persons (PAP), Domestic Violence Restraining Order System (DVROS), and the Violent Crime Information Network (VCIN). Attach results of these checks to the investigator’s report.





- j. If children, other than the suspect, are present or living in the home, a copy of the incident or crime report shall be provided to the designated on-site Department of Family and Children Services (DFCS) social worker. Law enforcement agencies without a designated on-site DFCS social worker shall fax a copy of the incident or crime report to DFCS at (408) 975-5851. (Note also that suspected child abuse must be cross-reported as required by 11165, 11166 and 11172(a) PC.) (DFCS, 408-299-2071)
  - k. Suspected elder or dependent adult abuse must be cross-reported as required by 15610, 15630 and 15640 W&I. (Adult Protective Services, 408-975-4900 or 800-414-2002)
  - l. Those agencies working or having an operational agreement with victim advocacy agencies shall provide a copy of the police report to them.
  - m. Obtain from the victim a copy of any DVPO including proof of service. This is particularly important if the order was issued in Family Court. If the restrained person was not present in court when the order was issued, locate and interview the person who served the order to confirm proper personal service.
  - n. Interview all people identified as possible witnesses in the police report (example: a roommate who was home but not interviewed). Also interview the RP and any other witnesses identified in the CAD.
2. Follow-up investigation shall not consider the desire of the victim to "drop" charges in assessing whether the case should be submitted to the District Attorney's Office Family Violence Unit.
3. Investigative personnel handling domestic violence cases should analyze each domestic violence case by asking the following questions:
- a. Can the elements of the offense be established without the testimony of the victim?
  - a. If the answer is "yes," the case should be submitted to the District Attorney's Office or Juvenile Probation Department for review, irrespective of the wishes of the victim.
    - a. ii. If the answer is "no," can further investigation locate additional witnesses or evidence which would allow prosecution without a cooperative victim, such as:
      - witness statements;
      - prior inconsistent statements;
      - physical evidence;
      - content of 911 recording;
      - circumstantial evidence;



- defendant's statements;
- spontaneous statements.

Cases where the investigation establishes probable cause to believe a domestic violence occurred should be submitted to the District Attorney's Office or Juvenile Probation Department.

Cases where the investigation does not establish probable cause to believe a domestic violence offense occurred need not be submitted, but should be filed with Records pursuant to Penal Code section 13700 et seq.

4. Under **NO CIRCUMSTANCES** should a victim be asked if he/she wishes to "press charges" or "drop charges." Investigative personnel should not ask a victim if he/she wants to "prosecute" his/her partner. The victim should be informed that the decision to proceed is out of his/her control.

5. Officers arriving at a medical facility in response to a phone call or report made by a medical professional shall prepare a Domestic Violence Incident Report irrespective of the wishes of the victim or parents or guardians of the minor victim.

6. If the crime involves the use of a firearm, the reports shall be submitted to the District Attorney's Office or Juvenile Probation Department for review.

7. A law enforcement agency may file a petition to prevent the return of a firearm or other deadly weapon.

The petition must be filed within 60 days, unless good cause can be provided for an extension, in which case the petition must be filed within 90 days (PC 12028.5).

C. A detective in charge of investigating a stalking or repeated harassment matter should contact the victim, introduce themselves, provide a case number to the victim and inform the victim that they should provide the case number whenever there are further reports of any harassing or stalking behavior.

## 7. Obtaining, serving, and enforcing restraining orders

Police officers involved in domestic violence investigations deal primarily with civil restraining orders. However, restraining orders are also issued in criminal courts at the time of arraignment and after a person has had their criminal case adjudicated.

## **There are two types of Civil Restraining Orders:**

A Temporary Restraining Order (TRO) is obtained in court by a protected person upon submission of an application, including an affidavit explaining the need for the order. A TRO is valid for a limited time period, statutorily up to 21 days unless there is good cause and then 25 days, until a court hearing is conducted to receive testimony from both the restrained and protected persons. A protected person may receive assistance from a victim advocacy agency in applying for a TRO.

A Restraining Order (RO) (also known as an Order after Hearing) is issued by a judge for a longer period of time, typically five years. However, the order can be extended beyond five years upon request of the protected person at the time the RO is scheduled to expire.

## **There are two types of Criminal Restraining Orders:**

An Emergency Protective Restraining Order (EPRO) is requested by a police officer in urgent circumstances. The EPRO is authorized by a Duty Judge after receiving a telephonic application from the requesting officer. An EPRO is valid for five court days or seven calendar days, providing the protected person sufficient time to obtain a Temporary Restraining Order. See local agency policies and procedures for instructions on obtaining an EPRO.

**Criminal Protective Orders pursuant to Penal Code section 136.2 are always ordered in domestic violence cases at the time of arraignment and at the time of sentencing. They may be orders prohibiting any contact with the protected person or they may be orders allowing peaceful contact with the protected person. This order is valid until the order is terminated or modified by the court. Information in support of the need for a Criminal Protective Order should be included by the police officer in the Probable Cause Affidavit or Juvenile Contact Report.**

- A. Domestic violence restraining orders will be enforced by all law enforcement officers. Under Penal Code Section 273.6(a), it is a misdemeanor for the restrained party to intentionally and knowingly violate any of the protective orders issued pursuant to the Uniform Parentage Act, Family Code, Code of Civil Procedure, Welfare & Institutions Code, the Domestic Violence Prevention Act, the Workplace Violence Safety Act or the Civil Harassment Prevention Act. Penal Code section 273.6(d) makes it a felony to violate a restraining order, with violence or threat of violence, after suffering a prior conviction for violation of Penal Code Section 273.6 within 7 years.  
The elements of the crime require willful disobedience of the terms of the order. Proof of Service shows that the suspect has the necessary knowledge to be in violation of the order.

Verbal notice by the officer of the terms of the Order is sufficient notice for the purpose of Section 273.6 PC (Family Code section 6383(e)).

However, in order to successfully prosecute a later violation of the order, the officer who delivered verbal notification must be able to testify that the subject notified was positively identified as the restrained person.

Each agency shall ensure the original Proof of Service is filed with the court issuing the order and a copy retained with the police report. Note: The terms and conditions of the restraining order remain valid and enforceable, in spite of the acts of the victim, and may be changed only by order of the court. The “protected person” in a criminal or civil order cannot be in violation of his or her own protective order.

Penal Code section 273.6 shall apply to the following orders:

- i. An order enjoining any person from directly or indirectly contacting, telephoning, contacting repeatedly with the intent to harass, molesting, attacking, striking, threatening, stalking, sexually assaulting, battering, harassing, credibly impersonating, or disturbing the peace of the other person or other named family and household member(s) or pets (as described in Family Law Code 6320).
- ii. An order excluding one person from the family dwelling or the dwelling of the other person/party or other named family and household member(s) or pet.
- iii. An order enjoining a person from specified behavior that the court determined was necessary to effectuate the orders.

#### B. SERVING AND ENFORCING CIVIL RESTRAINING ORDERS:

Law enforcement agencies may be requested to serve a protective order issued by the Family Law Court, **Juvenile Justice Court**, or Civil Court. Typically these orders are served by the Santa Clara County Sheriff’s Office or by a civilian process server.

The following is the general procedure that should be followed when serving a protective order:

1. The Family Court, **Juvenile Justice Court**, or Civil Court will send a copy of the protective order to the Sheriff’s Office. The request will include a form indicating if there may be firearms in the possession of the restrained party. These cases should receive top priority by the agency serving the protective order.

2. A law enforcement officer serving a protective order MUST request that all firearms and ammunition immediately be surrendered to the officer (FC 6306).
3. The officer may take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present (PC 18250).
4. If the firearm is not immediately surrendered, a restrained party must provide proof of surrender of a firearm within 48 hours. An investigation for a violation of PC 273.6 should be conducted if the restrained party does not show proof of surrender of the firearm within 48 hours to the agency serving the order. The agency of jurisdiction should conduct this investigation after being notified by the agency which served the protective order.
5. The investigating agency may consider obtaining search warrant pursuant to Penal Code section 1524(9) or Penal Code section 1524(11) to seize the firearm.
6. The law enforcement agency should conduct an investigation whenever it receives written findings from a judge that a restrained person has not surrendered his/her firearms.

