



POLICY/PROCEDURE NUMBER: 08-S.O.-014

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SUBJECT: DOMESTIC VIOLENCE

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IACLEA STANDARD: N/A

CSU POLICE DEPARTMENTS SYSTEMWIDE OPERATIONAL GUIDELINE – YES

APPROVED: Anne P. Glavin, Chief of Police

I. PURPOSE

This guideline is to provide direction to members of the California State University, Northridge Police Department in order to prevent and intervene in incidents of domestic violence.

II. DEFINITIONS

- A. Domestic Violence - abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child, or is having or has had a dating or engagement relationship.
- B. Abuse - intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension or imminent serious bodily injury to himself, herself or another.
- C. Cohabitant - two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may assist in determining 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.

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

III. ENFORCEMENT OF LAWS

- A. California Domestic Violence legislation encourages the creation of department policies that promote arrest where there is reasonable cause or probable cause that a domestic violence offense has been committed [PC 13701].
- B. The following factors should not be used to avoid making an arrest:
1. Marital status or domestic relationship of suspect and victim;
 2. Sexual preference or orientation of the parties;
 3. Non-visible injuries;
 4. Complainant's emotional state;
 5. Verbal assurances that violence will cease;
 6. Occupation, community status and/or potential financial consequences of the arrest;
 7. Complainant's history of prior complaints;
 8. Location of the incident (public or private);
 9. Speculation that complainant may not follow through with the prosecution;
 10. Speculation that the case may not result in conviction;
 11. Assumptions that violence is more acceptable in certain cultures;
 12. Language abilities or barriers and/or immigration status;
 13. Complainants preference that an arrest be made, or not be made;
 14. Existence or lack of restraining/protective orders.
- C. Dual Arrests – Dual arrests are discouraged but not prohibited. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. [PC 13701 (b)]
1. In identifying the dominant or primary aggressor, the officer shall consider [Penal Code Section 836(e) (3)]:
 - a. The intent of the law to protect victims of domestic violence from continuing abuse.
 - b. The source and nature of the threats creating fear of physical injury.
 - c. The history of domestic violence between the persons involved.
 - d. Whether either person involved acted in self-defense.
 2. The same considerations shall apply in situations where mutual protective orders have been issued. [Penal Code Section 836(c) (3)]
- D. Felony Arrests – Officers should make an arrest when there is probable cause that a felony has been committed. Considerations specific to domestic violence include:
1. A covered relationship existing between the parties; and
 2. Corporal injury inflicted resulting in traumatic injury.

E. Misdemeanor Arrests

1. An arrest shall be made when there is probable cause to believe that a misdemeanor (including violations and court orders) has occurred in the officer's presence.

2. If a suspect commits an assault or battery upon:

A current or former spouse, fiancé, fiancée, a current or former cohabitant, a person with whom the suspect currently is having or has previously had an engagement or dating relationship, a person with whom the suspect has parented a child, or is presumed to have parented a child, a child of a person in one of the above categories, any other person related to the suspect by consanguinity or affinity within the second degree, or any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship;

An officer may arrest the suspect without a warrant when the officer has probable cause to believe that the person to be arrested has committed the assault or battery and when the officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery. [Penal Code Section 836(d)]

3. Arrests shall be made when there is probable cause to believe that a protective order has been violated. [Penal Code Section 13701]
4. In any case in which a person is arrested for a misdemeanor violation of a protective court order involving domestic violence, the person shall be taken before a magistrate instead of being released on a citation, unless the arresting officer determines there is not a reasonable likelihood that the offense will continue or resume or that the safety of the persons or property would be imminently endangered by the release of the person arrested. [Penal Code Section 853.6]
5. Officers considering releasing the suspect on a citation shall evaluate the likelihood of a continuing offense, which is one of the statutory conditions under which a field release is not appropriate. Any one of the following may support the likelihood of a continuing offense:
 - a. The suspect has a prior history of arrests or citations involving domestic violence.
 - b. The suspect is violating a criminal court issued stay-away order.
 - c. The suspect has previously violated, or is currently violating, a valid restraining/protective order.
 - d. The suspect has a prior history of other assaultive behavior (e.g., arrest convictions for battery or aggravated assaults).
 - e. The victim expresses fear of retaliation or further violence should the suspect be released.
 - f. Information about the suspect's alcohol or drug abuse, access to weapons, suicide threats or attempts, threats of kidnapping family members, or history of mental illness.

