

CHAPTER 3
RESPONSE TO DOMESTIC VIOLENCE
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CHAPTER 3
RESPONSE TO DOMESTIC VIOLENCE

1. PURPOSE.

a. The purpose of this chapter is to establish procedures for handling domestic violence calls or encountered incidents in a manner consistent with provisions enumerated in Sections 13700-13730 of the California Penal Code (PC), Law Enforcement Response to Domestic Violence, in those situations where the law enforcement agency with investigative jurisdiction is unable to respond in a timely manner. (Refer to Highway Patrol Manual [HPM] 100.67, Law Enforcement Assistance and Interjurisdictional Operations, Chapter 1, Law Enforcement Mutual Aid, for further information on the criteria for assistance to law enforcement agencies.)

b. California Highway Patrol (CHP) officers will attempt to arrive at a solution to the domestic disagreement or incident which is equitable to the involved parties and consistent with the law. An officer can encounter a situation where spouses are in the process of obtaining a divorce, cohabitants are separating, or a family argument is in progress. Officers also may encounter situations involving the issuance or enforcement of restraining orders. The policy and procedures herein are set forth to assist officers in handling these situations.

2. POLICY.

a. Domestic violence incidents are criminal conduct. Officers are to take the necessary steps to prevent any additional physical injury to the parties involved and to restore order when possible.

b. When a person is in immediate and present danger of domestic violence by a family or household member, the officer shall assist the person in securing an Emergency Protective Order (EPO) when no other valid court protective order exists. The victim's statement of abuse or threat of abuse is sufficient justification to seek an EPO. (See Chapter 4, Issuance, Service, and Enforcement of Court Protective Orders, of this manual for further information.)

c. Communications centers shall rank calls reporting threatened, imminent, or ongoing domestic violence, and the violation of any protection order, among the highest priority calls (Section 13702 PC).

d. Consistent with the direction provided in HPM 100.67, responsibility for follow-up investigation of domestic violence incidents shall be turned over to the local agency which has primary jurisdiction, whenever possible.

3. AUTHORITY.

a. Statutory Requirements. Law enforcement agencies have numerous legal requirements placed upon them in the area of domestic violence.

(1) Sections 13700-13730 PC require agencies to develop written policies and standards for officers' and communications operators' response to domestic violence calls and to report monthly to the Department of Justice (DOJ) on the volume and nature of the calls received.

(2) Sections 6200-6389 of the Family Code (FC) require that restraining orders be enforced by all law enforcement officers. There are provisions for orders to be mailed or delivered to law enforcement agencies for enforcement, and previously unserved orders may be requested to be served at the scene of a domestic violence incident if the subject is present and can be served. Officers may issue EPOs and shall carry those orders while on duty. Agencies must be able to provide information to other law enforcement agencies responding to the scene of a domestic violence incident that will verify the existence, validity, and terms of any court protective orders they have issued and/or served regarding the parties in question.

(3) Section 293(a) PC and Section 6254(f)(2) of the Government Code (GC) ensure the victim's right to confidentiality. Section 836(b) PC ensures the victim is made aware of their right to make a citizen's (private person's) arrest.

(4) Section 853.6 PC requires that counties develop a countywide protocol to assist officers in determining when arrest and release is appropriate, rather than taking the arrested person before a magistrate.

b. Definitions.

(1) Abuse is defined as intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to themselves or another (Section 13700[a] PC).

(2) Domestic Violence is defined as abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship (Section 13700[b] PC).

(3) Cohabitant (for purposes of Section 13700[b] PC) is defined as two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to: sexual relations between the parties while sharing the same living quarters, sharing of income or expenses, joint use or ownership of property, whether the parties hold themselves out as spouses, the continuity of the relationship, and the length of the relationship.

(4) Emergency Protective Order is defined as a court order prepared by an officer and issued by a judge, commissioner, or referee, by telephone or otherwise, whether or not the superior court is in session (Sections 6240-6275 FC) when there is immediate and present danger of domestic violence to a victim. Such an order restrains activity and/or excludes the suspect from the premises and/or determines temporary custody of minor children.

(5) Restraining Order is defined as an order issued by the court during normal business hours. It is available from the superior court and can grant eight types of relief. These orders are normally mailed or delivered to police and sheriff's departments for enforcement, but may be mailed or delivered to the CHP for enforcement if the individual who sought the order so designates.

(6) Immediate and Present Danger is defined as reasonable grounds to believe that a person is in danger, based upon the person's allegation of an incident of assault or threat of assault by a family or household member.

(7) Family or Household Member is defined as individuals who are related to each other and/or persons who live together or had lived together under the same roof.

c. Instructional Guides and Forms. Two instructional guides and a number of forms have been developed to assist officers in carrying out the PC, FC, and GC requirements.

