
COUNTY OF SAN MATEO

DOMESTIC VIOLENCE PROTOCOL

FOR

LAW ENFORCEMENT

Revised: September, 2011

POLICY STATEMENT

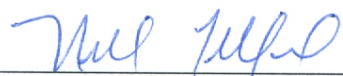
Recognizing that domestic violence is a serious community problem, San Mateo County Law Enforcement Agencies, in conjunction with the San Mateo County District Attorney's Office, agree to respond to acts of domestic violence as crimes. Victims of domestic violence will be treated with respect and dignity and will be given all available assistance by law enforcement personnel responding to an incident of domestic violence.

With the approval of the San Mateo County Police Chiefs' and Sheriff Association, the San Mateo County Domestic Violence Council's Legal Process Committee formed a working group to update the countywide Domestic Violence Protocol for Law Enforcement. First developed in 1994 and updated in 2004, the protocol has served as a guideline and reference for law enforcement officers responding to reports of domestic violence.

The purpose of this document is to have a uniform law enforcement response in the recording and handling of domestic violence incidents. It is the intent of this protocol to stress the enforcement of laws to protect the victims of domestic violence and to communicate the attitude that domestic violence is criminal behavior and will not be tolerated.

The Domestic Violence Protocol for Law Enforcement provides guidelines and establishes standards for Public Safety Communications call takers and dispatchers, Law Enforcement first responders and investigators as well as support personnel in handling domestic violence incidents. The protocol seeks to interpret and apply statutory and case law relating to domestic violence incident response and investigation. Particular attention is given to protecting victims of domestic violence, including children and other members of the household through thorough investigation techniques, enforcement of restraining orders and firearm prohibition, provision of medical care, and working with support agencies to provide alternate shelter, relocation services, counseling and legal services. Local agency training programs and materials will supplement information provided in the protocol.

As more is learned about successful ways of preventing and responding to domestic violence, this protocol will be periodically updated. New legislation and research will be reviewed in order to maintain an effective and sensitive response to this serious problem by the law enforcement community to ensuring victim safety, and the accountability of those who perpetrate domestic violence



Chief Neil Telford, President
Police Chiefs and Sheriff Association of San Mateo County



Date

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DEFINITIONS

- A. **“Abuse”** means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself or another.
- B. **“Cohabitant”** means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship (includes same sex relationships). Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.
- C. **“Cross-Reporting”** refers to mandated reporting of suspected child abuse as required under 11165, 11166 and 11172 PC and mandated reporting of suspected abuse of elders and dependent adults as required under 15610, 15630 and 15640 WI.
- D. **“Dating Relationship”** means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations.
- E. **“Deadly Weapon”** means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 PC (12028.5 (3)).
- F. **“Domestic Violence”** means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, a person with whom the suspect has had a child or is having or has had a dating or engagement relationship. Same sex relationships are included.
- G. **“Domestic Violence Order”** is a type of restraining order which is issued pursuant to the Domestic Violence Prevention Act, (Family Code Sections 6200-6389), or the Uniform Parentage Act (Family Code Sections 7710 and 7720), or in connection with a dissolution, legal separation or annulment (Family Code Sections 2045, 2047, and 2049), or in cases of elder or dependent adult abuse (Welfare and Institutions Code Section 15657.03). This includes all local Domestic Violence related orders from other states, counties, tribal courts and juvenile courts.
 - 1. **“Emergency Protective Order” (EPO)** is a type of restraining order sought by a law enforcement officer and issued by a Judge or Commissioner at any time, whether or not Court is in session. It is intended to function as a temporary restraining order if a person is in immediate and present danger of domestic violence, elder or dependent adult abuse, child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative or where stalking exists. It can also function as an order (when no custody order is in existence) determining temporary care and control of minor children of the above-described endangered person. The issuance of an EPO is not precluded by an arrest.

2. **“Temporary Restraining Order” (TRO)** is a type of restraining order, which requires a person to refrain from doing a particular act or acts. It is issued by the Family Court, with or without notice to or the presence of the person who is to be restrained. A TRO will remain in effect until a formal court hearing can be held or it expires.
 3. **“Restraining Order After Hearing” (ROAH)** is an order issued after a formal judicial hearing set when the TRO is issued, which requires a person to refrain from doing a particular act or acts. It is issued by Family Court, with notice, to the person who is to be restrained. A restraining order will remain in effect for a set period of time, which is stated on the face of the order. If no time period is stated on the face of the order, the effective time period is 3 years however it may be renewed.
 4. **“Criminal Protective Order” (CPO/136.2 Order)** is issued by the Criminal Court pursuant to PC 136.2 and can remain in effect as long as the defendant is under the court’s jurisdiction, including any sentence or probationary period. In stalking (646.9 PC) cases, the court may issue an order for a term of up to 10 years. Criminal Protective Orders may include non-harassment and weapon surrender provisions. A violation of this order is enforceable under PC 166[c], 273.6 and 836[c][1] and may or may not include a no-contact or stay away provision.
 5. **“Stay Away Order”** is a Restraining Order provision which may be included in a criminal, juvenile delinquency or civil case involving domestic violence, where there is a likelihood of harassment or violence toward the victim by the perpetrator. A Stay Away Order typically orders a person to stay away from the victim and/or specified locations. Criminal Protective Orders issued pursuant to Penal Code Section 136.2 are sometimes referred to as Stay Away Orders. Stay Away Orders may also be issued pursuant to the Civil Harassment Prevention Act (Code of Civil Procedure Section 527.6), Workplace Violence Safety Act (Code of Civil Procedure Section 527.8), Uniform Parentage Act (Family Code Sections 7710 and 7720, Domestic Violence Protection Act 6200 - 6389 Family Code), or in connection with a dissolution, legal separation, or annulment (Family Code Sections 2045, 2047, and 2049).
- H. **“Dominant Aggressor”** means the person determined to be the most significant, rather than the first aggressor. In identifying the dominant aggressor, the officer shall consider the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the history of domestic violence between the persons involved, and whether either person acted in self defense.
- I. **“Firearm”** is any device designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion (12001(b) PC).
- J. **“Officer”** is defined as any law enforcement officer as defined by Penal Code Sections 830.1 - 830.32.

- K. **“Pro-Arrest Policy”** refers to a philosophical position in which physical arrest shall be made in every situation where an arrest is legally permissible; absent exigent circumstances.
- L. **“Stalking”** means maliciously and repeatedly following or maliciously harassing another person and making a credible threat with the intent to place that person in reasonable fear for his or her own safety, or the safety of his or her immediate family.
- M. **“Traumatic Condition”** is defined as a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.
- N. **“Victim”** means a person who is a victim of domestic violence.