F. Private Person's Arrest

1. Any time an officer is called to a domestic violence incident and cannot make an arrest, the officer shall inform the victim of the right to make a private person's arrest, as well as how to safely execute the making of the arrest. [PC 836 (b)]
2. Officers shall not attempt to dissuade the victim from the decision to make a citizen's/private person's arrest.
3. Officers who refuse to accept citizens' arrests are in violation of state law pursuant to Penal Code Section 142. However, Penal Code Section 847(b) stipulates that there is no civil liability on the part of, and no cause of action shall arise against, any peace officer or federal criminal investigator or law enforcement officer acting within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest.
4. There is no civil liability for false arrest or false imprisonment for a citizen's arrest when the arrest was lawful or the officer had reasonable cause to believe the arrest was lawful, the arrest was based upon reasonable cause to believe that a felony was committed, or the arrest was made pursuant to PC 142, 837, 838, or 839.

IV. RESTRAINING/PROTECTIVE ORDERS

- A. Emergency protective orders are obtained by the victim from various departments within the civil court.
- B. Restraining orders are obtained by the victim from various departments within the civil court.
- C. Criminal Protective/Stay Away Orders are issued by the criminal court.
- D. Maintaining Restraining Orders
 1. All restraining orders shall be maintained in a systematic fashion with documentation of proof of service that is readily available to officers in the field. When restraining orders are received by this department, the watch supervisor is responsible for the following:
 - a. Sending a RIMS message to all police and dispatch personnel alerting them to a new restraining order (ensure terms of Section V. A. page 7 of this guideline are followed prior to sending the RIMS message). The RIMS message read receipt box (which states: "Have acknowledgement returned when message is viewed.") shall be checked to allow for the confirmation that all personnel have viewed the message.
 - b. Forwarding the restraining order to the Records Administrator and a Detective Sergeant, Investigations Unit.
 2. When this Department assists members of the community with restraining orders, a Detective Sergeant within the Investigations Unit will be responsible for

ensuring that the patrol division/dispatchers and Records Unit have the order information and that it is entered into the RIMS system.

3. The Records Administrator is responsible for ensuring that all restraining orders generated by or received by this department are immediately entered into the RIMS system and hardcopy filed in the appropriate Records Unit file. The Detective Sergeant of the Special Sensitive Crimes Unit is responsible for overseeing these files and ensuring they are up to date.
4. The orders shall be maintained so that all law enforcement officers can readily ascertain the terms and effective dates via the RIMS system or, if this system is down, through CLETS.
5. All three orders are enforceable in any county regardless of where issued. (Family Code Section 6381).
6. If there are multiple, inconsistent orders, criminal restraining orders take precedence over civil restraining orders. If both orders are the same type, the most recently issued takes precedence.
7. These orders remain valid regardless of the actions of the protective person. For example, even if the protected person lets the restrained person back in the residence. [Penal Code Section 13711(c)].
8. When victims are not in possession of the order and officers cannot verify that they exist, officers shall write a report and provide victims with the number and direct them to appropriate follow up contacts.
9. If the suspect has fled the scene, all due diligence will be expended to locate the suspect. If the suspect is not located officers shall write a report regarding the incident.
10. Officers shall enforce any workplace restraining orders obtained by an employer to protect an employee who may be subject to violence as a result of domestic violence or harassment .[CCP 527.8]

V. REQUEST EMERGENCY PROTECTIVE ORDERS WHEN APPROPRIATE

- A. An officer may request an ex parte emergency protective order from an on-call judge when the officer has reasonable grounds to believe:
 1. That a person is in immediate and present danger of domestic violence based on the person's allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought.
 2. That a child is in immediate and present danger of abuse by a family or household member based on an allegation of a recent incident of abuse or threat of abuse by the family or household member.

