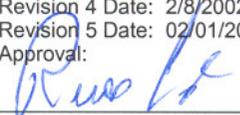


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Russ Leach  
Chief of Police

#### 4.23 DOMESTIC VIOLENCE POLICY:

##### A. PURPOSE:

1. The purpose of this policy is to state the guidelines to be followed in response to a domestic violence incident.

##### B. POLICY:

1. It is the policy of this Department that domestic violence is criminal conduct and that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred.
2. It is also the policy of this Department to reduce the incidence and severity of domestic violence, protect victims of domestic violence, and provide them with support through a combination of law enforcement and community services and promote officer safety by ensuring that officers are fully prepared to respond to and effectively deal with domestic violence calls for service.
3. When the elements of a crime exist, officers shall make an arrest instead of using dispute mediation or other police intervention techniques.

##### C. DEFINITIONS:

1. **DOMESTIC VIOLENCE:** Abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, person with whom the suspect has had a child or is having, or has had a dating or engagement relationship, or any other person related by consanguinity or affinity within the second degree (parents, children, grandparents, grandchildren, siblings by blood or marriage). Also included are boyfriend-girlfriend as well as gay and lesbian relationships. (PC §13700(b); FC §6211)
2. **ABUSE:** 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. Abuse also includes threats as well as criminal activity. (PC §13700(a); FC §6203)
3. **COHABITANT:** Two unrelated persons living together for a substantial period resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:
  - Sexual relations between the parties while sharing the same living quarters.
  - Sharing of income or expenses.
  - Joint use or ownership of property.
  - Whether the parties hold themselves out as husband and wife.

- The continuity of the relationship.
- The length of the relationship. (PC §13700(b); FC §§6209/6211)

**D. RELEVANT STATUTES:**

The following statutes are either directly or indirectly related to domestic violence issues:

1. PC §136.1 - Preventing or Dissuading Witness or Victim from Testifying or Doing Other Acts.
2. PC §148 - Resisting/Obstructing an Officer.
3. PC §166(4) - Willful Violation of a Court Order.
4. PC §187 - Murder.
5. PC §203 - Mayhem.
6. PC §207 - Kidnapping.
7. PC §220 - Assault with Intent to Commit Felony.
8. PC §222 - Administering Drugs to Assist in Commission of Felony.
9. PC §236 - False Imprisonment.
10. PC §240 - Assault.
11. PC §242 - Battery.
12. PC §243(e) - Battery Against a Spouse or Cohabitant.
13. PC §245 - Assault with a Deadly Weapon.
14. PC §246 - Shooting at an Inhabited Dwelling.
15. PC§ 262 - Spousal Rape.
16. PC §264.1 - Forcible Rape While Acting in Concert.
17. PC §273a - Willful Infliction of Unjustifiable Physical Pain on a Child.
18. PC §273d - Willful Infliction of Cruel or Inhuman Corporal Punishment Upon a Child.
19. PC §273.5 - Willful Infliction of Corporal Injury Resulting in a Traumatic Condition Upon a Spouse, Cohabitee or Parent of Child.
20. PC §273.6 - Willfully and Knowingly Violating a Domestic Violence Court Order, Including by Mail.
21. PC §286 - Sodomy.

22. PC §293 - Publication of Information Regarding Victim of Domestic Violence.
23. PC §417(a) - Brandishing a Weapon.
24. PC §418 - Forcible Entry into the Home of Another.
25. PC §422 - Terrorist Threats.
26. PC §422.6 - Hate Crimes Based on Gender.
27. PC §459 - Residential Burglary.
28. PC §591 - Malicious Destruction of a Telephone.
29. PC §594(b) - Vandalism.
30. PC §602(w) - Failure to Leave a Battered Women's Shelter.
31. PC §602.5 - Trespassing.
32. PC §603 - Forcible Entry with Damage to Property.
33. PC §647(f)1 - Public Drunkenness.
34. PC §646.9 - Stalking.
35. PC §653(m) - Obscene, Threatening or Annoying Telephone Calls (see Subsection (c) for calls in violation of court order).
36. PC §853.6 - Prohibits the Field Release of Suspects Taken into Custody on Charges of PC§ 273.6, Violating Terms of Domestic Violence Restraining Order.
37. PC §1102.7 - Prevents Disclosure of Victim's Address and Phone Number even in Cases where Defendant acts as his/her Own Attorney.
38. PC §1270 - Consideration by the Court of Threats and Intimidation when Setting Bail.
39. PC §12021(g) -Persons Who are Restrained Under a Protective Order and Who Attempt to Purchase or Receive a Firearm are Guilty of a Felony.
40. PC §12025 - Carrying a Concealed Weapon.
41. PC §12031 - Carrying a Loaded Weapon.
42. FC §6224 - Protective Orders are Effective when Issued and Are Enforceable Anywhere in the State of California.
43. FC §6225 - Petitioner is Not Required to State Place of Residence or Employment in Petition.

44. FC §6227 - Protective Orders and EPOs are Cumulative Remedies in Addition to Other Civil and Criminal Remedies.
45. FC §6254 - Departure From the Household to Avoid Abuse Does Not Affect Availability of EPO.
46. FC §6270 - Duties of Law Enforcement Officer Regarding an EPO.
47. FC §6273 - Officers Who Request an EPO Shall Carry a Copy of the Order with Him or Her While on Duty.
48. FC §6304 - Where Respondent Appears in Court on a Hearing for a Protective Order and an Order Issues, the Court Shall Inform Respondent of the Terms of the Order, Including the Fact that the Respondent is Prohibited from Purchasing, Receiving or Attempting to Purchase or Receive a Firearm.
49. FC §6345 - An Order Issued After a Hearing Which Does Not State an Expiration Date is Valid for Three Years After the Date of Issuance.
50. FC §6380 - The Court Shall Order Petitioner to Deliver a Copy of the Order to the Appropriate Law Enforcement Agencies.
51. FC §6388 - Willfully and Knowingly Violating a Protective Order.
52. FC §6385 - Requires the Agency that Receives the Protective Order to Transmit a Copy of the Order to the Department of Justice.
53. W& I§8102 - Possession of Weapon While a Danger to Self or Others.

**E. PROCEDURES:**

**1. Public Safety Dispatcher's Responsibilities:**

- a. The dispatcher who receives a domestic violence call can provide the responding officers with vital information that could save the victim's and the officer's life. The dispatcher will, whenever possible, dispatch at least two officers to every incident.
- b. All calls reporting threatened, imminent or ongoing domestic violence, **and** the violation of any protective order, including orders issued pursuant to PC §136.2, and restraining orders, shall be ranked among the highest priority calls.
- c. Dispatchers are not required to verify the validity of the protective order before responding to the request for assistance.
- d. Dispatchers should give high priority to all domestic violence calls for assistance regardless of the existence of an order.
- e. If the reporting party reports a violation of any protective order, stay-away order, or other restraining order, the dispatcher should dispatch an officer(s) prior to verifying the validity of the order and attempt verification while the responding officer(s) is en route to the scene.

- f. In addition to information normally gathered, an effort should be made to determine and relay the following to the responding officers:
  - (1) Whether the suspect is present and, if not, the suspect's description and possible whereabouts;
  - (2) Whether weapons are involved;
  - (3) Whether the offender is under the influence of drugs or alcohol;
  - (4) Whether there are children present;
  - (5) Whether the victim has a current protective or restraining order;
  - (6) Complaint history at that location.
  
- g. A dispatcher shall maintain control of the telephonic interview and shall not allow the following issues to become factors in their decision to dispatch a unit:
  - (1) Financial consequences if arrest is made;
  - (2) Speculation as to the likelihood of prosecution;
  - (3) Speculation as to complainant's future cooperation in prosecution;
  - (4) Assumptions as to tolerance of permissible levels of violence based on cultural, ethnic, racial, or occupational groups;
  - (5) Assumptions regarding the source of information of threats made against the complainant by the suspect;
  - (6) Speculation as to the likelihood of reconciliation;
  - (7) Speculation as to the likelihood of the complainant or anyone else providing bail for the suspect.
  
- h. A dispatcher shall not cancel police response to a domestic violence complaint based solely on a follow-up call from the residence requesting such cancellation. However, the dispatcher shall advise the officer(s) of the complainant's request.
  
- i. Domestic violence calls may only be canceled when the victim has left RPD jurisdiction. If the victim's new location is known, the appropriate agencies shall be notified and the incident closed with the appropriate disposition code. In instances where the call from the victim originates outside the RPD jurisdiction, an incident shall be created and closed with the appropriate disposition code and the appropriate agency notification.

