

DOMESTIC VIOLENCE

This order establishes Department policies regarding domestic violence incidents and outlines procedures for investigating, processing and enforcing court orders.

POLICY

- A. It is the policy of the San Francisco Police Department that members treat all acts of domestic violence as criminal conduct. When the elements of a crime exist, members shall make an arrest instead of using dispute mediation or other police intervention techniques.
- B. In **ALL** cases, even if an arrest is not made, members shall give the victim a Domestic Violence Referral Card (SFPD 142).
- C. Members shall not allow any of the following factors to influence their course of action during domestic violence incidents:
 - 1. The marital status of the suspect and the victim.
 - 2. Whether or not the suspect lives with the victim.
 - 3. The existence of or lack of a restraining order or stay away order.
 - 4. The potential financial consequences of arrest.
 - 5. The victim's history of complaints.
 - 6. Verbal assurances from either party that the violence will cease.
 - 7. The victim's emotional status.
 - 8. Whether or not injuries are visible.
 - 9. The location of the incident (public or private).
 - 10. Speculation that the victim may not follow through with the prosecution, or that the arrest may not lead to a conviction.
 - 11. The victim's initial reluctance regarding an officer-initiated arrest.
 - 12. The victim and suspect are the same gender.

DGO 6.09
Rev. 03/03/03

II. DEFINITIONS

- A. **DOMESTIC VIOLENCE.** Domestic violence is abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, domestic partner or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.
- B. **ABUSE.** Abuse is intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or another. Abuse also includes threats.
- C. **COHABITANT.** Cohabitants are two unrelated persons living together for a substantial period resulting in some permanency of relationship. Factors to consider when determining if cohabitation exists include, but are not limited to the following:
1. Sexual relations between persons who live together
 2. Sharing of expenses or income
 3. Joint use/ownership of property
 4. Whether parties claim to be husband and wife
 5. Continuity of the relationship
 6. Length of the relationship
- D. **DATING RELATIONSHIP.** A dating relationship is frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

III. PROCEDURES

A. FELONY ARRESTS.

1. Members shall make an arrest whenever reasonable cause exists to believe a felony has occurred.
2. Members shall refer the victim to the Domestic Violence Response Unit (DVRU) for follow-up investigation.
3. When an arrest has not been made in a criminal case, members shall refer the victim to the DVRU for follow-up investigation.

B. MISDEMEANOR ARRESTS.

1. Members shall make an arrest whenever reasonable cause exists to believe a misdemeanor has occurred in their presence. For all misdemeanor arrest cases, members shall refer the victim to the District Attorney's Office for follow-up investigation.

2. When a misdemeanor has occurred, but not in the members' presence, members shall inform the victim that the victim may make a private person's arrest.
 3. If probable cause exists to believe that an assault or battery has occurred upon a current or former spouse or cohabitant, upon a person in a current or former dating or engagement relationship, or upon a parent of a child in common, and the arrest is made as soon as probable cause arises, members may make a warrantless arrest. No private persons arrest is required.
 4. If probable cause exists to believe a violation of a domestic violence court order has occurred and the suspect has notice of the order, members shall make a warrantless arrest and book the suspect whether or not the violation occurred in the members' presence.
 5. After an arrest has been made, members should book or cite the suspect based upon whether the offense is likely to continue. Members should consider the suspect's history of violence, whether the victim is fearful of retaliation and any violation of an existing domestic violence protective order.
 6. When an arrest has not been made in a criminal case, members shall refer the victim to the DVRU for follow-up investigation.
- C. INCIDENT REPORTS. Members shall investigate and write an incident report for any crime that involves domestic violence (even if the suspect is not at the scene). This includes threats and/or violations of any court order.
1. Members shall check the "Domestic Violence" box on the face sheet of the incident report.
 2. Members shall include the following information in the narrative of the incident report:
 - a. Any prior domestic violence calls to the same address that involved the same alleged abuser or victim.
 - b. Any documented or undocumented reports of domestic violence between the parties.
 - c. Any signs that the alleged abuser was under the influence of alcohol or controlled substance.
 - d. Whether the responding officer found it necessary to inquire if any firearms or other deadly weapons were present at the scene and whether that inquiry disclosed the presence of firearms or other deadly weapons.

