
2001
UNIFORM MARIN COUNTY LAW ENFORCEMENT PROTOCOL
FOR THE HANDLING OF DOMESTIC VIOLENCE CASES

Adopted by
The Marin County Police Chiefs' Association
on January 11, 2001

- * This protocol is in accordance with Penal Code 13701.(a). Every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for officers' responses to domestic violence calls by January 1986.
- * This protocol is in accordance with Penal Code 13702. Every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for dispatchers' responses to domestic violence calls by July 1, 1991.

UPDATED JANUARY 1, 2001
(New policies in **bold**.)

* Endorsed January 11, 2001 by the Marin
Domestic Violence Coordinating Council

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POLICY STATEMENT

Law enforcement agencies of the County of Marin and all incorporated cities within Marin County will respond to acts of domestic violence as a crime, regardless of the relationship of the parties.

The official response to cases of domestic violence shall stress the enforcement of laws to protect victims and shall communicate the attitude that domestic violence is criminal behavior and will not be tolerated.

The overriding goal of law enforcement is to optimize and coordinate available resources for the handling of domestic violence cases.

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 Marin County policy is PRO-ARREST, in order to break the cycle of violence and to deter future abuse. Law enforcement officers should arrest all batterers in all situations where an arrest is legally permissible for acts of domestic violence. Officers shall make reasonable efforts to identify the primary/dominant aggressor in the incident. (Penal Code Section 13701(b).) Every effort should be made to prevent dual arrests.

Training will be provided regularly to enhance law enforcement's response to domestic violence incidents.

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 herself, or another. (Penal Code Section 13700(a).)
- B. Domestic Disturbance is an argument or disagreement within the family or between cohabitants, or persons in a dating relationship, that does not involve violence, threats of violence, or court order violations. Law enforcement personnel will prepare a brief dispatch written report or other retrievable documentation on any domestic dispute reported to Marin County law enforcement agencies.
- C. Domestic Violence is abuse committed against an adult or fully emancipated 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. For purposes of this definition, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income 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. (Penal Code Section 13700(b).)
- D. Domestic Violence Order is a protective order which is issued pursuant to the Domestic Violence Protection Act (Family Code Sections 6200 - 6218, 6320-6322), the general provisions of the Family Law Code Sections 240, et seq., or the Uniform Parentage Act (Family Code Sections 7710, et seq.).
- E. Emergency Protective Order (EPO) is obtained by a law enforcement officer in the field when an officer believes a victim of domestic violence or a family or household member is in immediate or present danger of domestic violence. It is an ex parte order issued by a judge to restrain certain acts of abuse, and/or to exclude a person from a dwelling, and/or other specified acts, and/or to provide for child custody. (Family Law Code Sections 6215, 6240, et seq.) A judicial officer may issue an EPO where the law enforcement officer asserts reasonable grounds to believe either or both of the following: (a) 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; (b) 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.

The expiration of such an order is the earlier of the following:

- (a) The close of judicial business on the fifth court day following the day of its issuance; or
- (b) The seventh calendar day following the day of its issuance. (Family Code Section 6256.)

- F. Officer is defined as any officer or employee of a local police department or sheriff's office, and any peace officer of the California Highway Patrol, the California State Police, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in California Penal Code Section 830.2, or a housing patrol officer, as defined in subdivision (d) of California Penal Code Section 830.31. (Penal Code Section 13700(c).)
- G. Pro-Arrest Policy refers to a position which prioritizes arrest over misdemeanor citation, letter notification or warrant in every situation where an arrest on probable cause is legally permissible.
- H. Protective Order is an order which requires a person to restrain from doing a particular act or acts. It is issued by the Criminal Court, with or without notice to the person who is to be restrained. A Protective Order will remain in effect for a set period of time which is stated on the face of the order. A Protective Order shall be in writing and entered into CLETS.
- I. Stay Away Order is an order in a criminal case involving domestic violence where there is a likelihood of harassment of the victim by the defendant. A Stay Away Order may remain in effect as long as the defendant is under a court's jurisdiction, including any sentence or probationary period, or until modified by the court. Stay Away Orders may be issued pursuant to Penal Code Section 136.2 while criminal prosecution is pending. Stay Away Orders were previously issued under Penal Code Section 13720. Although this section has been repealed, those orders still in effect are valid and enforceable. A Stay Away Order shall be in writing and entered into CLETS.

- J. Victim means a person who is a victim of domestic violence. (Penal Code Section 13700(d).)

- K. A traumatic condition is defined as a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force. (Penal Code Section 273.5(c).)

- L. Primary/Dominant Aggressor is defined as the person determined to be the most significant, rather than the first, aggressor. (Penal Code Section 13701(b).)

“In identifying the Primary Aggressor, an 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 persons involved, and whether either person acted in self-defense.”

REPORTING REQUIREMENTS

A report shall be written on all incidents of domestic violence. This is the intent of the California Legislature. (Penal Code Section 13730.)

1. The report shall be identified as a domestic violence incident report.
2. The report shall document whether a weapon was involved.
3. The report shall identify whether or not the suspect was under the influence of alcohol or drugs.
4. The report shall note whether any law enforcement agency has previously responded to a domestic violence incident at the same address involving the same parties.
5. The investigating officer must make reasonable efforts to identify the primary aggressor. (Penal Code Section 13701(b).)
6. The victim of domestic violence shall be provided the incident report case number, at the scene when possible, or at a later date. (Penal Code Section 13701(c)(8).)

COMMON CHARGES

A situation involving domestic violence may result in, but is not limited to, a violation of one or more of the following sections of the Penal Code and Health and Safety Code:

1. 136.1 PC - Intimidating or dissuading a witness
2. 148 PC - Resisting arrest
3. 166.4 PC - Criminal contempt
4. 166(a)(4) PC - Now covers willful disobedience of the terms of any lawfully issued out-of-state-court order, including orders pending trial.
5. 166(d)(1) PC - A person who owns, possesses, purchases, or receives a firearm knowing he/she is prohibited from doing so under a protective order under Penal Code 136.2, Code of Civil Procedure 527.6, 527.8, or Family Code 6218, can be charged with a felony or misdemeanor.
6. 187 PC - Murder
7. 203 PC - Mayhem
8. 207 PC - Kidnapping
9. 236 PC - False imprisonment
10. 240 PC - Assault
11. 242 PC - Battery
12. 243(d) PC - Battery with serious bodily injury
13. 243(e) PC - Battery against a spouse, cohabitant, or person who is a parent of defendant's child, or former spouse, fiancé/é, or former fiancé/é or person with whom the defendant currently has, or has previously had a dating relationship. (Amended as of 1/1/99.)
14. 245 PC - Assault with a deadly weapon or by means of force likely to produce great bodily injury
15. 246 PC - Shooting at an inhabited dwelling
16. 262 PC - Spousal rape
17. 273a PC - Child endangerment
18. 273d PC - Corporal injury to child
19. 273.5 PC - Willful infliction of corporal injury (Domestic Violence) - amended to add: former spouse, former cohabitant as victims (1/2000).
20. 273.6 PC - Violation of a restraining order