C. Officers shall make arrests for any violations under the above sections that they observe. A victim still retains his/her right to make a private person's arrest. A misdemeanor warrantless arrest shall be made absent exigent circumstances if an officer has reasonable cause to believe that the person violated a restraining order outside his/her presence (836(c)(1) PC), (13701 P.C). In situations where mutual protective orders have been issued under subdivision 10 (commencing with section 6200 of the Family Code) prior to making an arrest, the officer shall make reasonable efforts to identify, and may arrest, the dominant aggressor of the restraining order violation without a warrant (PC 836 (3)).

D. If, at the scene of a domestic disturbance, a person shows or informs the officer of the existence of a restraining order, it is crucial to establish the present status and terms of the order. Pursuant to Penal Code section 13710, each Law Enforcement Agency shall maintain a complete and systematic record of all protection orders with respect to domestic violence incidents. These records shall include orders which have not yet been served, orders issued pursuant to Penal Code section 136.2, restraining orders, and proofs of service in effect. This shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders in effect.

All civil restraining orders are in the statewide registry, available to all law enforcement.



1. Upon request, law enforcement agencies shall serve the party to be restrained at the scene of a domestic violence incident or at any time the party is in custody (13710(c) PC). Within one business day of service, the law enforcement agency serving the protective order shall enter the proof of service directly into the DOJ Domestic Violence Restraining Order System (DVROS), including the officer's name and employing agency and shall transmit the original proof of service to the issuing court (FC 6380(d)). Once the order is served, an arrest may be made if the suspect refuses to comply with the terms of the order.
2. Verbal notice by the officer of the terms of the order is sufficient. However, in order to successfully prosecute a later violation of the order, the officer who delivered verbal notification must be able to testify that the subject notified was positively identified as the restrained person (FC 6383(e)). The officer should also be able to identify the conditions disclosed to the restrained party. Notification should be memorialized for future reference.
3. If the officer cannot verify the order, it may be enforced through a private person's arrest procedure. If it is the officer's opinion that the elements of the crime do not exist, the officer may then consider a release per Penal Code Section 849(b).
4. If a Restraining Order violation has occurred and the suspect is not present, the officer will submit a crime report of the appropriate violation and the officer will attempt to locate the suspect and arrest pursuant to section 836(c) PC.

Under **NO CIRCUMSTANCES** shall an officer fail to prepare a crime report on a restraining order violation simply because the suspect is no longer present.

5. If a violation of a restraining order is alleged, the officer shall request of records or communications personnel that information on the reported 39
6. violation is entered into the Domestic Violence Restraining Order System (DVROS).
7. Juvenile Justice Court orders are considered Civil Court orders for this purpose.

#### E. Conflicting Orders – What to Enforce.

1. Effective July 1, 2014

Family Code sections 6383 and 6405, as modified, will take effect on July 1, 2014.

The general rule is that the most restrictive order should be enforced if there is more than one protective order in effect. In other words, law enforcement should

enforce a no-contact restraining order regardless if it is issued in criminal or civil court.

a. Emergency Protective Order in Effect.

If one of the orders is an Emergency Protective Order issued pursuant to Penal Code section 136.2, the peace officer must enforce the emergency protective order provided that the provisions are more restrictive than provisions of the other orders. An emergency protective order may be issued pursuant to Family Code sections 6250 – 6257 or Penal Code section 646.91 (stalking).

b. Multiple Civil or Criminal Protective Orders and at least one “No Contact” Order.

If an Emergency Protective Order does not exist, and there is more than one protective/restraining order, and one of the orders is a “no contact” order as described in Family Code section 6320, the peace officer must enforce the “no contact” order.

c. Multiple Civil/Family Law Orders without a “No Contact” Order.

If there are multiple civil orders and no Emergency Protective Orders and no “no contact” orders, then the peace officer must enforce the most recent protective order.

d. Criminal and Civil Protective Orders without a “No Contact” Order.

If there is a civil and a criminal order, and none of the orders is an Emergency Protective Order or a “no contact” order, a peace officer must enforce the criminal protective order.

F. When addressing any domestic violence incident, an officer shall advise the victim of the availability of an Emergency Protective Restraining Order (EPRO) or civil restraining order, in every case even if the suspect is arrested and in non-criminal situations where the victim is fearful. The officer is required to request the protective order if the officer believes the person requesting the order is in immediate and present danger (refer to page 23, xii).

1. In arrest situations, the following procedures should be implemented:

- a. When a person is arrested based upon an allegation of a recent incident of abuse, or threat of abuse, or in danger of stalking, and the officer can assert reasonable grounds to believe that a person is in immediate and present danger of domestic violence, or child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative, which would require restraint if the defendant were to be released from custody (e.g., bail, OR, 849, or no PC found), then the police officer shall be required to explain the EPRO to the victim and ascertain if the victim desires one. Where



the officer fears for the safety of the victim, but the victim does not desire an EPRO, an investigating officer shall request one on behalf of the victim (Family Code section 6275). The officer shall advise the victim that an EPRO has been issued. Every effort must be made to provide the victim with a copy of the EPRO at the earliest opportunity.

- b. If an EPRO is appropriate, the application should be completed. Even if the suspect is no longer at the scene, an EPRO request is appropriate. The officer should note on the application whether or not the suspect has been arrested, or will be arrested when located. During normal court hours the police officer should call the Family Court at (408) 534-5601 and ask to speak to a judge available to process an EPRO. After 5 PM on weekdays, on weekends, and holidays, the police officer should call County Communications at (408) 299-2501 and ask for the Duty Judge to call back. The police officer should leave the phone number where he/she can be reached. Officers should ensure that the telephone equipment is operational before requesting that the Duty Judge utilize that number. If the Duty Judge is not available, the officer should ask to speak to another Judge.

Note: The Duty Judge may elect to call County Communications at (408) 299-2501 and request that the phone call be transferred to the number where the officer is located. This will protect the privacy of the Duty Judge's home phone number if the Duty Judge is calling into a private residence.

- i. Police Officers should be advised that EPROs are not provided at the County Jail or Juvenile Hall nor is a Stay Away Order automatically issued. Stay away orders are not available for minor suspects per Welfare & Institutions Code section 213.5. They are available on an EPRO or other civil restraining order.
- ii. An officer should not request a Stay Away Order or an EPRO on the probable cause affidavit or Juvenile Contact Report. If he/she feels a restraining order is required upon defendant's release, follow the EPRO procedures. Information in support of the need for restraint should be included in the probable cause affidavit or Juvenile Contact Report.
- iii. The functions of each order do not necessarily overlap. The Court Order provides a mechanism for supervision of a criminal defendant or juvenile offender, including ensuring court appearances, and it often includes drug and weapon conditions. The EPRO provides the victim with a way to enter the Civil Justice System with protection already in place.





2. In a non-arrest situation where an EPRO is desired, the officer should complete an application then contact the Duty Judge or Family Court for evaluation and issuance of the EPRO.

3. Upon obtaining an Emergency Protective Order, a Law Enforcement Officer must take the following FOUR (4) actions (Family Code section 6723):

- a. Serve the order on the restrained person. An officer is to make a reasonable attempt to serve the restrained party. If he or she is present or can be readily contacted, serve the order and complete the Proof of Service on the form. Document whether and how the order was served in the police report.
- b. Give a copy to the Protected Person.
- c. File a copy with the Court. Once an EPRO is issued, it is the responsibility of the police agency to promptly file the EPRO with the Family Court at 170 Park Center Plaza, San Jose, California 95113.
- d. Enter the order into the Department of Justice's computer database. 42

**Note: Copies of the EPRO should be distributed as follows:**

- Original – Court
  - Yellow – Restrained Person
  - Pink – Protected Person
  - Goldenrod – Law Enforcement Agency
3. A judicial officer may also issue an EPRO if a peace officer asserts reasonable grounds to believe that a person is stalking another person as defined in PC 646.9 (authority PC 646.91).
  4. Persons subject to restraining orders are required to turn over all firearms/ammunition when told to do so by law enforcement. Refer to Firearms Relinquishment Protocol if necessary. **No minor should have a firearm or ammunition in his/her possession.**

G. Officers shall enforce out-of-state protective or restraining orders that are presented to them if conditions below are met. "Out-of-state" orders include those issued by U.S. Territories, Indian tribes, and military agencies.