DGO 6.09
Rev. 03/03/03

- e. That the victim was given a Domestic Violence Referral Card and was advised of follow-up procedures.
 - f. If dominant aggressor is an issue and a determination is made, members shall document the investigative steps taken to identify which party was the dominant aggressor.
3. Members shall offer confidentiality to victims of domestic violence. If the victim requests confidentiality, members shall check the "confidentiality requested" box in the Victim Reporting Section of the incident report.
 4. Members shall complete the Domestic Violence Supplemental Checklist (SFPD 480a and 480b) for all domestic violence related incidents (including court protective order violations, threats and stalking). Members shall attach the Supplemental Checklist to the original report.
 5. If the victim chooses to leave the premises because he or she is fearful the suspect may return, members shall obtain a phone number and address where the victim can be contacted. Members shall **not** include this information in the incident report, but rather forward the information to the Domestic Violence Response Unit.
 6. If a crime has not occurred, members shall document the details of the call in the MDT and provide the complainant with the CAD (complaint) number.
 7. Code all domestic violence-related calls for service in the MDT as follows: "DV" Domestic Violence or "DVW" Domestic Violence/Weapon and indicate the particular weapon (fist, feet, etc. are considered weapons).

D. CONFISCATING WEAPONS.

1. Members shall confiscate any firearm or other deadly weapon discovered at a domestic violence scene.
2. Pursuant to 12028.5 PC, when confiscating a weapon members shall give the owner or person in possession of the weapon a property receipt and tell him or her to contact the Domestic Violence Response Unit regarding its return.

E. STANDBY. Member shall provide a police standby for a victim removing personal property and/or assistance in safe passage out of the victim's residence.

- F. **SHELTER.** If the need exists, members should assist in arranging shelter for the victim. The shelter staff will make arrangements to pick up the victim. Shelter information is confidential. Members are not required to obtain the address and phone number of the shelter, but members shall indicate the name of the shelter in the incident report. Members shall never tell the suspect the name or location of the shelter.
- G. **TREATMENT/DOCUMENTATION OF INJURIES.** If anyone has been injured, members shall arrange for medical treatment, even if the injury is not visible. Members shall describe the injury and any medical treatment in the incident report. Members should attempt to photograph any visible injuries and book the photographs as evidence.
- H. **BOOKING FORM.** When completing the booking form, the station keeper shall type "Domestic Violence" next to each criminal charge.
- I. **COURT PROTECTIVE ORDERS.** Civil and criminal court judges issue protective orders. These orders may prohibit an individual from contacting, harassing or molesting the applicant. Some orders determine temporary custody or tenancy. Members shall read all court orders carefully to determine their specific terms. All types of orders are valid throughout California and the United States. Violation of any term of a court protective order is a crime. Members shall make an arrest and book the suspect when enforcing a domestic violence court order. The following are types of court protective orders:
1. **RESTRAINING ORDERS.** A restraining order is a court order issued by a civil court judge. Restraining orders address a variety of domestic issues including dependency, protection of adults and children, child custody and eviction of an abuser. Restraining orders include temporary restraining orders.
 - a. **VERIFICATION.** If a complainant states that a restraining order has been issued, members shall verify its existence and proof of service. A restraining order is verified when the complainant shows a copy of the order that has been officially stamped by the court that issued the order or when the order is on file with the Department. To determine whether the Department has the restraining order on file, members should run a 10-29 Person on the alleged violator. After verification, members shall call the Identification Section to determine the specific terms of the order.

