

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

DOMESTIC VIOLENCE
SUBJECT

DATE: March 1, 2005

NO: D-3

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: Domestic Violence
Violence, Domestic

I. POLICY

- A. The Stockton Police Department will work in conjunction with the office of the San Joaquin County District Attorney, Domestic Violence Unit, and will respond to acts of domestic violence as a crime.
- B. Sworn personnel shall treat all Domestic Violence calls as mandated by Penal Code Section 13519 and 13700 Et Seq. Domestic Violence calls shall be treated the same as all other requests for police assistance in cases where there has been physical violence or the threat thereof. Sworn personnel shall become familiar with Penal Code Section 13700(a), 13700(b), 13701, 13519, 13519(e), 273.5(a), 273.6, 646.9, 243(e)(1), and 422.

II. DEFINITIONS

- A. Domestic Violence (Section 13700(b)PC) is abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or has had a dating or engagement relationship.
- B. Abuse (Section 13700(a)PC) is intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension or imminent serious bodily injury to himself or another.
- C. Section 273.5(a) of the Penal Code states:
 - 1. Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony.
 - a. "Traumatic Condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.
- D. Section 243(e)(1) of the Penal Code States:
 - 1. Battery is committed against a spouse, person with whom defendant is cohabiting, person who is the parent of the defendant's child, non-cohabiting former spouse, fiancé, fiancée, or a person with whom the defendant has or had a dating relationship.
- E. Section 679.05 of the Penal Code States:
 - 1. A victim of domestic violence or abuse, as defined in Sections 6203 or 6211 of the Family Code, or Section 13700 of the Penal Code, has the right to have a domestic violence counselor and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorney's, or defense attorney's. However, the support person may be excluded from an interview by law enforcement or the district attorney if the law enforcement

authority or the district attorney determines that the presence of that individual would be detrimental to the purpose of the interview.

III. PROCEDURES

- A. Officers will treat domestic violence as a crime and will not let the following examples influence their course of action.
 - 1. The marital status of the suspect and the victim, i.e., not married, separated, or pending divorce.
 - 2. Whether or not the suspect lives on the premises with the complainant.
 - 3. The existence or non-existence of a restraining order.
 - 4. The victim's history of prior complaints.
 - 5. The potential financial consequences of arrest.
 - 6. Verbal assurance that violence will cease.
 - 7. The victim's emotional state.
 - 8. Injuries not visible.
 - 9. Speculation that the victim may not follow through with the Criminal Justice process or that the arrest may not lead to a conviction.

IV. ON-SCENE INVESTIGATION / ARREST

- A. Basic on-scene investigation should, at a minimum, include:
 - 1. Interview the victim, the witnesses, and the suspect separately.
 - a. Removing the victim from the suspect's line of sight is important.
 - b. All children who are present in the home at the time of the incident are potential victims, and will be listed in the report as witnesses. Children will be interviewed and a statement taken when possible. If a child is a victim of any crime, including such crimes as child endangerment as defined in section 273a(a) or 273a(b) of the Penal Code, they shall be listed as a victim in the report.
 - 2. Distinguish the dominant aggressor as defined in section 13701(b) P.C.
 - a. Officers are not to make a domestic violence a "mutual combat" and must determine who is the dominant aggressor.
 - b. If the dominant aggressor can not be determined, officers will indicate that there are not enough facts to determine who is at fault, listing both as victim/suspect. Do not indicate "mutual combat" in the narrative.
- B. Arrests
 - 1. Officers shall arrest suspects in Domestic Violence incidents when there is reasonable cause to believe that a felony has been committed. Penal Code Section 243(e)(1) will be charged on all misdemeanors of Domestic Violence. Misdemeanor Domestic Violence arrests may be made whether or not they were committed in the presence of a police officer if there is probable cause to believe an assault has occurred and the arrest is made when probable cause arises. (Penal Code Section 836(d))
 - 2. When an officer has reasonable cause to believe that a misdemeanor battery has been committed (including violations of court orders, see General Order D-6), the suspect shall be arrested.

