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REVISED: 1 December 2008
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SUBJECT: Domestic Violence Investigations

ISSUED BY: Fernando Solorzano

I. PURPOSE

This General Order is intended to provide clear direction in the investigation of reports of domestic violence, and to ensure that the safety, security and rights of any party are preserved.

II. POLICY

It is the policy of this department to respond to all calls involving domestic violence. Domestic violence is criminal conduct that must be investigated, and arrests made when appropriate. Dispute mediation shall not be used as a substitute for appropriate enforcement action (arrests or reporting) in domestic violence cases.

III. DEFINITIONS (Section 13700 of the Penal Code)

Abuse

Intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself/herself, or another.

Domestic violence

"Abuse" committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had or is having a child or has had a dating or engagement relationship.

IV. ENFORCEMENT OF LAWS

It is the intent of the California State University; Long Beach Police Department that response to cases of domestic violence shall stress enforcement of laws to protect the

victims and communicate the attitude that violent behavior in the home or elsewhere is criminal behavior and will not be tolerated.

Officers shall ensure that the investigation is thorough and that enforcement action upon the "Primary Aggressor" is appropriate. "Primary Aggressor" is the person determined by the officer to be the "most significant, rather than the first, aggressor. Therefore, it is strongly recommended that an officer consult a fellow investigating officer in determining the party of primary responsibility whenever there is a lack of clarity.

The following factors should not be used to avoid reporting or making an arrest:

- (a) The marital status of the suspect and victim.
- (b) Whether or not the suspect lives on the premises with the victim.
- (c) The existence or lack of temporary restraining or stay-away orders.
- (d) The potential financial consequences of an arrest.
- (e) The complainant's history of prior complaints.
- (f) Verbal assurances that violence will cease.
- (g) The complainant's emotional state.
- (h) The lack of visible injuries.
- (i) The location of the incident, whether public or private.
- (j) Speculation that the complainant may not follow through with the prosecution, or that the domestic violence case may not result in a conviction of the suspect.

V. FELONY ARRESTS

Officers shall make an arrest when there is reasonable cause to believe that a felony has occurred.

Examples:

- 273.5(A) PC Inflict corporal injury on spouse or cohabitant with a relationship
- 245(A)(1) PC ADW/Domestic Violence (knife, feet, fist, etc.)
- 245(A)(2) PC ADW/Domestic Violence (firearms)
- 664/187 PC Attempted Murder/Domestic Violence
- 187 PC Murder/Domestic Violence
- 422 PC Terrorist Threats against immediate family

VI. MISDEMEANOR ARRESTS

Officers shall make an arrest when there is reasonable cause to believe that a misdemeanor (including violations of court orders) has occurred. Officers shall not release suspects on a misdemeanor citation in a Domestic Violence Crime.

Examples:

- 166.4 PC Willful disobedience of Court Order

243(E) PC Battery on non-cohabitating former spouse/etc.
273.6 PC Violation of Domestic Violence Restraining Order

Officers shall arrest a suspect who they have probable cause to believe has violated a protective or stay-away order.

VII. PRIVATE PERSON ARRESTS

Officers shall inform the victim of the right to make a private person's arrest when a crime has been committed outside the officer's presence which does not meet the requirements for a felony arrest. Whenever possible, such discussions shall be held away from the suspect to avoid any attempts by the suspect to make a retaliatory private person's arrest.

Officers shall not dissuade victims of domestic violence from making a lawful private person's arrest. (142 PC). Officers shall accept a lawful private person's arrest.

VIII. FIREARMS SEIZURE

Under Penal Code Section 18250, officers have the authority to temporarily seize a firearm or other deadly weapon you observe in plain sight or discover pursuant to a consensual search at the scene of domestic violence, when a physical assault or threat of serious injury exists. A receipt will be given to the owner or person possessing the firearm or other deadly weapon. The firearm or other deadly weapon will be held no less than 48 hours. If the firearm or other deadly weapon is not held for evidence, and was legally possessed, it shall be returned to the owner or person with legal possession 48 hours after the seizure, but no later than 72 hours after the seizure. If parties at a domestic violence incident were asked about guns in the home, their response must be documented in your report per PC 13730 (c) (3).

IX. VERIFYING AND ENFORCING RESTRAINING ORDERS

There are different types of restraining orders issued by California courts in domestic violence situations. California Penal Code Section 13710 requires law enforcement agencies to maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, including orders that have not yet been served, restraining orders, and proofs of service in effect.

The systematic record shall be used to inform officers who respond to domestic violence calls, of the existence, terms, and effective dates of protective orders in effect. The Investigative Unit shall maintain this systematic record of all protective orders with assistance from the Records Supervisor.

X. DETERMINING TENANCY

Among the ways in which lawful possession of premises can be verified is by rental agreement, canceled checks, lease, grant deed, verification from the landlord, court order, or any other relevant document.