3. That a child is in immediate and present danger of being abducted by a parent or relative based on a reasonable belief that a person has an intent to abduct the child or flee with the child from the jurisdiction or based on an allegation of a recent threat to abduct the child or flee with the child from the jurisdiction.
 4. That an elder or dependent adult is in immediate and present danger of abuse as defined in Section 15610.07 of the Welfare and Institutions Code based on an allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought, except that no emergency protective order shall be issued based solely on an allegation of financial abuse. [Family Code Section 6250]
- B. The officer may request an emergency protective order whether or not the suspect is present or has been arrested.
 - C. The following are examples of situations in which requesting an emergency protective order may be appropriate:
 1. The suspect is being arrested for a charge related to a domestic violence incident.
 2. The suspect has a history of domestic violence.
 3. The victim expresses fear of retaliation or further violence.
 4. Threats of serious danger have been made to the victim or to the victim's family.
 - D. The officer shall contact the judge, commissioner, or referee designated to be on call to issue emergency protective orders by telephone or otherwise and assert grounds for the belief that the order is appropriate.
 - E. Upon oral issuance of the order by the on-call judge, the officer requesting the order shall reduce it to writing using the Judicial Council form provided and sign the order. [Family Code Section 6270]
 - F. The officer shall serve a copy of the emergency protective order on the restrained party if the restrained person can reasonably be located. [Family Code Section 6271(a)]
 - G. The officer shall give a copy of the emergency order to the protected party or if the protected person is a minor, to a parent or guardian of the endangered minor who is not a restrained person, if the parent or guardian can reasonably be located, or to a person having temporary custody of the endangered minor. [Family Code Section 6271(b)]
- VI. VERIFY AND ENFORCE RESTRAINING ORDERS AND CRIMINAL COURT ISSUED STAY-AWAY ORDERS
- A. Verification of Restraining Orders – Whenever a complainant advises of the existence of a restraining order/protective order, the officer should ascertain:
 1. Whether a restraining order is on file with the department or whether complainant has a certified copy of restraining order in possession, or whether the order can be verified through the Department of Justice Domestic Violence Restraining Order System (DVROS). [Family Code Sections 6380, 6381, 6383]
 2. Whether a restraining order is still valid as to duration/time.

- a. If there is no expiration date on a civil protective order, the order is valid three years from the date of issuance with the exception of permanent orders issued pursuant to a divorce, which never expire. [Family Code Section 6345(c)]
 - b. An emergency protective order is valid for five court days after the date of issuance, but never longer than seven calendar days following the day of issuance. [Family Code Section 6256]
 - c. The duration of Criminal Protective/Stay Away varies with each order.
3. Whether the proof of service or prior notice exists or whether the suspect was in court when the order was made.
 4. The terms of the restraining order.

