



DOMESTIC VIOLENCE AND PROTECTION ORDERS GENERAL ORDER #17.09

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POLICY

The Santa Clara County Sheriff's Office recognizes that domestic violence is a serious community problem, and will respond to acts of domestic violence as crimes. Victims of domestic violence will be treated with respect and dignity and will be given assistance by law enforcement personnel responding to an incident of domestic violence, and referred to other sources of assistance and support.

DEFINITIONS

- A.** “Domestic Violence” is 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. Domestic Violence also includes abuse committed against a child in the family or a child who is the subject of an action under the Uniform Parentage Act.
- B.** “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 another.
- C.** “Victim” means a person who is a victim of domestic violence.
- D.** “Pro-Arrest Policy” refers to an enforcement policy in which physical arrest shall be made in every situation where an arrest is legally permissible; absent exigent circumstances.
- E.** “Deputy” means any sworn member of the Sheriff’s Office.

- F.** “Restraining Order” is an order which requires a person to refrain from doing a particular act or acts. It is issued by the Superior Court, with or without notice to the person who is to be restrained. A restraining order remains 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 5 years.
- G.** “Temporary Restraining Order” is a type of restraining order which requires a person to refrain from doing a particular act or acts. It is issued by the Superior Court, with or without notice to the person who is to be restrained. A temporary restraining order will remain in effect until a formal court hearing can be held.
- H.** “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), Domestic Violence Protection Act (Family Code Sections 6200-6389) or in connection with a dissolution, legal separation or annulment (Family Code Sections 2045, 2047, and 2049). This includes all local Domestic Violence related orders from other states, counties and juvenile courts.
- I.** “Stay Away Order” is a type of restraining order in a criminal or civil case involving domestic violence where there is a likelihood of harassment of the victim by the defendant. A Penal Code Stay Away Order may remain in effect as long as the defendant is under a court's jurisdiction, including any sentence, probationary or parole period. Stay Away Orders are issued pursuant to Penal Code Section 136.2 while a criminal prosecution is pending. 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), or in connection with a dissolution, legal separation, or annulment (Family Code Sections 2045, 2047, and 2049). Civil Restraining Orders may be issued for a maximum of 5 years. Restraining Orders may be issued for a maximum of 10 years pursuant to 646.9(h) PC. The Juvenile and Dependency Court can also issue restraining orders pursuant to W&I Section 213.5 if the minor meets the qualifications listed under sections (a), (b) and (c) of this section.
- J.** “Emergency Protective Order” (EPRO) is a type of restraining order 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 or child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative. 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 EPRO is not precluded by an arrest.
- K.** “Cohabitant” means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship (including 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.

- L. “Dating Relationship” means voluntary associations characterized by the expectation of affectional or sexual involvement.

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.)

1. 136.1 - Intimidating or dissuading a witness.
2. 148 - Resisting arrest.
3. 166 - Violation of a court order.
4. 187 - Murder.
5. 207 - Kidnapping.
6. 236/237 - False imprisonment.
7. 236/1 - Trafficking
8. 240 - Assault.
9. 243 (a) - Battery.
10. 243 (e) - Battery - Spousal/Cohabitor/”parent of suspect's child”/non-cohabiting former spouse/fiance/fiancee/dating relationship abuse.
11. 243 (d) - Battery with serious bodily injury
12. 243.25 - Battery of an elder or dependent adult, who knew or should have known that the victim is an elder or dependent adult
13. 245 - Assault with a deadly weapon.
14. 246 - Shooting at an inhabited dwelling.
15. 261.5 - Unlawful sexual intercourse
16. 262 - Spousal rape.
17. 273.5 - Spousal/Cohabitor/”parent of suspect's child” abuse.
18. 273.6 - Violation of a protective order.
19. 417 - Brandishing a weapon.
20. 418 - Forcible entry into the home of another.
21. 422 - Terrorist threats.
22. 459 - Residential burglary.
23. 591 - Malicious destruction of a telephone.
24. 591.5 - Unlawful removal, damage of wireless communication device, or obstructing use of such device to summon law enforcement.
25. 594 - Vandalism.
26. 597a - Cruelty to animals
27. 602.5 - Trespassing.

