

# Domestic Violence

## 320.1 PURPOSE AND SCOPE

Best Practice MODIFIED

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence. In addition, this policy shall establish procedures to be followed by law enforcement officers in response to domestic violence calls, to include when the subject is a police agency employee.

### 320.1.1 DEFINITIONS

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Definitions related to this policy include:

1. **Court order** - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.
2. **Domestic Violence**: Abusive behavior in any relationship, as defined by law, that is used to gain or maintain power and control over an intimate partner or family or household member.
3. **Intimate Partners or Family or Household Members**: Persons who are married, were formerly married, in a domestic partnership, or are or were in a romantic or dating relationship; have a child in common; have been intimately involved in some way.
4. **Predominant Aggressor**: The individual who poses the most serious, ongoing threat, who might not necessarily be the initial aggressor in a specific incident.
5. **Preferred Arrest Response**: Law enforcement officers are expected to arrest any person who commits a crime related to domestic violence as defined by law, unless there is a clear and compelling reason not to arrest, such as self defense or lack of probable cause, after a comprehensive investigation to identify the predominant aggressor.

## 320.2 POLICY

Best Practice

The Indio Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

## 320.3 OFFICER SAFETY

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The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

### **320.4 INVESTIGATIONS**

**Best Practice** **MODIFIED**

The following guidelines shall be followed by officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries shall be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Major Crimes Unit or Street Crimes Unit investigating officer the following day in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

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- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
  - 1. Marital status of suspect and victim.
  - 2. Whether the suspect lives on the premises with the victim.
  - 3. Claims by the suspect that the victim provoked or perpetuated the violence.
  - 4. The potential financial or child custody consequences of arrest.
  - 5. The physical or emotional state of either party.
  - 6. Use of drugs or alcohol by either party.
  - 7. Denial that the abuse occurred where evidence indicates otherwise.
  - 8. A request by the victim not to arrest the suspect.
  - 9. Location of the incident (public/private).
  - 10. Speculation that the complainant may not follow through with the prosecution.
  - 11. The racial, cultural, social, professional position or sexual orientation of the victim or suspect.
- (k) If the suspect is no longer at the scene, officers shall make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.

#### **320.4.1**

Investigating Officers shall;

- 1. Avoid parking law enforcement vehicles in front of the residence or other site of the disturbance when possible.
- 2. When initially approaching the scene, indicate that they are responding to a call for service, without revealing the name of the caller or the caller's whereabouts.
- 3. Request entry into the residence as a courtesy as it is a private residence. A warrantless entry is permissible if there is an objectively reasonable basis to believe that the safety of an occupant may be in jeopardy.
- 4. Make contact with all individuals present, including potential witnesses, victims, or perpetrator(s); separate all parties, keeping all individuals out of sight and hearing range of one another as safety permits.
- 5. Restrain and remove the suspect if necessary.
- 6. Assess for physical injuries, including inquiry about strangulation or possible internal, nonvisible injuries, and sexual violence; administer first aid; and request medical services as necessary.
- 7. Summon emergency medical services at the request of the victim or suspect, or if it appears that strangulation has occurred.

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8. Inquire about weapons in the area or access to weapons; identify and take temporary custody of firearms or weapons in plain sight.
9. Determine whether there are any potential language barriers and request an interpreter where necessary.
10. Offer to contact a local advocate to provide support to the victim as available and provide a list of current contact information for local domestic violence victim advocacy organization
11. Inform the victim in advance of actions to be taken.
12. Conduct victim interviews in a location away from others at the scene.
13. Take photographs of the victim and suspect whether or not there are any visible injuries.
14. Take photographs of injuries to all parties, including any healing or old injuries.
15. Collect evidence to establish the facts of the crime.
16. Check for the existence of a protection order or similar court orders through communications personnel or by whatever means available. If one is said to exist, ask the victim if they possess a copy. If not, verify the order through other means.
17. Obtain a comprehensive account of the events from all parties. Whenever reasonable and practical, interviews shall be recorded. However, if the victim or witness indicates that they do not wish to be recorded, this should be documented in the officer's report and the recording should stop if permitted by policy and law.
  
18. Interview children at the scene in a manner appropriate to their age. Document any signs of trauma and any apparent wounds or healing of wounds on the children and take appropriate action, in accordance with law, to prevent imminent harm to the children, such as notifying child protective services.
19. Assess for and document all actual and suspected incidents of violence, including physical and sexual abuse, elder or child abuse, property damage, and animal cruelty.

#### **320.4.2**

##### OFFICERS SHALL NOT DO THE FOLLOWING:

1. Make any statement that would discourage a victim from reporting an act of domestic violence.
2. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.
3. Avoid taking action or writing a documentation report because the victim stated prosecution was not desired.

#### **320.4.3**

The on duty Supervisor should do the following:

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1. Respond to assist officers investigating incidents of domestic violence when requested by an officer or whenever the incident appears to involve a law enforcement officer, prominent community member, or public official.
2. If responding, supervise the on-scene investigation, if not already completed, to ensure that appropriate action is taken.
3. Review all domestic violence reports for accuracy and consistency.
4. Assess for co-occurring and interconnected crimes when responding to domestic violence, to include but not be limited to stalking, sexual violence, strangulation, firearms prohibitions, protection order violations, intimidation and threats, and abuse of children, elders, and animals to ensure appropriate criminal charges are documented and filed in criminal complaints.