B. Arrest Criteria and Enforcement Procedures

1. A violation of a restraining order is a misdemeanor under Penal Code Section 273.6. An officer may make an arrest when there is reasonable cause to believe the subject of the restraining order has violated the order in the presence of the officer and any one of the following conditions are met:
 - a. The existence of the order and proof of service on the suspect has been verified by the officer.
 - b. The complainant produces a valid copy of the order bearing a file stamp of a court and a proof of service on the subject.
 - c. The existence of the order has been verified by the officer; no proof of service is required if the order reflects that the suspect was personally present in court when the order was made.
 - d. The existence of the order has been verified and there is proof that the suspect has previously been admonished by an officer.
2. When the officer verifies that a restraining order exists but cannot verify proof of service or prior knowledge of the order by the suspect, the officer should:
 - a. Inform the subject of the terms of the order.
 - b. Admonish the subject of the order and that the subject is now on notice and that violation of the order will result in arrest. If the subject continues to violate the order after being advised of the terms, an arrest should be made. Oral notification to the respondent of the terms of the order shall be sufficient notice for enforcement of Penal Code Sections 136.2, 273.6 and 12021.
 - c. If the suspect complies after admonishment of the terms, the officer shall make a retrievable report in RIMS pursuant to Penal Code Section 13730(c) showing the suspect was admonished/advised of the order, the specific terms of the order suspect was advised about, the name of the admonishing officer, time and date. The department's copy of the restraining order will be updated to reflect the admonishment information listed above. The notice of service shall immediately be transmitted to the California Department of Justice Domestic Violence Restraining Order System by the records unit administrator, or by a dispatcher in her/his absence.

3. In the event the suspect has left the scene of the incident, an investigation should be made to determine if a crime has been committed. Penal Code Sections 13730(c) and 13701 require that a retrievable report shall be made and the victim shall be advised of the follow-up criminal procedure and case number of the report.
- C. Orders Not Verifiable -When the victim is not in possession of the Temporary Restraining Order, Stay Away Order, and/or in cases of computer error, officers may not be able to confirm the order's validity.
1. Penal Code Sections 13730(c) and 13701(c)(8) require that officers shall write a report, give the victim the police report number and direct the victim to contact the appropriate department unit for follow up information.
 2. When an order is not verifiable officers should advise the victim of the right to make a private person's arrest for the appropriate violation.
- D. Verification of Stay-Away Orders
1. A stay-away order is issued in a criminal case where the probability of victim intimidation exists and violation of such is a misdemeanor under Penal Code Section 166(c)(1).
 2. In domestic violence incidents where a person advises an officer that a criminal protective/stay-away order has been issued, the officer should attempt to ascertain the terms and validity of the order.
 - a. Request that the victim show a copy of the order.
 - b. Verify, through the department, that the suspect is under the court's jurisdiction.
 - c. Verify, through the department, that a criminal protective/stay-away order has been issued against the suspect.
 - d. Verify through the California Department of Justice Domestic Violence Restraining Order System.

VII. REPORTING

In all cases of domestic violence, officers shall write a RIMS report that identifies the incident as a domestic violence incident. The report shall include at least the following information:

- A. A notation of whether the officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.
- B. A notation of whether there had been any previous response to the location by law enforcement for a domestic violence call.
- C. A notation of whether the officers who responded found it necessary for their protection, or the protection of others to inquire whether a firearm or other deadly weapon was present at the location and if the inquiry disclosed the presence of a firearm or other deadly weapon.

- D. When documenting the incident in RIMS, officers are to select the “domestic violence” category under the special circumstances drop down menu located on page 1 of the RIMS report.
- E. That information required of situations where there is a Title IX or VAWA relationship to the incident being investigated as proscribed within Department Policy #02-S.O.001 – Sexual Violence Response, Investigation, and Title IX.

VIII. TENANCY

- A. When a victim requests an officer to remove a person from the premises when no arrest is to be made and it can be shown the victim is in lawful possession of the premises and the person to be removed is not in lawful possession of the premises, the officer shall:
 1. Request that the person leave the premises and stand by for a reasonable amount of time while the person removes minimal personal belongings.
 2. If the suspect refuses to leave upon request, arrest the suspect under Penal Code Section 602.5.
 3. When appropriate, the officer may refer the complainant for a temporary restraining order or other appropriate civil remedy if the complainant requesting removal cannot show proof of lawful possession. “Lawful possession” of the premises is shown by a rental agreement, cancelled rent check, lease, grant deed, verification from landlord, court order, or other document showing person(s) to be removed.
- B. When a victim in a domestic violence incident requests police assistance in removing a reasonable amount of personal property to another location, officers shall stand by a reasonable amount of time until the victim has removed the personal property.