28.	603	-	Forcible entry with damage to property.
29.	646.9	-	Stalking.
30.	647 (f)	-	Public drunkenness.
32.	653m (c)	-	Annoying telephone calls - (1) violating court order; or (2) by spouse/cohabitor/parent of suspect's child.
33.	12020 (a)	-	Possession of a dangerous weapon.
33.	12021 (g)	-	Restrained person possess or attempt to purchase firearm
34.	12025 (a)	-	Possession of a concealed firearm.
35.	12028.5	-	Confiscation of firearms (Administrative section)
36.	12031	-	Possession of a loaded firearm.
37.	653.2	-	Electronically distributing, publishing, e-mailing, or making available for download, personal identifying information of an electronic message of a harassing nature, about another person, with the intent to place the person in reasonable fear for his or her safety, or his or her immediate families safety and for the purpose of imminently causing the person unwanted physical contact, injury or harassment by a third party.
38.	664	-	Attempt of any of the above
39.	139		Threatening witnesses

PATROL DEPUTY 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. If a deputy has probable cause to believe that a felony has occurred, an arrest shall be made irrespective of whether the deputy believes the offense may ultimately be prosecuted as a misdemeanor.

MISDEMEANOR

2. The suspect shall be arrested in the event that a misdemeanor domestic violence incident occurs in the deputy's presence. Such situations include, but are not limited to, a deputy who witnesses an act of domestic violence, a violation of a verifiable restraining order or illegal possession of a weapon.
3. When a misdemeanor domestic violence assault or battery has been committed outside the deputy's presence, and the victim is the suspect's spouse, former spouse, cohabitant, former cohabitant, fiancee, 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. Penal Code section 836(d) PC, effective 1/01/97, now makes it possible for deputies to arrest when the crime does not take place in their presence where both of the following circumstances apply:

- a. The peace officer has reasonable 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 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.
 - c. This will also apply if the assault or battery involved a person age 65 or older where the elderly victim is related to the suspect by blood or legal guardianship (836.5 PC).
4. An arrest shall be made if the officer has probable cause to believe that the suspect has violated a domestic violence protective order, restraining order, stalking emergency protective order, or elder abuse protective order, even when the crime did not occur in the officer's presence (836 PC).
 5. 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. **The arrest must fall within the statute of limitations and meet the requirements listed above in paragraph (3).**

HANDLING OF THE INCIDENT

6. The existence of the elements of a crime supporting an agency arrest or the willingness of the victim to make a private person's arrest shall be the sole factors that determine the proper method of handling the incident. The following factors, for example, are not to influence the deputy'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, or state of sobriety
 - 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.
7. Once a suspect is arrested on a misdemeanor offense, he/she should be booked into the county jail.
- a. In situations where mutual protective orders have been issued under subdivision 10 (commencing with section 6200) of the Family Code prior to making an arrest the deputies shall make reasonable efforts to identify, and may arrest, the “dominant aggressor” involved in the incident without a warrant (PC 836(3))
 - b. Persons arrested for crimes specified in PC 1270.1, including the following crimes, cannot be released at the scene:
 1. PC 243 (e)(1) – misdemeanor domestic violence
 2. PC 273.5 – domestic violence with corporal injury
 3. PC 273.6 – violation of a protective order if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of the protected party; or
 4. PC 646.9 – stalking

These arrestees must be taken to jail, after which they may post bail. If they are to be released for more or less than the scheduled bail or on their own recognizance, a hearing must be held in open court pursuant to PC 1270.1 (Note: No cite and release)

8. A deputy 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.
9. Pursuant to Penal Code section 13700 et seq., a deputy responding to an incident of domestic violence shall prepare a Domestic Violence Incident Report in all cases.

B. Investigation of Domestic Violence Cases.

1. Deputies arriving at a domestic violence scene should conduct a thorough investigation and submit reports of all incidents of violence and all crimes related to domestic violence. If the incident occurred in another jurisdiction, the deputy should contact that jurisdiction to determine which agency will investigate the incident.
2. The following steps should be included in a deputy's investigation and subsequent report:
 - a. Arrival at scene
 - i. Determine location and condition of victim and suspect.
 - 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 a physical assault, the weapon shall be taken into temporary custody under Penal Code Section 12028.5,
 - iii. There are now three additional instances when a search warrant can be requested and issued in a case PC 1524.
 - a. At the premises occupied or under control of the person arrested for domestic violence incident involving a threat to human life or a physical assault as provided in 12028.5 (b) above.
 - b. When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody of, a person described in W&I 8102 (a).
 - c. When the property or things to be seized include a firearm that is owned by, or in possession of, or in the custody or control of a person who is subject to the prohibitions regarding firearms pursuant to Family Code 6389.
 - 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, other witnesses.
 - ii. Ask victim and suspect if they have pain even if there are no visible injuries.
 - iii. Document victim's and suspect's condition and demeanor.

Document torn clothing.

Document smeared make-up.

Investigate the evidence of injury.