1. The order appears valid on its face.
2. The order contains both parties' names.
3. The order has not yet expired (Full Faith and Credit Provision of the Violence Against Women Act, Family Code sections 6400-6409).

Officers should check CLETS to determine if the order has been registered in California. If the order is not registered, an attempt should be made to contact the foreign jurisdiction or its registry for confirmation of validity. If validation cannot be substantiated, contact the Duty Judge for an EPRO, but the out-of-state protective or restraining order must still be enforced if it meets the above criteria. If not registered in California, parties should be advised to immediately register the order through the Family Court.

H. When an officer verifies that a restraining order has been issued, the officer will make reasonable efforts to:

1. Inquire of the restrained person, if present or contacted during the investigation, if he/she possesses firearms.
2. Inquire through the CLETS and the Consolidated Firearms System (CFS) to determine if any firearms are registered to the restrained person.
3. Inquire of the protected person whether the restrained person possesses any firearms.
4. Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search.
5. Request the immediate surrender of firearms and ammunition when a person is served with a domestic violence protective order, rather than having to wait 24 hours for the person to self-surrender the firearms.
6. Request a search warrant.

I. A restrained party may not own, possess or purchase a firearm or ammunition (FC 6389). An investigating agency may need to:

1. Inquire if the restrained person possesses any firearms or ammunition.
2. Investigate the results of efforts made to locate and seize any unlawfully possessed firearms or ammunition.

J. All law enforcement agencies shall have the responsibility of receiving and storing firearms surrendered pursuant to a restraining order for residents in their jurisdiction.

K. Each county law enforcement agency having responsibility for the investigation of domestic violence shall adopt policies and procedures addressing the receipt, storage and release of firearms surrendered or seized pursuant to a restraining order.

L. A restrained party should get a "Property Removal Order" signed by a Judge in order to obtain and effectuate a civil standby order to remove personal property.

## 8. Victim Assistance

A. If a victim has injuries, visible or not, which require medical attention, officers shall administer first aid, as appropriate, and offer to arrange for proper medical treatment. The officer shall transport or call for transport of the victim and children to a hospital for treatment when necessary, or stand by until the victim and children can safely leave.

B. When a victim in a domestic violence incident requests police assistance in removing a reasonable amount of personal property (e.g., a suitcase) to another location, officers shall stand by a reasonable amount of time until the party has safely done so.

C. In all domestic violence incidents, an officer shall:

1. 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.
2. Explain options available to the victim including the private person's arrest process, temporary restraining orders, Emergency Protective Restraining Orders, changing of locks and in cases of arrest, the follow-up procedures in ensuing criminal or juvenile delinquency proceedings.
3. Advise the victim about the Victim's Rights Act of 2008, and provide the victim with a DOJ or Santa Clara County "Marsy's Card."
4. Advise the victim of available community resources and the California Victims' Compensation and Government Claims Board. (This includes the victim of an alleged battery or corporal injury to a domestic partner.) Pursuant to Penal Code section 13701, officers shall furnish victims with a "Domestic Violence Resource Card" which includes the phone number for the Victim/Witness Assistance Center in Santa Clara County (408-295-2656) and the toll free number for the California Victim Compensation and Government Claims Board (1-800-777-9229). The card shall include the names and phone numbers of shelters or counseling centers, and state that domestic violence or assault by a person who is known to the victim or who is the spouse of the victim is a crime. The card will contain an explanation of the Santa Clara County Victim Notification Service (1-800-464-3568).
5. **Inform the victim that the domestic violence resource card states that the victim has the right to have a domestic violence advocate and a support person of the victim's choosing present at any follow-up interview conducted by law enforcement authorities, prosecutors, or**

**defense attorneys. Officers should also advise that a victim can contact one of the advocacy centers immediately.**

6. Verify and enforce court issued protective orders pursuant to this protocol.
7. Exercise reasonable care for the safety of the officers and parties involved. No provision of this instruction shall supersede that responsibility.
8. Provide a copy of the report relating to domestic violence to the victim at no charge when requested, or to the representative of the victim even if the victim is not deceased (FC 6228). A qualifying representative of a living victim is a parent, guardian, adult child, or adult sibling who presents to law enforcement identification and a signed authorization (if the victim is age 12 or older) by the victim allowing the family member to act on the victim's behalf; an attorney for the victim who presents to law enforcement identification and a written proof that he or she is the attorney for the victim; and a conservator of the victim who presents identification and a copy of the letters of conservatorship demonstrating that he or she is appointed conservator of the victim.

D. If the suspect is taken into custody, the victim will be provided the option of having her/his phone number blocked by the Santa Clara County Department of Corrections to prevent the suspect from contacting the victim while the suspect is in custody.

## 9. Military Suspects

A. All domestic violence incidents involving military suspects shall be handled according to this law enforcement protocol if:

1. The incident occurred outside the boundaries of a military facility; or
2. Local law enforcement agencies are called to assist in handling such an incident.

B. The intent of this policy is to eliminate all informal referrals, diversions, or report taking omissions in the handling of domestic violence incidents involving military personnel.

C. No informal agreements with military police or a suspect's commanding officer shall take precedence over a suspect's arrest and prosecution by non-military authorities.

D. The Field Officer should determine the suspect's military status (active or reserve) and current duty station.

## 10. Law Enforcement Suspects

All domestic violence incidents involving peace officer suspects, as statutorily defined, should be handled according to this protocol.

Any field officer investigating an alleged incident of domestic violence involving a law enforcement suspect must notify an on-duty supervisor or watch commander as soon as possible. The investigating officer shall not leave the scene of the investigation until the on-duty supervisor or watch commander has been notified. The investigating agency shall notify the employing agency as soon as possible after the incident or initial report. All alleged incidents of domestic violence involving suspects who are employed as peace officers will be reviewed by the District Attorney's Office. All reports and information regarding suspects who are employed as peace officers shall be delivered to the suspect's law enforcement employer as soon as practical at the completion of the investigation.

The investigating agency shall contact their local domestic violence agencies for assistance when referring the victim to an advocate trained in working with victims of domestic violence perpetrated by law enforcement suspects.

Each law enforcement agency should follow its protocol for conducting an internal investigation regarding the incident.

## 11. Juvenile Suspects

All provisions of this protocol, including pro arrest and booking of the perpetrator, whether a felony or misdemeanor, offering the victim an Emergency Protective Order, enforcing Protective and Restraining Orders, shall be applied to all juvenile cases of domestic violence. Domestic violence, as defined by the Penal Code, is violence perpetrated against juveniles as well as adults. Domestic violence includes violence perpetrated by or against juveniles.

## 12. Training

A. Each law enforcement agency shall conduct mandated domestic violence training for members of the agency per 13519(b) PC and 13730 PC. In addition, the Domestic Violence Council and its sub-committees, in partnership with the Santa Clara County Police Chiefs'

Association and the District Attorney's office, will conduct a four (4) hour "Train the Trainer" course on the annual changes to this protocol in the spring of each year. In addition, topical and relevant training will supplement the training of the protocol, and can include, but is not limited to:

- victim's rights,
- understanding victims and batterers,
- understanding the effects of DV on children,
- understanding how to determine the dominant aggressor,
- lethality assessments,
- death review,
- proper investigation techniques,
- cultural and language sensitivity,
- restraining orders,
- firearms laws,
- victim advocacy groups and resources,
- DA and Court policies and procedures, and
- Other relevant topics.

B. Additional training should include written bulletins, DVD's, videotapes, verbal reminders, and updates during patrol briefings. The "Domestic Violence Law Enforcement Protocol Training Comments" attachment may be used as a supplemental discussion guide, as well as the Firearms Relinquishment Protocol.

C. The Chief of Police, Sheriff, or his/her designee, shall ensure the review of his/her department's training policies annually and make any revisions deemed necessary.

## 13. Domestic Violence Statutes

All Penal Code statutes listed below apply equally to adults and juveniles.