(1) Possible Crimes at a Domestic Violence Incident. This guide contains a list of felony and misdemeanor PC sections that are likely to be encountered and may be charged at the scene of a domestic violence incident. These statutes, contained in the CHP 291, Redi-Ref, have been provided by the Commission on Peace Officer Standards and Training as a quick reference. (Refer to Annex A.)

(2) Response to Domestic Violence Decision Tree. This guide contains a number of questions about the domestic violence incident and the required

course of action based on the officer's answer to each question. (Refer to Annex B.)

(3) Required Report Narrative. This guide contains the headings and subheadings required in the CHP 216, Arrest-Investigation Report, or CHP 202, Driving Under the Influence Arrest-Investigation Report. (Refer to Annex C.)

(4) CHP 174, Right to Privacy Acknowledgement. Pursuant to Section 293(a) PC and Section 6254(f)(2) GC, victims of sex offenses or domestic violence will be offered the confidentiality of their name and address in the CHP 216 or CHP 202. (See paragraph 5.k.)

(5) CHP 182, Domestic Violence Resource Information. Section 13701(c)(9) PC requires that an officer responding to a domestic violence call provide the victim with written notice explaining their future options. Information contained in this document is not county-specific and will be used by all officers statewide. The CHP 182 is a tri-fold document printed in English and Spanish (back-to-back). (See paragraph 5.l.)

(6) "Victims of Domestic Violence" Card. Section 13701(c)(9) PC requires that an officer responding to a domestic violence call provide the victim with written notice explaining their future options. Information contained in this document is county-specific and must be obtained from the local law enforcement agency within the Area's jurisdiction.

(7) Marsy's Rights Card, Victims' Bill of Rights. Pursuant to Section 679.026 PC, every law enforcement agency investigating a criminal act at the time of initial contact with a crime victim, or during follow-up investigation, or as soon as deemed appropriate by the investigating officers, shall provide to each victim of a criminal act a Marsy's Rights card. There are two versions of the Marsy's Rights cards available on the Attorney General's Web site at <https://oag.ca.gov/victimservices/marsy>.

(8) CHP 173, Domestic Violence Referral. This card is printed in both English and Spanish (back-to-back) and is used to convey statutorily required information to the victim of a sexual or domestic violence crime. (See paragraphs 5.l. and 5.m.)

(9) Reporting of Domestic Violence Incidents. Pursuant to Section 13730(a) PC, the total number of domestic violence-related calls and/or incidents responded to by each Area must be reported to DOJ by county of occurrence, on a monthly basis. (See paragraph 6.)

4. COMMANDERS' RESPONSIBILITY. Area commanders shall take the necessary steps to obtain current "Victims of Domestic Violence" cards from the local law enforcement agencies within their jurisdictions. These cards shall be carried by all officers in the field. Additionally, commanders shall ensure their Area's standard operating procedure contains the necessary direction about local procedures for handling incidents of domestic violence, including, at a minimum:

- a. The countywide protocol which has been developed pursuant to Section 853.6 PC to assist officers in determining when arrest and release is appropriate, rather than taking the arrested person before a magistrate. Include protocol for each county within the Area's jurisdiction. (See Chapter 4 of this manual for additional information.)
- b. A method for the verification of the existence and validity of court protective orders issued and/or served by allied agencies within the Area's jurisdiction. (See Chapter 4, paragraphs 5.g. and 5.h., of this manual for additional information.)
- c. Procedures for contacting the on-call magistrate, should it be necessary to issue an EPO. (See Chapter 4, paragraph 5.h.[4], of this manual for additional information.)
- d. Procedures for notifying the originating court or allied agency when previously unserved protective orders are served by the CHP. (See Chapter 4 of this manual for additional information.)

5. PROCEDURES.

- a. Officers shall treat all domestic violence as criminal conduct and will respond accordingly.
- b. Arrests. The existence of the elements of a crime and/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.
 - (1) Pursuant to Section 13701 PC, officers shall attempt to identify the dominant aggressor in an incident and, where possible, arrest that individual rather than routinely making dual arrests.
 - (2) The following definition of dominant aggressor should be used in evaluating which person to arrest:
 - (a) The dominant aggressor is the person determined to be the most significant, not necessarily the first, aggressor. In identifying the dominant

aggressor, officers shall consider the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the history of domestic violence between the persons involved, and whether either person acted in self-defense.

c. Felony Arrest. A felony arrest shall be made when the conditions required by Section 836 PC are met. (See Annex A.) Pursuant to Chapter 1, Arrest Policies, of this manual, all felony violators shall be physically arrested.

d. Misdemeanor Arrest. A misdemeanor arrest shall be made when there is reasonable cause to believe that a misdemeanor (including violations of court protective orders) has occurred. (See Annex A and Chapter 4 of this manual for further information on court protective orders.)