- iv. Document disarray in house.
 - v. Document suspect's symptoms of use/influence of alcohol or controlled substances.
 - vi. Document size relation of victim and suspect.
 - vii. In apparent “mutual combat” situations, try to determine who was the dominant aggressor (dual arrests are 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?

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?

- viii. If victim has a restraining order against 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 Domestic Violence Protective Order Registry (Domestic Violence Restraining Order System DVROS/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.
 - ix. Advise victim of Emergency Protective Order (EPRO), and ask if one is desired. (Victim should be out of suspect's view.)
 - x. If victim has a restraining order which has not yet been served on suspect, verbally inform the suspect of the order and note in the report including case number of the Restraining Order. If victim has an extra copy of the order, serve on the suspect and fill out proof of service. Return the original proof of service to the victim for filing with the court. If a suspect is given verbal notice of the Order, the deputy must 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)).
- c. If suspect taken into custody
- i. Document spontaneous statements.
 - ii. Prevent communications between suspect and victim/witnesses.
 - iii. Advise suspect of Miranda rights.
 - iv. Take statements.
- d. Evidence
- i. Document condition of crime scene (disarray of physical surroundings).
 - ii. Photograph crime scene, if applicable.
 - iii. Ensure that victim/suspect are photographed.
 - iv. Impound and/or photograph weapons and other evidence. (Consider Penal Code Sections 12021 (c) - Persons convicted of

specific misdemeanors and 12028.5 - Confiscation of firearms and dangerous weapons.

e. Medical treatment

- i. Obtain authorization for release of medical records from victim, if possible.
- ii. Document extent of injuries/treatment, if known.
- iii. Obtain names, addresses, and phone numbers of fire, ambulance or paramedic personnel treating the victim, if possible.

f. Completing Crime Report

- i. Maintain objectivity in reporting. Avoid personal opinions regarding comments from victim/suspect.
- ii. Ensure that elements of all involved crimes are included in the report.
- iii. Document any injuries victim/suspect have sustained.
- iv. Document that victim received referral per Penal Code Section 13701
- v. Document past history of violence.
- vi. Document prior domestic violence incidents at that address involving the alleged abuser or victim.
- vii. Document statements of victim, suspect, and all witnesses including children.
- viii. Document physical evidence obtained.
- ix. Document probation/parole status.
- x. Document whether alcohol/drugs were involved by the alleged abuser.
- xi. Document names and ages of children who were present and/or residing in the home at the time the offense occurred or who were not present but reside in the home. Also document the names,

addresses and ages of children present in the home at the time of the incident, who may not be related to the victim and/or suspect AND children who may not reside in the home but whose parents are involved in the domestic violence incident.

3. When documenting a domestic violence-related crime, identify the report as a domestic violence incident on the face of the report as required by Penal Code Section 13730 (c).
4. Deputies should not misinform victims of domestic violence that the victim has the authority to “press” charges or “drop” charges. If a victim spontaneously states that prosecution is not desired, the victim should be told that the decision to prosecute is made by the District Attorney.

FOLLOW-UP INVESTIGATION

- A. All domestic violence reports prepared by Deputies 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:
 - a. Verify the inclusion of all investigative steps described above regarding patrol deputy 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;
 - e. Contact the victim to inform him/her of the status of the case and the intended referral to the District Attorney;
 - f. Obtain photographs of injuries to the victim (irrespective of whether photos were taken by the responding deputy);
 - 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 CJIC, CII history of the suspect and attach it to the investigator's report.
2. Follow-up investigation shall not consider the desire of the victim to "drop" charges in assessing whether the case should be submitted to the District Attorney's Domestic Violence Unit.
3. Investigative personnel handling domestic violence cases should analyze each domestic violence case by asking the following questions:
- a. Can the elements of the offense be established without the testimony of the victim?
- i. If the answer is "yes," the case should be submitted to the District Attorney 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 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 proceed is out of his/her control.
5. Deputies arriving at a medical facility in response to a phone call or report made by a medical professional shall prepare a Domestic Violence Incident Report irrespective of the wishes of the victim.

ENFORCEMENT OF RESTRAINING ORDERS

- A. Domestic violence restraining orders will be enforced by all law enforcement officers. Under Penal Code Section 273.6 (a), it is a misdemeanor to intentionally and knowingly violate 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 needed knowledge to be in violation of the order. Verbal notice by the deputy of the terms of the Order is sufficient notice for the purpose of Section 273.6 PC (Family Code Section 6383(e)). Each Agency shall ensure the original Proof of Service is filed with the court issuing the order and a copy retained with the police report.