COMMON CHARGES

A situation involving domestic violence may result in a violation of one or more of the following sections of the Penal Code: (This list is not all inclusive.)

- 136.1 - Intimidating or dissuading a witness
- 148 - Resisting arrest
- 166 - Violation of a court order
- 187 - Murder
- 203 - Mayhem
- 207 - Kidnapping
- 236/237 - False imprisonment
- 240 - Assault
- 243 (a) - Battery
- 243 (d) - Battery with great bodily injury
- 243 (e) - Battery on a current or former spouse, cohabitant, current or previous dating or engagement relationship, parent of suspect's child
- 245 - Assault with a deadly weapon or by means of force likely to cause great bodily injury
- 246 - Shooting at an inhabited dwelling
- 261.5 - Unlawful sexual intercourse
- 262 - Spousal rape
- 273.5 - Infliction of corporal injury on spouse, former spouse, cohabitant, former cohabitant or parent of suspect's child.
- 273.6 - Violation of a protective order
- 273a - Willful harm, injury or endangerment to a child
- 273d - Corporal punishment or injury of a child
- 368 - Elder and dependant adult abuse
- 417 - Brandishing a weapon
- 418 - Forcible entry into the home of another
- 422 - Criminal threats
- 459 - Burglary
- 591 - Malicious destruction of a telephone line
- 594 - Vandalism
- 597a - Cruelty to Animals
- 602.5(a)(b) - Trespass / Aggravated Trespass
- 603 - Forcible entry with damage to property
- 646.9 - Stalking
- 647 (f) - Public drunkenness
- 653m (c) - Annoying telephone calls - (1) violating court order; or (2) by spouse, cohabitant or parent of suspect's child or a past or present dating relationship
- 12020 (a) - Possession of a dangerous weapon
- 12021 (c) - Possession of firearm w/certain prior misdemeanor convictions
- 12025 (a) - Possession of a concealed firearm
- 12028.5 - Confiscation of firearms (Authority for seizure)
- 12031 - Possession of a loaded firearm

911 CALL-TAKER / DISPATCHER RESPONSE

- A. The dispatcher or call-taker who receives a domestic violence incident, including violations of domestic violence protective orders and/or emergency protective orders, shall dispatch officers to every reported incident. The dispatcher should, when warranted, give a domestic violence incident call the same priority as any other life threatening call and should, whenever possible, dispatch at least two officers to the scene.
- B. No dispatcher or 911 call-taker, in speaking with a victim of domestic violence, will inquire as to the victim's desire to "prosecute," or "press charges." Any comment or statement which seeks to place the responsibility for enforcement action with the victim is inappropriate.
- C. During the initial call for assistance, the call-taker should obtain the following information:
 - 1. Location of the incident
 - 2. Nature and severity of the incident
 - 3. Time element of incident occurrence
 - 4. Need for medical attention
 - 5. Is the victim in a safe location
 - 6. Names, description, relationships of involved subjects
 - 7. Use of drugs/alcohol of involved subjects
 - 8. Are children present? How many? Names and ages
 - 9. Use or threat of use of weapons and current location of weapons
 - 10. Is there a restraining order or emergency protective order in force?
 - 11. Is the suspect on probation or parole?
 - 12. Location, involvement, phone number and name of reporting party
 - 13. Prior history of abuse

Dispatchers should be aware that tape recorded calls with the reporting party of a domestic violence incident will likely be requested as evidence in court proceedings.

- D. The safety of domestic violence victims, whether the threat of violence is immediate or remote, should be the primary concern of 911 call-takers. The 911 call-taker should advise the victim to ensure his/her safety. For example, a victim could wait for officers at a neighbor's house and/or remain on the 911 line.

- E. **Mandated Medical Reporting** - Upon receipt of a report from a Medical Provider where domestic violence is alleged, the agency of jurisdiction should respond unless circumstances such as distance or lack of personnel prohibit such response. Health Care Providers in San Mateo County have been informed of the option to contact San Mateo County Public Safety Communications (at 650-363-4911) for all mandated cross reports of domestic violence. Any such call received by San Mateo County Communications shall be transferred by the call-taker to the appropriate agency after determining the jurisdiction of the domestic violence incident.

The dispatcher with the agency of jurisdiction shall inquire of the caller information pertinent to the safety of the victim. Such inquiries should include but not be limited to,

1. Is the victim still at the medical facility?
2. Is the victim aware the crime is being cross-reported?
3. Is the suspect present at the medical facility?
4. Length of time since incident?

Such information shall be relayed to the responding officer or field supervisor. Such information should be considered in determining the appropriate contact with the victim. Primary concern shall be give to the immediate and future safety of the victim. The responding agency shall make a police report and if not the agency of jurisdiction, shall then forward it to the agency where the offense occurred.

- F. **Domestic Violence Release Notifications** - When a suspect is taken into custody for a domestic violence related offense, the victim is informed of her/his right to be notified upon the release of the suspect from custody. If the victim chooses to participate in the release notification program, the "Violent Crime Victim Notification Request" form is utilized. The form is then submitted to staff at the San Mateo County Jail at the time of booking.

Every attempt will be made by the jail staff to contact the victim prior to the defendants release from custody on an ongoing 24 hour basis for up to 72 hours of the release. Telephone notification will be initiated by the Sheriff's Release on Own Recognizance (SROR) Unit located in the jail. It is not always possible to complete the notification prior to the defendant's release from custody. The (SROR) Legal Office Specialist (LOS) will contact the law enforcement agency of jurisdiction where the victim resides (as listed on the Violent Crime Victim Notification Request form). If the victim has not been contacted by the jail LOS, an officer should then be dispatched to attempt contact with the victim and personally notify him/her of the pending or completed release of the defendant. If the officer is unable to contact the victim at home, a note should be left. Upon notification to the victim, the law enforcement agency should inform the SROR Unit of the results of their contact. (This process will remain in effect until the implementation of the California "VINE" system which is anticipated to be before the end of 2011. At that time, victim notifications will be done electronically.)

PATROL OFFICER RESPONSE/INVESTIGATION

A. ENFORCEMENT OF LAWS IN DOMESTIC VIOLENCE INCIDENTS

Felony

1. An arrest shall be made in the event that there is probable cause to believe that a felony has occurred. All suspects arrested should be booked into the County Jail or Juvenile Hall. A pro-arrest policy should be implemented by all agencies.
2. If an officer has probable cause to believe that a felony has occurred, an arrest shall be made irrespective of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.