DGO 6.09
Rev. 03/03/03

- b. **PROOF OF SERVICE OR NOTIFICATION.** After verifying the order, members must obtain proof that the violator was either served the order or is aware of its terms prior to making an arrest. Members can obtain proof of service or notification of service by any of the following means:
- (1) Complainant shows a copy of the proof of service.
 - (2) Proof of service is on file with the Department (10-29 Person).
 - (3) The order indicates the suspect was present in court when it was issued.
 - (4) A member previously notified the suspect of the existence of the restraining order and explained the terms.
 - (5) A member served the restraining order on the suspect.
- c. **NOTIFICATION/SERVICE BY MEMBER** (See DGO 3.14, Civil Legal Process). If existence of a restraining order is confirmed, but a member cannot verify proof of service or proof of notice, members shall notify the suspect of the restraining order and describe its terms. If a copy of the restraining order is available, and it is practical to do so, members should serve the suspect. In either case, members shall warn the suspect that failure to comply with the order will result in arrest. Members shall give the complainant a Domestic Violence Referral Card and a Reportee Follow-up Form (SFPD 105) with the case number. Members shall advise the complainant to show the form to any member who may later respond.
- (1) Members shall document the notification or service in an incident report. Members shall title the report "Restraining Order Notification" or "Service of Restraining Order".
 - (2) Members shall immediately inform the Identification Section of the date and time of notification or service, the case number and the members name and star.
 - (3) Watch commanders shall maintain a separate file in the business office of the station for copies of all incident reports titled "Restraining Order Notifications" or "Service of Restraining Orders."
- d. **NO VERIFICATION AND/OR PROOF OF SERVICE.** If a victim does not have a copy of the restraining order and members are unable to verify its existence and proof of service (e.g., because of computer malfunction), members shall tell the complainant that if grounds exist the complainant may make a private person's arrest. If no arrest is made and the suspect is released, members shall write an incident report. Members shall advise the victim to contact the DVRU for follow-up investigation.

- e. **ARRESTS AND REPORTS.** Members shall use the appropriate subsection of Penal Code Section 273.6 when arresting a suspect for violation of a restraining order. In the incident report, members shall document the specific terms of the restraining order that were violated, identify the court, the date the order was issued, and the date the order expires. Members should book a copy of the restraining order as evidence if possible. Members shall advise the victim to contact the District Attorney's Office for the follow-up investigation.
2. **STAY AWAY ORDERS.** A judge may issue a stay away order in a criminal case when victim intimidation exists. Because the defendant and/or the defendant's attorney were present when the stay away order was issued, a stay away order does not require proof of service. The order is valid for the duration of the court's jurisdiction over the suspect, including probation.
 - a. **VERIFICATION.** When a complainant claims that a stay away order was issued, members should ask to see a copy. Members can make a computer query into the court management records to verify that the suspect is still under the court's jurisdiction. The Identification Section does not maintain records for these orders.
 - b. **ARRESTS AND REPORTS.** Members shall use the appropriate subsection of Penal Code Section 166 when arresting a suspect for violation of a stay away order. In the incident report members shall document the specific terms of the order that were violated, identify the court, the date the order was issued, and the date the order expires. Members should book a copy of the order as evidence if possible. Members shall advise the victim to contact the District Attorney's Office for follow-up investigation.
 - c. **UNABLE TO VERIFY.** If the victim does not have a copy of the stay away order, and members are unable to confirm it by querying the court management records, members should tell the victim that if grounds exist the victim may make a private person's arrest. If an arrest is not made or if the suspect is released, members shall complete an incident report, and advise the victim to respond to the DVRU for follow-up investigation.
 3. **EMERGENCY PROTECTIVE ORDERS.** An Emergency Protective Order (EPO) is a type of Civil Court Protective Order. Members may obtain an EPO any time reasonable cause exists for a member to believe that an adult or child is in immediate and present danger of domestic violence, child abuse, stalking, child abduction, family violence or elder abuse (not including financial abuse) by a family or household member. EPOs remain in effect for five (5) court days and up to seven (7) calendar days. An EPO can only be issued by an on-call Superior Court Judge. On-call Superior Court judges are available 24 hours a day.