**2. Responding Officer's Responsibilities:**

- a. **Arrival at the Scene:**
  - (1) Determine location and condition of the victim.
  - (2) Determine if suspect is still at scene.

- (3) Determine if any weapon is involved.
- (4) Determine what, if any, crime has occurred.
- (5) Take control of all weapons used or threatened to be used in the crime.
- (6) Assess the need for medical attention and call for medical assistance if indicated.
- (7) Restore order by gaining control of the situation.
- (8) Separate involved parties from hearing and eye contact when conducting interviews.
- (9) Remove children from the immediate area while conducting the interview.
- (10) In the event of a domestic violence related home invasion or a major injury, notify on-call detective supervisor.

**b. Preliminary Investigation:**

- (1) Interview victim(s), witness(es) and suspect(s) separately. Officers should maintain visual contact with each other for obvious safety reasons.
  - (a) When a victim is encountered not as a result of a radio call (on the street, walk-in to the station, etc.), officers shall ensure they obtain the location of the original crime and names and locations of witnesses.
  - (b) Determine suspect's and victim's conduct.
  - (c) Distinguish the aggressor from the victim, especially if both are injured.
- (2) Interview victim with patience and compassion in order to obtain the most accurate information. To aid investigators and prosecutors, it is recommended that all interviews be audio recorded.
- (3) Record all statements accurately in police reports.
  - (a) Maintain objectivity in reporting and personal opinions.
  - (b) Ensure all elements of each crime alleged are properly documented.
- (4) Determine if sexual assault occurred.
- (5) Identify and interview the person who called the police, if other than the victim.

- (6) Identify and interview all adults and children present during the incident, and identify all adults and children residing at the residence.
- (7) Determine if there is a current restraining order in effect and has been served or if the defendant was present at the hearing. If not, serve the restraining order.
- (8) Document detailed statements indicating previous incidents, including protective and restraining order violations and outcome, if known. If possible, obtain the identity and address of the restraining order server.
- (9) Document spontaneous statements by the suspect, victim, or witnesses.
  - (a) Document alibi statements.
  - (b) Prevent communication between suspect and victim.
- (10) Document the emotional and physical condition of the victim (abrasions, bruises, victim upset, crying, clothes torn, makeup smeared, sexual assault, etc.).
- (11) Document any signs that the alleged abuser is under the influence of alcohol or a controlled substance.
- (12) Determine if any law enforcement agency has previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.
- (13) A **notation** of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the locations, and, if there is an inquiry, whether that inquiry disclosed the presence of a firearm or other deadly weapon. Any firearm or other deadly weapon discovered by an officer at the scene of a domestic violence incident shall be subject to confiscation pursuant to Section 12028.5.

c. **Evidence Collection:**

- (1) Obtain photos of scene, victim, and suspect.
  - a. An officer has the legal right to obtain or otherwise seize evidence of a crime. Where a victim sustains visible injuries, an officer should take photographs of the injuries as part of his/her investigation if the taking of the photograph(s) would not constitute an unreasonable invasion of the victim's right to privacy whether or not the victim consents to the taking of the photographs. The officer should first, however, attempt to obtain the victim's consent before taking the photographs.

If the victim refuses consent, the officer may take photographs of physical injuries visible to public view after taking all practicable steps to protect the privacy and modesty of the person photographed. For example, an officer may take photographs of injuries to those bodily areas which are visible to public view such as a victim's face, neck, hands, arms, feet, or lower legs.

Photographs which would invade the victim's privacy and modesty shall not be taken except under all of the following conditions:

- i. Written consent (refer to Permission to Photograph form attached to this policy as Appendix C) or audio-recorded consent of the victim.
  - ii. The person taking the photographs is of the same sex as the victim.
  - iii. The photographs are taken at a location where the areas of the body to be photographed are only visible to the person taking the photographs or other necessary or indispensable persons such as medical personnel.
  - iv. The photographs shall be maintained, distributed, and utilized in a manner so as to protect the privacy and modesty of the person photographed.
- (2) Document physical evidence of struggle, damage to furnishings, evidence of vandalism, etc.
- (a) Document any noises heard upon arrival supporting these findings.
  - (b) Document independently provable crimes, such as child endangering, trespass, vandalism, etc.
  - (c) Collect physical evidence such as torn and bloodied clothing, or destroyed phones, and make available for trial.
  - (d) Attach copies of existing or previously issued emergency protective orders and restraining orders to the police report, if readily available.
  - (e) Obtain alternate telephone number for the victim other than the residence.

d. **Medical Treatment:**

- (1) Arrange for transportation of victim by medical personnel to hospital for obvious injuries requiring medical attention and whenever internal injuries are suspected. Do not rely on victim seeking own medical treatment.

- (2) Obtain a copy of the victim's written authorization to release medical and/or hospital information to the Riverside Police Department Domestic Violence Unit and/or the Riverside County District Attorney's Office by having the victim execute the authorization form attached to this policy as Appendix B. If the victim signs the authorization and the records are readily available, attach copies of the records documenting treatment to the police report.
- (3) Document complaints of injuries.
- (4) When marital rape or sexual assault has been alleged, obtain appropriate sexual assault medical treatment.
- (5) Document medical treatment.
  - (a) Obtain names and serial numbers of paramedics and other fire personnel.
  - (b) Obtain name/address of attending physician if additional medical treatment was required.

e. **Enforcement of Laws in Domestic Violence Incidents:**

- (1) Officers shall not allow any of the following factors to influence their course of action in domestic violence incidents:
  - (a) The 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 restraining order or stay-away order.
  - (d) The potential financial consequences of arrest.
  - (e) The victim's history of prior domestic violence complaints.
  - (f) Verbal assurances that the violence will cease.
  - (g) The victim's emotional status.
  - (h) Whether or not injuries are visible.
  - (i) The location of the incident (i.e., public or private).
  - (j) Speculation that the victim may not follow through with the prosecution, or that the arrest may not lead to a conviction.
  - (k) The victim's initial reluctance regarding an officer-initiated arrest.

- (l) The fact that the victim and the suspect are of the same gender.
- (m) The victim and the suspect have acted inconsistent with the terms of a restraining order or stay-away order. (Note: According to PC §13710(b) the terms and conditions of protective orders remain enforceable, notwithstanding the acts of the parties, and may be modified only by court order.)
- (n) Occupation or community status consequences of arrest.
- (o) Assumptions that violence is more acceptable in certain cultures.
- (p) Language abilities or barriers and/or immigration status (lack of English language abilities on the part of the victim).

(2) **Felony Arrest:**

An arrest shall be made when there is reasonable cause to believe a felony has occurred. A suspect may be arrested for violation of PC§ 273.5 if he/she willfully inflicts corporal injury resulting in a traumatic condition such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force. People vs. Abrego (1993) 21 Cal.App.4th 133.

(3) **Misdemeanor Arrest:**

Whenever an officer has reasonable cause to believe a misdemeanor has occurred in his/her presence, the suspect shall be arrested.

(a) **Private Person Arrest:**

When a crime has been committed outside the officer's presence and does not meet felony requirements, the victim shall be informed of his/her right to make a private person's arrest (PC §836(b)). Whenever possible, the victim shall be advised outside the presence of the suspect. Officers shall not attempt to dissuade a complainant from making a legal private person's arrest. The elements of the crime and/or the victim's willingness to make the private person's arrest should be the only factors considered.

The victim shall be advised as follows:

**You are a victim of a domestic violence crime. You have a right to make a citizen's arrest within a reasonable time and as soon as circumstances permit. I have a duty to advise you of this right. You can elect to make a citizen's arrest, or if the person is not here at this time, please call the Police Department when the person returns and we will assist you in safely placing the person under**

**citizen's arrest. You need to understand, even if the person returns, that does not guarantee the person will be taken into custody if the arrest would be in violation of the law.**

**(b) Booking versus Citation and Release:**

Once a suspect is arrested, officers shall evaluate the reasonable likelihood that the offense would continue if the suspect is released on a misdemeanor citation rather than taken into custody. Any one of the following might support the likelihood of a continuing offense, making a field release inappropriate:

- i. Whether the suspect has a prior history of arrests or citations involving domestic violence;
- ii. When the suspect has previously violated valid domestic violence protective orders;
- iii. Whether the suspect has a prior history of other assaultive behavior;
- iv. Statements taken from the complainant that the suspect has a history of physical abuse toward the complainant;
- v. Statements taken from the victim expressing fear of retaliation or further violence should the suspect be released.
- vi. The suspect is violating a criminal court issued stay-away order.
- vii. 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.