Note: The terms and conditions of the restraining order remain enforceable, in spite of the acts of the victim or suspect, and may be changed only by order of the court.

Penal Code Section 273.6 shall apply to the following orders:

1. An order enjoining any party 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 party or other named family and household member.
2. An order excluding one party from the family dwelling or the dwelling of the other party or other named family and household member.
3. An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders.

- B.** Stay Away Orders are typically ordered in domestic violence cases as a condition of a supervised own-recognition release and will be enforced by all law enforcement officers. Pretrial Services enters a teletype of the Stay Away Order into the SLETS System, which forwards the order to pertinent police agencies. This order is valid until the order is terminated or modified, at which time police agencies are once again notified via the SLETS System by Pretrial Services. Pretrial Services also takes responsibility for victim notification. Information in support of the need for a Stay Away Order should be included by the deputy in the Probable Cause Affidavit.
- C.** Deputies shall make arrests for any violations under the above sections that they observe. A victim still retains his/her right to make a private person's arrest. A misdemeanor warrantless arrest shall be made absent exigent circumstances if a deputy has reasonable cause to believe that the person violated a restraining order outside his/her presence (836(c)(1) PC), (13701 P.C.).
- D.** If, at the scene of a domestic disturbance a person shows or informs the deputy of the existence of a restraining order, it is crucial to establish the present status and terms of the order. Pursuant to Penal Code Section 13710, each Law Enforcement Agency shall maintain a complete and systematic record of all protection orders with respect to domestic violence incidents. These records shall include orders which have not yet been served, orders issued pursuant to Penal Code section 136.2, restraining orders, and proofs of service in effect. This shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders in effect. All civil restraining orders are in the statewide registry available to all law enforcement.
- 1.** Upon request, law enforcement agencies shall serve the party to be restrained at the scene of a domestic violence incident or at any time the party is in custody. Once the order is served, an arrest may be made if the suspect refuses to comply with the terms of the order.
 - 2.** If the deputy cannot verify the order, it may be enforced through a private person's arrest procedure. If it is the deputy's opinion that the elements of the crime do not exist, the deputy may then consider a release per Penal Code Section 849(b).
 - 3.** If a Restraining Order violation has occurred and the suspect is not present, the deputy will submit a crime report of the appropriate violation and the deputy will attempt to locate the suspect and arrest pursuant to Section 836(c) PC.

Under no circumstances shall a deputy fail to prepare a crime report on a restraining order violation simply because the suspect is no longer present.

4. A restraining order issued in a criminal case of domestic violence has precedence over any conflicting civil orders affecting the parties. (Penal Code Section 136.2(h)(2)).
- E. When responding to any domestic violence incident, a deputy shall advise the victim of the availability of an Emergency Protective Restraining Order (EPRO) and civil restraining orders in every case even if the suspect is arrested and in non-criminal situations where the victim is fearful. The deputy is required to request the protective order if the deputy believes the person requesting the order is in immediate and present danger..
 1. In arrest situations, the following procedures should be implemented:
 - a. When a person is arrested based upon an allegation of a recent incident of abuse or threat of abuse and the deputy can assert reasonable grounds to believe that a person is in immediate and present danger of domestic violence, or child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative, which would require restraint if the defendant were to be released from custody (e.g., bail, OR, 849, or no PC found), then the deputy shall be required to explain the EPRO to the victim and ascertain if the victim desires one. In extraordinary circumstances where the deputy fears for the safety of the victim, but the victim does not desire an EPRO, an investigating officer may request one on behalf of the victim.
 - b. If an EPRO is appropriate, the application should be completed. During normal court hours the deputy should call the Family Court at 299-8582 and ask to speak to the Supervising Judge. If no answer, call 299-7365 or 299-8523 and ask for a judicial officer. During nighttime hours, weekends, and holidays the deputy should call County Communications at 299-2501 and ask for the Duty Judge to call back. The deputy should leave the phone number where he/she can be reached. If the Duty Judge is not available, the deputy should ask to speak to another Judge.
 - (1) Deputies should be advised that EPROs are not provided at the Jail nor is a Stay Away Order automatically issued. A deputy should not request a Stay Away Order or an EPRO on the probable cause affidavit. If he/she feels a restraint is required upon defendant's release, follow the EPRO procedures. In order to have a Stay Away Order initiated as a condition of Supervised OR, at the time of booking, information in support of the need for restraint should be included in the probable cause affidavit, not requested on the form.