21. 273.6(g)(1) PC - same language as Penal Code 166(d)(1). Cross reference to Penal Code 12021(g).
22. 417(a) PC - Brandishing a weapon
23. 418 PC - Forcible entry into the home of another
24. 422 PC - Terrorist threats
25. 459 PC - Residential burglary
26. 591 PC - Malicious destruction of a telephone
27. 594(b) PC - Vandalism
28. 597 PC - Cruelty to animals (implication is that the victim will suffer the same fate)
29. 602.5 PC - Trespassing
30. 603 PC - Forcible entry with damage to property
31. 646.9 PC - Stalking
32. 647(f) PC - Public drunkenness
33. 11550 HS - Under the influence of drugs
34. 653(m) PC - Threatening or Harassing phone calls
35. 12020(a) PC - Possession of a dangerous weapon
36. 12021(g)(1) PC - Any person who purchases or receives a firearm while subject to a Domestic Violence protective order (EPO's, TRO's, Orders After Hearing or 136.2 Orders) which contains notice of prohibiting the purchase of or receiving of a firearm can be charged with a felony or misdemeanor offense.
37. 12021(g)(2) PC - Any person who owns or possesses a firearm while subject to a Domestic Violence protective order, that includes a prohibition from possessing or owning a firearm, who was personally served with or was present in court when the order was made and actual notice of the prohibition was given can be charged with a felony or misdemeanor offense.
38. 12025(a) PC - Possession of a concealed firearm
39. 12031 PC - Possession of a loaded firearm

911 OPERATOR/DISPATCHER RESPONSE
TO DOMESTIC VIOLENCE CALLS

- A. The dispatcher who receives a call reporting threatened, imminent, or ongoing domestic violence, and the violation of any protection order, including orders issued pursuant to Penal Code Section 136.2, and restraining orders, shall rank the call among the highest priority calls (Penal Code Section 13702). The dispatcher will dispatch officers to every reported incident. The dispatcher, whenever possible, should dispatch two officers to the scene.
- B. Dispatchers are not required to verify the validity of the protective order before responding to the request for assistance (Penal Code Section 13702). However, every law enforcement agency must make available information as to the existence and status of court orders to officers responding to a harassment call. (Code of Civil Procedure 527.6(h).)
- C. No dispatcher or 911 operator, in speaking with a victim of domestic violence, will discuss the victim's desire to "press charges," "drop charges," or "prosecute." It is inappropriate for any dispatcher or 911 operator to make any comment or statement which seeks to place the responsibility for enforcement action with the victim.
- D. Follow your agency's protocol for handling of 911 calls. The following information is vital to domestic violence calls for assistance:
- What is the emergency? What address? What apartment number? Call back number? Other phone number where caller might be located?
 - Has anyone been injured? If yes, is an ambulance needed?
 - Who is the suspect and is he/she present? If not, a description of the suspect and his/her expected whereabouts.
 - Are weapons involved or available? If yes, what kind?
 - Who am I speaking to? Are you the victim? If no, are you a witness?

- What has happened? What is happening now?
- Are there children present? How many?
- How are you related?
- Is the offender under the influence of drugs or alcohol? If yes, what substance?
- Does the victim have a current restraining order? Has the suspect been served with the order?
- If possible, continue to gather additional information such as: Have the police been to the address before? Have they been involved in prior domestic violence incidents, etc.?
- The dispatcher or 911 operator should make every effort to keep a victim of domestic violence on the telephone until officers arrive.

E. The safety of domestic violence victims, whether the threat of violence is immediate or removed, should be the primary concern of 911 operators. 911 operators shall advise victims to protect themselves as best they can, including but not limited to, waiting for officers at a friend's house or simply leaving the residence if the batterer may return. Advise the caller that if he/she chooses to leave for safety purposes to remember to take keys, money and a credit card if there is time. If the victim chooses to leave, the dispatcher should obtain information where he/she intends to go and how he/she can be contacted. The victim should be instructed to contact law enforcement when he/she reaches a point of safety.

F. The 911 operator should be aware that the 911 tape frequently becomes a valuable piece of evidence in the prosecution of domestic violence cases, and should, therefore, make every effort to have the victim describe what happened in detail, as well as the suspect if he/she is available and it is safe for the victim.

PATROL OFFICER RESPONSE/INVESTIGATION IN
DOMESTIC VIOLENCE CASES

A. Enforcement of Laws in Domestic Violence Incidents.

1. An arrest shall be made in the event that there is probable cause to believe that a felony has occurred. All suspects arrested will be booked into the county jail. A pro-arrest policy will be implemented by all departments.

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, or not at all.

2. The suspect shall be arrested without a warrant and without a citizen's arrest in the event that a misdemeanor domestic violence assault or battery occurs upon a spouse, former spouse, cohabitant, former cohabitant, upon the parent of his or her child, and upon a person with whom the suspect is having or has had a **dating or** engagement relationship, whether or not an injury exists or if the injury occurs in the officer's presence. (Pursuant to Penal Code Section 836(d.) [Amended as of 1/1/01.] Note that an officer *must* arrest a suspect for a misdemeanor violation of Penal Code Section 273.6 even if the crime occurred outside of the officer's presence. (Penal Code Section 836(c)(1).)
3. When a misdemeanor, not meeting the requirements of Penal Code Section 836 occurs outside the officer's presence, the officer must inform the victim or witness of his/her right to make a citizen's arrest and how to safely execute the arrest.

Whenever possible, such discussion shall be held out of the presence of the suspect. An officer shall not dissuade complainants from making a citizen's arrest. An officer shall not ask the complainant if he/she would be willing to go forward with prosecution.

4. The existence of the elements of a crime and/or the willingness of the victim or witness to make a citizen's arrest, where appropriate, shall be the sole factors that determine the proper method of handling the incident. The following factors, for example, are not to influence the officer's course of actions in domestic violence incidents:
 - a. The relationship or marital status of the suspect and the victim, i.e., not married, separated, or pending divorce.
 - b. Whether or not the suspect lives on the premises with the victim.
 - c. The existence or lack of a temporary restraining order.
 - d. The potential financial consequence of arrest.
 - e. The victim or witness' history or prior complaints.
 - f. Verbal assurances that violence will cease.
 - g. The victim or witness' emotional state.
 - h. Injuries are not visible.
 - i. The location of the incident (i.e., public or private).
 - j. Speculation that the victim or witness may not follow through with the criminal justice process or that the arrest may not lead to a conviction.
 - k. Whether the victim and suspect are of the same or opposite sex.
5. Once a suspect is arrested on a misdemeanor offense, he/she should be booked into the county jail.