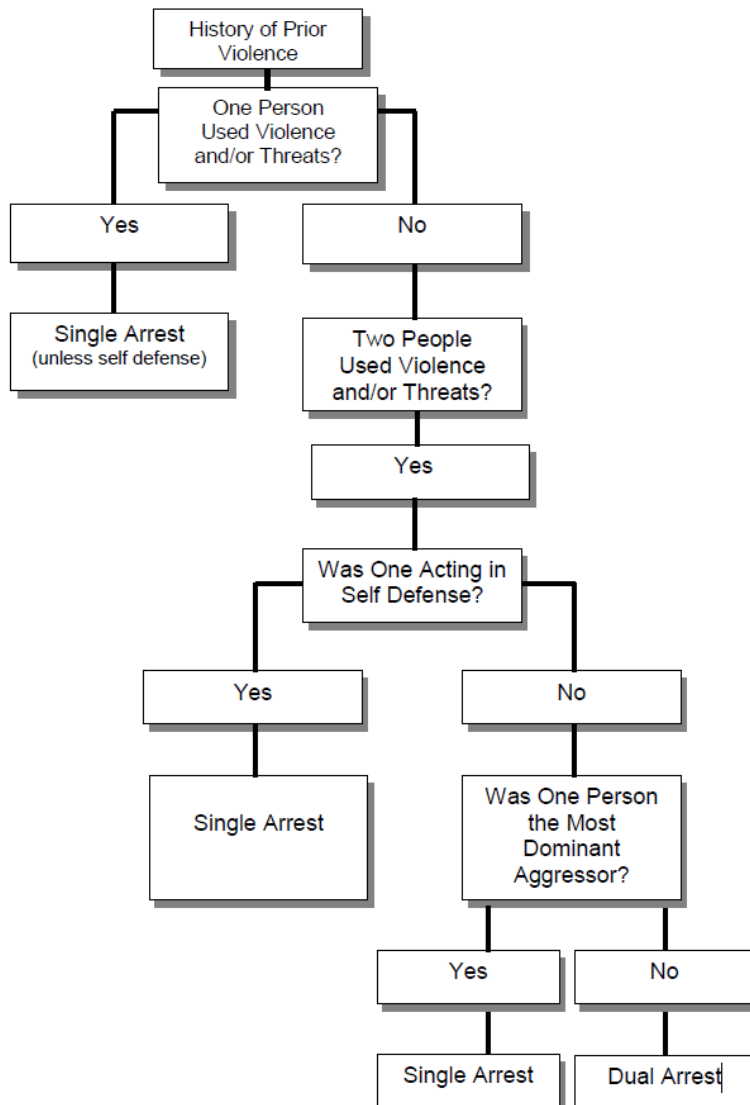
	Law Enforcement Response	Spouse/ Cohabitant Assault	Restraining Orders	Emergency Protective Orders	Confiscating Firearms	Domestic Violence Battery
Victim's Relationship to Defendant	PC 13700	PC 273.5	FC 6218	FC 6300	PC 12028.5	PC 243 (e)
Spouse	X	X	X	X	X	X
Former Spouse	X	X	X	X	X	X
Cohabitant	X	X	X (a)	X (a)	X (a)	
Former Cohabitant	X	X	X	X	X (a)	X
Dating Relationship	X	X	X	X	X (c)	X (b)
Engaged or Formerly Engaged	X	X	X	X	X (c)	X
Co-parent	X	X	X	X	X (c)	X
Child	X		X	X	X	
Parents & Other People Related by Consanguinity (aunts, uncles, grandparents, etc)	X		X	X	X	

(a) Cohabitants are included under household resident

(b) Current or former

(c) Must be living together

## 14. Dominant Aggressor “Decision Tree”

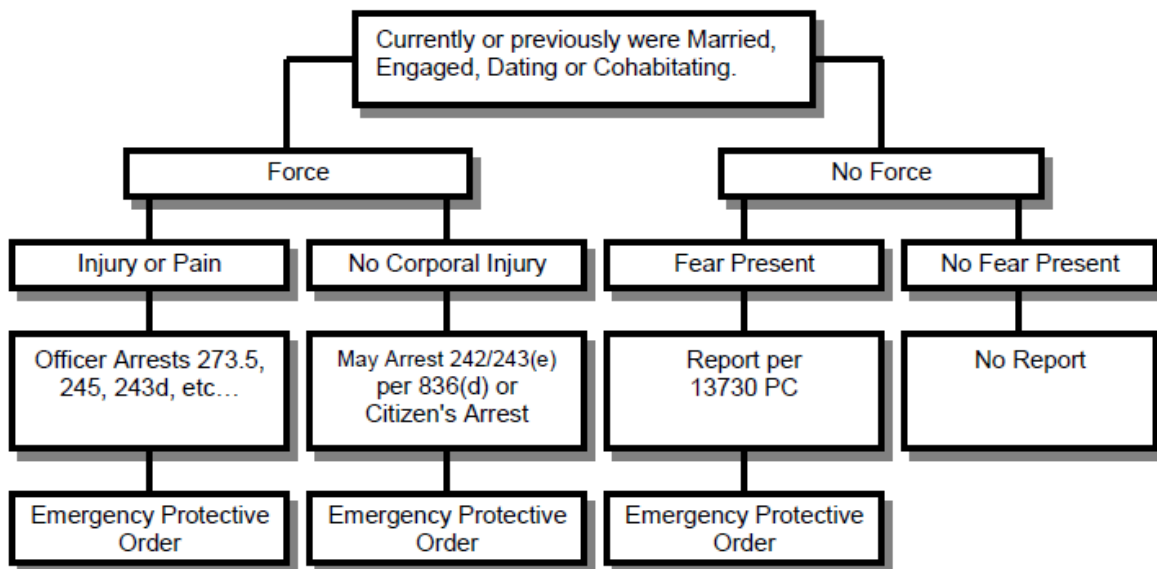




## 15. Domestic Violence Flow Chart

### DOMESTIC VIOLENCE FLOW CHART

Processes charted below apply to both adult and juvenile cases.



## 16. Restraining Order Admonition

*What should you do if a court order prohibits you from contacting a protected person and the protected person initiates contact with you?*

The law (Penal Code Section 13710 (b)) clearly states that the terms and conditions of the protective order remain enforceable, notwithstanding the acts of the parties, and may be changed only by order of the court.

This means if the protected person calls you, invites you over or contacts you in any manner, you must quickly end all such contact. You must hang up the phone, decline the

invitation or leave the immediate area where they are. If you do not do this, you can and will be arrested for violating the protective order.

The protective order prohibits you from having any contact with the protected person. This order does not prohibit them from contacting you, therefore they are not breaking the law; but you are if you continue the contact.

In order for a protective order to be modified to allow contact, the party requesting the order must return to court and make that request. That individual will get a document (piece of paper) showing that the order was modified. If the protected person tells you the order was modified to allow peaceful contact, ask to see the document, make a copy of it and carry it on your person at all times.

## 17. Assistance for Domestic Violence Victims

### ***SV FACES - Victim Witness Assistance Program / (408) 295-2656***

#### Who is eligible for the California Victim Compensation Program?

“Victim” – anyone who suffers physical injury or threat of physical injury as a result of a crime that occurs in California providing the person is willing to assist law enforcement in the investigation and/or prosecution of the crime. A California resident, victimized elsewhere, may also be eligible for assistance. Children who reside in a home where domestic violence has occurred are also considered victims, regardless of whether they witnessed the crime.

“Derivative Victim” – other members of the victim’s family or household (may include, but not limited to: parent, sibling, spouse, grandparents, grandchildren) who are affected emotionally by the crime. Persons who become primary caretakers of children as a result of a crime may also be considered derivative victims and minor witnesses who suffer emotional injury as a result of seeing or hearing a violent crime. This includes minors in close proximity to the victim.

#### What assistance is available through the Victim Compensation Program?

Temporary Lodging. When the need is immediate, police officers may recommend victims to seek lodging (hotel, motel) for later reimbursement.

Counseling and mental health treatment up to \$10,000 for victims and \$3,000 for derivative victims (a higher limit of \$10,000 is available to some derivative victims).

Children who reside in a home where domestic violence has occurred are considered direct victims.

Home security upgrade up to \$1,000.

Medical and dental expenses.

Moving or relocation expenses up to \$2,000 per household.

Qualifying wage or income loss due to a crime related disability.