(c) **Warrantless Arrest Without Private Person Arrest for Violation of a Protective Order:**

- i. Penal Code §836(c)(1) provides that when a peace officer is responding to a call alleging a violation of a protective order issued under Division 10 commencing with Section 6200 of the Family Code or Section 136.2 of this code, and the peace officer has reasonable cause to believe that the person against whom the order is issued has notice of the order, the officer may arrest the person without a warrant and take that person into custody whether or not the violation occurred in the presence of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities that a true copy of the protective order has been filed, unless the victim provides the officer with a copy of the protective order.
- ii. The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order. PC §836(c)(2)
- iii. Whenever any peace officer has reasonable cause to believe that any person has committed a violation of a protective court order involving domestic violence, the person shall be arrested and not released without being booked absent exigent circumstances.
- iv. Where 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 relationship, a person with whom the suspect has parented a child, or is presumed to have parented a child, a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, or any other person related to the suspect by consanguinity or affinity within the second degree, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply:
  - 1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed; and

- 2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

**(4) Dual Arrests and Situations Involving Mutual Protective Orders:**

Generally, officers are discouraged but not prohibited from making dual arrests. Even where mutual protective orders have been issued under Division 10 (commencing with §6200 of the Family Code), liability for arrest applies to only those persons who are reasonably believed to have been the primary aggressor. PC Section 836(c)(3). Regardless of whether there are mutual protective orders in existence, peace officers shall make reasonable efforts to identify the primary aggressor in any incident. PC Sections 836(c)(3)/13701(b). The primary aggressor is the person determined to be the most significant, rather than the first aggressor. In identifying the primary aggressor, an officer shall consider:

- (a) The intent of the law to protect victims of domestic violence from continuing abuse;
- (b) The threats creating fear of physical injury.
- (c) The history of domestic violence between the persons involved; and
- (d) Whether either person involved acted in self-defense.

Dual arrests should be made only in those situations where:

- (a) There is probable cause to believe that an offense has been committed by both parties against each other, and
- (b) The officer, despite reasonable efforts, is unable to identify the primary aggressor in the incident. In all cases, arrests shall be made in conformance with §§E, 2, e of this policy.

**(5) Warrantless Entry into Home:**

Where officers are summoned to the scene of a domestic disturbance, they may make a warrantless entry out of concern for the welfare of a possible victim and to prevent further abuse. California law recognizes the need for immediate police intervention even where there is no evidence the victim is hurt or in imminent danger. People vs. Higgins (1994) 26 Cal. App.4th 247.

**(6) Victim Assistance/Crime Prevention:**

- (a)** When a complainant requests an officer to remove a person from the premises and it can be shown that the complainant is in lawful possession of the premises (i.e., by showing a rental agreement, canceled rent check, lease, grant deed, rent receipts or other documents, or verification) and the person desired to be removed is not in lawful possession of the premises, the responding officer shall:

  - i. Request the person to leave the premises and stand by until the person removes their belongings.
  - ii. Should the person refuse to leave upon request, the suspect should be arrested for any applicable Section (i.e., PC §602.5), and thereupon cited and released, upon satisfying release criteria.
- (b)** When a party in a domestic violence incident request police assistance in removing a reasonable amount of personal property (i.e., a suitcase) to another location, officers shall stand by for a reasonable amount of time until the party has safely done so.
- (c)** If a complainant claims injuries, whether visible or not, which require medical attention, officers shall administer first aid as appropriate and offer to arrange for proper medical treatment.
- (d)** 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.
- (e)** The officer shall furnish the victim a written notice setting forth the information required pursuant to PC §13701(I)(1)(A) including:

  - i. A telephone number to call for shelter or other community services.
  - ii. Information on civil or criminal complaints and court orders for relief.
  - iii. For information about the California Victims' Compensation Program, you may contact 1-800-777-9229.
- (f)** In the case of an alleged violation of Penal Code Section 243(e), 261, 261.5, 262, 273.5, 286, 288a, or 289, the officer shall provide the victim with a "Victims of Domestic Violence" card, attached as Appendix A, which shall include, but is not limited to, the following information:

- i. The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.
- ii. A simple statement on the proper procedures for a victim to follow after a sexual assault.
- iii. 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.
- iv. A statement that 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.

These information cards are currently provided by the Riverside County Coalition for Alternatives to Domestic Violence, and are available through the Records Bureau.

- (g) The Riverside Police Department shall provide, without charging a fee, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence, upon request.

**f. Writing of Reports:**

Officers shall investigate and write an incident report in response to all domestic violence-related calls for assistance, including any court order violation or threat, even if the suspect is not at the scene. Officers shall assist victims in pursuing criminal options, such as giving the victim the report number for follow-up or explaining how the report number can be obtained. Officers shall also direct the victim to the proper investigation unit.

- (1) All incident reports made involving domestic violence shall be marked with both the primary offense followed by a slash mark and the words "Domestic Violence" (i.e., 273.5 PC/Domestic Violence).
- (2) Pursuant to PC §293, officers shall inform the victim of a domestic violence offense that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record. A PC 293 Confidentiality Form, attached to this policy as Appendix D (English) and as Appendix E (Spanish), shall be completed for each victim and attached to all criminal reports related to the following California Penal Code Sections: 220, 261, 261.5, 262, 264, 264.1, 273a,

273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9. These crimes are also enumerated in Section 6245(f)(2) of the Government Code to:

- (a) Advise the victim, or guardian if the victim is a minor, of their right to confidentiality.
- (b) Provide the victim's identifying information.
- (c) Request the victim or guardian sign the confidentiality form. If they refuse to sign the form, the investigating officer will complete the form and mark "refused" on the signature line.
- (d) The Confidentiality Form shall be submitted with the police report as the cover sheet.

If the victim does not want his or her name to be a matter of public record, DO NOT place identifying information on the face sheet of the crime report or any supplemental crime report. In the body of the report, refer to the victim as "Victim 1", "Victim 2", etc. DO NOT use the name of the victim in the body of the report.

When submitting cases to the District Attorney's office for review or complaint, the PC 293 Confidentiality Form(s) shall be submitted with the District Attorney's copy only and separate from the crime report.

- (3) All incident reports shall be accompanied with the Domestic Violence Supplement form. This form shall be used to assist in gathering information required by statute and provide a summary of the incident. In situations where the supplement form covers all the necessary information in a specific area, it is not necessary to repeat this information in the narrative of the incident report. Critical areas such as injuries, torn clothing, emotional state, intoxication, and history of domestic violence are examples of areas that require greater detail in the narrative.
- (4) See Section E, 2b, (13).

**g. Confiscation of Weapons:**

- (1) PC §12028.5 authorizes peace officers at the scene of a domestic violence incident involving a threat to human life or a physical assault "... to take temporary custody of any 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." Officers are reminded to exercise their authority to permit maximum protection of persons at the scene of a domestic violence incident.
- (2) The main procedural requirements of PC §12028.5 are summarized as follows:

- (a) A receipt shall be given to the owner when the weapon is taken into custody.
- (b) The weapon(s) shall be held at least 48 hours.
- (c) If not retained as evidence, the weapon shall be returned after 48 hours and not later than 72 hours after initial seizure.
- (d) Any firearm taken into custody and not recovered by the owner within 12 months shall be treated as a nuisance unless there is an extended hearing process.
- (e) When an officer has taken a firearm into custody, he/she shall inquire whether any victim and/or witness is willing to execute the declaration form in support of destroying the confiscated weapon(s), attached to this policy as Appendix F. If a victim and/or witness would like to sign the declaration, the officer shall complete the form and present the form for their signature. One copy of the declaration shall be left with the person signing the form. The original and additional copies shall be attached to the police report.

The officer shall inform the person signing the declaration that the matter will be referred to the Domestic Violence Unit and the City Attorney's office for review regarding confiscation and destruction to the weapons pursuant to PC §12028.5.

- (f) When a law enforcement agency has reasonable cause to believe the release of the weapon would be likely to result in endangering the victim, the agency shall advise the owner and within 30 days of seizure, initiate a petition in Superior Court to determine if the firearm or other deadly weapon should be returned.

- (3) In some domestic violence related matters, officers may encounter an individual who has a permit to carry a concealed firearm. The weapon and permit are both subject to the same impound procedures and appropriate seizure should take place. The law enforcement agency issuing the CCW permit should be notified of the impound and seizure.

### **3. Supervisor's Responsibilities:**

- a. Monitor response to the domestic violence incident and respond to the scene if necessary.
- b. Review and approve all incident reports involving domestic violence in order to ensure a complete and thorough investigation.
- c. Ensure timely compliance with the firearms confiscation procedures set forth in PC §12028.5.