6. In determining whether prior violence has occurred, the officer should interview the victim, suspect, children, any available neighbor or other witnesses. A warrants check, automated records, and criminal history check should also be conducted.
7. The officer shall consider the issuance of an emergency protective order as described on pages 24, et seq., of this Uniform Marin County Law Enforcement Protocol for the Handling of Domestic Violence Cases.
8. In both misdemeanor and felony arrests, the officer should consider preparing a declaration to increase bail above the scheduled amount, or to deny an O.R. release, if it appears that the defendant may not appear in court or if the defendant's release from custody may pose a serious threat to the victim's well-being. (Penal Code Sections 1269, 1270, 1275.) The passage of Proposition 189 in 1994 allows, in part, for no bail in felony offenses involving acts of violence on another person, or felony sexual assault on another person, when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others. (California Constitution, Article 1, Section 12.) The on-call judge is available for telephonic requests for bail increases. If the on-call judge does increase bail, an affidavit/order must be submitted to the judge the following morning so that she/he can sign the order, before the suspect is arraigned. The original must be delivered to the jail, with a copy to the District Attorney's Office, Superior Court Desk. The District Attorney's Office is available to assist in the preparation of the affidavit/order to increase bail. (See Appendix 4 for bail enhancement application form.)
9. An officer shall make no statements or comments about the surrounding circumstances of the incident or the victim that would tend to belittle a victim or which would tend to discourage a victim from reporting an act of domestic violence or requesting a citizen's arrest.

10. Pursuant to Penal Code Section 13730, 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.

B. Investigation of Domestic Violence Cases.

1. Upon arrival at a domestic violence related incident, the officer's first duty should be to provide for the safety of the officers and parties involved. Officers arriving at a domestic violence scene should conduct a thorough and diligent investigation, including determining the Primary/Dominant Aggressor, and submit reports of all incidents of domestic violence and all crimes related to domestic violence. (Penal Code Section 13700.)

The Marin County policy is PRO-ARREST, in order to break the cycle of violence and to deter future abuse. (See Appendix 1 for brief overview of the pattern of abuse.) At times, there are situations in which both parties have been violent toward one another. It will be necessary to determine who is the primary/dominant aggressor. The primary aggressor is the person most likely to inflict injury and the person least likely to be afraid. In identifying the primary aggressor, the officer shall consider the intent of the law to protect victims of domestic violence from continuing abuse, whether or not threats were made. It also will be necessary to look at criminal history and history of abuse, both documented and undocumented (check other jurisdictions), to make this determination. It is critical to interview all potential witnesses, including children and neighbors. Avoid mutual arrests if at all possible. Be sure that self-defense is absolutely not an issue. (See Appendix 2.)

Do not overlook the welfare of children at the scene. If the children were endangered during a violent confrontation, it will be necessary to document this, make and send a copy of the report to Child Protective Services, and, if necessary, remove the children from the home.

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

a. OFFICER SAFETY

Exercise reasonable care for the safety of officers and parties involved.

b. ARRIVAL AT SCENE

Determine location and condition of victim.

Determine if suspect is still at scene.

Determine if any weapon is involved.

Determine what, if any, crime has occurred.

Summon ambulance if injuries require.

Separate victim, suspect, and witnesses.

(NOTE: This includes removing victim from suspect's line of sight. If it is necessary to remove one party from inside the residence to the outside area, and officer safety permits, the suspect should be removed outside and the victim allowed to remain inside in a protected environment.)

c. PRELIMINARY INVESTIGATION

Note victim's and witnesses' first statements to officer upon arrival.
[*NOTE: victim's statement may be admissible, even if he/she is unavailable pursuant to Evidence Code Section 1370.*]

Interview victim, suspect, and witnesses separately.

Interview children. (Were they present when the violence occurred, did they hear it, how often has violence occurred in the home?)

- [] Document children's names and ages.

- [] Determine and document child's demeanor.

- [] Determine primary/dominant aggressor:
 - FACTORS TO CONSIDER
 - * Size of the parties
 - * Use of weapons
 - * Is one party stronger than the other
 - * Is one party specially trained in martial arts, boxing, or hand-to-hand combat techniques
 - * Who is afraid
 - * Who has the more serious injuries
 - * Location and nature of injuries (Offensive vs. Defensive)
 - * Did one party escalate the level of violence (push followed by serious beating)
 - * History of abuse (is one person usually the aggressor)
 - * Timing of the second arrest (person claimed to have been assaulted only after arrested)
 - * Existence of court protective orders
 - * Demeanor of the parties
 - * Use of alcohol and other drugs
 - * Existence of corroborating evidence or witnesses
 - * Criminal history
 - * Other legal defenses

 - INDICATORS OF DEFENSIVE INJURIES
 - * Wounds on victim's palm(s) of hand(s)
 - * Wounds on inside and outside of victim's arms
 - * Bumps on the victim's head (especially the back)
 - * Bite marks on perpetrator's chest, biceps, forearms
 - * Scratches on perpetrator's face, chest, neck (strangulation cases)
 - * Bruising behind ears of victim (strangulation cases)

Remember, self-defense does not include acts inflicted to punish or retaliate

- [] Note and photograph victim's condition and demeanor.

- [] Photograph damaged clothing while on person.

- Seize torn or damaged clothing.
- Note and photograph smeared makeup.
- Note and photograph evidence of injury (diagram).
- Give the victim the required victim assistance form per Penal Code 13701(c)(9)(A)-(H). (See Appendix 3 for example form.)
- Refer the suspect to batterer intervention programs.
- If the victim has a restraining order against suspect, obtain a copy of the order and valid proof of service. If not, inform the victim how to get an order.
- Advise the victim of right to arrest in misdemeanor cases for which there is no exception under Penal Code Section 836.
- Advise the victim regarding an emergency protective order (EPO).
- If the victim has a restraining order which has not yet been served on suspect, inform the suspect of the order and note it in the report. If the victim has an extra copy of the order, serve on the suspect and fill out proof of service.
- Obtain descriptive information regarding the victim: date of birth, height, weight, color of hair and eyes. (This will be useful if necessary to locate victim in future.)
- When a party 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.
**Note, that an officer may not assist a restrained person in acts that would violate the restraining order or a protective order.*
- The officer shall not advise victims of domestic violence that they can "press" charges or "drop" charges. The decision to prosecute is made by the District Attorney. The victim and suspect will be advised that once a crime report is taken he/she has no control over the decision to prosecute.

- Arrests should be made pursuant to Penal Code Section 836 under the following circumstances: for any felony crime, including Penal Code Section 273.5; for a misdemeanor Penal Code Section 243(e)(1), when the assault or battery (without injury) was upon spouse, former spouse, cohabitant, former cohabitant, fiancé/fiancée or former fiancé/fiancée, **dating relationship or former dating relationship**, or parent of his or her child, pursuant to Penal Code Section 836(d). An arrest shall be made for violations of Penal Code Section 273.6(a) per Penal Code Section 13701(b).

d. IF SUSPECT TAKEN INTO CUSTODY

- Record spontaneous statements.
- Prevent communications between suspect and victim/witnesses.
- Record alibi statements.
- Advise suspect of rights.
- Obtain waiver.
- Obtain statements.
- Request that the jail block the suspect's ability to telephone the victim.
- Request the jail, or the arresting agency, to notify the victim if the suspect is to be released.
- Obtain bail enhancement if necessary and appropriate. (See Appendix 4).

e. EVIDENCE

- If possible, tape-record statements.
- If possible, have victim complete a written statement.