DGO 6.09
Rev. 03/03/03

- a. **EPO PROCEDURES.** Members shall determine if the circumstances surrounding the incident warrant application for an EPO. Members shall not base their decision on whether or not the victim wants an EPO. Members shall complete the most current version of the Application for Emergency Protective Order form.
- b. **CONTACTING THE ON-CALL SUPERIOR COURT JUDGE.** After obtaining approval from their supervisor, members shall contact the on-call Superior Court Judge. The judge may request additional suspect information. Members should be able to advise the judge of the suspect's prior criminal convictions involving domestic violence, weapons or other violence, whether the suspect is the subject of any known current or prior restraining orders, any outstanding warrants and whether or not the suspect is currently on parole or probation. Members who experience problems obtaining an EPO shall document the difficulties in the narrative of the incident report and forward a copy of the report to the Officer in Charge of the DVRU.
- c. **NOTIFICATION AND SERVICE.** The restrained party named on the EPO must be notified and served before enforcement of an EPO violation can occur. Members shall attempt to serve the restrained party with the EPO.
 - (1) **SERVICE.** When serving the restrained party with an EPO, members shall complete the proof of service section of the form and give the protected party and the restrained party the appropriate copy. Members shall leave a copy at their district station on the EPO clipboard and send the original to the Legal Division. Members shall describe the notification and the service in the incident report and attach a photocopy of the EPO. Members shall fax a copy of the completed EPO to the ID Bureau.
 - (2) **UNABLE TO SERVE.** If the restrained party cannot be served, members shall give the victim the appropriate copy of the EPO and advise the victim of available shelter and referral information. Members who have not served the EPO to the restrained party by the end of their watch shall give the completed EPO form to the watch commander. The watch commander shall assign service of the EPO to another member .
- d. **WATCH COMMANDER DUTIES.** Watch commanders shall maintain a file of all unserved EPOs and notify the oncoming watch commander of any unserved orders. The watch commander on each shift is responsible for assigning members to serve any unserved EPOs. The watch commander shall also ensure that copies of served EPOs are maintained in the station business office until the orders have expired. Watch commanders shall forward all expired EPO's to the DVRU.

- e. **ARRESTS AND REPORTS.** Before arresting a suspect for violating an EPO, members shall verify the order, the expiration date, and proof of notification by checking the protected party's copy of the order or by checking the station copy of the order. Members shall use the appropriate subsection of Penal Code Section 273.6 when arresting the suspect. Members shall include in the incident report the specific terms of the emergency protective order that were violated, the court that issued the order, the date the order was issued, and the date the order expires. If possible, attach a photocopy of the EPO to the incident report.
- f. **DEPARTMENT BULLETINS/DIRECTIVES.** EPO procedures continually change. It is important to check the most current Department Bulletin or directive for current procedures.
- g. **COMPETING ORDERS.** Criminal Court protective orders take precedence over any outstanding court order against the defendant. If more than one court order was issued against a party and no statute mandates priority, the most recent order should be enforced.

J. MEMBERS NAMED AS RESTRAINED PARTIES ON EPOS OR RESTRAINING ORDERS

- 1. Any member who is named as the restrained party on an EPO or any other restraining order shall immediately inform his or her commanding officer of the order.
- 2. Immediately upon notification, commanding officers shall notify the Chief's Office through the Management Control Division.

K. MEMBERS NAMED AS A SUSPECT IN A DOMESTIC VIOLENCE INCIDENT

- 1. **MEMBER DUTIES.** Any member who is aware that he or she has been named as a suspect in a domestic violence incident shall immediately notify his or her commanding officer.
- 2. **DUTIES OF RESPONDING MEMBERS.** If a member responds to a domestic violence scene and finds that the suspect is a Department member, the responding member shall request a supervisor respond to the scene.
- 3. **SUPERVISOR DUTIES.** Once on scene, the supervisor shall determine if a crime has occurred. If a crime has occurred, the supervisor shall notify the senior-ranking officer on duty at the supervisor's unit.

DGO 6.09
Rev. 03/03/03

4. DUTIES OF SENIOR-RANKING OFFICER. The senior-ranking officer on duty shall notify:

- a. The OIC of the Domestic Violence Response Unit.
- b. The OIC of the Management Control Division.
- c. The involved member's Commanding Officer.
- d. The senior-ranking member's Commanding Officer.

L. DUTIES OF THE COMMANDING OFFICER. (See DGO 1.06, *Duties of Superior Officers.*)

References

Penal Code Section 136 et. seq.
Penal Code Section 166 et seq.
Penal Code Section 273.6
Penal Code Section 836 et. seq.
Penal Code Section 853 et. seq.
Penal Code Section 12028.5
Penal Code Section 3730 (a)
Penal Code Section 6240
Domestic Violence Referral Card (SFPD 142)