Misdemeanor

1. The suspect shall be arrested in the event that a misdemeanor domestic violence incident occurs in the officer's presence. Such situations include, but are not limited to, an officer who witnesses an act of domestic violence or a violation of a verifiable restraining order.
2. Pursuant to 836(d) PC, when a misdemeanor domestic violence assault or battery has been committed outside the officer's presence, and the victim is the suspect's spouse, former spouse, cohabitant, former cohabitant, fiancée, parent of his or her child, or a person with whom the suspect has had or is having an engagement relationship or a current or prior dating relationship, a peace officer may arrest the suspect without the need of a private person's arrest.

836(d) PC makes it possible for officers to arrest when the crime does not take place in their presence and can occur where both of the following circumstances apply.

- a. 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.
 - b. The peace officer makes the arrest as soon as he/she finds there is 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.
3. If a victim complains only of a prior unreported incident and has no complaint of pain or physical injury at the time of the current report, the officer shall make a good faith effort to inform the complainant of his/her right to make a private person's arrest (arrest must fall within the statute of limitations). If the complainant chooses not to exercise that right, the officer shall submit a report to the District Attorney or Juvenile Probation for review. If the person chooses to exercise that right, the officer shall make the arrest.

4. Pursuant to 836(c) PC, when a misdemeanor violation of a domestic violence or stalking protective or restraining order has been committed outside the officer's presence the officer shall make a lawful arrest of that person without a warrant if the officer has probable cause to believe that the person against whom the order is issued (1) has notice of the order and (2) has violated any term(s) of the order..

B. HANDLING OF THE INCIDENT

1. Pursuant to Penal Code section 13700 et seq., an officer responding to an incident of domestic violence shall prepare a Domestic Violence Incident Report as defined in PC section 13730(c) irrespective of the wishes of the victim or the presence or absence of the suspect or the likelihood of prosecution.
2. The following factors are not to influence the officer's decision to arrest in domestic violence incidents except as they relate to the elements of the crime:
 - a. The relationship or marital status of the suspect and the victim, i.e., not married, separated, or pending divorce;
 - b. The fact that the victim and suspect are of the same gender;
 - c. Whether or not the suspect lives on the premises with the complainant;
 - d. The existence or lack of a temporary or other restraining order;
 - e. The potential financial consequence of arrest;
 - f. The complainant's history or prior complaints;
 - g. Verbal assurances that violence will cease;
 - h. The complainant's emotional state;
 - i. Injuries are not visible;
 - j. The location of the incident, i.e., public or private;
 - k. Speculation that the complainant may not follow through with the criminal justice process or that the arrest may not lead to a conviction;
 - l. The suspect and/or the victim is a juvenile.
3. Once a suspect is arrested on a misdemeanor offense, he/she should be booked into the County Jail or Juvenile Hall unless the officer can identify a strong likelihood that the offense will not continue once the officer leaves the scene and that there has been no prior history of domestic violence. Any one of the following may support the likelihood that an offense will continue:
 - a. Whether the suspect has a prior history of arrests or citations involving domestic violence;

- b. Whether the suspect has previously violated, or is currently violating a valid criminal or civil court protective order;
 - c. Whether the suspect has a prior history of other assaultive behavior including animal abuse;
 - d. Statements taken from the victim that the suspect has a history of physical abuse on human beings or on animals;
 - e. Statements taken from the victim expressing fear of retaliation or further violence should the suspect be released;
 - f. Information about the suspect's alcohol or drug abuse, access to weapons, suicide threats or attempts, threats of kidnapping family members, or history of mental illness;
 - g. Information that the victim is/has been attempting to end the relationship and the suspect is refusing to abide by the victim's wishes.
4. An officer shall make no statements, which would tend to discourage a victim from reporting an act of domestic violence or requesting a private person's arrest.

C. INVESTIGATION OF DOMESTIC VIOLENCE CASES

1. Officers arriving at a domestic violence scene should conduct a thorough investigation and shall submit reports of all incidents of violence and all crimes related to domestic violence. Related crimes include but are not limited to sexual assault, child abuse or neglect, elder abuse and animal abuse. If the incident occurred in another jurisdiction, the officer should contact that jurisdiction to determine which agency will investigate the incident.
2. The following steps should be included in an officer's investigation and subsequent report:
 - a. Arrival at scene
 - i. Determine location and condition of victim, suspect, and children.
 - ii. Determine if any weapon is involved or in the home. Confiscate and collect as evidence any weapons or firearms used in the incident. If the incident involves any threat to human life or physical assault, officers shall take temporary custody of any firearm or deadly weapon in plain sight or pursuant to a consensual search. If unable to book the weapon (other than firearms) due to size or other extenuating circumstances, photograph the weapon (per PC 12028.5).
 - iii. Provide appropriate level of aid to injured parties.

- iv. Separate suspect, victim, and witnesses. (Victim should be out of suspect's view.)

b. Preliminary Investigation

- i. INTERVIEW EVERYONE SEPARATELY - victim, suspect, children and other witnesses. If the victim speaks a language other than English, call for another officer conversant in that language or arrange for other translation services. Document the names and personal information of all witnesses including their relationship to one another. Document the names of all translators.

Note information concerning the victim's whereabouts for the next few days and/or the names and addresses of persons with whom the victim will remain in contact.

- ii. CHILDREN - Obtain names and ages of children and schools they attend who were present and/or who reside in the home at the time the offense occurred. Include information on their whereabouts after the incident in order to facilitate follow-up contact. If the crime scene is a location other than the home, obtain names and ages of the children who reside with either or both of the parties. Recognizing that there is often a co-occurrence of domestic violence and child abuse, officers should investigate the possibility of occurrences of child abuse occurring in the past or present.

If any of the following criteria are met, a mandatory referral to CPS shall be made (as required under 11165, 11166 and 11172(a) PC):

- The domestic violence episode causes physical injury to the child.
 - The domestic violence episode creates serious risk of physical injury to the child.
 - The domestic violence episode causes serious emotional damage to the child with immediate manifestation.
 - The domestic violence episode involves an expressed or implied threat to injure/kill/abduct the child of either of the parties, whether the child was present or not.
- iii. Ask victim and suspect if s/he has any pain even if there are no visible injuries. Determine if there are indications of strangulation. Ask the victim if she/he has been forced to have sex against her/his will.
 - iv. Note with specific detail, the victim's, suspect's, and child's condition, emotional state and demeanor.
 - Document torn clothing.
 - Document smeared make-up, disheveled appearance, etc.