- Ensure that victim's/suspect's injuries are photographed, on the day of the incident and several days thereafter.
- Photograph crime scene.
- Note condition of crime scene (disarray of physical surroundings).
- Identify, impound and/or photograph weapons/firearms and other evidence. (Penal Code Section 12028.5.) For example, if the victim states the defendant wrapped the phone cord around her neck, seize the cord as evidence. If the victim points out property damaged by the suspect, seize it.
- Preserve as evidence the 911 dispatch tape(s) regarding this incident. (Note request in report.)
- Upon request send 911 tape and all photos to District Attorney's Office.

f. MEDICAL TREATMENT

- Arrange transportation of victim to hospital for medical treatment, if necessary.
- Obtain a medical records release signed by the victim at the scene. (See Appendix 5 for example waiver.)
- Send waiver signed by victim to medical facility as soon as possible and obtain copy of records for report including doctor's name, address, and phone number.
- Document complaint of injuries.
- Obtain names, addresses, and phone numbers of ambulance or paramedic personnel treating the victim.

g. CONFIDENTIALITY

Penal Code Section 293 regarding sexual assault crimes and Government Code Section 6254(f)(2) requires the ADDRESS OF THE VICTIM be deleted from crime reports for the crimes listed below. Further, these sections require DELETING THE NAME OF THE VICTIM from the crime report at the victim's request. If so requested, you should not refer to the victim by name, but rather Jane or John Doe or Victim, and submit a separate document (see Appendix 6 for example waiver) with the private information to the District Attorney, in a sealed envelope, when the case is submitted for review. This is applicable to the following crimes:

Sexual Assault Penal Code Sections:

261, 261.5, 262, 264, 264.1, 286, 288, 288a, or 289

Violence Penal Code Sections:

273a, 273d, 273.5, 422.6, 422.7, 422.75, or 646.9

*Note: 243(e)(1) PC and 273.6 PC do not apply to 293 PC.

- Advise victim of confidentiality if arrest is made for 273.5, 646.9, or other stated offense.
- Ask if the victim wishes to have confidentiality. If so, prepare report as stated above.

h. COMPLETING CRIME REPORT

Maintain objectivity in reporting. Avoid personal opinions regarding comments from victim/suspect.

- Note all statements in report.
- If the parties do not speak English, please note what language they do speak for the benefit of other staff attempting to contact them. *Use objective interpreters (someone who is not a family member or a percipient witness) to obtain statements and/or tape-record statements.*
- Ensure that elements of all involved crimes are included in the report.

- [] Document any injuries that the victim has sustained. Documentation should include a description in the police report, as well as photographs and medical reports, if medical treatment was obtained.
- [] Was victim photographed? So note in report and send to the District Attorney with the report.
- [] Did officers give victim referrals. (Penal Code Section 13701(i).) So note in report.
- [] Document past history of violence (include report number(s)), whether or not reported to law enforcement. *[NOTE: Past incidents of violence may be admissible to show defendant's disposition, pursuant to Evidence Code Section 1109.]*
- [] If possible, record name, address, and phone number of two close friends or relatives of the victim who will know of her/his whereabouts 6-12 months from the time of the investigation. If victim indicates he/she will be leaving the home, document when and where he/she will be.
- [] When responding to a domestic disturbance where there is no actual violence or other violation of the law, the officer will ensure that the proper dispatch code indicating no domestic violence or other appropriate record of the incident is made.

i. SUBMITTING CRIME REPORT TO DISTRICT ATTORNEY

If the suspect is in custody before 6:00 a.m., the crime report must be submitted to the District Attorney by 9:30 a.m. in order for the District Attorney to review the case for charging, for afternoon arraignment.

If the suspect is not located or booked, submit the report to the District Attorney's Office within 24 hours of the incident. Note on the prosecution request form if an arrest warrant requested.

Upon request from the District Attorney the records clerk will send the prior reports of violence or contact cards.

Include the victim's daytime telephone number, work number, and a number where he/she will be for the several days after the incident so that the Victim-Witness Advocate from the District Attorney's Office will be able to make contact upon receipt of the report. *[NOTE: This is also important so we can show diligent efforts to locate the victim. See Evidence Code Section 1370.]*

j. RE-CONTACT THE VICTIM

Officers/Investigators should contact the victim within 72 hours of the offense to determine if further law enforcement assistance is needed.

k. ACCESS TO DOMESTIC VIOLENCE REPORTS

Law enforcement agencies are required to provide, at no cost, one copy of all domestic violence face sheets and incident reports, to a domestic violence victim (as defined in Family Code 6211) upon request. Absent good cause, the face sheet must be made available during business hours, within 48 hours of request (and no more than 5 working days of the request with good cause); the incident report within 5 working days of request (or 10 days with good cause). Therefore, incident reports should be completed in an expeditious manner. Requesting parties must present identification. Only cover reports and face sheets made within 5 years of the date of completion of the incident report are affected. (Family Code 6228.)

OBTAINING EMERGENCY PROTECTIVE ORDERS

Emergency Protective Orders (EPO) are intended as a temporary measure of protection until a victim can obtain a more permanent Temporary Restraining Order (TRO). An EPO should be requested when there is concern for the safety of the victim, regardless of whether a criminal violation occurred.

EPO's are available by telephone at all times, whether or not the court is in session. (Family Code Section 6241.) The officer shall use the following procedures:

1. The officer shall advise the victim of the existence and availability of the orders; however, the victim's consent to obtain an EPO is not required.
2. An Emergency Protective Order will be prepared by a law enforcement officer whether or not a victim of domestic violence requests such protection, when the officer believes such an order is necessary to protect the victim. If a law enforcement officer does not request or obtain an EPO, the officer should document the reasons why it was deemed unnecessary.
3. Have available the Application for Emergency Protective Order. (See Appendix 7.) Complete lines 1 through 7 on the application.
4. It is not necessary that an assaultive crime has actually occurred for the EPO to be initiated. Recent violent acts or threats of violence, coupled with the likelihood of imminent violence is the only criteria required to request the order.
5. The EPO covers not only the adult requesting the protection but also can provide temporary custody of minor children to the victim.
6. The fact that the endangered person had left the household to avoid abuse, or the fact that the suspect left the house or was arrested, does not affect the availability of the EPO. (Family Code Section 6254.)

7. If an EPO concerns an endangered child, the child's parent or guardian who is not a restrained person, or a person having temporary custody of the endangered child, may apply to the court for a restraining order under Section 213.5 of the Welfare and Institutions Code.
8. Pursuant to department policy, contact the on-duty magistrate, identify yourself and state your purpose. Record on line 8 of the application who you contacted and when. The magistrate will ask you a series of questions regarding the incident, based on the answers listed on lines 1 through 5. The officer should also be prepared to answer questions relating to the incident, such as past history or whether restraining orders had been previously applied for or issued.
9. Record whether the application was granted or denied on line 8, and sign the form. If one is approved, the Emergency Protective Order section must be completed.
10. The approving magistrate will give specific instructions on what is to be recorded on lines 9 through 12 of the Emergency Protective Order section. The remainder of the lines will be completed after the service is completed.
11. The on-call magistrate will evaluate and determine the suitability of the EPO taking into consideration the following criteria:
 - a. The victim/complainant's perception of being in imminent jeopardy.
 - b. Whether the domestic violence related incident was assaultive in nature.
 - c. Whether the offense committed was a felony or misdemeanor.
12. A law enforcement officer who requests an EPO shall reduce the order to writing and sign it (Family Code Section 6270) after the court grants the order.