Support loss for dependents of deceased or disabled victims, up to \$63,000 combined and shared by all derivative victims.

Job retraining for disabled victims.

Home or vehicle renovation or retrofitting for permanently disabled victims up to \$63,000.

Funeral and/or burial expenses up to \$5,000.

Crime scene clean-up up to \$1,000 for qualifying crimes that occurred in a residence performed by persons licensed by the State.

**Important:** Victims are encouraged to file a claim with the California Victim Compensation Program to establish eligibility whether or not there is a current need.

### Questions & Answers

#### **How can police officers assist a victim in obtaining assistance through the Victim Witness Assistance Program?**

Police officers should always provide a domestic violence victim with the phone number for the Victim Witness Assistance Program and explain benefits available through this program.

During weekday business hours, police officers may call the Victim Witness Assistance Program to refer a victim and facilitate the submission of an application by the victim. Victims may also call the Victim Witness Assistance Center directly. Completion of a Law Enforcement Relocation Recommendation Form (form attached) by a police officer will help expedite requests for temporary lodging, permanent relocation, or a home security upgrade.

When temporary lodging (hotel, motel) is needed after business hours, a police officer should explain to a victim that reimbursement for temporary lodging expenses is possible through the Victim Witness Assistance Program. The officer should complete a Law

Enforcement Relocation Recommendation Form (form attached), fax the form to the Victim Witness Assistance Program, and instruct the victim to call the Program as soon as possible during business hours to submit an application for assistance.

**Note:** A Letter of Recommendation may be made by any law enforcement officer, and can include a probation officer, a parole agent, a District Attorney or a Judge.

**Are all persons involved in a domestic violence incident eligible for assistance?**

No, those ineligible for assistance include:

- Perpetrators or persons who committed the crime
- Persons who were victims but participants in mutual combat
- Persons under supervision for a felony conviction (even if a domestic violence victim) except when the victim is killed, then funeral and burial expenses may be covered but not medical expenses.
- Victims who are unwilling to assist law enforcement in the investigation and/or prosecution of the crime

**How quickly can a victim receive reimbursement for qualifying expenses?**

Once an application is submitted, a copy of the crime report has been received, and all other relevant documents are submitted, the Victim Witness Assistance Program may issue a reimbursement check for qualifying expenses on the same day, if there is an immediate need or within 15 days.

**Must a victim provide assistance to law enforcement in the investigation and prosecution of the crime before benefits are provided?**

The Victim Witness Assistance Program will accept the law enforcement referral as valid at the time application is made, including law enforcement's affirmation that the victim intends to support prosecution. Benefits will be provided based upon this understanding. If a victim later refuses or neglects to assist law enforcement, the victim will be refused additional benefits through the California Victim Compensation program.

**If a victim receives benefits through the California Victim Compensation program, then refuses or neglects to assist law enforcement in the investigation and/or prosecution of the crime; will the victim be required to repay the State?**

Under these circumstances, the Victim Witness Assistance Center must report to the State that assistance rendered to the victim may be an "overpayment." The State could attempt to collect this money from the beneficiary by demand letter or lien. In practice, this

**Law Enforcement Relocation  
Verification Form**

APPLICATION #

**► MUST be Completed by Law Enforcement**

This form is for law enforcement to document the threat to the personal safety of the crime victim seeking relocation benefits from the California Victim Compensation Program (CalVCP). This form may be used with or without a letter from law enforcement. If a letter is submitted without this form, it must be on the law enforcement agency's letterhead and contain all of the information requested in this form including signature, title, and badge number (if applicable).

Victim Information			
Name:		Phone Number:	
Address	City	State	Zip
Crime Information			
Crime Date:	Crime Code:	Crime Report Number:	
<p>From the date of the crime to the present, has the <u>victim</u> been in prison, on probation, or on parole because of a felony?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p>Is or was it necessary for the victim to relocate for personal safety?    <input type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><input type="checkbox"/> Not enough information to determine</p> <p>If Yes, besides the elements of the crime, please describe the threat to the victim's <b>personal safety</b>:</p> 			
<p>Is the perpetrator incarcerated?    <input type="checkbox"/> Yes    <input type="checkbox"/> No    If Yes, what is the expected release date? _____</p> <p>If <u>Yes</u>, is there still a threat to the victim's safety?    <input type="checkbox"/> No    <input type="checkbox"/> Yes – If Yes, please explain the nature of the threat:</p> 			
<p>If more than 90 days has passed since the crime, is there still a credible threat to the victim?</p> <p><input type="checkbox"/> No – Explain:</p> <p><input type="checkbox"/> Yes – If Yes, please explain:</p> 			
Name of Law Enforcement Official Providing Information (print):			
Agency Name:		Contact Phone Number:	
Signature	Badge Number (if applicable)	Date	
<p><b>FOR STAFF USE: If form is <u>not</u> fully completed, contact the LE agency, add the missing information, complete the section below, and have the document scanned in.</b></p>			
Law Enforcement Official Providing Information		Phone Number	
V/W Center Name, Number & Advocate/Staff Completing This Form		Phone Number	Date

Rev. 08-31-2011



typically occurs only when victim misuses money provided through the program, e.g. buys alcohol, drugs or otherwise misspends money that was provided for a specific purpose, such as a permanent relocation.

**What are the time limitations for seeking assistance through the California Victim Compensation Program?**

Effective January 1, 2013, victims must establish eligibility for assistance within three year of the incident date. Late applications may be allowed under some restricted good cause guidelines. Once a victim establishes eligibility, the victim may request assistance at any time thereafter.

**Is temporary lodging and permanent relocation both available to a victim?**

Yes, a victim may request temporary lodging and assistance with permanent relocation. However, assistance provided for temporary lodging is included in the victim's maximum relocation benefit of \$2,000 per qualifying family or household member.

For additional information or to apply for assistance, contact:

SV FACES - Victim Witness Assistance Program:

777 North 1st Street, Suite 220

San Jose, CA 95112

Phone: (408) 295-2656 Fax: (408) 289-5430

[www.svfaces.or](http://www.svfaces.or)

## 18. 2014 Domestic Violence Law Enforcement Protocol: Training Comments

In addition to legislative and other changes included in the revised protocol, trainers are encouraged to discuss the following issues with members of their organizations.

**For a current copy of this Protocol, the Firearms Relinquishment Protocol and other DV related resources, visit <http://dvc.sccgov.org>**

**Victims' rights. On November 4, 2008, state voters approved Prop 9, the Victims' Bill of Rights Act of 2008: Marsy's Law. This measure amended the California Constitution**

**to provide additional rights to victims. This card contains specific sections of the Victims' Bill of Rights and resources for the victim. (See attached).**

**Law Enforcement Relocation Recommendation Form** –Trainers should provide multiple copies or place this form on an accessible computer system for officers and detectives to use. All previous copies should be shredded.

**Annual Training** - the Domestic Violence Council and its sub-committees, in partnership with the Santa Clara County Police Chief's Association and the District Attorney's office, will conduct a four (4) hour "Train the Trainer" course on the annual changes to this protocol in the spring of each year. In addition, topical and relevant training will supplement the training of the protocol.

**Lethality Assessment Tool** – As noted above, all agencies shall now use some form of lethality assessment in dealing with domestic violence cases. A model form is attached at the end of this protocol and additional copies can be obtained from the Los Gatos/Monte Sereno PD or SCCO Probation Department.

**Firearm relinquishment** - Law enforcement is authorized to request the immediate surrender of firearms when a person is served with a domestic violence protective order, rather than having to wait 24 hours for the person to self-surrender the firearms. See Firearms Relinquishment Protocol.

**Pets provision.** The law now allows a court, on a showing of good cause, to include in a DV protective order a grant to the petitioner (victim), the exclusive care, possession or control of any animal owned or kept by the victim and respondent (perpetrator). Also authorizes the court to order the respondent to stay away from or take, conceal, threaten or harm the animal protected.

**EPROs denied.** EPROs are occasionally denied by the reviewing magistrate. If the requesting officer or follow-up investigator still has concerns for the victim's safety, the District Attorney's Office should be notified. Considerations should be given to preparing a written affidavit or having further discussions with the magistrate.