- Investigate any evidence of injury.
- Document if victim is pregnant.
- v. Observe and describe any disarray in house.
- vi. Document suspect's symptoms of use/influence of alcohol or controlled substances.
- vii. Document relative size (height & weight) of victim and suspect.
- viii. In apparent "mutual combat" situations, try to determine who was the dominant aggressor (dual arrests shall be discouraged but not prohibited per Penal Code Section 13701):
 - Was one party in actual fear of the other?
 - Did one party escalate the level of violence, i.e.; did one party react to a slap by beating the other party? (Distinguish between self defense and retaliation).
 - Was one party physically larger and stronger than the other?
 - Was there a history of violence by one of the parties against the other? Against other people?
 - Was one party usually the aggressor?
 - Did any injuries appear to be defense wounds?

3. Court Orders

a. Restraining/Protective Orders

Check for the existence of any restraining and/or protective orders against the suspect. If the victim has such an order against the suspect, obtain a copy of the order and valid proof of service (proof of service is not necessary if the suspect was in court when the order was issued). If no copy is available, contact the Department of Justice California Restraining and Protective Order System (CARPOS, formerly known as DVROS) via CLETS to verify the existence of the order. (Family Code Section 6383(d)). If there is no order, inform victim how to get an order. Officers should be aware that the most recently issued criminal court order takes precedence over previous criminal court orders and over civil orders. However, most criminal court orders will contain a provision that all juvenile and family court orders are to be followed.

b. Emergency Protective Orders

- i. When investigating an allegation of a recent incident of abuse or threat of abuse, or stalking, and the officer can assert reasonable grounds to believe that a victim is in immediate and present danger of domestic violence, child abuse by a family or household member, or elder abuse, or a child is in immediate and present danger of being abducted by a parent or relative, the police officer shall advise the victim of the availability of an Emergency Protective Order (EPO) and ask if one is desired. (This should be done when the victim is separated from the suspect). If so desired, prepare the form before calling the on-duty judge via County Communications. An EPO should be sought if circumstances warrant whether the suspect is absent or present and whether or not the suspect is arrested. Upon issuance of the EPO by the judge, the suspect should be served by the officer at the scene and a copy should be filed with the Clerk of the San Mateo County Superior Court via the court officer the following business day.

If an EPO is not desired by the victim but the officer has reasonable concern for the victim's safety, an EPO may be sought absent the victim's desire for one. EPOs should be sought if circumstances warrant, whether during normal business hours or after hours. Issuance of an EPO provides immediate protection to the victim, who may not be able to immediately obtain a TRO at the courthouse even during business hours.

- ii. If an EPO is appropriate, the application should be completed by the officer. The officer should note on the application whether or not the suspect has been arrested, or will be arrested when located. Regardless of the hour, contact County Communications and ask to be put in contact with the on-call judge for an EPO. The officer should leave the telephone number where the judge can reach him/her. Officers should ensure that the telephone equipment is working properly before requesting that the on-call judge use that number, and stand by with the line open until the return call is received from the judge.
- iii. EPOs are not provided at the County Jail or Juvenile Hall, nor is a Criminal Protective Order automatically issued. It is the responsibility of the officer to seek an EPO when appropriate, and to have EPO forms ready for use when on duty.
- iv. In a non-arrest situation where an EPO is appropriate per the above factors, the officer should complete the application and seek issuance of the EPO pursuant to the above procedures. If the EPO is issued when the suspect is not present, an officer is required to make reasonable attempts to locate and serve the restrained party. If the suspect/restrained party is present or can be readily contacted, serve the order by providing the restrained party with a copy, and complete the Proof of Service on the form.

Document in the police report whether and how the order was served and provide a copy of the order to the protected party.

c. Service

- i. Verbal Notice: If the victim has a previously-obtained restraining/protective order which has not yet been served on the suspect, and there is no extra copy of the order, the officer shall verbally inform the suspect of all of the terms of the order and document said verbal notice in the police report, including the case number of the order. The officer shall enter said verbal notice into the CLETS/CARPOS system. If a suspect is given verbal notice of the order, the officer shall advise the suspect to go to the local Family Court to obtain a copy of the order containing the full terms and conditions of the order (Family Code Section 6383(g)).
- ii. Personal Service: If the victim has an extra copy of the order, the officer shall serve it on the suspect and fill out the proof of service and shall give the proof of service to the victim immediately. The officer may file the proof of service with the Clerk of the San Mateo County Superior Court via the court officer the following business day.
- iii. Service By Mail: If the victim has proof that a copy of the Restraining Order After Hearing (ROAH) was mailed to the restrained party and he/she was present in court when the initial order was made, this is good service if the only change in the new order is the expiration date. To determine if an ROAH needs to be served, refer to page 3 of the ROAH form.

d. Common Situations

- i. A restraining/protective order does not allow the use of a civil standby by the restrained person unless specifically stated in the order.
- ii. The protected person cannot be in violation of his or her own protective order even when contact is initiated by the protected person. Only the restrained person's conduct can constitute a violation of the order.
- iii. The protected person cannot invalidate an otherwise valid protective order by initiating contact with the restrained person.
- iv. Officers shall enforce all provisions of a restraining/protective order, including child custody and visitation provisions, even if it has been issued in another jurisdiction, providing that the order identifies both parties and on its face, the restraining order is currently in effect.

4. If the suspect is present at the scene or contacted

- a. Document spontaneous statements.

- b. Prevent communication between the suspect and the victim, witnesses and children.
 - c. Seek to thoroughly interview the suspect. Advise suspect of Miranda rights if applicable.
 - i. ask suspect for a detailed account of the incident
 - ii. ask suspect to explain cause of the victim's injuries
 - iii. ask suspect to describe his/her relationship to the victim ie: spouse, cohabitant etc.
 - iv. ask suspect if the victim used any type of physical force
 - v. ask suspect if there are any prior incidents of domestic violence
 - d. Audio and/or video record the interview whenever possible.
 - e. Evaluate the suspect for danger to self or others under 5150 W&I.
 - f. Document the presence or absence of any injuries to the suspect and ask how and when the injury(ies) occurred.
 - g. Document the presence or absence of any sign of alcohol or drug influence.
5. Evidence, Firearms, and Other Deadly Weapons
- a. Document condition of crime scene (disarray of physical surroundings).
 - b. Photograph the crime scene, if applicable.
 - c. Ensure that the victim's/suspect's visible injuries are photographed, using digital equipment if available.
 - d. Inform the victim that he/she may be contacted by a follow-up investigator for additional photographs.
 - e. Inquire of the victim, alleged abuser, or both, whether a firearm or other deadly weapon is present at the location or owned, possessed or otherwise is accessible to the abuser. Confiscate any firearm or deadly weapon discovered as legally permissible.
 - f. Check in the Automated Firearms System (AFS) file to determine if firearms are registered to any involved person. Check CARPOS, APPS or any other available systems to determine if any involved person is prohibited from owning or possessing firearms.
 - g. Seize any firearm or other deadly weapon located in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of officers or other persons present (12028.5 PC).