When the complainant is in lawful possession of the premises and the complainant has requested that a person not in lawful possession of the premises leave, the officer will take the following actions:

- (a) Request the person not in lawful possession of the premises to leave. Use Penal Code Section 626.4 or 626.6 to order the suspect to leave campus. If the suspect refuses to leave, arrest the suspect under Penal Code Section 602.5.
- (b) If the complainant cannot show proof of lawful possession, the officer should recommend that the complainant obtain a temporary restraining order or other appropriate civil remedy.

XI. VICTIM ASSISTANCE

Officers are required to provide the following assistance to victims.

- (a) Assist in obtaining appropriate medical attention if a complainant claims injury, whether visible or not.
- (b) Assist in making arrangements to transport the victim to an alternate shelter if the victim expresses a concern for their safety or the officer determines a need exists.
- (c) Stand-by for a reasonable amount of time if the complainant wishes to remove essential items of personal property from a premise, and provide safe passage from the scene.
- (d) Explain the legal options available to the victim, including the private person's arrest process, emergency protection orders, temporary restraining orders, stay-away orders; and in cases of an arrest, the follow-up procedures and ensuing criminal proceedings.
- (e) Provide all victims of domestic violence a copy of the Domestic Violence/Sexual Assault Victim's Resource Form that contains information on shelters, other referral resources, specific information and rights of victims' of domestic violence. Also provide victims with written Marsy's Rights.
- (f) Advise the victim that they have the right to a domestic violence counselor at follow-up law enforcement interviews – PC 679.05.
- (g) Advise the victim that the suspect may be released at any time.
- (h) Victim is entitled to a free copy of their report once completed and released by the Records Division.
- (i) Advise the victim has a right to confidentiality – GC 6254 (f).

XII. OBTAINING PROTECTIVE ORDERS

An *Emergency Protective Order* may be obtained from a law enforcement officer 24 hours a day, 7 days a week. Emergency Protective Orders, or “EPOs”, are valid until 5:00 PM on the 5th court day or 7th calendar day from the date of issuance.

Officers shall, when requested by the victim, or when the officer reasonably believes it necessary, obtain an Emergency Protective Order in accordance with the provisions of Penal Code Section 646.91 et al, Family Code Sections 6240, 6241 and Sections 6251 through 6257.

Officers shall use the EPO form provided by the Superior Court, and shall complete the form while providing the telephonic affidavit to the on-call Referee of the Court. Current phone numbers for the on-call Referee are maintained in Communications. Once completed, the officer shall serve the EPO to the restrained person, if that persons' whereabouts is known, and deliver the remaining copies to the victim and to the court. The victim shall also be provided information regarding the acquisition of a *Temporary Restraining Order*.

Additional resources that may be offered are contained within the University Police Department's *Domestic Violence and Assault Victims' Resource Form*. The investigating officer shall deliver this form to the victim prior to leaving.

Officers who are at a domestic violence scene and discover an un-served restraining order in the system shall serve the Restrained Party if present – PC 13730 (c).

XIII REPORTING PROCEDURES

A crime report shall be completed in every incidence of domestic violence. This does not mean that every family dispute will require a report. Refer to the definitions of 'abuse' and 'domestic violence' to determine if an incident requires reporting. The fact that prosecution may not be desired will have no bearing on whether or not to file a report.

In all cases of domestic violence where threats of violence were made, but no physical violence occurred, a Domestic Violence incident report will be completed.

If the suspect has left the scene of a domestic violence incident, an investigation should be conducted to determine if a crime has been committed. Penal Code Section 13730(c) requires that a written report shall be made and the complainant shall be advised of the case number and follow-up criminal procedures in domestic violence incidents. Officers shall file the appropriate crime report.

- (a) The 'Crime' box shall list the appropriate Penal Code violation committed.
- (b) "Domestic Violence" must be identified on the face of the crime report. (13730 PC). The 'Crime Classification' box will identify the crime as being "Domestic Violence".
- (c) The weapon or force used will be indicated in the 'Describe Weapon or Force Used' box.

- (d) The victim will be given a Crime Report Receipt with the crime report number. If the report number is not immediately available, explain to the victim how the number may be obtained.
- (e) Document if alleged abuser shows signs of being under the influence of alcohol or a controlled substance – PC 13730 (c).
- (f) Document if there was previous response to the location for domestic violence involving either party – PC 13730 (c).

The total number of domestic violence calls received and the number of such cases involving weapons will be compiled monthly and submitted to the Attorney General as required under Penal Code Section 13730(a).

XIV. DISPATCHER RESPONSE TO CALLS

Communications Dispatchers shall handle calls reporting threatened, imminent, or on-going domestic violence, and the violation of any protective order or restraining order as a priority.

Although dispatchers are required to become familiar with the various types of Restraining Orders maintained in the Communications Center, they are not required to verify the validity of a protective order prior to assigning an officer to a call for assistance. If additional resource information or field support is necessary, Long Beach Police Department's Domestic Violence Detail..

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