- d. If a weapon has been seized pursuant to PC §12028.5, the patrol supervisor reviewing the incident report will notify the City Attorney's Office at 826-5739. A message with the file number, date, location, and number of weapons seized will be left at any time of the day.
- e. Arrange for transportation to a shelter for victim(s) and children, when necessary.
- f. Arrange for police standbys for removal of personal property by victim(s) and children, when necessary.
- g. Assist in safe passage out of the victim's residence.

**4. Civil Liability:**

- a. Government Code §845 - Neither a public entity nor a public employee is liable for failure to establish a police department or otherwise to provide police protection or, if police protection service is provided, for failure to provide sufficient police protection service.
- b. FC §6272(a) - Law enforcement officers shall use every reasonable means to enforce an emergency protective order.
- c. FC §6272(b) - A law enforcement officer who acts in good faith to enforce an emergency protective order is not civilly or criminally liable.
- d. FC §6385(- c) -There is no liability on the part of, and no cause of action arises against, an employee of a law enforcement agency if a person described in Subdivision (g) of PC§ 12021 unlawfully purchases or receives or attempts to purchase or receive a firearm and a person is injured by that firearm or a person otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to failure of a court to provide the notice that a person is subject to a restraining order and prohibited from purchasing or possessing a firearm.
- e. PC §847(b) - There shall be no civil liability on the party of and no cause of action shall arise against any peace officer acting within the scope of his/her authority, for false arrest or false imprisonment arising out of any arrest when any one of the following circumstances exists:
  - (1) The arrest was lawful or when the peace officer, at the time of the arrest, had reasonable cause to believe the arrest was lawful.
  - (2) When the arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested.
  - (3) When the arrest was made pursuant to the requirements of §§142 (private person arrest), 838 or 839.

**F. DOMESTIC VIOLENCE RESTRAINING ORDERS:**

**1. Types and Definitions:**

The three basic types of domestic violence orders are defined as follows:

- a. **Protective Order** - An order which includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:
  - (1) An order enjoining specific acts of abuse;
  - (2) An order excluding a person from a dwelling; and
  - (3) An order enjoining other specific behavior. These orders are also known as **domestic violence protective orders or temporary restraining orders**. They are generally issued by civil courts during family law proceedings. They may have a duration up to three years.
- b. **Stay-Away Order** - An order issued in a criminal case involving domestic violence. It is issued where there is a likelihood that the suspect will intimidate the victim or members of the victim's family. It may remain in effect throughout the pending criminal case in which it is issued, including the sentence and probationary period.
- c. **Emergency Protective Order ("EPO")** - An order issued upon the assertion by a law enforcement officer to a judicial officer that a person is in immediate and present danger of domestic violence or that a child is in immediate and present danger of abuse by a family member. The court shall be available 24 hours each day, seven days a week and 365/366 days each year to issue EPOs upon proper showing by law enforcement officers. EPOs expire at the earlier of the following times: the fifth court day following the day of issuance or the seventh calendar day following the day of issuance.

Willful disobedience of any of these lawfully issued orders is a misdemeanor. PC §166(a)(4).

## 2. **Authority to Obtain and Issue:**

- a. **Protective orders or temporary restraining orders** are issued by Municipal or Superior Court judicial officers during family law proceedings pursuant to FC §§6320, 6321 and 6322. These orders may be issued independently or as part of another family law order or judgment. The application for the order is filed by the person to be protected.
- b. **Stay-Away Orders** are issued by either Municipal or Superior Court judicial officers during the pendency of criminal proceedings pursuant to PC§ 136.2. The District Attorney or Attorney General charged with the prosecution of the case applies for the order.
- c. **Emergency Protective Orders** may be issued by any Municipal or Superior Court judicial officer pursuant to FC §6250. These orders are issued to law enforcement officers for the benefit of the persons to be protected. The officer who requested the EPO shall reduce the order to writing on Judicial Court Form 1295.90 as revised 1/2000 and shall sign the application.
- d. All of these orders may be issued free of filing fees and the court may order law enforcement officers to serve them free of service or process charges.

- e. The EPO is always issued upon the ex parte application of an officer. The protective order or temporary restraining order may be issued upon notice and hearing or upon the ex parte application of the victim. The stay-away order is usually ordered without the need for formal notice. However, the defendant is usually in court when it is issued or will be ordered to appear in court to be informed of its terms by the issuing judicial officer.

**G. ASCERTAIN NEED FOR EMERGENCY PROTECTIVE ORDER:**

**1. Criteria:**

- a. When the Riverside County Superior Court is not in session and there is no other means of securing a restraining order. Note: EPOs are available when the court is in session but should be used rarely since other means of securing an order are available.
- b. When the officer has reasonable grounds to believe a person is in immediate and present danger of domestic violence by a family or household member, the officer may request an ex parte emergency protective order from the on-call judicial officer.
- c. Officers should make this determination based on the applicant's allegations of a recent incident of abuse or threats. Criteria may include:
  - (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 availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse.
- e. The requirement to establish tenancy or lawful possession of premises required under 546(a) CCP is not a requirement for emergency protective orders.

**H. REQUEST FOR EMERGENCY PROTECTIVE ORDER:**

- 1. The officer shall complete the application for emergency protective order form and secure signature (under penalty of perjury) of applicant.
  - a. Supervisor approval is required prior to contacting the on-call judicial officer.
- 2. The officer shall contact the on-call judicial officer by telephone and assert, from the application, the grounds for belief that an emergency protective order is appropriate.
  - a. An on-call judicial officer list is provided by the presiding judge of the Superior Court (same as on-call search warrant list).
    - (1) The on-call list is available in Dispatch.

- (2) If the telephone call is to be made from any location other than the Police Department, place the call through the dispatcher to the judge (this precaution is to avoid the telephone number of the judicial officer appearing on the telephone bill of one of the parties).
3. Upon oral issuance of the order by the on-call judge, the emergency protective order form shall be completed as per the judicial officer's instructions regarding restraint, and/or temporary custody. The officer shall sign the emergency protective order.
4. If the on-call judge denies issuance of an emergency protective order, the officer shall check the appropriate box on the application and give the pink NCR copy to the applicant.
5. The white original application shall be filed with the police report.

**I. ISSUED ORDERS:**

1. The officer who requested the emergency protective order shall:
  - a. Provide a copy of the order and application (pink NCR copies) to the protected party.
    - (1) Advise protected party that the emergency order shall expire not later than 5:00 p.m. on the close of judicial business on the fifth court day or the seventh calendar day following the day of its issuance, whichever is earlier.
2. Advise protected party how to secure a more permanent order.
  - a. Serve a copy of the order (canary NCR copies) on the restrained party, if the party can be reasonably located.
    - (1) Telephonic service to the restrained party is acceptable . Confirm the restrained party's identity, give notice of EPO conditions, and note telephonic service on the order and on any documentation reports. Telephonic service should be audio-recorded.
  - b. While on duty, carry a copy (golden rod NCR copy) of the order.
  - c. Deliver a copy of the emergency protective order and the white original to the Records Bureau.
    - (1) As soon as practicable after issuance, the original order shall be filed with the Superior Court of Riverside County at 4050 Main Street, Riverside, CA 92501 by the Investigations Bureau.
  - d. Upon expiration of the officer's shift, route the golden rod NCR copies (officer's copies) of the emergency protective order to the Records Bureau for filing with the original report.

**J. ENFORCEMENT PROCEDURES:**

1. Where a violation of any emergency protective order has occurred, the officer shall verify the restrained party has been served, then arrest in accordance with all other restraining order procedures.

**K. EMERGENCY PROTECTIVE ORDER LOG:**

1. An Emergency Protective Log shall be maintained in the Communications Center.
  - a. Officers shall promptly advise dispatch personnel whenever a protective order is issued.
  - b. Dispatch personnel shall log the date, file number, and list the protected and restrained parties.

**L. EMERGENCY PROTECTIVE ORDERS LIABILITY:**

1. A law enforcement officer, acting pursuant to Family Code Section 6272, shall not be held civilly or criminally liable if he or she acted in good faith in requesting and enforcing any emergency protective order.