- h. Seize any firearms possessed in violation of 12021(a) PC – convicted felons, or 12021(c) PC – other specified misdemeanor convictions.
- i. If a firearm is confiscated, issue a receipt to the owner describing the firearm and listing the serial number or other known identifier. Explain that the weapon may be available for return no sooner than 48 hours but not more than 5 business days. If the weapon is seized as evidence of a crime, it will not be returned per 12028.7 PC.
- j. If the weapon seized is not evidence of a crime but is seized pursuant to PC 13730 (see h above), a determination shall be made prior to 5 business days from the seizure whether the return of the firearm or other weapon would be likely to result in endangering the victim or the reporting party. If so, the provisions of PC12028.5 shall apply to the return or retention of the weapon.

6. Medical Treatment

- a. Obtain authorization for release of medical records from victim, if possible.
- b. Document extent of injuries/treatment, if known.
- c. Obtain names, addresses, and phone numbers of fire, ambulance or paramedic personnel treating the victim at the scene and/or any other subsequent treating medical personnel.
- d. Transport or call for transport of victim and children to a hospital for treatment when necessary, or stand by until victim or children can safely leave.
- e. Officer shall encourage victims to be transported for examination and treatment in all domestic violence cases particularly when the victim reports being strangled by the suspect.
- f. Whenever possible, the victim should be taken to the Keller Center at San Mateo County General Hospital where enhanced medical, forensic and support services will be provided.

7. Completing Crime Report

- a. The officer shall maintain objectivity in reporting and avoid personal opinions regarding comments from victim/suspect.
- b. The officer shall ensure that elements of all involved crimes are included in the report.
- c. In the narrative portion of the report the officer shall thoroughly detail the injuries received and how they were inflicted. The officer should not merely check one of the boxes to indicate extent of injuries, as this information is often subjective. If the injury involved is “complaint of pain only,” this fact shall explicitly be stated in the report.

If a felony 273.5 arrest is made based on an injury involving complaint of pain with no visible injuries, the officer shall give a detailed description of the force used, including type of force, number of blows inflicted, etc. (i.e., fist, open hand slap, etc.). The officer shall include a description of the extent and severity of the pain.

- i. Does the victim have difficulty breathing?
 - ii. Does the victim have difficulty standing or moving?
 - iii. Is the victim experiencing other restrictions as a result of the injuries?
- d. The officer shall note whether the victim has received medical attention for the present injury or any prior domestic violence injuries and document where the treatment was received and the results, if known.
- e. The officer shall explicitly describe strangulation attempts.
 - i. Did the suspect use hands or a ligature device?
 - ii. Did the victim lose consciousness?
 - iii. Does the victim have difficulty breathing or swallowing?
 - iv. Are there any marks visible on the victim's neck?
 - v. Does the victim complain of a hoarse or raspy voice as a result of the injuries?
 - vi. Is there indication of petechiae (rupture of the small capillaries, usually in the eyes, head or neck area above the point of constriction)?
 - vii. Did the victim lose bladder control?
 - viii. The officer shall detail the degree of force used in the strangulation attempt. If elements are present, the officer shall consider additional charges of 664/187 PC, attempted murder or 245 PC, assault with force likely to produce great bodily injury.
 - ix. What, if anything did the suspect say before, during or after the strangulation?
- f. The officer shall document that victim received a written referral of resources per Penal Code Section 13701(i) as well as a copy of the victim's Marsy's Law rights in compliance with the Victim's Bill of Rights Act of 2008: as outlined in the California Constitution, Article I, Section 28(b): Penal Code Section 679.026.
- g. The officer shall document past history of violence and check for existence of a restraining order.

- h. The officer shall document prior domestic violence incidents at that address involving the alleged abuser or victim.
- i. The officer shall document statements of victim, suspect, and all witnesses including children. All statements should be tape recorded.
- j. The officer shall document physical evidence obtained.
- k. The officer shall document probation/parole status.
- l. The officer shall document whether alcohol &/or drugs were involved by the alleged abuser.
- m. The officer shall document names, ages and schools attending of children who were present and/or who reside in the home at the time the offense occurred. If children were present, The officer shall document their emotional state when observed and interview children on tape, away from the suspect. Include information on their anticipated whereabouts after the incident.
- n. The officer shall document if any pets were harmed or there is evidence of animal abuse.
- o. The officer shall document whether the officer found it necessary, for the protection of the officer or other persons present, to inquire of the victim, abuser, or both, whether a firearm or other deadly weapon was present at the location (13730 PC).
- p. If a valid restraining order prohibits firearms possession by a person involved in the incident, the officer shall make a record in the crime or incident report of:
 - i. Inquiries made to determine if the restrained person possesses any firearms.
 - ii. The results of efforts made to locate and seize any unlawfully possessed firearms.
- q. If a violation of a restraining/protective order is alleged:
 - i. In the police report, the officer shall describe the specific terms of the order that were violated by the restrained person, even if the suspect left the scene.
 - ii. The officer shall attach a print-out of the order from CARPOS and/or a copy of the actual order.
- r. If an EPO was considered, sought, issued or declined, The officer shall document this fact in the report and, if issued, attach a copy of the issued order to the report.

- s. When documenting a domestic violence-related crime, identify the report as a domestic violence incident on the face of the report as required by PC 13730.
- 8. If a victim spontaneously states that prosecution is not desired, that statement should be documented. However, the victim should be told that the decision to prosecute is made by the District Attorney. Officers shall not misinform victims or suspects of domestic violence that the victim has the authority "press" charges or "drop" charges.