13. A law enforcement officer who requests an EPO shall do all of the following:
 - a. Obtain an incident or case number for the domestic violence incident. Inform appropriate personnel that the number will also be used on an Emergency Protective Order, so that they may obtain additional information they require. Write this number in the Incident Case Number box in the upper right hand corner of the Application.
 - b. Serve the order on the restrained person, if the restrained person can reasonably be located. Verbal notice is sufficient, with follow-up attempts to personally serve the restrained person.
 - c. Give a copy of the order to the protected person or, if the protected person is a minor child, to a parent or guardian of the endangered child 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 child (even if the restrained person has not been served). Admonish the victim to retain these papers until the expiration of the order.
 - d. File a copy of the order with the court as soon as practicable after issuance. (Family Code Section 6271.)
14. A law enforcement officer shall use every reasonable means to enforce an EPO, and when acting in good faith to enforce an EPO, an officer is not civilly or criminally liable. (Family Code Section 6272.)
15. Emergency Protective Order legislation requires an officer to make a reasonable attempt to serve the restraining order. The officer who requests the EPO shall carry copies of the order while on duty in order to make reasonable attempts to serve the EPO. (Family Code Section 6273.) If the restrained party is present or can be readily contacted, serve the order. Record whether and how the order has been served in the incident or crime report. Give the restrained person a copy of the order.

16. The restrained person should be advised that only the court may modify or rescind the order. The protected person cannot modify or rescind the order.
17. Submit the court and agency copies for routing to Records at the end of the shift in the normal manner. The agency copy will be attached to the crime or incident report. The court copy shall be submitted separately. If the restrained party was not served, attach the restrained party's copies to the reports upon submission. If the EPO was not served, the officer shall give the EPO to the watch commander of the next shift for attempts to serve the order.
18. Let the victim know that the County Clerk's Office maintains application forms for obtaining more permanent orders. There is no charge for these applications. When the form is provided, it includes a resource card for a variety of needs that may arise, such as emergency housing, funding and counseling.

ENFORCEMENT OF RESTRAINING ORDERS

- A. Domestic violence restraining orders will be enforced by all law enforcement officers. Under Penal Code Section 273.6(a), it is a misdemeanor to intentionally and knowingly violate a protective order, as defined in Section 6218 of the Family Code (*includes EPO, TRO, and Orders After Hearing*) or of an order issued pursuant to Section 527.6 or Section 527.8 of the Code of Civil Procedure.

Penal Code Section 273.6(d) makes it a felony to violate a restraining order, with violence or a "credible threat" of violence (see Penal Code Section 139), after suffering a prior conviction within seven years for violation of Penal Code Section 273.6.

It is the policy of law enforcement agencies within the County of Marin, that if there is probable cause that a protective order issued under Section 6200 et al; (EPOs; TROs; Orders after Hearing) Section 7700 et al; and Section 136.2 of the Penal Code, (criminal protective order) has been violated, the perpetrator shall be arrested, absent exigent circumstances (which should be spelled out in the report) (pursuant to Penal Code Section 13701(b)). Anyone so arrested for a misdemeanor violation of a protective order for domestic violence will be booked in Marin County Jail and NOT released on a promise to appear citation. It is further the policy that anyone booked into the Marin County Jail by any agency for a misdemeanor violation of a protective court order will not be released except upon a court order or required posting of bail. (Ref. 853.6 P.C. and MCSO ADM OP 94-01.) A copy is to be submitted with the work copies of the case and arrest reports.

Penal Code Section 273.6 shall apply to the following orders:

1. An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, contacting repeatedly by mail with the intent to harass, or disturbing the peace of the other party, or other named family and household members.
2. An order excluding a party from the family dwelling or from the dwelling of the other.
3. An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order under subdivision (a) of Penal Code Section 273.6.

- B. Orders issued in criminal cases under Penal Code Sections 136.2 and 1203.097, which pertain to domestic violence and harassment are punishable under Penal Code Section 166(c)(1), will be enforced by all law enforcement officers.
- C. Officers will make arrests for any violations under the above sections that they observe. If the officer arrives at the scene and observes the defendant in violation of the terms of the order, the officer shall make an arrest for a misdemeanor occurring in his/her presence.

Authority to arrest for misdemeanor court order violations, even if they occur outside the officer's presence, applies to the following orders: domestic violence protective or restraining orders issued under the Family Code (EPO's; TRO's, or Orders After Hearing per Domestic Violence Prevention Act); Code of Civil Procedures 527.6 (harassment); Welfare and Institutions 213.5 (juvenile court protective orders); Penal Code 136.2 (criminal court stay away orders); Penal Code 1203.097 (orders of probation); or orders issued by courts of other states, commonwealths, territories, or insular possessions subject to U.S. jurisdiction, military tribunals, and tribes. (Penal Code 836(c)(1).)

Note that an officer *shall* arrest and book at the county jail a suspect for a misdemeanor violations of Penal Code Sections 273.6 and 166(c)(1) (for orders issued under Penal Code Section 136.2), even if the crime occurred outside of the officer's presence. (Penal Code Section 836(c)(1).) (See section A for details.)

- D. Law enforcement officers receiving copies of Protective Orders will forward them to the Records Division, who will enter appropriate information in the state-wide computer system.
- E. If at the scene of a domestic disturbance a person shows or informs the officer of the existence of a Protective Order, it is crucial to establish the present status and terms of the order. Officers shall ask the following questions to determine the current status:
 - 1. Is there a Protective Order on file? It will be filed under the name of the person restrained. If the officer cannot verify the order, it must be enforced through a citizen's arrest procedure.

2. What is the date of the order? Has it been signed by a Superior Court judge and filed by the court (a filed document has the court clerk's "filed" stamp and the date filed on the upper portion of the first page of the document - usually in the upper right hand corner)?
3. What is the expiration date? If there is no expiration date stated on the face of the domestic violence restraining order, it is valid for three years. (Family Code Section 6345.)
4. What are the terms of the order?
5. Is there a Declaration of Service on file, proof of notice in court, or has another officer given the needed notice to the person to be restrained?
6. Officers present at a harassment or Domestic violence scene must, on request of a plaintiff, serve an order on a defendant. Code of Civil Procedure 527.6(h); Family Code 6383(a). However, to avoid undue pressure on the victim, once an officer becomes aware of the existence of a legal restraining or protective order, it can and should be served on the defendant regardless of the victim's request.
7. Out -of-State Orders: Presumed Valid: An out-of-state protective or restraining order related to domestic or family violence, issued by: a court of another state, i.e., a state of the United States, the District of Columbia, or a commonwealth, territory, or insular possession subject to jurisdiction of the U.S. (§145 Fam. Code); a tribal court; and/or military tribunal, is presumed valid if it appears authentic on its face; is deemed valid if the court had jurisdiction over the parties and the legal issue; shall be accorded full faith and credit.