- a. Officer's responsibility while investigating all Domestic Violence, shall include:
 - (1) Complete Criminal History/RMS check on suspect's prior history of arrest or citations involving domestic violence, and a probation check through CJIS on the suspect.
 - (2) Determine whether the suspect has a prior history or other assaultive behavior, i.e., arrest/convictions for battery or aggravated assault.
 - (3) Statements from the victim that the suspect has a history of physical abuse towards the victim.
 - (4) Statements from the victim expressing fear of retaliation or further violence should the suspect be released.
 - (5) Interview all children present; children are often present and able to describe the violent episode. Children as young as five are as reliable as or more reliable than adults. Children will be listed on the 13700 Domestic Violence Incident Report. Refer to the attachments for more details.
 - (6) Officers shall inform the victim of their option of obtaining an "EPO." OFFICERS WILL NOT TELL VICTIMS THEY CAN NOT HAVE AN "EPO", ONLY A JUDGE CAN DENY AN "EPO."
 - (7) Officers shall seize and take temporary custody of firearms or other deadly weapons in plain sight or obtained pursuant to a consent search when there is a threat of violence or a physical assault at the scene of a family violence incident, as authorized by section 12028.5 PC. Officers shall leave a property receipt as required in General Order G-1.
 - (8) Officers will make every attempt to find and arrest suspects in all domestic violence incidents.

- C. Officers shall include the following information in their reports to ensure a complaint.
 - 1. Color photographs will be taken of victim injuries when practical.
 - a. It may not be practical to take photographs at the scene, since some injuries may not be visible yet. If it is obvious that the victim will have some visible injuries at a later date, the officer will make sure that a call exists for a response or that the victim is given a date to come to the Police Department to have the photographs taken by an E.I.T.
 - b. Photographs should also be taken of children who were present at the scene to reinforce the impact on and presence of children.
 - c. Photographs should be taken of the crime scene.
 - 2. In the crime report officers will include a detailed description of the crime scene, the victim's injuries and state of mind.
 - 3. Officers should also check with the neighbors or any other potential witnesses for their statement regarding the incident.
 - 4. Any evidence will be seized and booked according to the procedures as per General Orders G-1 and G-2.
 - 5. The date of any prior responses by the police department and/or any crime/arrest report numbers shall be listed on the Domestic Violence Supplemental Incident Report. This will assist the District Attorney's Office in showing a history of Domestic Violence.

6. The investigating officer(s) will advise the victim that the D.A.'s Victim/Witness Advocate will contact them to explain court procedures, restraining orders, and obtain any necessary additional information.

D. Reports

1. All Domestic Violence reports shall be routed to the Family Crimes/Domestic Violence Unit and be submitted as one complete report to ensure complaints.
2. Officers shall follow the SPD Report Writing Manual and list all officers involved and his/her involvement.
 - a. All officers taking Domestic Violence crime or arrest reports will ensure that all reports are turned in and supervisor approved before securing from duty.
 - b. Officers unable to locate and arrest suspects will advise the on-duty supervisor of outstanding suspects of domestic violence with serious injury or immediate danger to the victim.
 - c. The 13700 PC Domestic Violence Incident Report must be completed on all crimes involving Domestic Violence.
3. If children were in the home at the time of the domestic violence incident, or personally witnessed the domestic violence, the officer will make sure to appropriately mark the 13700 PC Domestic Violence Incident Report.

V. **TENANCY**

- A. When a complainant requests an officer to remove a person from the premises and it can be verified that the complainant is in lawful possession of the premises (for example, by showing a rental agreement, canceled rent check, lease, grant deed, rent receipts, other documents or verification from the landlord or manager), and the person desired to be removed is not in lawful possession of the premises, the responding officer shall:
 1. Request the person leave the premises and stand by until the person can gather essentials.
 2. If the person refuses to leave after being requested to leave by the officer, he/she shall be arrested, then cited and released unless one of the exceptions to the department's citation release policy exists; refer to General Order P-1.
 3. When a complainant in a domestic violence incident requests police assistance in removing a reasonable amount of personal property to another location, officers shall stand by a reasonable amount of time until the complainant has safely done so.

VI. **VICTIM ASSISTANCE**

- A. Officers should assist in obtaining medical attention for a victim if the victim is claiming injuries whether visible or not. If the victim refuses needed medical attention, this will be properly marked on the 13700 PC Domestic Violence Incident Report.
- B. Assist in making arrangements to transport the victim to an alternate shelter if the victim expresses a concern for safety, or the officer determines a need exists.
 1. Officers may call Victim/Witness to the scene to assist with transportation/alternate shelter arrangements for the victim(s).
 2. The Mobile Crisis Unit (Victim/Witness Unit) operates 24 hours, 7 days a week. Victim/Witness is available from 0800 – 2400 hours, with an on-call service after midnight. The unit may be reached through dispatch or the call sign of "AD39" only.