IX. VICTIM ASSISTANCE

- A. Assist in obtaining appropriate medical attention if a complainant sustains injury whether visible or not.
- B. 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.
- C. Assist victims in pursuing criminal options such as giving the victim the report number and directing the victim to the proper investigation unit. [Penal Code Section 13701(c) (8)]
- D. The Marsy’s Card and Resources pamphlet, the Los Angeles County District Attorney’s Office brochure “Domestic Violence-There is a Safe Way Out,” along with the California State University, Northridge Police Department brochure addendum (stapled to the DA brochure) shall be provided to the victim(s) at the scene. These printed materials contain, but is not limited to, information about:

1. A statement informing the victim that despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.
 2. Information about other services in the community, where available and how to contact them.
 3. Information about shelter services and how to contact them.
 4. Information about California's victim compensation program, a contact number: 1-800-777-9229, and a website address: www.victimcompensation.ca.gov.
 5. For additional victim/witness procedures, see department policy #06-C.I.-002: Victim and Witness Assistance.
- E. A statement informing the victim of domestic violence that he or she may ask the district attorney to file a criminal complaint.
- F. A statement informing the victim of the right to go to the superior court and file a petition requesting any of the following orders for relief:
- a. An order restraining the attacker from abusing the victim and other family members.
 - b. An order directing the attacker to leave the household.
 - c. An order preventing the attacker from entering the residence, school, business, or place of employment of the victim.
 - d. An order awarding the victim or the other parent custody of or visitation with minor children in the custody of the victim.
 - e. An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.
 - f. An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.
 - g. An order directing the defendant to make specified debit payments coming due while the order is in effect.
 - h. An order directing that either or both parties participate in counseling.
- G. Provide information and assist the victim in receiving that which is required of situations where there is a Title IX or VAWA relationship to the incident being investigated, as proscribed within Department Policy #02-S.O.001 – Sexual Violence Response, Investigation, and Title IX.
- H. In the case of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289, the California State University, Northridge Police Sexual Assault brochure shall be provided to the victim which contains, but is not limited to, information about:
- a. The names and locations of rape victim counseling centers within the county, including those specified in Penal Code Section 13837, and their 24-hour counseling service telephone number.
 - b. A simple statement on the proper procedures for a victim to follow after a sexual assault.

- c. A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.
- J. Inform the victim that their name, address, telephone number, and other contact information will remain confidential [GC 6254(f)].

X. SEIZURE OF FIREARMS

- A. A police officer who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, shall take temporary custody of a firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present pursuant to 12028.5.
- B. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a California State University, Northridge Police receipt for property taken into custody form (hard copies are located in the 1st floor hallway department forms boxes & electronic forms are available for print from the police server “p” under the data / forms file). The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon may be recovered, any applicable time limit for recovery, and the date after which the owner or possessor can recover the firearm or other deadly weapon.
- C. Pursuant to Penal Code Section 12021.3, any person who claims title to any firearm that is in the custody of any law enforcement agency and who wishes to have the firearm returned to him or her shall make application for a determination by the California Department of Justice as to whether he or she is eligible to possess a firearm.
 - 1. Prior to this department’s return of a firearm to its owner, the individual seeking the return of the firearm must complete and submit to the California Department of Justice a Law Enforcement Gun Release Application. The form will instruct the individual how to obtain a firearms eligibility clearance.
 - 2. Once the firearm eligibility check has been completed, both the individual and this department will be notified via U.S. Mail of the eligibility results. In the event that the eligibility check is approved, the individual must provide a copy of the California Department of Justice determination notice to this department prior to the firearm being released.

XI. OFFICER SAFETY

Officers should exercise reasonable care for the safety of officers and parties involved. No provision of this guideline shall supersede that responsibility.