



# SACRAMENTO POLICE DEPARTMENT GENERAL ORDERS



## 533.04 DOMESTIC VIOLENCE 06-21-22

### PURPOSE

The purpose of this order is to provide guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. This policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide peace officers in the investigation of domestic violence.

### POLICY

The Sacramento Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' access to appropriate community resources whenever feasible.

### A. DEFINITIONS

1. **Court Order-** All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.
2. **Domestic Violence-** Abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child, or is having, or has had a dating or engagement relationship (Penal Code 13700). Other Penal Code sections applicable to domestic violence include, but are not limited to, the following: 273.5, 245(a), 646.9, 422, 273.6, 243(e), 242, 207, 236, 262, 591, 166(c)1, and 12028.5.
3. **Spousal Abuse-** Corporal injury resulting in a traumatic condition willfully inflicted upon a spouse, cohabitant, mother or father of a child, a fiancé, fiancée or person with whom the defendant currently has or previously had a dating relationship (Penal Code 273.5.).
  - (a) Traumatic condition - an external or internal injury that can either be minor or major.
  - (b) Juveniles and same sex couples who have relationships listed above (Spousal Abuse) may be victims of spousal abuse.

### B. INVESTIGATIONS

1. The following guidelines shall be followed by peace officers when investigating domestic violence cases:
  - (a) Calls of reported, threatened, imminent or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
  - (b) When practicable, peace officers shall obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence. Peace officers shall make every effort to ensure citizens feel comfortable in making a report of domestic violence and shall take no action that dissuades a citizen from making a report of domestic violence.
  - (c) Peace officers shall list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
  - (d) When practicable and legally permitted, record all statements and observations.



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- (e) All injuries should be photographed in the field by a Crime Scene Investigator (CSI), regardless of severity, taking care to preserve the victim's personal privacy. If a CSI is not available, the district sergeant shall photograph the injuries. Victims whose injuries are not visible at the time of the incident should be asked to request a follow up call in the event that the injuries become visible at a later time.
- (f) Peace officers shall attempt to capture injuries on body worn camera if the victim refuses photographs of injuries.
- (g) Peace officers shall request that the victim complete and sign an authorization for release of medical records related to the incident when applicable. If the victim refuses to sign the authorization, peace officers should attempt to capture the refusal on a body worn camera.
- (h) If the suspect is no longer at the scene, peace officers shall make reasonable efforts to locate the suspect to further the investigation and provide the suspect with an opportunity to make a statement.
- (i) Peace officers shall seize any firearms or other deadly weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats to human life, or a physical assault, any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).
- (j) When completing an incident or arrest report for violation of a court order, peace officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated.
- (k) Peace officers shall, in all misdemeanor and felony cases complete the Victim Confidentiality Form (SPD 273).
- (l) Peace officers shall take appropriate enforcement action when there is probable cause to believe an offense has occurred regardless of the following factors:
  - 1) A request by the victim not to arrest the suspect
  - 2) Location of where the incident occurred
  - 3) Speculation that the complainant may not follow through with the prosecution
  - 4) Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or marital status of the victim or suspect
  - 5) Repeated domestic violence incidents between the suspect and the victim
  - 6) The victim recanting their statement and/or not cooperating with the Investigation.

### C. VICTIM ASSISTANCE

- 1. Victims may be traumatized or confused. Peace officers should:
  - (a) Recognize that a victim's behavior and actions may be affected.
  - (b) Provide the victim with the department's domestic violence/sexual assault resource Information (SPD 957) and Marsy's card even if the incident may not rise to the level of a crime.
  - (c) Alert the victim to any available victim advocates, shelters and community resources.
  - (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
  - (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain pursuant to Medical Aid and Response policy.
  - (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists. **Locations of alternate shelters are considered**



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***confidential information and shall not be included in police reports or voiced on the radio.***

- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Inform the victim(s) of services provided by the Sacramento Regional Family Justice Center (SRFJC).
  - 1) During business hours, peace officers shall call the SRFJC to inform them prior to transport. The officer may advise the victim to call and/or to self-transport. SRFJC staff can assist with transportation services if needed.
- (i) Seek or assist the victim in obtaining an emergency order if appropriate.
  - 1) Emergency Protective Orders (EPO) shall be obtained when, in the judgment of peace officers, a person is in immediate and present danger of domestic violence by a family/household member based on the person's allegation of a recent incident of abuse or threat of abuse by that family/household member.

## **D. DISPATCH ASSISTANCE**

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable in accordance with the Dispatch Sequence of Assignments (GO 510.04).