- (2) The functions of each order do not necessarily overlap. The Supervised Own Recognizance Order provides a mechanism for supervision of a criminal defendant including ensuring court appearances, and it often includes drug and weapon conditions. The EPRO provides the victim with a way to enter the Civil Justice System with protection already in place.
- (3) **Law Enforcement is authorized to request the immediate surrender of firearms when a person is served with a domestic violence protective order, rather than having to wait 24 hours for the person to self-surrender the firearms.**
2. In a non-arrest situation where an EPRO is desired, the deputy should complete an application and contact the Duty Judge or Family Court for evaluation and issuance of the EPRO.
3. If issued, EPRO legislation requires a deputy to make a reasonable attempt to serve the restrained party. If he or she is present or can be readily contacted, serve the order and complete the Proof of Service on the form. Give the restrained person's (canary) copies to him or her. Document whether and how the order was served in the police report.
4. Once an EPRO is issued, it is the responsibility of the police agency to promptly file the EPRO with the Family Court at 170 Park Center Plaza, San Jose, California 95113.
5. A judicial officer may issue an EPRO if a peace officer asserts reasonable grounds to believe that a person is stalking another person as defined in PC 646.9 (authority 646.91).
- F. Deputies shall enforce out-of-state protective or restraining orders that are presented to them if:
1. The orders appear valid on their face.
 2. Contain both parties' names.
 3. Has not yet expired.

(Full Faith and Credit Provision of the Violence Against Women Act, Family Code 6380.5)

Deputies 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 deputy can contact

the Duty Judge for an EPRO, but the out-of-state protective or restraining order must still be enforced if it meets the above criteria. If not registered in California parties should be advised to immediately register the order through the Family Court.

VICTIM ASSISTANCE

- A.** If a victim has injuries, visible or not, which require medical attention, deputies shall administer first aid, as appropriate, and offer to arrange for proper medical treatment.
- B.** When a party in a domestic violence incident requests police assistance in removing a reasonable amount of personal property (e.g., a suitcase) to another location, deputies shall stand by a reasonable amount of time until the party has safely done so.
- C.** In all domestic violence incidents, a deputy shall:
 - 1.** Assist in making arrangements to transport the victim to an alternate shelter if the victim expresses a concern for safety or the deputy determines a need exists.
 - 2.** Explain options available to the victim including the private person's arrest process, temporary restraining orders, Emergency Protective Restraining Orders, and in cases of arrest, the follow-up procedures and ensuing criminal proceedings.
 - 3.** Advise the victim of available community resources and the State Victim Assistance Program. (This includes the victim of an alleged battery or corporal injury to a domestic partner). Pursuant to Penal Code Section 13701, deputies shall furnish victims with a "Victims of Domestic Violence Card" which includes the toll free number for the California Victims' Compensation Program. The card shall 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 card will also include an explanation of the Santa Clara County Victim Notification Service.
 - 4.** Verify and enforce court issued protective orders pursuant to this protocol.
 - 5.** Exercise reasonable care for the safety of the deputies and parties involved. No provision of this instruction shall supersede that responsibility.

MILITARY SUSPECTS

- A.** All domestic violence incidents involving military suspects shall be handled according to this law enforcement protocol if:
 - 1.** The incident occurred outside the boundaries of a military facility; or the Sheriff's Office is responsible for law enforcement on the military facility, and

2. Local law enforcement agencies are called to assist in handling such an incident.
- B. 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.
- C. No informal agreements with military police or a suspect's commanding officer shall take precedence over a suspect's arrest and prosecution by the non-military authorities.

LAW ENFORCEMENT SUSPECTS

- A. All domestic violence incidents involving law enforcement suspects shall be handled according to this law enforcement protocol. Any deputy investigating an alleged incident of domestic violence involving a law enforcement suspect shall have an on-duty supervisor notified as soon as possible. The investigation agency shall notify the 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.

The investigation agency shall contact local domestic violence agencies for assistance when referring the victim to an advocate trained in working with victims of domestic violence perpetrated by law enforcement suspects.

TRAINING

- A. Each law enforcement agency shall conduct mandated domestic violence training for members of the agency per 13519(b) PC and 13730 PC.
- B. The goals of the training are to inform deputies of:
 1. The domestic violence laws;
 2. The Sheriff's Office's domestic violence policy and procedures;
 3. The dynamics of domestic violence;
 4. Peace officer investigative techniques; and
 5. District Attorney Domestic Violence Unit policies.
- C. Additional training should include written bulletins, videotapes, verbal reminders, and updates during patrol briefings.

- D.** The Sheriff, or his/her designee, shall ensure the review of the Sheriff's Office's training policies annually and make any revisions deemed necessary.

A handwritten signature in black ink, appearing to read "Laurie Smith".

**LAURIE SMITH
SHERIFF**