**Children residing in or visiting the home.** List in the police report the names, ages and relationship of children who were present and/or residing in the home at the time the offense occurred or who were not present but reside in the home AND children who may not reside in the home but whose parents are involved in the domestic violence incident. This will prompt police records personnel to provide a copy of the report to CPS and will qualify the child for counseling and relocation reimbursement, if necessary.

Pursuant to PC 11106, police officers are authorized to disseminate to a domestic violence victim information from DOJ regarding the number and description of any firearms the



perpetrator has purchased or obtained. This information may be given about a person if he or she is being prosecuted, or is serving a sentence for, a domestic violence offense, or is the subject of an EPRO or TRO.

Civil Code 1941.5 requires a landlord to change the locks of a domestic violence, sexual assault, or stalking victim's dwelling unit upon written request of the victim and within 24 hours of the victim giving the landlord a copy of a restraining order or a police report (each written within the last 180 days) that names the tenant as a domestic violence, sexual assault, or stalking victim. Also requires the landlord to give the victim a key to the new locks. If the victim changes the locks he/she must also give the landlord a new key.

This section also applies when the restrained person is a tenant of the same dwelling unit (Civil Code 1941.6). The victim must give written notice to the landlord and a copy of the restraining order (written within the last 180 days) that excludes the restrained person from the tenant's dwelling unit.

A victim is permitted to change the locks if the landlord fails to do so, regardless of any provision in the lease to the contrary. 59





# 19. Santa Clara County Domestic Violence: Lethality Assessment for First Responders

## SANTA CLARA COUNTY DOMESTIC VIOLENCE LETHALITY ASSESSMENT FOR FIRST RESPONDERS

Date:	Case #:																								
Officer:	Agency:																								
Victim:	Offender:																								
Victim's Safe Numbers to Call: Home: Cell: Work:	Would you like to provide names/phone numbers of 2 people that can reach you? 1. 2.																								
Is the victim monolingual/limited English proficient? If yes, what language do they speak?																									
<input type="checkbox"/> Check here if the victim did not answer any of the questions.																									
<i>If the victim answers YES to any of questions 1-3, please call the appropriate domestic violence crisis hotline and have the counselor speak with the victim.</i>																									
1. Has your current or previous partner ever used a weapon against you or threatened you with a weapon?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
2. Have they threatened to kill you or someone else?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
3. Do you think your current or previous partner might try to kill you?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
<i>If the answers to the above questions are NO but at least 4 of the questions below are YES please contact the hotline.</i>																									
4. Do they have a gun or can they easily get one?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
5. Have they ever tried to choke/strangle you?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
6. Are they violently or constantly jealous or try to control most of your daily activities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
7. Have you left or separated from your partner after living together or being married?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
8. Are they unemployed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
9. Have they tried to commit suicide?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
10. Do you have a child that he knows is not his?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
11. Do they follow or spy on you or leave threatening messages?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No Answer																								
12. Is there anything else that worries you about your safety? If yes, what concerns do you have?																									
<i>Officers are encouraged to call the hotline whenever they believe the victim is in a potentially lethal situation regardless of the victim's responses to the questions above.</i>																									
Check one: <input type="checkbox"/> Victim screened in based on responses <input type="checkbox"/> Victim did not screen in <input type="checkbox"/> Victim screened in based on the belief of officer																									
Did the victim speak with the hotline counselor? <input type="checkbox"/> Yes <input type="checkbox"/> No																									
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PLEASE FAX THIS DOCUMENT TO THE APPROPRIATE DOMESTIC VIOLENCE AGENCY																									



### Purpose of the Lethality Assessment:

This evidence based Lethality Assessment form is a user-friendly, straightforward instrument that predicts danger and lethality in domestic incidents between intimate or former intimate partners to a high degree. Research shows that **only 4% of intimate partner murder victims ever used domestic violence services**. This Assessment encourages victims in high danger to seek domestic violence program services to prevent serious injury or death.

Step 1 - Fill out the Assessment Form with the victim.

Step 2 - If any of the first three answers are yes, ask the victim to call the agency's local advocacy agency and ensure they make contact. You may need to dial the number for them if they are upset.

Step 3 - If they talk to someone, check the box that they spoke to a hotline counselor.

Step 4 - If they answer yes to one of the first three questions but do not want to speak to a hotline counselor right away, note the victim's safe phone numbers to call and fax the Lethality Assessment to the appropriate DV organization at the bottom of the form.

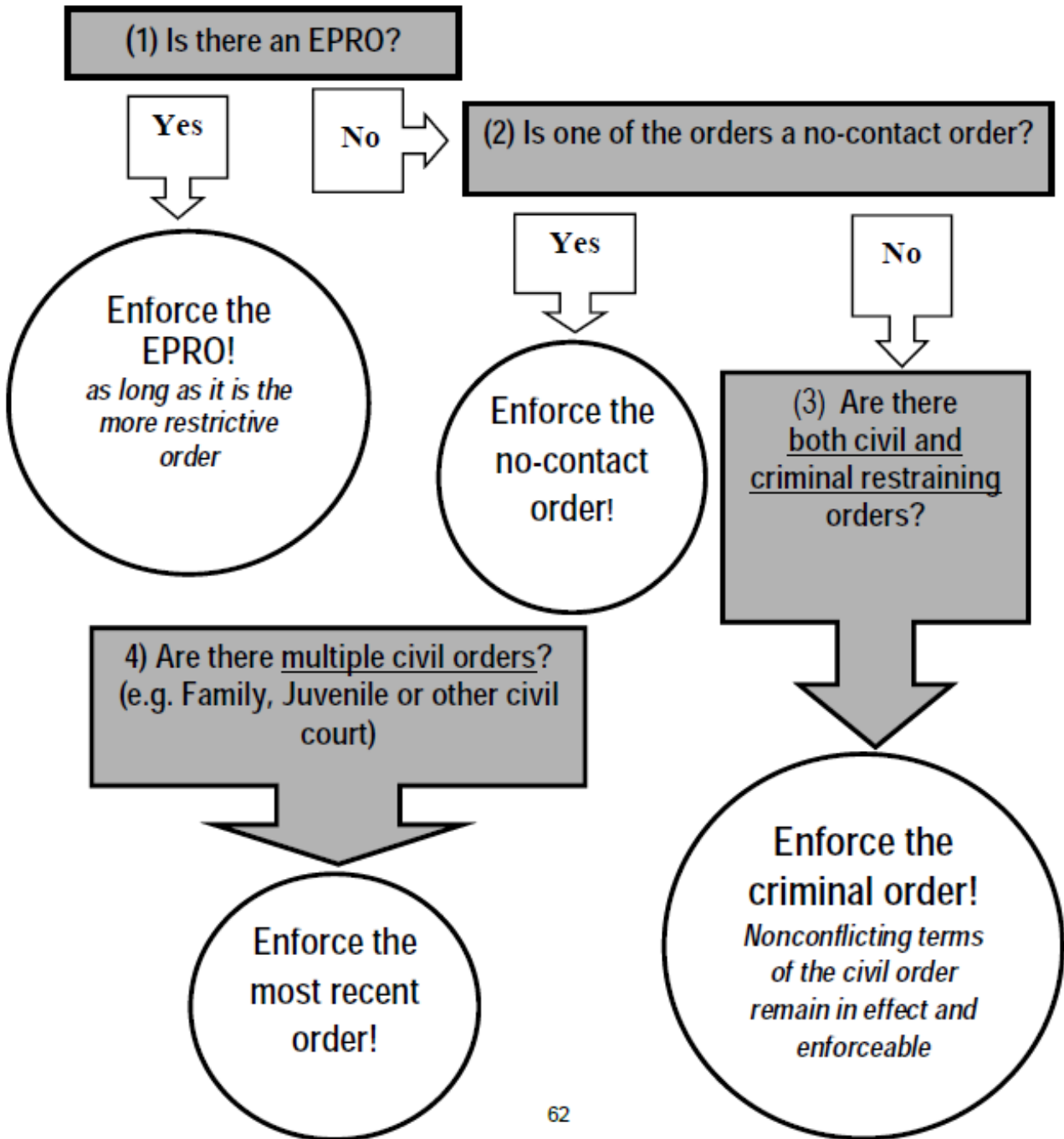
Step 5 - If the victim answers yes to the first three answers, or a significant number of follow up questions are yes, but they refuse to speak to a hotline counselor, advise the victim that in your opinion, he/she is in high danger for lethality and you highly encourage them to seek DV program services. Fax the Lethality Assessment to the appropriate DV organization at the bottom of the form.