## DOMESTIC VIOLENCE EMERGENCY PROTECTIVE ORDERS GENERAL INFORMATION CLARIFICATION

Officers should be aware of the following information in deciding whether or not an emergency order is appropriate:

1. Household Member - The law defines a household member as someone with whom the requester has lived within the past six months. If the party that the order is to restrain does not presently live with the requester, but has within the past six months, an order could be justified.
2. Abuse - The law defines abuse as either assault or the threat of assault (PC§ 13700(a); FC§ 6203). There must be more than a 415 PC (family) in order to obtain an order.
3. Orders - Three types of orders may be obtained:
  - (a) Conduct - Restrain on physical or other abuse.
  - (b) Kick Out/Stay Away Orders - Where the party is removed from the residence and is prohibited from contacting the party requesting the order.
  - (c) Custody Order - Child custody is granted (temporarily) to one of the parties.
4. Expiration - All of the emergency protective orders expire at the earlier of the following times: the close of judicial business on the fifth court day or the seventh calendar day following its issuance, whichever is earlier. **Always** advise the person requesting the order to go to Superior Court before the expiration of the EPO, to obtain a permanent protective order.
5. Orders and Arrest - Should you respond to a domestic violence situation and determine that a crime has occurred and an arrest is in order, make the arrest . . . then determine whether or not there is a strong likelihood of the violence continuing. If there is (such as having to release the person on a cite-release and knowing that he/she will return and continue the violence), obtain the order prior to releasing the person from custody. He/She can be served at that point and warned that he/she will be arrested and jailed should he/she return.
6. Establishing Tenancy or Legal Residence - Lawful possession does not necessarily mean that the person requesting the order owns or rents the premises. The court states that we need to determine who is lawfully in possession of the premises and that could mean that the person whose name is on the deed is not in lawful possession of the premises.
7. Calling of the Judge - Prior to calling the judge, the on-duty supervisor shall determine whether or not the order is called for, and shall approve the calling of a judge to issue the order. In all cases, the supervisor shall be consulted prior to calling. In all cases where the officer is at the residence of the parties involved, dispatch shall call the judge, give him/her the phone number where the officer is, and have him/her call back. This is to protect the judge from contacts later should the judge's phone number show up on the party's phone bill. When a call is to be made from the station, the on-call judge list (same as used for search warrants) shall be used. This list is available in both dispatch and the supervisor's office. If all parties requesting the order are at the station, only the reporting officer or the on-duty supervisor shall call the judge directly.
8. Retention of Order During Shift - The law requires that the officer obtaining the order is to carry the order with him/her during the remainder of his/her shift. The assumption is that he/she will be available to serve the restrained party should he/she return. The order should be forwarded to the Supervisor of succeeding shifts for assignment for service.
9. Service - If the party to be restrained is still at the residence, service would be accomplished by giving him/her a copy of the order (canary NCR copy). Should he/she be gone, and

telephone contact can be made, then verbal telephone contact can be accomplished. If verbal service is made, the officer shall note that fact on the order.

10. Reports - A report shall be made in all instances where an emergency protective order is obtained. The appropriate crime report should be authorized since it is domestic violence and since an assault or threat of assault should have occurred.
11. Stay-Away Distance - Stay away orders have a blank for inserting distance to stay away. One hundred (100) yards is the appropriate distance to enter in this blank, but may have to be altered as circumstances warrant.

Any problems, questions, or suggestions for improvements should be brought to the immediate attention of your supervisor.

DOMESTIC VIOLENCE EMERGENCY PROTECTIVE ORDERS  
MOST FREQUENTLY ASKED QUESTIONS

1. Who is eligible for the protection of an emergency protective order?

A person who alleges a recent incident of abuse or threat of abuse by a person who is within one of three categories:

- (a) a family member defined as a "spouse, former spouse, parent, child, or any other person related by consanguinity or affinity within the second degree" (parent-child, sibling-sibling, grandparent-grandchild);
- (b) a household member defined as "any other person who regularly resides in the household, or who within the last six months regularly resided in the household";
- (c) a person who is the parent of a minor child where the male parent is a presumed parent under Family Code Section 7600 et seq. and the abuse is by one parent against the other.

If the person is a family member, he or she may never have resided in the household; if the person left the household less than six months ago, the person is still included within the definition of a household member.

2. When is an emergency protective order available?

At all times when the Superior Court is or is not in session. It is available even when the endangered person has left the household to avoid abuse **BUT IT IS NOT AVAILABLE AND NOT NECESSARY IF A RESTRAINING ORDER ALREADY EXISTS BETWEEN THESE SAME PARTIES, SO LONG AS THE DEFENDANT HAS BEEN VALIDLY SERVED.**

The statute contains no limit on the number of protective orders that can be issued nor on their frequency.

3. What are the criteria for issuance of the emergency orders?

To obtain an emergency protective order, a person must be "in immediate and present danger of domestic violence by a family or household member, based upon that person's allegation of a recent incident of abuse or threat of abuse by that family or household member." The use of the term "recent" suggests that the abuse or threat of abuse is what precipitated the call for law enforcement help.

4. How long does the emergency protective order last?

It lasts until the close of judicial business on the fifth court day or the seventh calendar day following the date of its issuance, whichever is earlier.

5. What orders are available as emergency protective orders?

The statute permits emergency orders under the same provisions as regular ex parte domestic violence restraining orders (Family Code Sections 6252). These are respectively the basic "do not contact, molest, attack, strike, threaten, sexually assault, batter, or disturb the peace of . . ." order; the order excluding one party from the dwelling of the other; and any other order necessary to effectuate the first two. In addition, the statute specifically authorizes a temporary custody order.

The orders available might include orders to stay away from a specific place, such as a place of employment. While the present form of order does not contain much space for such an additional order, the officer can find space for it on the form when necessary.

Note that the basic restraining order prohibits the restrained person from telephoning or contacting the protected person. If these orders are not appropriate, the peace officer should cross them out and initial the line.

6. How is the relief granted under the emergency protective order different from a regular domestic violence restraining order, if at all?

Regular domestic violence ex parte restraining orders (an emergency protective order is an ex parte restraining order) issued under Family Code Sections 6320 et seq. are different from emergency protective orders in three significant ways.

- (a) A telephonic emergency protective order can include a temporary order determining the care and control of any minor child of the restrained and protected persons.
- (b) A telephonic emergency protective order can exclude a person from a residence or dwelling without any showing that the protected person has the right to possession of the premises.
- (c) Important ex parte orders relating to property and debts are available to married parties under the regular procedure.

7. When should a temporary custody order be made?

**Only** if the judicial officer finds both of the following: (a) that reasonable grounds have been asserted to believe that a child is in immediate and present danger of abuse and (b) an EPO is necessary to prevent the occurrence or recurrence of child abuse.

8. What if a custody order exists and it gives weekend visitation to a parent who has arrived drunk and rowdy to pick up a child?

It is not necessary to change the custody. An order can be issued that the drunk and rowdy parent stay a sufficient distance from the scene and the child so that the intoxicated parent is unable to exercise the visitation. By using temporary custody orders with great caution, the emergency protective order will not be available for child stealers or those parents who make unsavory attempts to change custody the last weekend of the summer vacation or Christmas vacation, alleging that abusive acts have just been brought to their attention.

9. What is the relationship between an emergency protective order and the arrest (or non-arrest) of the restrained person?

The fact of arrest may have no relevance to issuance of an emergency protective order. The protective order is not a substitute for an arrest. An arrest may not keep the arrestee in custody for long.

#### SPECIAL PROBLEMS AND ISSUES

10. Can a domestic violence shelter obtain a restraining order?

No. They may be obtained only by a person. A woman at a domestic violence shelter would be able to obtain one, but the shelter would not.

11. If there are two apartments in the same building, can the resident of one get an emergency order against the resident of the other?

Not unless they are related by blood or marriage, or unless they have shared a residence within the past six months so they are household members.

12. Can one get an order against an ex-spouse?

Yes, if they lived together within the past six months, the ex-spouse is a household member. Also, an ex-spouse is specifically included in the definition of family members.

13. If two people are living together as roommates, can you exclude one?

Yes, upon a proper showing. They are household members.

14. Can you exclude a rowdy threatening tenant at the request of the landlord?

No . . . be **VERY CAREFUL** of the landlord-tenant area! Landlords may go to great lengths to get tenants out so they can change the locks. Tenants may go to great lengths to avoid landlords who want to collect the rent. Ask extra questions whenever the relationship could possibly be landlord-tenant, even though the landlord and tenant may be related.

15. What if there's a dispute between two neighbors - such as violence over a parking space?

Domestic violence neighborhood disputes are not generally resolvable by telephone protective orders, however, if the neighbors are related, an order may be available. In such a situation, you might wish to order one neighbor to stay some designated distance from the other. The restrained person may not be compelled to vacate his/her house.

16. What if a mother and her daughter are being bothered by the daughter's ex-boyfriend?

Since the ex-boyfriend has had a dating relationship with the daughter, an emergency protective order is available upon a proper showing.