F. The existence of the following information shows that the suspect has the needed knowledge to be in violation of the Order.

1. The elements of the crime require willful disobedience of the terms of the order. A violation of Penal Code Section 273.6 requires an “intentional and knowing” violation.
2. If this information is not established, the suspect cannot be arrested at the time of the disturbance.
3. If the Declaration of Service is not on file and notice by another officer has not been established, proceed to give a copy of the order, if available, to the suspect.
 - a. If the victim has an extra copy of the order then serve the order on the suspect to keep.
4. Advise the suspect that they are now subject to the terms of the order and can be arrested for any further violations.
5. Report through your department procedure that you have served a copy of the order on the defendant.
6. Release a copy of the Proof of Service to the victim, and file the Proof of Service as part of the report and the department will ensure that the original Proof of Service is filed with the appropriate court.

G. If the victim does not have a copy, advise him/her to carry one in the future, and to have an extra copy for service on the suspect if he/she has not been served.

1. Advise the suspect that there is an order in effect.
2. The officer can have the terms of the order read over the phone by the records/dispatch staff and can then inform the suspect.

3. An arrest may be made at this time if the suspect refuses to comply with the terms of the order.
- H. If a Protective Order violation has occurred and the suspect is not present, the officer will submit a crime report of the appropriate misdemeanor violation.

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.

FOLLOW-UP INVESTIGATION IN
DOMESTIC VIOLENCE CASES

- A. All domestic violence reports prepared by officers pursuant to Penal Code Sections 13700, et seq., shall be referred to investigations personnel for review and follow-up investigation as needed.

"Investigations personnel" refers to a detective, investigative specialist, or other designated personnel.

Investigations personnel receiving domestic violence-related crime and arrest reports shall process them in the same manner as all other criminal violations.

Whenever possible, investigative personnel will be specifically designated to handle domestic violence cases.

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

1. At a minimum, follow-up investigations submitted to the District Attorney for consideration should include the following:
 - a. Verify the inclusion of all investigative steps described above regarding patrol officer response/investigation.
 - b. Obtain medical records, if not already obtained.
 - c. Interview background witnesses who may not have been available to the patrol officer at the time of the incident (e.g., neighbors).
 - d. Re-interview witnesses as necessary.
 - e. If possible, contact the victim and witnesses to inform them of the status of the case and the intended referral to district attorney.
 - f. Obtain subsequent photographs of injuries to the victim (particularly where there were no initial photos taken or the initial photos did not show injuries to the victim).

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 Domestic 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: i.e., did the victim make a spontaneous statement? Are there any eye witnesses to the offense? Did the victim make a detailed statement of the offense to an officer (preferably tape-recorded) or to another person who can impeach the victim if they appear in court and testify falsely? Is there other corroborating evidence, such as injuries or a 911 tape, that would support the charge?
 - b. The case should be evaluated for referral to the District Attorney's Office for review regardless of the victim's wishes.
4. Under no circumstances should a victim be asked if he/she wishes to "press charges" or "drop charges." Investigative personnel shall not ask a victim if they want to "prosecute" their partner. The victim should be informed that the decision to proceed is out of his/her control.
5. If the victim presents with a different version of the incident, the person/ investigator taking the statement should incorporate some of the following question and note in report:
 - a) Financial concerns;
 - b) Contact with the defendant after the incident;
 - c) Threats; dissuasion by defendant - fearful of defendant;
 - d) Child custody/visitation issues;
 - e) Immigration concerns.

NOTIFICATION TO DEPARTMENT OF JUSTICE REGARDING
DOMESTIC VIOLENCE RESTRAINING ORDERS

Family Code Section 6385 requires that law enforcement immediately notify the Department of Justice (DOJ) upon receipt of a copy of a domestic violence restraining order and the subsequent proof of service. Notifying DOJ is accomplished via the California Law Enforcement Telecommunications System (CLETS) when the information regarding domestic violence restraining orders is entered into the Domestic Violence Restraining Order System (DV/ROS).

MAINTAINING RECORDS OF SERVICE OF PROTECTION ORDERS

- A. Law enforcement agencies are required to maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, including orders which have not yet been served, issued pursuant to 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. (Penal Code Section 13710(a).)
- B. The terms and conditions of the protection order remain enforceable, notwithstanding the acts of the parties, and may be changed only by order of the court. (Penal Code Section 13710(b).)
- C. Upon request, law enforcement agencies shall serve the party to be restrained at the scene or a domestic violence incident or at any time the party is in custody. (Penal Code Section 13710(c).)

MILITARY SUSPECTS

- A. All domestic violence incidents involving military suspects shall be handled according to this law enforcement protocol.
- B. The intent of this policy is to eliminate all informal referrals or report-taking omissions in the handling of domestic violence incidents involving military personnel.
- C. No informal agreements with base patrol or a suspect's commanding officer shall take precedence over a suspect's arrest and prosecution by non-military authorities.