Step 6 - Provide them with the DV resource card, case number and Marsy's card as per the DV protocol.

Step 7 - Please fax all Lethality Assessment forms to the appropriate DV organization listed on the bottom of the form regardless of the answers or whether or not the victim answered any of the questions.

## Conflicting Orders: What to Enforce When You Have Multiple Orders?

Penal Code § 136.2, and Family Code §§ 6383 (h), 6405 (b)



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EPO-001

ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

LAW ENFORCEMENT CASE NUMBER:

**EMERGENCY PROTECTIVE ORDER** (See reverse for important notices.)

1. **PROTECTED PERSONS** (insert names of all persons protected by this Order): \_\_\_\_\_

2. **RESTRAINED PERSON** (name): \_\_\_\_\_

Sex: ☐ M ☐ F Ht.: \_\_\_\_\_ Wt.: \_\_\_\_\_ Hair color: \_\_\_\_\_ Eye color: \_\_\_\_\_ Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of birth: \_\_\_\_\_

3. **TO THE RESTRAINED PERSON:**

a. ☐ **YOU MUST NOT** harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy any personal property of, disturb the peace of, keep under surveillance, or block the movements of each person named in item 1.

b. ☐ **YOU MUST NOT** contact, either directly or indirectly, by any means, including but not limited to by telephone, mail, e-mail or other electronic means, any person named in item 1.

c. ☐ **YOU MUST** ☐ stay away at least: \_\_\_\_\_ yards from each person named in item 1.  
☐ stay away at least: \_\_\_\_\_ yards from ☐ move out immediately from  
(address): \_\_\_\_\_

d. **YOU MUST NOT** own, possess, purchase, receive, or attempt to purchase or receive any firearm or ammunition. If you have any firearms, you must turn them in to a law enforcement agency or sell them to, or store them with, a licensed gun dealer.

e. **YOU MUST NOT** take any action, directly or through others, to obtain the addresses or locations of any person named in item 1.

4. ☐ (Name): \_\_\_\_\_ is given temporary care and control of the following  
minor children of the parties (names and ages): \_\_\_\_\_

5. **THIS ORDER WILL EXPIRE AT THE CLOSE OF THE COURT BUSINESS DAY ON:** \_\_\_\_\_

6. **TO THE PROTECTED PERSON:** If you need protection for a longer period of time, you must request restraining orders from the court in the county where you live:  
(Name and address of court): \_\_\_\_\_  
If you go to court to request restraining orders, take your copy of this form with you. If a juvenile petition is pending, file in that court.

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer (name): \_\_\_\_\_ granted this Order on (date): \_\_\_\_\_ at (time): \_\_\_\_\_

**APPLICATION**

9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are (give facts and dates; specify weapons): \_\_\_\_\_

10. ☐ Firearms were: ☐ observed ☐ reported ☐ searched for ☐ seized

11. ☐ The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 3c.

12. ☐ The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 9. A custody order ☐ does ☐ does not exist.

By: \_\_\_\_\_  
(PRENT NAME OF LAW ENFORCEMENT OFFICER) (SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: \_\_\_\_\_ Telephone No.: \_\_\_\_\_ Badge No.: \_\_\_\_\_

**PROOF OF SERVICE**

13. Person served (name): \_\_\_\_\_

14. I personally delivered copies of this Order to the person served as follows: Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Address: \_\_\_\_\_

15. At the time of service, I was at least 18 years of age and not a party to this cause. ☐ I am a California law enforcement officer.

16. My name, address, and telephone number are (this does not have to be server's home telephone number or address): \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_  
(TYPE OR PRINT NAME OF SERVER) (SIGNATURE OF SERVER)

Form Adopted for Mandatory Use  
Judicial Council of California  
EPO-001 (Rev. January 1, 2014)  
Approved by DOJ

**EMERGENCY PROTECTIVE ORDER (CLETS-EPO)**  
(Domestic Violence, Child Abuse, Elder or Dependent Adult Abuse, or Stalking)

Family Code, §§ 6240-6275;  
Penal Code, § 2645.91  
www.courts.ca.gov



**EMERGENCY PROTECTIVE ORDER  
WARNINGS AND INFORMATION**

EPO-001

**TO THE RESTRAINED PERSON:** VIOLATION OF THIS ORDER IS A MISDEMEANOR PUNISHABLE BY A \$1,000 FINE, ONE YEAR IN JAIL, OR BOTH, OR IT MAY BE PUNISHABLE AS A FELONY. THIS PROTECTIVE ORDER SHALL BE ENFORCED BY ALL LAW ENFORCEMENT OFFICERS IN THE STATE OF CALIFORNIA WHO ARE AWARE OF OR SHOWN A COPY OF THE ORDER. THE TERMS AND CONDITIONS OF THIS ORDER REMAIN ENFORCEABLE REGARDLESS OF THE ACTS OF THE PARTIES; IT MAY BE CHANGED ONLY BY ORDER OF THE COURT (PENAL CODE SECTION 13710(b)).

**YOU ARE PROHIBITED FROM OWNING, POSSESSING, PURCHASING, RECEIVING, OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM OR AMMUNITION. (PENAL CODE SECTIONS 29825(a), 30305(a).) A VIOLATION IS SUBJECT TO A \$1,000 FINE AND IMPRISONMENT OR BOTH. WITHIN 24 HOURS OF RECEIPT OF THIS ORDER, YOU MUST TURN IN YOUR FIREARMS TO A LAW ENFORCEMENT AGENCY, SELL THEM TO A LICENSED FIREARMS DEALER, OR STORE THEM WITH A LICENSED FIREARMS DEALER UNTIL THE EXPIRATION OF THIS ORDER. (PENAL CODE SECTION 29830.) PROOF OF SURRENDER, SALE, OR STORAGE MUST BE FILED WITH THE COURT WITHIN 48 HOURS OF RECEIPT OF THIS ORDER.**

**To the restrained person:** This order will last until the date and time in item 5 on the reverse. The protected person may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney on any matter connected with this order. The attorney should be consulted promptly so that the attorney may assist you in responding to the order.

**A la persona bajo restricción judicial:** Esta orden durará hasta la fecha y hora indicada en el punto 5 al dorso. La persona protegida puede, sin embargo, obtener una orden de entredicho (restricción judicial) más permanente de la corte. Usted puede consultar a un abogado en conexión con cualquier asunto relacionado con esta orden. Debe consultar al abogado inmediatamente para que él o ella le pueda ayudar a responder a la orden.

**To the protected person:** This order will last only until the date and time noted in item 5 on the reverse. If you wish to seek continuing protection, you will have to apply for an order from the court at the address in item 6. You may apply for a protective order free of charge. In the case of an endangered child, you may also apply for a more permanent order at the address in item 6, or if there is a juvenile dependency action pending, you may apply for a more permanent order under section 213.5 of the Welfare and Institutions Code. In the case of a child being abducted, you may apply for a *Child Custody and Visitation Order* from the court. You may seek the advice of an attorney on any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application. You do not have to have an attorney to get the protective order.

**A la persona protegida:** Esta orden durará sólo hasta la fecha y hora indicada en el punto 5 al dorso. Si usted desea que la protección continúe, tendrá que solicitar una orden de la corte en la dirección indicada en el punto 6. La solicitud de la orden de protección es gratis. En el caso de que un niño o una niña se encuentre en peligro, puede solicitar una orden más permanente en la dirección indicada en el punto 6, o si hay una acción legal pendiente de tutela juvenil, puede solicitar una orden más permanente conforme a la sección 213.5 del código titulado en inglés *Welfare and Institutions Code*. En el caso del secuestro de un niño o una niña, usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*). Puede consultar a un abogado en conexión con cualquier asunto relacionado con las solicitudes de órdenes de la corte que usted presente en el futuro. Debe consultar un abogado inmediatamente para que él o ella le pueda ayudar a presentar su solicitud. Para obtener la orden de protección no es necesario que un abogado le represente.