17. What if a party provides you with a court order from outside Riverside County - is it enforceable?

Yes, it is. An order issued by any court in the State of California is enforceable provided that proof of service is valid.

## TEMPORARY RESTRAINING ORDERS/INJUNCTIONS

Employees must be familiarized with restraining orders/injunctions and establish the necessary requirements for recording, maintaining, updating, and enforcing all restraining orders presented to their departments.

For agencies to discharge their responsibilities, both sworn and non-sworn personnel must know how to read a restraining order and what to do with one when it is received. Specific law enforcement actions relating to domestic violence are described in Penal Code Sections 13700 et seq., while restraining orders/injunctions relating to harassment are described in Sections 526 and 527.6 of the Code of Civil Procedure.

Under California law, courts can make orders to protect people from being harassed by others (CCP 527.6) and from the physical violence of family members or people they live with (Domestic Violence Prevention Act, Family Law Act, or Uniform Parentage Act). These orders are recorded by the court and enforced by law enforcement agencies.

### I. LEGISLATIVE INTENT

- A. The legislature intended by these acts to protect the individual right to pursue safety, happiness, and privacy as guaranteed by the California Constitution.
  - 1. When one person is subjected to harassment.
  - 2. By a knowing and willful course of conduct (series of acts over a period of time, however short, evidencing a continuity of purpose) which would cause a reasonable person to suffer substantial emotional distress,
  - 3. By acts directed to a specific person,
  - 4. And the harassment causes substantial emotional distress,
  - 5. And the harassment serves no legitimate purpose.
- B. The person harassed may seek a temporary restraining order and an injunction prohibiting harassment for a period of up to fifteen days by filing a petition.

### II. RESTRAINING ORDERS - GENERALLY

- A. Harassment
  - 1. Harassment forms are available from the County Clerk's Office or legal publishers and consist of the following:
    - (a) Petition for Injunction Prohibiting Harassment and Application for Temporary Restraining Order/ Petition. This three-page form tells the judge the facts of the plaintiff's case and what orders the plaintiff wants the court to make.
    - (b) Order to Show Cause (OSC) and Temporary Restraining Order (TRO). The OSC, when signed by the judge, tells the defendant to come to court for the hearing. It may include one or more temporary orders (TRO) which take effect immediately and stay in effect until the hearing.
    - (c) Response to Petition for Injunction Prohibiting Harassment (Response). The defendant may file this form to state objections to

the orders the plaintiff has asked the court to make and to give his/her side.

- (d) Order After Hearing on Petition for Injunction Prohibiting Harassment (Order). This is the form signed by the court following the hearing. The order will stay in effect for up to three years depending on what the judge rules.
  - (e) Proof of Personal Service (Harassment) and Proof of Service by Mail (Harassment). These forms are used to show that the other party has been served with the legal documents as required by law.
2. The plaintiff requires five copies of each harassment form . . . one for a work sheet, the original to file with the court, a copy to be personally delivered (served) to the defendant and two copies for the plaintiff. In addition, the plaintiff requires extra copies of the OSC, the Order, and the Proof of Service for each law enforcement agency required to enforce the orders.
  3. The plaintiff completes the Petition and OSC pursuant to instructions provided with the documents, and returns all forms and copies to the County Clerk's office in the Superior Court, with the appropriate filing fee.
  4. If the judge signs the OSC, the clerk will stamp all the papers with a case number. The copies will be stamped with an "Endorsed-Filed" stamp (showing the date of filing), the judge's signature, and the date of signing. The clerk will file the originals and give the plaintiff the copies.
  5. The plaintiff must then have the defendant personally served with copies of the Petition, OSC, and a blank copy of the response.
  6. If the judge issued any temporary orders, the plaintiff is required to deliver copies of the TRO to each law enforcement agency required to enforce the order.
  7. After the defendant has been personally served, the person who served the defendant (licensed process server, sheriff, etc.) must complete and sign the original Proof of Service form and return it to the Court Clerk. The clerk will file the original and stamp "Endorsed-Filed" on the copies. The plaintiff must then take one of the endorsed-filed copies to each of the law enforcement agencies where the initial TRO was filed.
  8. The plaintiff then attends the court hearing with any evidence (copies of police reports, etc.). The order should be filled in and given to the judge for signing.
  9. If the judge signs the order, the plaintiff files the original with the clerk, gets the copies stamped with an "Endorsed-Filed" stamp, and immediately delivers copies to law enforcement agencies.

## B. Domestic Violence

1. Domestic violence prevention forms are available from the County Clerk's office or legal publishers and consists of the following:
  - (a) Application and Declaration for Order (Application). This four-page form tells the judge the facts of the case and what orders the plaintiff wants the court to make.

- (b) Order to Show Cause and Temporary Restraining Order. The judge signs this order to tell the defendant to come to court for the court hearing. It usually will contain one or more court orders that take effect immediately and stay in effect until the hearing.
- (c) Responsive Declaration to Order to Show Cause. The defendant may file this form to say he/she objects to the orders the plaintiff has asked the court to make.
- (d) Restraining Order After Hearing. This is the form signed by the court following the hearing. It will expire in three (3) years unless the court terminates or extends it, or orders a shorter period. This form may be used in conjunction with the Findings and Order after Hearing form if the court makes additional orders.
- (e) Proof of Service. This form is used to show that a defendant has been served with legal papers as required by law.
- (f) Application and Order for Re-issuance of Order to Show Cause. If the plaintiff cannot have the defendant served before the hearing as ordered by the court, he/she completes and files this form to continue the temporary orders in effect and obtain a new hearing date. This form must be delivered to law enforcement agencies so that they know the temporary orders did not expire.
- (g) Other Forms. Plaintiff completed forms for child support, uniform custody of minors, etc.

2. The copies and steps required for issuance of the orders are the same as described in subsection A, numbers 2-9 of this section.

### **III. INJUNCTIONS**

A. Injunctions - Writ or order requiring a person to refrain from a particular act.

1. An injunction may be granted in the following cases:

- (a) When it appears by the complainant that the plaintiff is entitled to the relief demanded and such relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for the limited period or perpetually.
- (b) When it appears by the complaint of affidavit that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury to a party to the action.
- (c) When it appears during the litigation that a party to the action is doing, or threatens or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action and tending to render the judgment ineffectual.

### **IV. FAMILY LAW - EX PARTE PROTECTIVE ORDERS**

A. Upon the application of either party in the manner provided by Section 527 CCP/6320 et seq. FC, the Municipal or Superior Court may issue ex parte orders (a judicial order is said to be ex parte when it is taken or granted at the instance and for

the benefit of one party only and without notice to, or contestation by, any person adversely interested):

1. Restraining any person from, transferring, encumbering, hypothecating (pledge as security), concealing, or in any way disposing of any property, real or personal, whether community, quasi-community or separate.
  2. Enjoining any party from contacting, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including annoying telephone calls as described in PC Section 653m, contacting repeatedly by mail with the intent to annoy or harass, destroying personal property, disturbing the peace of the other party, and in the discretion of the court, on a showing of good cause, of other named family or household members.
  3. Excluding one party from the family dwelling or from the dwelling of the other for the period of time, and upon the conditions as the court may determine, regardless of which party holds legal or equitable title, or is the lessee of the dwelling, upon a showing that the party to be excluded has assaulted or threatens to assault the other party, and that physical or emotional harm would otherwise result to the other party or any person under the case, custody or control of the other party;
  4. Determining the temporary custody of any minor children of the marriage and the right of a party to visit the minor children upon the conditions as the court may determine;
  5. Determining the temporary use, possession and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the pendency of the order, and;
  6. Enjoining a party from specified behavior which the court determines is necessary to effectuate orders under numbers 2 or 3 above.
- B. Any order issued pursuant to this section shall state on its face the date of expiration of the order.
- C. The court shall order the party who obtained the order or the attorney for such party to deliver, or the clerk to mail a copy of any order, extension, modification, or termination by the close of the business day on which the order, extension, modification, or termination was granted and any subsequent proof of service, thereof, to each local law enforcement agency designated by the party and such other locations where the court determines that acts of domestic violence against the party are likely to occur.
- D. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued to any officer responding to the scene of reported domestic violence.