#### **320.4.4**

Domestic Violence by police agency personnel:

- In cases where one (or more) party of a reported domestic violence incident is a law enforcement employee, responding officers shall follow standard domestic violence procedures as outlined in this policy, regardless of jurisdiction.
- In addition, the following procedures shall be followed:
  1. When communications personnel receive a call that involves or appears to involve a law enforcement employee, they shall immediately notify a dispatch supervisor, regardless of the involved individual's jurisdiction, and
  2. notify responding officers that the call involves a law enforcement officer.
  3. If previously unaware that the call for service involves a law enforcement employee, responding officer(s) shall immediately notify communications personnel and request that a watch commander report to the scene, regardless of the involved officer's jurisdiction.
  4. The on-scene supervisor shall notify the Field Services Division Chief.
  5. In the event that the reported incident involves the chief executive of a law enforcement agency, the appropriate prosecutors and the individual with direct oversight of the accused individual shall be notified.
  6. All notifications and attempts to notify shall be fully documented.
  7. Arrest warrants charging law enforcement officers with domestic violence and protective orders issued at a later time shall be served by no fewer than two officers with at least one being of senior rank to the officer being served.
  8. In cases where an accused officer is arrested and firearms have not previously been seized, firearms shall be seized with an appropriate court order.
  9. A supervisor shall relieve the accused officer of all service weapons regardless of whether the officer is a member of the responding agency.

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10. If the accused officer is a member of an agency in another jurisdiction, the service weapon shall be relinquished to officials at that agency.
11. The agency policy regarding administrative investigations of alleged misconduct shall be followed.

#### **320.4.5 IF A SUSPECT IS ARRESTED**

- (a) If a suspect is arrested, officers should:
- (b) Advise the victim that there is no guarantee the suspect will remain in custody.
- (c) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (d) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

#### **320.4.6 IF NO ARREST IS MADE**

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
  1. Voluntary separation of parties.
  2. Appropriate resource referrals (e.g. counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

#### **320.5 VICTIM ASSISTANCE**

##### **Best Practice**

Victims may be traumatized or confused. Officers should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

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- (h) Seek or assist the victim in obtaining an emergency order if appropriate.

An officer shall advise an individual protected by a Canadian domestic violence protection order of available local victim services (Family Code § 6452).

### **320.6 DISPATCH ASSISTANCE**

**Best Practice** **MODIFIED**

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

When a caller reports a domestic violence incident, communications personnel should follow standard agency protocols. In addition, communications personnel shall do the following:

1. Dispatch a minimum of two officers whenever possible.
2. Assign a priority response whether or not the suspect is known to be on the premises.
3. Document the call and action taken for the call, including those that involve or appear to involve a law enforcement officer.
4. Attempt to elicit any and all information from the caller that may help the responding and investigating officer(s) assess the situation, including the following:
  - a. The immediate safety of the caller and those at the scene
  - b. Other persons involved or witnesses at the scene, including children
  - c. The suspect's relationship to the victim
  - d. Whether law enforcement has been called before because of this suspect and the number of times
  - e. Previous history of domestic violence
  - f. Presence of firearms or other weapons
5. Ascertain if either the suspect or victim has any outstanding warrants or is on probation or parole.
6. Determine whether there is a valid protection order against the suspect or whether there have been orders in the past.
7. Whenever possible and when it will not jeopardize the individual's safety, keep the caller on the line in order to relay ongoing information to the responding officer(s). An alternative may be to ask the caller to place the phone down but leave the line open if possible and safe to do so.

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8. If a caller requests that law enforcement response be cancelled, advise the responding officer(s) of the second call. Officers should continue to respond, investigate, and assess the situation to ensure that all parties are safe.

### **320.7 FOREIGN COURT ORDERS**

#### **Federal**

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

### **320.8 VERIFICATION OF COURT ORDERS**

#### **State**

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
  1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).
- (b) Check available records or databases that may show the status or conditions of the order.
  1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.



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#### **320.9 LEGAL MANDATES AND RELEVANT LAWS**

**State**

California law provides for the following:

##### **320.9.1 STANDARDS FOR ARRESTS**

**State**

Officers investigating a domestic violence report should consider the following:

- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
  - 1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
  - 1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
  - 2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
  - 3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
  - 4. Penal Code § 646.9 (stalking)
  - 5. Other serious or violent felonies specified in Penal Code § 1270.1
- (d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:
  - 1. The intent of the law to protect victims of domestic violence from continuing abuse.
  - 2. The threats creating fear of physical injury.

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3. The history of domestic violence between the persons involved.
  4. Whether either person acted in self-defense.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer's presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

#### 320.9.2 COURT ORDERS

**State**

- (a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).
- (b) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).
- (c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)(2)).
- (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
- (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide him/her with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

#### 320.9.3 PUBLIC ACCESS TO POLICY

**State**

A copy of this domestic violence policy will be provided to members of the public upon request (Penal Code § 13701).

#### 320.9.4 REPORTS AND RECORDS

**State**

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information

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and notations specific to domestic violence incidents as required by Penal Code § 13730.

- (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)(2)).

#### 320.9.5 RECORD-KEEPING AND DATA COLLECTION

**State** **MODIFIED**

This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Supervisor to maintain and report this information as required.

##### **320.9.5(a) Collaboration and Training**

1. This agency will establish or maintain ongoing partnerships with local community stakeholders to included:

- (a) victim -witness services
- (b) Shelter from the Storm
- (c) Riverside County District Attorney's office and
- (d) any additional victim advocacy organizations to develop a holistic approach to responding to victims of domestic violence and ensure they are notified of all available resources.

2. The training division supervisor or their designee shall ensure that patrol personnel shall receive comprehensive mandatory instruction on this policy in addition to on going briefing training from (a) victim -witness services, (b) shelter from the storm, (c) Riverside County District Attorney's office and (d) any additional victim advocacy organizations an annual basis.

#### 320.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE

**State**

Any officer who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether

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reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the officer shall prepare a declaration in support of increased bail (Penal Code § 1269c).