**To law enforcement:** The emergency protective order shall be served upon the restrained party by the officer, if the restrained party can reasonably be located, and a copy shall be given to the protected party. A copy shall be filed with the court as soon as practicable after issuance. Also, the officer shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse. A law enforcement officer shall use every reasonable means to enforce an emergency protective order. A law enforcement officer who acts in good faith to enforce an emergency protective order shall not be held civilly or criminally liable.

**If a child is in danger of being abducted:** This order will last only until the date and time noted in item 5 on the reverse. You may apply for a child custody order from the court.

**En el caso de peligro de secuestro de un niño o de una niña:** Esta orden será válida sólo hasta la hora y fecha indicada en el punto 5 al dorso. Usted puede solicitar de la corte una orden para la guarda del niño o de la niña (*Child Custody and Visitation Order*).

*This emergency protective order is effective when made. This order shall expire on the date and time specified in item 5 on the reverse. The provisions of this emergency protective order take precedence in enforcement over provisions of other existing protective orders between the same protected and restrained persons to the extent the provisions of this order are more restrictive. In other words, the provisions in this emergency protective order take precedence over the provisions in any other protective order, including a criminal protective order, if (1) the person to be protected is already protected by the other protective order, (2) the person to be restrained is subject to that other order, and (3) the provisions in this emergency order are more restrictive than the provisions in that other order. The provisions in another existing protective order remain in effect and take precedence if they are more restrictive than the provisions in this emergency protective order.*

EPO-001 [Rev. January 1, 2014]

**EMERGENCY PROTECTIVE ORDER (CLETS-EPO)**  
(Domestic Violence, Child Abuse, Elder or Dependent Adult Abuse, or Stalking)

Page 2 of 2



## 20. California Secretary Of State Safe At Home Program

**Safe at Home** is California's address confidentiality program administered by the California Secretary of State's office. The program, which provides a free post office box and mail forwarding service, is designed to help victims and survivors of domestic violence, stalking or sexual assault to start new lives in peace and to provide added protections to their overall safety plans.

**Safe at Home is not** a Witness Protection Program, nor does it provide relocation, counseling or legal services. Safe at Home laws apply to state and local government agencies, but not to private entities or to the federal government. Participants are not automatically qualified for other victim services programs; they must meet specific qualifications in order to be eligible for services administered by the Secretary of State's office, county Registrar of Voters offices, the California Superior Court System, and the California Department of Motor Vehicles.

### Available Services

#### **Agent for Service of Process**

The Secretary of State acts as your agent for service of process to protect your address information from being disclosed to the other party in your court case. When you enroll, Safe at Home instructs the other party and his or her attorney to serve court-related correspondence on the Secretary of State's office in Sacramento. The service is then forwarded by certified mail to your confidential address. (per Government Code §6206(a)(5))

#### **Confidentiality for Children**

If your children are enrolled, Safe at Home can provide an additional layer of protection for them, too. You can notify your enrolled child's school of your family's participation in Safe at Home and prevent sharing of information about your child. (per Government Code §6206(a))

#### **Confidential Mail-Forwarding**

First-class mail is securely handled and forwarded to your confidential home or mailing address. Residence address information is required to be current at all times and you must be domiciled in California in order to enroll or renew your enrollment in the program. (per Government Code §6206(a))



## **Confidential Name Change**

You may be eligible to petition a California court for a confidential name change. It is important to talk with a legal advisor before proceeding with a confidential name change. Safe at Home is responsible for filing the name change documents with the Secretary of State's office, but does not provide legal advice or assistance with completing the confidential name change process. (per Government Code §6206.4, Code of Civil Procedure §1277)

## **Confidential Voter Registration**

You may be eligible to complete a confidential voter registration card and become a confidential voter. As a confidential voter, you can vote by mail and protect your voter registration information from campaigns, the media, and the general public. (per Government Code §6207.5, Elections Code §2166.5)

## **Department of Motor Vehicles (DMV) Records Suppression**

The California Department of Motor Vehicles can suppress your driver license and vehicle registration records if you have a clean driving record and no criminal history. Suppression of these records protects your address information from being available on various state databases. A specific request to the DMV Confidential Records Unit is required in order to access the records. (per Government Code §6207(e), Vehicle Code §1808.21(d))

## **Internet Disclosure Prohibition**

The California Office of the Attorney General, Privacy Enforcement and Protection offers an online opt-out form Safe at Home participants can use to remove their home address, telephone number or personal identifying information from a website. The law also prohibits a person, business, or association from knowingly and intentionally posting or displaying on the Internet, or soliciting, selling, or trading on the Internet a participant's home address, telephone number or personal identifying information and imposes a fine for violations of this law. (per Government Code §6208.1 and 6208.2)

## 21. Other Orders

### FM-1102 Other Orders – Property Removal

Case Number: \_\_\_\_\_

This form is attached to: ☐ DV-110/130 ☐ CH-110/130 ☐ EA-110/130 ☐ JV-250/255

1. Protected Person's name: \_\_\_\_\_
2. Restrained Person's name: \_\_\_\_\_
3. **Taking personal items of property:** As a one-time exception to the "Personal Conduct" and "Stay-Away" orders attached to this form, the ☐ Restrained Person ☐ Protected Person:
  - a. ☐ May take agreed upon items of property from the ☐ Protected Person's ☐ Restrained Person's home. Items that the parties do not agree upon must not be taken unless the Court makes an order allowing the items to be removed. The agreed upon items of property may be taken between (date) \_\_\_\_\_ and (date) \_\_\_\_\_ between (times) \_\_\_\_\_ and \_\_\_\_\_.
  - b. ☐ May only take items of property that are described in item 7. The items may be taken between (date) \_\_\_\_\_ and (date) \_\_\_\_\_ between (times) \_\_\_\_\_ and \_\_\_\_\_.
  - c. ☐ Must send a written list of personal property items which are being requested to the other party by mail \_\_\_\_\_ calendar days in advance of the removal date and items which are agreed upon must be removed as set forth above in section 3a. The mailing of this list by the Restrained Person (if applicable) is an exception to the No Contact Orders.
  - d. ☐ Must place the other party's personal belongings as listed in item 7 in a box or boxes for pick up by/delivery to the other party or his/her designated representative. The terms of pick up/delivery must be as follows:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - e. ☐ Must contact Law Enforcement to request the Civil Standby. The exact date and time must be approved by Law Enforcement in advance of any property removal. Removal must not occur before 7 a.m. or after 10 p.m. If the Civil Standby does not take place due to scheduling issues or if Law Enforcement is unavailable or unwilling to be present for the Civil Standby either party may request a hearing for further orders.
4. **Civil Standby:** A "Civil Standby" is when a Law Enforcement Officer comes to a place to make sure that the situation there is peaceful. The party who is removing his/her personal items must give a copy of these Property Removal Orders to the Law Enforcement Officer. Both parties must obey the instructions of the Law Enforcement Officer present at the Civil Standby. A Civil Standby may last up to thirty minutes but may be stopped at any time by the Law Enforcement Officer.
5. ☐ **Peaceful Communication:** The parties may communicate peacefully with each other regarding the property removal while the items of property are being removed as an exception to the attached Personal Conduct orders. Any Law Enforcement Officer present while the items of property are being removed has the authority to stop all communication. Such communication, if peaceful, is an exception to any No Contact Orders.
6. **Others present at property removal:**
  - a. ☐ Minor children shall not be present during property removal.
  - b. ☐ The property removal shall not take place \_\_\_\_\_ (name of party) or his/her designated representative is not present.
  - c. ☐ Each party may have up to two other people who are not listed as protected people on this Restraining Order present while the items of property are being removed. Any contact between the parties and these people must be peaceful.
  - d. ☐ The parties may not have others present when the items of property are removed.
  - e. ☐ The following people ☐ may be ☐ may not be present when the items of property are removed:  
\_\_\_\_\_





7. **Other Orders:**

- a. The orders herein are for temporary possession and the issue of final ownership of any item may be subject to review by a Court of competent jurisdiction.
- b. Items to be removed:
  - (1) ☐ **Necessary Personal Property**, which means clothing, toiletries, prescribed medication, medical records, medical insurance card, driver's license or State identification cards;
  - (2) ☐ **List of items to be removed:**
    - ☐ **See Attachment**