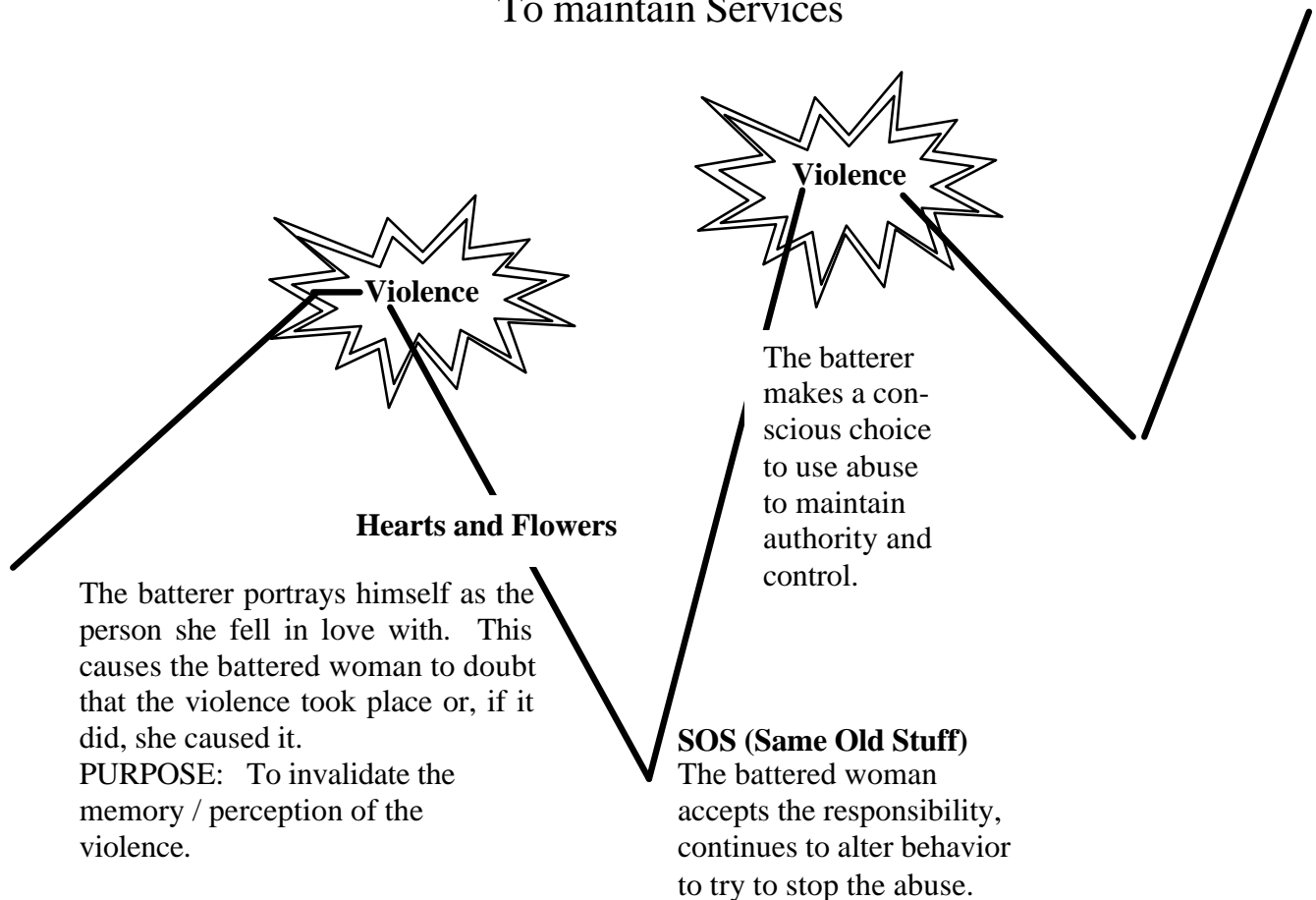
TRAINING

- A. Each law enforcement agency shall establish a written schedule for annual or semi-annual training for members of the agency on domestic violence. (Penal Code Section 13700, et seq.)
- B. The goals of the training are to inform officers of:
 - 1. The domestic violence laws.
 - 2. The department's domestic violence policy and procedures.
 - 3. The dynamics of domestic violence and batterer behavior.
 - 4. Police officer safety techniques.
 - 5. District Attorney Domestic Violence Unit policies.
- C. Training should include written bulletins, videotapes, verbal reminders, updates during daily briefings and presentations given periodically by the District Attorney's Domestic Violence Unit Personnel.
- D. The Chief of Police, Sheriff, or his/her designee, shall ensure the review of the department's training policies annually and make any revisions deemed necessary.

PATTERN OF ABUSE

This is the batterer's pattern, he has control over the frequency and severity.

Purpose: To maintain Authority
To maintain Services



The batterer is in control of the pattern, NOT the victim.

The pattern has intent.

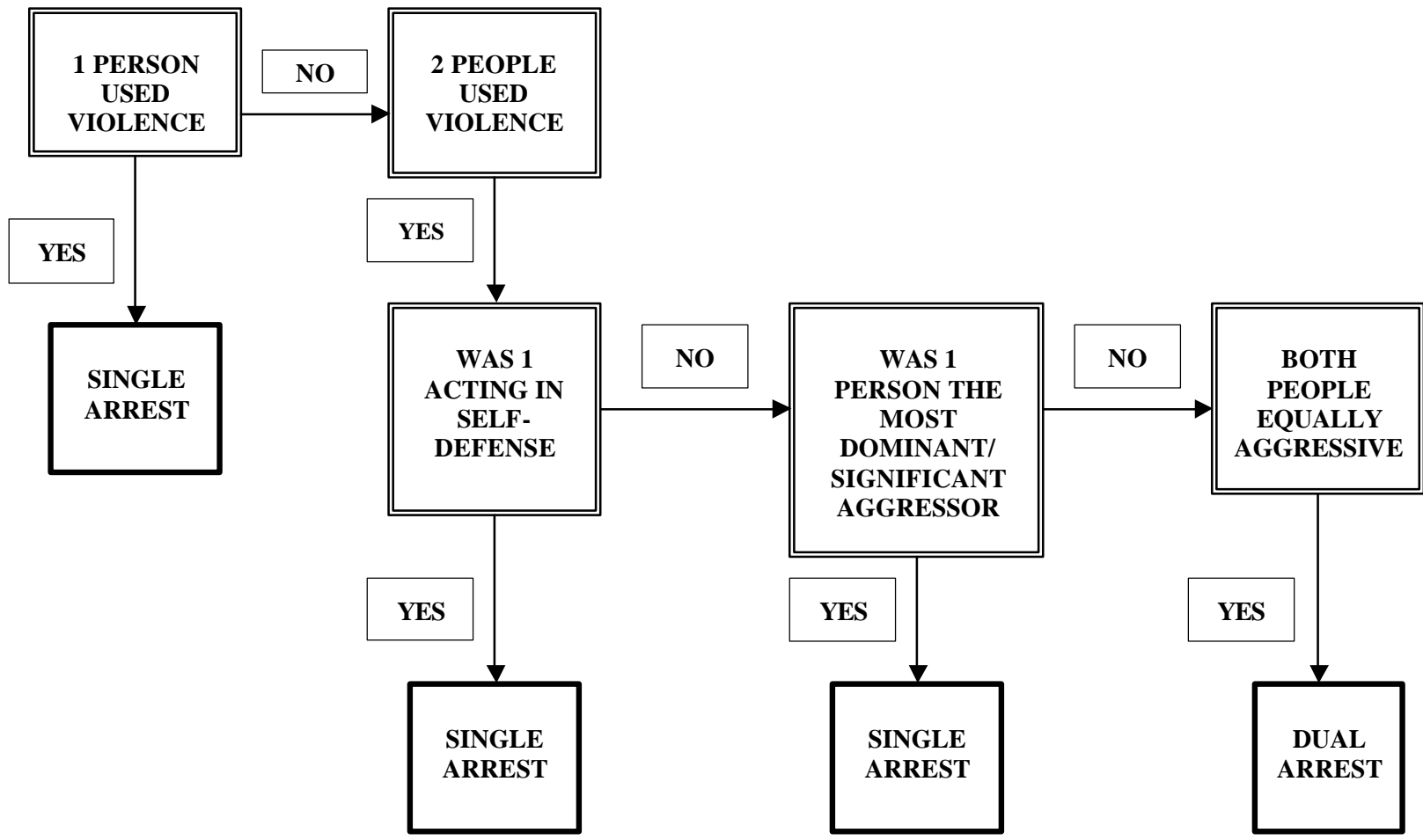
The pattern usually increases in frequency and intensity as it repeats.

The "Hearts and Flowers" stage often disappears over time.

The continuation of the pattern results in homicide, suicide, or both.

The pattern will not stop without some kind of intervention.

PRIMARY / DOMINANT AGGRESSOR “DECISION TREE”



(EXAMPLE)
MARIN COUNTY
INFORMATION FOR VICTIMS OF DOMESTIC VIOLENCE/SEXUAL ASSAULT

Victim's name: _____

Case #: _____

PENAL CODE 13701: PRIVILEGES AND RELIEF ADVISAL

If you have become the victim of domestic violence or sexual assault you have certain rights and privileges under the law. This information is provided to you by the Law Enforcement Agencies of Marin County.