9. Victim Resources and Rights

- a. Officers shall furnish victims with an "Information and Resources for Victims of Domestic Violence" form which includes the telephone number for the Victim/Witness Assistance Center in San Mateo County and the toll free telephone number for the California Victim Compensation and Government Claims Board (800-777-9229). The card shall also include the names and phone numbers of shelters or counseling centers and state that domestic violence or assault by a person who is known to the victim or who is the spouse of the victim is a crime. The California Victim Compensation and Government Claims Board can authorize a cash payment or reimbursement to an adult victim of domestic violence for specified expenses. Counseling funds for children may also be available for those identified in the police report.
- b. Officers shall furnish victims with a copy of the Victim's Bill of Rights in compliance with the Victim's Bill of Rights Act of 2008: Marsy's Law, as outlined in California Constitution, Article I, Section 28(b): Penal Code Section 679.026.
- c. Officers are encouraged to provide a victim with a CORA (Community Overcoming Relationship Abuse) brochure outlining the resources and services available to them from CORA.

10. Emergency Response Program – "ERP"

- a. When handling an incident involving ANY type of domestic violence, notification to the ERP program shall be made. A notification to a counselor will be made whether or not it is determined the incident is criminal in nature and whether or not an arrest is made. The procedure should be as follows:
 - i. Contact the ERP counselor at CORA (Community Overcoming Relationship Abuse), at (650) 652-0813. Between the hours of 0900-1700, the telephone will be answered by a CORA staff member. After office hours and on weekends, the phone system will automatically forward to the on-call counselor who will return your call on scene within 5-10 minutes. Record the name of the counselor who took your call in the appropriate section of your report.
 - ii. If the party declines to speak with the counselor, provide contact information for the involved parties to the ERP by using the secure webpage referral system via the LAWNET link. When the information is received by CORA, you will receive confirmation and an ERP

referral number. Record this confirmation number on your report in lieu of the counselor name.

- iii. In all cases where children are present at the scene of the incident, fax a copy of the police report to CORA/ERP upon completion. The fax number is 650-652-0808.

- b. The officer shall document in the report that the CORA/ERP counselor was notified and spoke with either one or both of the parties. If the counselor is not paged or does not respond to the page, that information shall be documented.

- 11. A coordinated response of law enforcement and child welfare agencies is required by PC 13732(b). In all domestic violence incidents where children were present and/or where children reside in the home, a notification to CORA shall be made. The ERP screener will determine if a report to CPS is warranted.
- 12. In all domestic violence incidents, an officer shall assist in making arrangements to transport the victim to alternate shelter if the victim expresses a concern for safety or the officer determines a need exists.
- 13. Response to Mandated Reports from Health Care Providers

Health care providers will report suspected incidents of domestic violence, pursuant to PC11160 to the law enforcement agency of jurisdiction where the incident occurred.

This determination may be facilitated by County Communications when the health care provider contacts them as provided for at P6, section E. In the event that it is impractical to make notification to the agency of jurisdiction, the local agency of the reporting medical practitioner will be notified. In those cases, the local agency will respond, determine the agency of jurisdiction and coordinate response by the agency of jurisdiction.

The local responding agency should assist the agency of jurisdiction by taking a courtesy report and forwarding any other documentation of the crime to the agency of jurisdiction.

A report shall be initiated by the agency of jurisdiction, documenting whether or not contact with the victim was made, and any subsequent information which has been developed.

It shall be the goal of San Mateo County law enforcement agencies to respond appropriately to mandated medical reports, with victim safety of paramount concern, while ensuring aggressive enforcement of domestic violence laws.

After receiving either a telephonic or written mandated medical report, the following factors should be considered in determining the appropriate method, location and timing of response.

- a. If a current telephonic report where victim is presently at the health care facility:
 - i. Is suspect present at scene?
 - ii. Did victim disclose domestic violence as the cause of injury, or is the report based on the suspicions of the health care provider?
- b. If a written report submitted after the medical treatment has occurred and victim has departed:
 - i. Does the report contain information enabling the officer to contact the victim under circumstances which will ensure her/his safety? Consider the following:
 - Does the victim know the police were notified?
 - Does the suspect know the police were notified?
 - Is the suspect likely to retaliate against the victim if he learns of contact by law enforcement resulting from the medical report?
 - In most circumstances, contact with the victim should be made where the suspect is not present (i.e., victim's workplace) but consideration should always be given to whether or not an immediate arrest of the suspect can or should be made to ensure the victim's safety.

D. DOMESTIC VIOLENCE RELEASE NOTIFICATIONS

When a suspect is taken into custody for a domestic violence related offense, the victim shall be informed of her/his right to be notified upon the release of the suspect from custody. If the victim chooses to participate in the release notification program, the "Violent Crime Victim Notification Request" form will be utilized. The form will be submitted to staff at the San Mateo County Jail at the time of booking.

If the victim initially declines the notification service, s/he should be informed that s/he may elect to participate at a later time by calling the telephone number listed on the form.

Attempts will be made by the jail staff to contact the victim prior to the defendants release from custody on a continuous 24 hour basis for up to 72 hours of the release. There is no guarantee however that the notification will be completed prior to the defendants release from custody. Telephone notification will be initiated by the Sheriff's Release on Own Recognizance (SROR) Unit at the jail.

Also as part of the Victim Notification Program the SROR Legal Office Specialist (LOS) will contact the law enforcement agency of jurisdiction wherein the victim resides (as listed on the Violent Crime Victim Notification Request form).

If the SROR LOS has been unsuccessful in contacting the victim an officer should then be dispatched to attempt contact with the victim and personally notify the victim of the pending or completed release of the defendant. If unable to contact the victim at home, a note should be left.

Additionally, the SROR Unit will mail a letter to the victim informing her/him of the release. Every effort should be made to notify the victim of a suspects release to try and ensure the safety of the victim. (This process will remain in effect until the implementation of the California "VINE" system in this county which is anticipated to be before the end of 2011. At that time, victim notifications will be done electronically).