## **V. HARASSMENT - T.R.O./INJUNCTION**

- A. Harassment - A knowing and willful course of conduct (series of acts over a period of time, however short, evidencing a continuity of purpose) directed at a specific person that seriously alarms, annoys, or harasses such person and which serves no legitimate purpose.
  - 1. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff.
- B. Upon filing a petition for an injunction under Section 527.6 CCP, the plaintiff may obtain a temporary restraining order in accordance with the provisions of subdivision (a) of Section 527 CCP.
- C. A temporary restraining order may be granted with or without notice upon an affidavit, which to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that threat or irreparable harm would result to the plaintiff.
  - 1. A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed fifteen days, unless otherwise modified or terminated by the court.
- D. Within fifteen days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies, or denies the alleged harassment.
  - 1. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry.
  - 2. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting such harassment.
  - 3. An injunction issued shall have a duration of not more than three years.
  - 4. At any time within three months before expiration of the injunction, the plaintiff may apply for a renewal of an injunction by filing a new petition for an injunction.
- E. Upon filing of a petition for an injunction, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.
- F. The clerk shall transmit a copy of each temporary restraining order or injunction, modification, or termination thereof, by the close of the business day on which such order was granted, to such law enforcement agencies within the court's discretion as are requested by the plaintiff.
  - 1. Each appropriate law enforcement agency may make available information as to the existence and current status of these orders to officers responding to the scene of reported harassment.

## **VI. ACCEPTANCE/RECEIPT OF RESTRAINING ORDER**

- A. It is the responsibility of department personnel to receive all temporary restraining orders/injunctions in conformance with the following process:

1. Only conformed or certified copies of orders will be accepted.
  - (a) A conformed copy is a copy of a document produced before being signed by a judge, commissioner, or referee. The "signature" items are filled in by the clerk in pen, or rubber stamp after the original is completed. A "conformed copy" will bear an original "Filed" stamp.
  - (b) A certified copy is a photographic or "Xerox" copy of a document or record, signed and certified as a true copy by the officer to whose custody the original is entrusted and is produced after the original has been completed by the judge, commissioner, or referee and filed by the clerk. A certified copy will bear an original "certified" stamp.
2. Such orders should include a complete "proof of service" or similar document indicating that a person against whom the order is directed has been notified of the order.
3. Persons making delivery of an order which lacks "proof of service" will be advised that enforcement action cannot occur until "proof of service" is established, however, the order will be accepted and appropriately filed.
4. "Proof of Service" is one of the hardest things to establish and usually is defective in some manner, mostly because the litigants are "pro per." Copies of all orders, revisions, or updates will be filed in the Records Bureau by case number. The Records Bureau shall enter the Restraining Order information into the local Automated Name Index (ANI) and the State Domestic Violence Restraining Order System (D.V.R.O.S.) / C.L.E.T.S.

## **VII. INVESTIGATION/VERIFICATION OF THE ORDER**

- A. When an incident being investigated involves the alleged violation of a restraining order/injunction, the following investigative steps should be taken:
  1. Determine that an order is on file and file is active, (note that orders from any other state, commonwealth, tribe or territory, military tribunal or insular possession subject to the jurisdiction of the United States are valid and must be enforced) or;
  2. If no order is on file, the complainant must provide a conformed (containing an original "FILED" court stamp) or certified active copy of the order.
  3. Verify the conditions specified in the order (also any revisions or updates), and that the person has willfully violated those conditions.
  4. Verify that the person against whom the order is directed has been served or notified. This may be accomplished by:
    - (a) Having a copy of the proof of service in the file with the T.R.O.
    - (b) Checking the T.R.O. to determine if the subject was present in court when the order was issued.
    - (c) Having a police report that indicates notification by law enforcement. State law requires a retrievable written record of T.R.O. service, a copy of which should be filed with the T.R.O. itself; or

- (d) Contacting or telephoning the Court Clerk (during normal business hours) to see if both parties were present in court when the T.R.O. was issued (court docket information).
  - (e) The responding officer requests that the Communications Bureau seek verification through the California Department of Justice Domestic Violence Restraining Order System.
5. If prior conditions are met, the investigating officer can cite, arrest, or request that a warrant be issued if the suspect is not present.
  6. A report will be completed on all violations, or alleged violations, of restraining orders.
    - (a) If no copy of the order and proof of service is on file with the department, make a copy of the order furnished by the complainant and attach to the report.
  7. Investigating officers need not cite, arrest, or request that a warrant be issued when the following circumstances are present:
    - (a) A violation has occurred, but the complainant indicates that prosecution is not desired.

**NOTE:** This is the problem of a "waiver" by the holder of the order. When this occurs, the suspect/defendant always claims it as a defense on a later occasion when the holder demands prosecution.

    - (b) Verification of service cannot be established.
    - (c) When the existence of the order cannot be verified.
    - (d) When there is reasonable cause to believe that the person against whom the order is directed did not willfully violate the order. However, the assigned officer will report the incident and include the reason or circumstances which justify the lack of an arrest.
    - (e) The above provisions do not preclude the lawful arrest of a person for any other violation(s).

## VIII. NOTICE OF SERVICE

Orders of which verification or proof of service cannot be established will be resolved as follows:

1. The investigating officer will advise the person to whom the order is directed of the order and its conditions. This may be done in person or telephonically. If done by telephone, the advisement should be audio-recorded.
2. After such advisement, if the person continues to willfully violate the provisions of the order, an arrest will be made.
3. The person to whom the order is directed may be given a copy, when possible.
4. Notice of advisement shall be included in the investigating officer's report.

5. The investigating officer shall promptly notify Records personnel of the notice of service.
  - (a) Records personnel shall promptly note the notice of service on the restraining order proof of service work sheet.

## APPENDIX A (1 of 2)

### INFORMATION TO VICTIMS OF DOMESTIC VIOLENCE

1. Despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.
2. For information about a shelter you may contact Alternative to Domestic Violence by calling in the Riverside Area (951) 352-9262. They also provide counseling services and assistance in typing restraining orders.
3. Other services in the community that may be of assistance to you:
  - For legal assistance contact:

Inland Counties Legal Services	(951) 683-7742
Lawyer Referral Service	(951) 682-7520
  - When child abuse has occurred contact:

Child Protective Services	(951) 358-3700
Victim/Witness	(951) 955-5450
4. The victim of a domestic violence can ask the District Attorney to file a criminal complaint.
5. It is the responsibility of the victim to request notification of an inmate's release.
6. The terms and conditions of the protective order remain enforceable, notwithstanding any acts of the parties, and may be changed only by order of the court.
7. Victims' of domestic violence have the right to go to the superior court and file a petition and/or an order to show cause 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 a minor child or children.
  - 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.
8. The victim of domestic violence has the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, other expenses for injuries sustained, damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

## APPENDIX A (2 of 2)

ADV  
Alternative to Domestic Violence

### 24 HOUR CRISIS LINES

(951) 683-0829  
Riverside Local Calling Area

1-(800) 339-SAFE  
Remainder of Riverside County

If you have been hurt by a spouse or intimate partner and need assistance in identifying your alternatives, call the CRISIS LINE. ADV provides information, counseling, referrals, and shelter services for domestic violence victims and their children.

FOR IMMEDIATE EMERGENCY RESPONSE DIAL 911

In the case of an alleged violation of Penal Code Section 243(e), 261, 261.5, 262, 273.5, 286, 288a, or 289, the officer shall provide the victim with a "Victims of Domestic Violence" card which shall include, but is not limited to, the following information:

- a. The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.
- 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.
- d. A statement that 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.

**APPENDIX B**

**AUTHORIZATION FOR MEDICAL AND/OR HOSPITAL INFORMATION**

TO:

(Hospital or Doctor)

RE:

(Victim's name, etc.)

This is to authorize any physician, hospital, medical attendant, or others to furnish the Riverside Police Department Domestic Violence Unit, and/or the Riverside County District Attorney, or any representative thereof, any and all information or opinions which they may request regarding my physical condition and treatment rendered therefore and to allow them to see or copy any x-rays or records which you may have regarding my condition or treatment concerning injuries occurring on or about

\_\_\_\_\_  
(Date)

You are further requested to disclose no information to any other persons without written authority from me to do so (pursuant to privilege and confidential communications statutes). All prior authorization is hereby canceled. I hereby waive any privilege I have to such information in order that said information can be furnished to the Riverside Police Department Domestic Violence Unit and/or the Riverside County District Attorney's Office.

\_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

**APPENDIX C**

**PERMISSION TO PHOTOGRAPH**

1, \_\_\_\_\_, voluntarily consent to my injuries and likeness being photographed by \_\_\_\_\_, of the Riverside Police Department. The photographs are necessary as evidence for case number \_\_\_\_\_. I understand that the officer may take photographs of physical injuries visible to public view after taking all practicable steps to protect my privacy and modesty. However, in those cases where my modesty is an issue, the officer has obtained:

- i) my written or audio recorded consent,
- ii) the person taking the photograph is of my same sex,
- iii) the photographs are taken at a location where the areas of my body to be photographed are only visible to the person taking the photographs, or other necessary and indispensable persons such as medical personnel,
- iv) the photographs shall be maintained, distributed, and utilized in a manner so as to protect my privacy and modesty being the person photographed.

