10-12 - Domestic Violence Guide

Los Angeles County Sheriff's Department
NEWSLETTER
Field Operations Support Services, (323) 890-5411

DOMESTIC VIOLENCE GUIDE

Due to the ever-changing laws which surround domestic violence, this newsletter is an update to assist field personnel with answers to frequently asked questions. This newsletter will define domestic violence incidents and provide insight for the handling deputy regarding proper interventions with family violence situations.

Domestic/Family Violence incidents can generally be summarized one of three ways:

- Domestic/Family Dispute (415 Family) - is any familial cohabitant or dating relationship incident (yelling and arguing) absent any abuse or apprehension of imminent serious bodily injury. The deputy should obtain the proper information and make a thorough log entry.

- Domestic/Family Violence (Non-Criminal) - is any family violence incident where the corpus delicti of a specific crime is not present, but there is apprehension of imminent serious bodily injury. The deputy shall write an incident report with the classification line as “Domestic Violence/Non-Criminal/449" and recommend an emergency protective order (EPO).

- Domestic/Family Violence (Criminal) - is any family violence incident where an arrestable violation of the law has occurred. The deputy shall make an arrest when applicable and shall write an incident report. For example, the classification line may include, but is not limited to, the following:

  Spousal Assault 273.5 PC

  Spousal Battery 243(e)(1) PC

  Spousal Rape 262 PC

Domestic Violence Court Order Violation 273.6 PC

Contempt of Court 166 PC

Criminal Threats 422 PC

Stalking 646.9 PC

Domestic Violence Firearms Seizure 18250 PC

Incident Report

Pursuant to Penal Code section 13730, the incident report shall include the following:

- The deputy's observations as to whether or not the alleged abuser was under the influence of alcohol or a controlled substance;
- A determination of a previous response to a domestic violence call by any law enforcement agency, including LASD, at the same address, involving the same alleged abuser or victim (personal knowledge, partner's knowledge, or recent incidents from the Mobile Digital Computer (MDC) will suffice);
- Inquiry as to whether firearms or other deadly weapons are present at the location and the results of the inquiry; and
- Inquiry as to whether the victim was strangled or suffocated by the alleged abuser during the incident and the results of the inquiry.

The deputy shall also document the following on the incident report:

- Was a firearm or other deadly weapon used or threatened to be used. Include any resulting injuries;
- The deputy provided the victim with the mandated resource brochures as listed below;
- The deputy offered an EPO and the victim's response. The deputy shall document if he/she obtained the EPO without the victim's consent;
- The name and date of birth of all children living at the location and/or all children who were present at the location during the incident; and
- The deputy called the Department of Children and Family Services (DCFS) and initiated a suspected child abuse report (SCAR) if the child is a witness, a victim, or is potentially at risk. The SCAR number provided is to be noted in the report.

Mandated Resources for the Victim

As required by law, the deputy shall provide the victim with a Family Abuse Intervention Resource (FAIR) brochure, a Report Information and Victims' Bill of Rights brochure, and a Victim Information and Notification Everyday (VINE) brochure. If the victim is sexually assaulted, a Sexual Assault brochure shall be provided to the victim.

Emergency Protective Order

A deputy shall offer an EPO and issue the EPO when necessary. A deputy has the discretion to obtain an EPO on the victim's behalf without the victim's consent if the deputy believes the victim is still in danger. An EPO may be obtained by a deputy, 24 hours a day, seven days a week. To obtain an EPO, deputies can call the County operator at (213) 974-1234, and request the on-duty Commissioner. An EPO is valid until 1700 hours on the fifth court day or seventh calendar day from the date of issuance. An EPO and restraining order must be served to be enforceable and a peace officer shall serve the EPO or restraining order if the suspect is available. If served, the serving deputy should ensure the service of the order is entered into the

California Restraining and Protective Order System (CARPOS) by the station secretary.

A copy of the order and the completed and signed Proof of Service must be attached together and submitted to the issuing court for filing.

Violations of an EPO or domestic violence restraining order are arrestable under 273.6 PC and do not have to occur in the officer's presence. An EPO may also be issued in child abuse, child abduction, and stalking cases.

Additional Information

When to use 243(e)(1) PC (spousal battery/misdemeanor) instead of 273.5 PC (spousal assault/felony) is a common question. The following should be used as a guideline. "Traumatic Condition" as defined by 273.5(c) PC means a condition of the body, such as a wound or external or internal injury, including, but not limited to,

injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. Deputies should be aware that there may be no visible signs of injury for an internal injury. Complaint of pain alone is insufficient for traumatic condition; therefore, when complaint of pain alone is alleged, use 243(e)(1) PC.

Penal Code section 836(d) allows peace officers to arrest for spousal battery, 243(e) (1) PC, without a private person's arrest when the battery is committed against a spouse, a person with whom the suspect is cohabiting, a person who is the parent of the suspect's child, former spouse, fiancé, or a person with whom the suspect currently has, or has previously had, a dating or engagement relationship. Pursuant to 1270.1(a)(3) PC, persons arrested for 243(e) (1) PC shall not be cited and released in the field.

Deputies shall make a reasonable effort to identify the dominant aggressor in an incident. "Dominant aggressor," as defined by 13701 PC, is the person determined to be the most significant, rather than the first aggressor. Dual arrests are discouraged, but not prohibited.

All children and adults present during the incident or living at the location shall be interviewed, when practical, regarding the incident. An important point to keep in mind when interviewing victims of physical abuse stemming from domestic violence is, over 50 percent of children and 40 percent of dependent adults living in domestically violent households are victims of physical abuse by the suspect or victim. Additionally, a high percentage experience sexual abuse by the suspect or victim. During your investigation, statements may be made indicating additional abuse occurring within the household. It may be appropriate to obtain statements regarding the domestic violence incident prior to obtaining statements or evidence for additional crimes. If more than one incident report is written, cross-reference the reports in the narrative of each incident report.

REFERENCES

Field Operations Directive (FOD) 10-005 Domestic Violence Incident Reporting Procedures

Manual of Policy and Procedures (MPP) 5-09/030.00 – Domestic Violence

Penal Code Section 13730

If you have any questions, please call or email Field Operations Support Services at (323) 890-5411 or foss@lasd.org.