FOLLOW-UP INVESTIGATION

- A. All domestic violence reports prepared by officers pursuant to Penal Code section 13700 et seq., should be reviewed and given follow-up investigation as needed.
- B. Follow-up investigations should be geared to the requirements of the District Attorney's Domestic Violence Unit.
 - 1. Follow-up investigations should include the following (if not already included in the initial investigation):
 - a. Verify the inclusion of all investigative steps described above regarding patrol officer response/investigation;
 - b. Obtain medical records, if available;
 - c. Preserve a copy of the 911 tape involving the original call for assistance, as needed;
 - d. Interview/re-interview witnesses, as necessary and tape all interviews;
 - e. Photograph victim's injuries (irrespective of whether photos were taken by the responding officer);
 - f. When contacting victim for re-interview or photographs, ask if the suspect has contacted her/him since the domestic violence incident. Obtain details of contact and document suspect's statement to victim.
 - g. Record name, address, and phone number of two close friends or relatives of the victim who will know the victim's whereabouts 6-12 months from the time of the incident;
 - h. Conduct a complete criminal history check of the suspect. When appropriate, conduct a Juvenile Probation records check. Also conduct queries on the suspect in the Automated Firearms System (AFS), California Restraining and Protective Order System (CARPOS), and the Violent Crime Information Network (VCIN). Attach results of these checks to the investigator's report.
 - i. Follow-up investigation personnel shall cross report suspected child abuse as required by PC 11165, 11166 and 11172(a) if not previously done.
 - j. Follow-up investigation personnel shall cross report suspected elder or dependent adult abuse as required by 15610, 15630 and 15640 WI. (Adult Protective Services, 1-800-675-8437) if not previously done.

2. Follow-up investigation personnel shall not consider the desire of the victim to "drop" charges in assessing whether the case should be submitted to the District Attorney's Domestic Violence Unit.
3. Investigative personnel handling domestic violence cases should analyze each domestic violence case by asking the following questions:
 - a. Can the elements of the offense be established without the testimony of the victim?
 - i. If the answer is "yes," the case should be submitted to the District Attorney's Office or Juvenile Probation Department for review, irrespective of the wishes of the victim.
 - ii. If the answer is "no," the next question should be considered.
 - b. Will the victim come to court and tell the truth if subpoenaed to do so by the District Attorney?
 - i. If the answer is "yes," the case should be submitted to the District Attorney or Juvenile Probation Department for review.
 - ii. If the answer is "no," can further investigation locate additional witnesses or evidence which would allow prosecution without a cooperative victim, such as:
 - witness statements;
 - prior inconsistent statements;
 - physical evidence;
 - content of 911 tape;
 - circumstantial evidence;
 - defendant's statements.

If so, the evidence should be obtained and the case should be submitted to the District Attorney.

If not, the case need not be submitted, but should be filed with Records pursuant to Penal Code Section 13700 et seq.
4. Under no circumstances should a victim be asked if he/she wishes to "press charges" or "drop charges." Investigative personnel should not ask a victim if he/she wants to "prosecute" his/her partner. The focus of the investigative follow-up should be on the questions contained above in section #3 and the victim should be informed that the decision to prosecute is one which will be made by the Office of the District Attorney.

5. If the crime involves the use of a firearm, the reports shall be submitted without exception to the District Attorney's Office or Juvenile Probation Department for review.
6. In accordance with Family Code section 6228, victims of domestic violence are entitled to a copy of the report, upon request, free of charge and in a timely manner. All departmental staff involved in responding to such requests should be familiar with the provisions of this statute.

ENFORCEMENT OF RESTRAINING ORDERS

Law Enforcement Officers involved in domestic violence investigations often deal with civil restraining orders. However, criminal protective orders are also issued in criminal cases both while the case is pending and/or post conviction.

A. CIVIL RESTRAINING ORDERS

1. **An Emergency Protective Order (EPO)** is requested by a police officer in urgent circumstances. The EPO is authorized by a Duty Judge after receiving a telephonic application from the requesting officer. An EPO is valid for five court days or seven calendar days, providing the protected person sufficient time to obtain a Temporary Restraining Order. (Refer to the Patrol Officer Response/Investigation chapter for instructions in obtaining an EPO).
2. **A Temporary Restraining Order “TRO”** is obtained in court by a protected person upon submission of an application, including an affidavit explaining the need for the order. A TRO is valid for a limited period of time, usually about a month, until a court hearing is conducted to receive testimony from both the restrained and protected persons. A protected person may receive assistance from a victim advocacy agency in applying for a TRO.
3. **A Restraining Order After Hearing “ROAH”** is issued by a judge for a longer period of time, up to 5 years.
 - a. Domestic violence restraining orders shall be enforced by all law enforcement officers. Under Penal Code Section 273.6 (a), it is a misdemeanor for the restrained party to intentionally and knowingly violate any of the protective orders issued pursuant to the Uniform Parentage Act, Family Code, the Domestic Violence Prevention Act, the Workplace Violence Safety Act or the Civil Harassment Prevention Act. Penal Code Section 273.6 (d) makes it a felony to violate a restraining order, with violence or threat of violence, after suffering a prior conviction for violation of Penal Code Section 273.6 within 7 years. The elements of the crime require willful disobedience of the terms of the order. Proof of Service shows that the suspect has the requisite knowledge to be in violation of the order. Verbal notice by the officer of the terms of the Order is sufficient notice for the purpose of enforcing section 273.6 PC (Family Code Section 6383(e)).
 - b. The terms and conditions of the restraining order remain valid and enforceable, in spite of the acts of the victim, and may be changed only by order of the court. The “protected person” cannot be in violation of his or her own protective order nor can they “give consent” to violate any of the terms of the order.

B. CRIMINAL PROTECTIVE ORDERS

Also known as PC 136.2 Orders or Stay Away Orders, Criminal Protective Orders are typically ordered in criminal domestic violence cases at the time a defendant is arraigned and may remain in effect throughout the pendency of the case including the sentence imposed, and will be enforced by all law enforcement officers. This order is valid until the order is terminated or modified by the court. A criminal protective order is sought by the District Attorney, not the victim and can include no contact, no harassment, and weapons surrender provisions. PC Section 166(c)(1) is the charging section for all Criminal Protective Order/PC 136.2 order violations.

C. ENFORCEMENT OF ORDERS

1. Officers shall make arrests for any violations that are committed in their presence. A victim still retains his/her right to make a private person's arrest. A misdemeanor warrantless arrest may be made if an officer has reasonable cause to believe that the person violated a restraining order outside his/her presence pursuant to PC 836(c)(1).
2. Penal Code Section 273.6 is the charging section for all Family Code restraining order violations including EPOs, TROs and ROAHs. The orders may include any or all of the following provisions:
 - a. An order enjoining any person from directly or indirectly contacting, telephoning, contacting repeatedly by mail with the intent to harass, molesting, attacking, striking, threatening, stalking, sexually assaulting, battering, harassing, or disturbing the peace of the other person or other named family and household member.
 - b. An order excluding one person from the family dwelling or the dwelling of the other person/party or other named family and household member.
 - c. An order enjoining a person from specified behavior that the court determined was necessary to effectuate the orders.
3. If, at the scene of a domestic disturbance a person shows or informs the officer of the existence of a restraining order, it is crucial to establish the present status and terms of the order. All domestic violence restraining and protective orders should be entered into the California Restraining and Protective Order System (CARPOS) via CLETS and available to law enforcement.
4. Law enforcement agencies shall serve a previously unserved party to be restrained at the scene of a domestic violence incident or at any time the party is in custody (13710(c) PC). The law enforcement agency serving the order shall make record of service into CARPOS (6380 (d) FC).