## **E. FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by peace officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

## **F. VERIFICATION OF COURT ORDERS**

1. Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, peace officers should carefully review the actual order when available, and where appropriate and practicable:
  - (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
    - 1) If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).
  - (b) Check available records or databases that may show the status or conditions of the order.
    - 1) Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).
  - (c) Verify the validity of the order with the appropriate law enforcement agency.



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- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).
- (f) Peace officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Peace officers should contact a supervisor for clarification when needed.

## G. LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

### STANDARDS FOR ARRESTS

1. Peace officers investigating a domestic violence report should consider the following:
  - (a) An arrest shall be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701.) Any decision to not arrest a suspect when there is probable cause to do so requires supervisor approval.
  - (b) Peace officers responding to a domestic violence call who cannot make an arrest should advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect. Peace officers shall not dissuade victims from making a lawful private person's arrest. Peace officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
  - (c) Peace officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)) unless approved by a supervisor:
    - 1) Penal Code § 243(e)(1) (battery against spouse, cohabitant)
    - 2) Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
    - 3) Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
    - 4) Penal Code § 646.9 (stalking)
    - 5) Penal Code § 166(c)1 (criminal protective order)
    - 6) Other serious or violent felonies specified in Penal Code § 1270.1
  - (d) In responding to domestic violence incidents, including mutual protective order violations, Peace officers should generally be reluctant to make dual arrests. Peace officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, a peace officer shall consider:
    - 1) The intent of the law to protect victims of domestic violence from continuing abuse.
    - 2) The threats creating fear of physical injury.
    - 3) The history of domestic violence between the persons involved.
    - 4) Whether either person acted in self-defense.



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- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 836, 13701), regardless of whether the offense was committed in the officer's presence.

## H. COURT ORDERS

1. An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located and shall provide a copy to the protected person.
2. The officer shall submit a copy of the order to the Records Division. The Records Division will in turn file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91)
3. At the request of the petitioner, a peace officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).
4. Any officer serving a protective order (**e.g. Domestic Violence Restraining Order (DVRO)**) shall ask the respondent if they possess weapons or ammunition and shall request that the firearm/ammunition be immediately surrendered. {Family Code § 6389}
  - (a) If the individual is served by someone other than a law enforcement officer, the individual shall relinquish their firearms within 24 hours of the service. The individual being served shall relinquish their firearms by either surrendering the firearm in a safe manner to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer. {Family Code § 6389(c)(2)}
5. Any officer serving a temporary restraining order (**e.g. Emergency Protective Order (EPO)**) shall ask the respondent if they possess weapons and advise them the court has ordered the person to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control, within 24 hours of being served with the order, either by surrendering the firearm to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer (Code of Civil procedure 527.9).
6. Any officer serving a **Gun Violence Restraining Order (GVRO)** shall ask the respondent if they possess weapons or ammunition or magazines and shall request that the firearm/ammunition/magazines be immediately surrendered.
  - (a) If an individual is served by someone other than a law enforcement officer, they must surrender any firearms, ammunition, or magazines in a safe manner to their local law enforcement agency or sell them to or store them with a licensed gun dealer within 24 hours of being served with this order. They must file a receipt proving surrender, sale, or storage with the Court within 48 hours, or if the court is closed, then on the next business day after the firearms, ammunition, or magazines are surrendered or sold. {Pen. Code, § 18120, subd. (b)(2)}
7. During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
8. If a valid foreign order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide him/her with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action. (Family Code § 6452)



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## I. REPORTS AND RECORDS

1. A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
  - (a) Document if the victim was strangled.
  - (b) Document previous or unreported domestic violence.
2. Reporting peace officers shall provide the victim with the case number of the report.
3. Peace officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt and notice of where the weapon may be recovered, along with any known applicable time limit for recovery (Penal Code § 18250; Penal Code § 33800; Family Code § 6389(c)(2)).

## II. RECORD-KEEPING AND DATA COLLECTION

This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation. (Penal Code § 13730.) This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Division to maintain and report this information as required.

1. To facilitate the collection of data, the Records Division shall:
  - (a) Compile the above information.
  - (b) Prepare the report required for the Bureau of Crime Statistics.
  - (c) Forward the report to the Bureau of Criminal Statistics with the Department's monthly crime statistics.

## K. DECLARATION IN SUPPORT OF BAIL INCREASE

Any officer who makes a warrantless arrest for a violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the officer shall prepare a declaration in support of increased bail. (Penal Code § 1269c.)