- a. Officers can request assistance from Victim/Witness on all Domestic Violence and EPO's and should be called when the officer feels it would be a benefit to the victim.
 3. If Victim/Witness is not available, there is a "back-up" on call. Officers may request assistance from the back-up Victim/Witness unit, after obtaining approval from their supervisor.
 4. Victim/Witness can also provide 24 hour crisis intervention counseling and may be reached in the same manner.
 5. Victim/Witness can also be contacted at the Stuart Eberhardt Building (ESB) from 0800 – 1200 hours, Monday through Friday.
- C. Dawn House also provides a 24 hour crisis line, support groups, and counseling for battered women.
- D. If Victim/Witness is not available for transport, the officer may choose to transport a victim directly to one of the following shelters.
1. Dawn House
 2. New Hope Family Shelter
 3. Salvation Army
 - a. Officers must notify the shelter prior to transporting a victim to one of the women's shelters. This is to determine space availability and client eligibility. Only victims and their dependent children may be taken to the shelter. Relatives of the victim are not allowed to be at the shelter.
- E. Officers may call Child Protective Services (CPS) to the scene to assist with children who have been exposed to domestic violence incidents if the officer deems a need exists. The officer shall have the approval of their immediate supervisor prior to contacting CPS.
1. The following factors should be considered when determining whether or not to call on CPS.
 - a. Minors exposed to violence AND immediate protection issues present for the minor's safety, such as:
 - (1) Perpetrator outstanding.
 - (2) Caregiver unwilling or unable to prevent minor from further exposure.
 - (3) Caregiver not utilizing resources given by first responders to increase protection; (i.e., protection orders, cooperation with SPD).
 - (4) Minors calling 911 for help and parents blame minor .
 - b. Minors physically injured as a result of DV
 - (1) Young children being held by caregiver and injured/offender withholding minor from caregiver.
 - (2) Older minors intervening.
 - c. Minors/Families displaced from DV
 - (1) Going to shelters.
 - (2) Extended family .
 - (3) Both parents arrested.
 - (4) Hospitalization of primary caregiver.
 - d. Minors exposed to severe violence
 - (1) Death or serious injuries which requires hospitalization.
 - e. Other risk factors to consider:
 - (1) CPS/SPD history.
 - (2) Probation/parole and effectiveness of intervention.

- (3) Stalking.
- (4) Medical neglect.
- (5) Violation of restraining orders.
- (6) Mental health issues.
- (7) Substance abuse issues.
- (8) Weapons present in the house and used as a threat.
- (9) Pregnancy.
- (10) Multicultural issues (language barriers, access to services, immigration status, etc).

- 2. If the officer does not feel there is a need for immediate CPS response, but would like to ensure that CPS is notified, a copy of the report should be routed to CPS social worker in the Family Crimes Unit and the officer should give details that would be beneficial to them in the report.
- 3. During normal business hours (Monday – Thursday from 0800 to 1800 hours), a CPS worker is assigned to the Family Crimes Unit. The CPS social worker can be paged if necessary. If the CPS social worker is unavailable, or after normal business hours, call the Telecommunications Center for the on call CPS worker.

VI. PATROL SERGEANT'S RESPONSIBILITY

- A. Patrol Supervisors shall review all Domestic Violence reports prior to the officer securing from duty. Patrol Supervisors should review all domestic violence reports as one complete investigation.
- B. Patrol Supervisors shall ensure that all Domestic Violence reports are routed correctly and that all crime reports and related subsequent reports are submitted as one report.
- C. Patrol Supervisors will be informed of all outstanding suspects for domestic violence involving serious injury or immediate danger to the victim. Patrol Supervisors will evaluate the necessity for immediate follow-up and arrest of the suspect.

VII. REPORTING REQUIREMENT

- A. Records Section will maintain records of all domestic violence incidents (Penal Code Section 13710).
- B. Domestic violence incidents shall be compiled for reporting to the Attorney General's Office in accordance with Penal Code Section 13710.

VIII. COMPLAINT PROCESS

- A. The Stockton Police Department Records Division shall be responsible for delivering all domestic violence reports and attachments to the Family Crimes Unit, the Domestic Violence Deputy DA, and Victim/Witness for complaints.
- B. The Family Crimes Unit Sergeant will be responsible for assigning all domestic violence cases to an investigator to initiate the necessary follow-up investigation.