Once the order is served, an arrest may be made if the suspect refuses to comply with the terms of the order.

5. If the officer cannot verify the order, it may be enforced through a private person's arrest procedure.

If it is the officer's opinion that the elements of the crime do not exist, the officer may then consider a release per Penal Code Section 849(b).

6. If a Restraining Order violation has occurred and the suspect is not present, the officer will submit a crime report of the appropriate violation and the officer will attempt to locate the suspect and arrest pursuant to Section 836(c) PC. **Under no circumstances shall an officer fail to prepare a crime report on a restraining order violation simply because the suspect is no longer present.**
7. A Criminal Protective Order issued pursuant to PC 136.2 has precedence over any conflicting civil restraining orders affecting the parties. (PC 136.2 (h)(2)).

D. OUT OF STATE ORDERS

1. Officers shall enforce out-of-state protective or restraining orders that are presented to them if conditions below are met. (Out of State Orders include those issued by U.S. Territories, Indian tribes, and military agencies).
 - a. The order appears valid on it's face
 - b. The order contains both parties' names
 - c. The order has not yet expired

(Full Faith and Credit Provision of the Violence Against Women Act, Family Code Sections 6400-6409).

2. Officers should check CLETS to determine if the order has been registered in California. If the order is not registered, an attempt should be made to contact the foreign jurisdiction or its registry for confirmation of validity. If validation cannot be substantiated, the officer can contact the Duty Judge for an EPO, but the officer shall still enforce the out-of-state protective or restraining order if it meets the above criteria. If not registered in California parties should be advised to immediately register the order through the Family Court.

E. FIREARMS

Penal Code section 6389 et seq prohibits persons who are subject to the terms of a protective order from owning, possessing, purchasing or receiving a firearm. When an officer verifies that a domestic violence restraining order, criminal protective order or other applicable restraining order is in effect, the officer shall make reasonable efforts to determine if the restraining order prohibits the possession of firearms and/or requires the relinquishment of firearms. If the order prohibits firearms possession, the officer will make reasonable efforts to:

1. Inquire of the restrained person, if present or contacted during the investigation, if he/she possesses firearms.

2. Inquire through the CLETS Automated Firearms System (AFS) to determine if any firearms are registered to the restrained person.
3. Inquire of the protected person whether the restrained person possesses any firearms.
4. Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search.
5. Document in the crime or incident report:
 - a. Inquiries made to determine if the restrained person possesses any firearms.
 - b. The results of efforts made to locate and seize any unlawfully possessed firearms.
6. All law enforcement agencies shall have the responsibility of receiving and storing firearms surrendered pursuant to a restraining order for residents in their jurisdiction.
7. Each county law enforcement agency having responsibility for the investigation of domestic violence shall adopt policies and procedures addressing the receipt, storage and release of firearms surrendered or seized pursuant to a restraining order.

In January of 2011, the San Mateo County Sheriff's Office Domestic Violence Firearms Compliance Unit became operational again funded by a federal "Community-Defined Solutions" two year grant awarded by the Office on Violence Against Women, U.S. Department of Justice in partnership with The Battered Women's Justice Project. One full time DVFCU detective will be working in collaboration with C.O.R.A., Bay Area Legal Aid, Legal Aid Society of San Mateo County, San Mateo County District Attorney's Office and San Mateo County Probation to proactively enforce the firearm prohibition for those persons subject to the terms of a domestic violence restraining order. The Sheriff's Office will now continue to oversee the civil restraining orders issued in San Mateo County and working with all the law enforcement agencies in the county to ensure the safe surrender of firearms from the control of persons subject to those orders. The policies and procedures of the DVFCU are detailed in a separate protocol.

MILITARY SUSPECTS

All domestic violence incidents involving military suspects shall be handled according to this law enforcement protocol if the incident occurred outside the boundaries of a military facility.

The intent of this policy is to eliminate all informal referrals, diversions, or report taking omissions in the handling of domestic violence incidents involving military personnel.

No informal agreements with military police or a suspect's commanding officer shall take precedence over a suspect's arrest and prosecution by non-military authorities.

LAW ENFORCEMENT SUSPECTS

All domestic violence incidents involving law enforcement suspects shall be handled according to this protocol. There shall be no deviation from the protocol merely because the suspect is employed by a law enforcement agency.

Any officer investigating an alleged incident of domestic violence involving a law enforcement suspect shall notify his/her on-duty supervisor as soon as possible. The investigating agency shall notify the suspect's employing agency as soon as possible after the incident or initial report. All alleged incidents of domestic violence involving suspects who are employed, as peace officers will be reviewed by the District Attorney's Office. All reports and information regarding suspects who are employed as peace officers shall be delivered to the suspect's law enforcement employer as soon as practical at the completion of the investigation.

JUVENILE SUSPECTS

All provisions of this protocol, including mandatory arrest and booking of the perpetrator, whether a felony or misdemeanor, and offering the victim an Emergency Protective Order, shall be applied to all cases of domestic violence wherein the suspect is a juvenile. Domestic violence, as defined by the Penal Code, includes violence perpetrated against juveniles.

TRAINING

- A. Each law enforcement agency shall conduct mandated domestic violence training for law enforcement officers and dispatchers as described in PC 13519 and 13700 et. seq.
- B. The goals of the training are to inform officers of:
 - 1. The domestic violence and stalking laws;
 - 2. This Protocol;
 - 3. The department's domestic violence policy and procedures;
 - 4. The signs and dynamics of domestic violence, including the effects on children;
 - 5. Law Enforcement investigative techniques;
 - 6. District Attorney Domestic Violence Unit policies;
 - 7. Awareness and enforcement of the different types of restraining orders;
 - 8. Victim advocacy groups working in their jurisdiction; and,
 - 9. Domestic violence issues specific to various cultures and lifestyles.
- C. Additional training should include written bulletins, videotapes, verbal reminders, and updates during patrol briefings.
- D. The Chief of Police, or his/her designee, shall ensure the review of his/her department's training policies annually and make any revisions deemed necessary.

LAW ENFORCEMENT RESPONSE FLOW CHART