I am giving this written permission freely and voluntarily so a permanent record of my visible physical injuries can be presented in court as evidence.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

**APPENDIX D (English)**

**CONFIDENTIAL REPORT**  
For Law Enforcement Personnel Only  
Riverside Police Department CA0331300

NOTICE TO: VICTIMS OF SEX CRIMES

Report No. \_\_\_\_\_

This form must be attached to all criminal reports related to the following California Penal Code sections: 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9. A separate form shall be completed for each victim.

California Penal Code 293 (a): "Any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense, shall inform the person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code."

"Pursuant to California Penal Code 293 (a) and California Government Code 6254, you are informed that your name will become a matter of public record unless you request that it not become a matter of public record."

I have read and understand the above paragraph. I have been informed of my right to have my name not become a matter of public record.

Victim Signature \_\_\_\_\_  
(If the victim is under age 18, a parent or guardian's signature should be obtained)

Date \_\_\_\_\_

Parent/guardian Signature \_\_\_\_\_

Date \_\_\_\_\_

Officer advised parent or guardian telephonically

Indicate your decision by marking one of the following choices:

- I do not want my name to become a matter of public record.
- I have no objection to my name becoming a matter of public record in this sex offense investigation and possible litigation. I understand that by selecting this option, my name will become a matter of public record.

Witnessed by (Police Department employee informing victim):

Signature \_\_\_\_\_ Employee No. \_\_\_\_\_

TO BE COMPLETED BY POLICE DEPARTMENT EMPLOYEE:

\*IN THE REPORT, this victim is referred to as Victim# \_\_\_\_\_  
Victim Name \_\_\_\_\_ DOB \_\_\_\_\_ CDL# \_\_\_\_\_

Race \_\_\_ Sex \_\_\_ Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

Zip Code \_\_\_\_\_ Residence Phone ( ) \_\_\_\_\_ Business Phone ( ) \_\_\_\_\_

NOTICE TO EMPLOYEE: If the victim does not want his or her name to be a matter of public record. DO NOT place identifying information on the face sheet of the crime report or any supplemental crime report. In the body of the report, refer to the victim as "Victim 1", "Victim 2", etc. DO NOT use the name of the victim in the body of the report.

Rev. 1/20/05

**APPENDIX E (Spanish)**

**INFORME CONFIDENCIAL**  
 Solamente Para Empleados de Agencias Policiacas  
 Departamento de Policía de Riverside CA0331300

**AVISO A: VÍCTIMAS DE CRÍMENES SEXUALES**

Informe No. \_\_\_\_\_

Esta forma debe de acompañar todos las denuncias criminales relacionados con las siguientes secciones Penales del Código de California: 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, o 646.9. Un formulario separado será llenado para cada víctima.

Código Penal de California 293 (a): "Cualquier empleado de una agencia policiaca que personalmente recibe una denuncia criminal de cualquier persona, alegando que ha sido la víctima de una ofensa sexual, se le informará a la persona que su nombre se convertira en información pública a menos que él o ella solicite que no se convierta en información pública, conforme a la sección 6254 del Código del Gobierno."

"Conforme al Código Penal de California 293 (a) y al Código del Gobierno de California 6254, usted esta informado que su nombre se convertirá en información pública a menos que usted solicite que no se convierta en información pública."

He leído y entiendo el párrafo antedicho. Me han informado de mi derecho de hacer que mi nombre no se convierta en información pública.

Firma de Víctima: \_\_\_\_\_ Fecha: \_\_\_\_\_  
 (Si la víctima es menor de 18 anos de edad, la firma de madre o padre, o guardián legal debe ser obtenido.)

Firma de Madre o Padre/Guardián Legal: \_\_\_\_\_ Fecha: \_\_\_\_\_

El Oficial aconsejo por llamada telefónica a la madre o el padre o guardián legal.

Indique su decisión marcando una de las opciones siguientes:

No quisiera que mi nombre se convierta en información pública.

No tengo ninguna objeción que mi nombre se convierta en información pública en esta investigación de la ofensa sexual y posible litigación. Entiendo que seleccionando esta opción, mi nombre se convertira en información pública.

Atestiguado por (Empleado del Departamento de Policía informandole a la victima):

Firma \_\_\_\_\_ Numero Del Empleado: \_\_\_\_\_

**LO SIGUIENTE DEBE SER COMPLETADO POR EL EMPLEADO DEL DEPARTAMENTO DE POLICIA:**

\*EN EL INFORME, refieren a esta víctima como víctima # \_\_\_\_\_

Nombre de Víctima: \_\_\_\_\_ Fecha De Nacimiento: \_\_\_\_\_

CDL# \_\_\_\_\_ Raza: \_\_\_\_\_

Domicilio: \_\_\_\_\_ Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_ Código Postal: \_\_\_\_\_

Teléfono Residencial: ( ) \_\_\_\_\_ Teléfono De Negocio: ( ) \_\_\_\_\_

**AVISO AL EMPLEADO:** Si la víctima no desea que su nombre se convierta en información pública, NO PONGA información de identificación en la primera pagina del informe criminal o en ningún informe suplemental del crimen. En el cuerpo del informe, refiera a la víctima como la "víctima 1", la "víctima 2", etc. No utilice el nombre de la víctima en el cuerpo del informe.

Rev. 01/21/05

**APPENDIX F**

**FIREARM DESTRUCTION DECLARATION  
RIVERSIDE POLICE DEPARTMENT**

DATE & TIME	LOCATION	FILE NUMBER		
CRIME	REPORTING OFFICER	ID NUMBER		
VICTIM I I WITNESS I I		SEX:	RACE:	DOB:
ADDRESS		TELEPHONE		

**DECLARATION**

I, \_\_\_\_\_ declare and state as follows:

(PRINT DECLARANT'S Name)

I am the \_\_\_\_\_, \_\_\_\_\_ I was the (victim/witness) of domestic  
 (NATURE OF RELATIONSHIP TO SUSPEC1) (DATE)  
 violence perpetrated by \_\_\_\_\_

(PRINT NAME OF SUSPEC1)

On \_\_\_\_\_, the following weapon(s) were confiscated by the Riverside Police Department: (list make, model,  
 (DATE)  
 caliber and serial number)

- |           |           |
|-----------|-----------|
| (1) _____ | (2) _____ |
| (3) _____ | (4) _____ |
| (5) _____ | (6) _____ |
| (7) _____ | (8) _____ |

I believe that the return of the weapon(s) would result in endangering my safety. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at Riverside, California.

\_\_\_\_\_  
 PRINT NAME (DECLARANT)

\_\_\_\_\_  
 SIGNATURE

\_\_\_\_\_  
 PRINT NAME (WITNESS OFFICER)

\_\_\_\_\_  
 SIGNATURE

**APPENDIX G**

WELFARE AND INSTITUTIONS CODE SECTION 8102

**WEAPONS SEIZURE**  
**NOTIFICATION**

(COMPLETED AND GIVEN TO PATIENT)

CONFISCATING LAW ENFORCEMENT AGENCY:

**RIVERSIDE POLICE DEPARTMENT**  
**4102 ORANGE STREET RIVERSIDE,**  
**CALIFORNIA 92501**

**FILE NUMBER:** \_\_\_\_\_

PATIENT NAME: \_\_\_\_\_

\_\_\_\_\_  
ADDRESS: \_\_\_\_\_

*The Law Enforcement Agency has THIRTY (30) days, unless good cause is shown, to begin a petition in the Superior Court for a hearing to determine whether the return of your firearm or weapon would be likely to result in endangering yourself or others. A notice from the Agency will be mailed to you telling you of your right to a hearing on this issue. If the Law Enforcement Agency does not initiate a petition, they will make the weapon available for return to you.*

*The Law Enforcement Agency will tell you that you have THIRTY (30) days to respond to the Court Clerk to let them know that you want a hearing. If you do not respond within THIRTY (30) days, you will forfeit the firearm or weapon.*

*If you request a hearing, a hearing will occur within THIRTY (30) days from receipt of your request for a hearing. The Court Clerk will notify you of the date, time, and place of the hearing.*

\_\_\_\_\_  
Patient Signature Date

\_\_\_\_\_  
Officer Signature Date

Copy to: Patient (pink)  
City Attorney (yellow)  
File (white)