This is a supplement to the Marin Abused Women's Services *Domestic Violence Help and Information* pamphlet. For more information call 415-457-2464.

Be aware that despite official restraint of a person alleged to have committed domestic violence the restrained person may be released at any time.

For information about the *California victims' compensation program*, you may contact 1-800-777-9229.

You may ask the District Attorney to file a criminal complaint.

You have the right to go to the Superior Court and file a petition requesting any of the following orders for relief:

- An order restraining the attacker from abusing you and other family members.
- An order directing the attacker to leave the household.
- An order preventing the attacker from entering your residence, school, business, or place of employment.
- An order awarding you, or the other parent, custody of/or visitation with a minor child or children
- An order restraining the attacker from molesting or interfering with minor children in your custody.
- An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.
- An order directing the defendant to make specified debt payments.
- An order directing that either or both parties participate in counseling.

You have the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

Sexual assault victims should notify the local law enforcement agency immediately. A law enforcement officer will respond and take a report and collect evidence. Victims should retain any clothing worn during the assault and other evidence, such as bed sheeting. Officers will transport victims to the hospital for a medical examination. Victims should not shower or douche before the exam.

A 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.

Domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.

PENAL CODE 679.04: VICTIM ADVOCATE ADVISAL

As a victim of a sexual assault, you have the right to have a victim advocate and at least one other support person of your choosing present at any interview with law enforcement authorities, district attorneys or defense attorneys. This includes an advocate for any court procedure; however, this right does not apply to the initial interview by first responding officers. The support person may be excluded if the law enforcement authority or the district attorney determines that the presence of that individual would be detrimental to the interview.

DECLARATION AND ORDER RE BAIL PER CAL. CONST. ART. 1 SECTION 12
AND/OR SECTION 1269c OF THE PENAL CODE

Re: People v. *; Booking No. *
Defendant/Arrestee

Police Agency: * Police Department; Case # *

Charges: * Code Section *

DECLARATION

I, *, a peace officer employed by *, declare the following to be true:

On *, 200 *, the above-named Defendant/Arrestee was arrested by officers of this Department for the above-listed charges and was booked at the Marin County Jail on *, 200*, at * :00 * .m. Bail as set forth in the Marin County Felony Bail Schedule adopted per Penal Code Section 1269b for the above offense (s) is \$ * .

I HAVE REASONABLE CAUSE TO BELIEVE AND I DO BELIEVE:

(initial applicable reasons)

_____ that the defendant/arrestee has committed a felony offense involving acts of violence on another person where the facts are evident and the presumption great and there is a substantial likelihood the defendant/arrestee's release would result in great bodily harm to others.

_____ that the defendant/arrestee has committed a felony offense wherein the facts are evident and the presumption great and the defendant/arrestee has threatened another person with great bodily harm and there is a substantial likelihood that the defendant/arrestee would carry out the threat if released.

_____ that the amount of bail as set forth in the bail schedule is insufficient to assure the defendant/arrestee's appearance.

THE REASONS FOR MY BELIEF ARE AS FOLLOWS:

*

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

Executed this _____ day of _____, 200 * , at San Rafael, California.

OFFICER *
* POLICE DEPARTMENT

ORDER

GOOD CAUSE APPEARING THEREFORE, and based upon the Declaration above, it is hereby ordered the defendant/arrestee be held:

_____ without bail

_____ with bail in the amount of \$ _____

Dated: _____, 200 * .

Judge of the
Superior Court of California
County of Marin

(EXAMPLE)

AUTHORIZATION FOR RELEASE OF MEDICAL RECORDS

I hereby authorize _____ to release my medical record file

to:

Patient's Name (please print): _____

Patient's Date of Birth: _____

Approximate Dates of Admission and/or Discharge: _____

Inpatient

Outpatient

Emergency Room Patient

Date: _____ Patient's Signature: _____

Date: _____ Officer's Signature: _____

Agency Number: _____

(EXAMPLE)
VICTIM ADVISEMENT AND NOTIFICATION FORM

CASE # _____

Advice to victims of Penal Code Sections 220, 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.7, 422.75, 646.9, and sexually motivated 647.6 crimes.

ADVISEMENT TO VICTIM

The victim or parent/guardian of the victim referred to in the report has been advised that the victim's name, address, and age, will become a matter of public record and subject to release, pursuant to Section 6254 of the Government Code, unless, at this time, the victim or parent/guardian requests that the victim's name, address, and age not become a matter of public record.

Do you, the victim, or the parent/guardian of the victim, want the victim's name, address, and age to become a matter of public record?

{ No, I do not want my/the victim's name, address, and age to become a matter of public record.

{ Yes, I do want my/the victim's name, address, and age to become a matter of public record, as evidenced by my signature below.

Signed: _____ Witness: _____
 Victim or Parent/Guardian

Print Name: _____ Print Name: _____

VICTIM INFORMATION

Name: _____ DOB: _____

Age: _____ CDL: _____ SSN: _____

Residence Address: _____

Business Address: _____

Residence Phone: _____ Business Phone: _____

APPLICATION FOR EMERGENCY PROTECTIVE ORDER (CLETS)

1295.90

(Name): _____ has provided the information in items 1-5.

LAW ENFORCEMENT CASE NUMBER:

1. PERSON(S) TO BE PROTECTED (insert names of all persons to be protected by this order):

2. PERSON TO BE RESTRAINED (name):

Sex: [] M [] F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____

3. The events that cause the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking (including workplace violence or civil harassment) are (give facts and dates; specify weapons):

4. [] 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 9.

5. a. [] 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 3. A custody order [] does [] does not exist.

b. [] The person to be protected is a minor child in immediate danger of being abducted by the person to be restrained because of the facts alleged in item 3.

6. [] A child welfare worker or probation officer has advised the undersigned that a juvenile court petition [] will be filed. [] will NOT be filed.

7. [] Adult Protective Services has been notified.

8. Phone call to (name of judicial officer): _____ on (date): _____ at (time): _____

[] The judicial officer granted the Emergency Protective Order that follows.

By: _____ (PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____ Telephone No.: _____ Badge No.: _____

EMERGENCY PROTECTIVE ORDER

9. To restrained person (name): _____

a. [] You must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, send any messages to, follow, stalk, destroy any personal property, or disturb the peace of each person named in item 1.

b. [] 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): _____

10. [] (Name): _____ is given temporary care and control of the following minor children of the parties (names and ages): _____

11. 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 (including workplace violence or civil harassment).

12. THIS EMERGENCY PROTECTIVE ORDER WILL EXPIRE AT 5:00 P.M. ON:

[]

To protected person: If you need protection for a longer period of time, you must request permanent protective orders at (court name and address):

INSERT DATE OF FIFTH COURT DAY OR SEVENTH CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT COUNT DAY THE ORDER IS GRANTED

PROOF OF SERVICE

13. Person served (name): _____

14. I personally delivered copies 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.

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

[] California sheriff or marshal

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)

(See reverse for important notices)

(SIGNATURE OF SERVER)