(1) Pursuant to the provisions of Section 836(c)(1) PC, when responding to a call alleging a violation of a domestic violence protective or restraining order, or a domestic violence protective or restraining order issued by the court of another state, tribe, or territory, if a peace officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order, the officer shall arrest the violator without a warrant and take the person into custody whether or not the violation occurred in the officer's presence. Confirmation that a copy of the order has been registered shall be obtained as soon as possible after the arrest unless the victim provides the officer with a copy of the order.

(2) Pursuant to the provisions of Section 836(d) PC, if a suspect commits an assault or battery upon a current or former spouse, fiancé, fiancée, a current or former cohabitant, a person with whom the suspect currently is having or has previously had an engagement or dating relationship, a person with whom the suspect has parented a child, or is presumed to have parented a child, a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, any other person related to the suspect by blood or marriage, or any person who is 65 years of age or older and related to the suspect by blood or legal guardianship, an officer may arrest the suspect without a warrant if both of the following circumstances apply:

(a) The officer has probable cause to believe that the person to be arrested has committed the assault or battery whether or not it has in fact been committed; and

(b) The 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.

e. Cite and Release. Officers shall evaluate the likelihood of a continuing offense in deciding whether to cite and release pursuant to Section 853.6 PC.

(1) Cite and release does not apply to crimes specified in Section 1270.1 PC, including Sections 243(e)(1), 273.5, 273.6 (if the detained person made threats to kill or harm, engaged in violence against, or has gone to the residence or workplace of the protected party), and 646.9 PC.

(2) Any one of the following might constitute a continuing offense and pose grounds for not invoking the cite and release option:

(a) The suspect has a prior history of arrests or citations involving domestic violence.

(b) The suspect has previously violated valid emergency, temporary, or permanent court protective orders.

(c) The suspect has a prior history of assaultive behavior.

(d) Statements taken from the complainant that the suspect has a history of physical abuse toward the complainant.

(e) Statements taken from the victim expressing fear of retaliation or further violence should the suspect be released. (See Chapter 4 of this manual for further information.)

f. Private Person's Arrest. Section 836(b) PC states, "Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest...This information shall include advising the victim how to safely execute the arrest." Where an officer has reasonable cause to believe that a misdemeanor has occurred, although not in their presence, the victim shall be informed of the right to make a private person's arrest. After the officer has advised the victim of their right to do so, that fact shall be documented in the narrative of the CHP 216 or CHP 202.

(1) The victim shall be notified that, despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.

(2) The officer shall notify the victim of the existence of a local shelter and transport the victim to the shelter if the victim fears retribution from the individual placed under citizen's arrest. (See paragraph 5.I.)

(3) The notification of the right to make a private person's arrest shall be made in private or out of the hearing range of the alleged violator for the protection of both the victim and the officer.

g. Emergency Protective Order. Per Section 6275 FC, a law enforcement officer who responds to a situation in which the officer believes there may be grounds for the issuance of an EPO shall inform the victim, or if the victim is a minor, their parent or guardian, provided the parent or guardian is not the person against whom the EPO may be obtained, that they may request the officer to request an EPO. An officer shall request an EPO if the officer believes that the person requesting an EPO is in immediate and present danger. (See Chapter 4 of this manual for further information.)

h. Domestic Violence Counselor/Advocate and Support Person. Pursuant to Section 679.05 PC, a victim of domestic violence or abuse has the right to have a domestic violence counselor/advocate and a support person of the victim's choosing present at any interview by law enforcement authorities, prosecutors, or defense attorneys. An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview for these purposes.

(1) Prior to the commencement of the initial interview by law enforcement authorities or the prosecutor pertaining to any criminal action arising out of a domestic violence incident, a victim of domestic violence or abuse shall be notified orally or in writing by the attending law enforcement authority or prosecutor that the victim has the right to have a domestic violence advocate and a support person of the victim's choosing present at the interview or contact. This subdivision applies to investigators and agents employed or retained by law enforcement or the prosecutor.

(2) The support person may be excluded from an interview if the law enforcement authority or the prosecutor determines that the presence of that individual would be detrimental to the purpose of the interview.

i. Documenting Incidents to Which the Officer Responded and Took Action. Any reported crime involving domestic violence to which an officer responds and takes action shall be documented through the preparation of a CHP 216 or CHP 202. A report shall be prepared whether or not an arrest is made (Sections 13730[a] and 13730[c] PC). If the CHP's response is limited to "standing by" until a local agency officer has arrived and assumed responsibility, no report is necessary. If, however, any further action is taken at the scene by an officer of this Department, such as the service of a previously issued but unserved protective order, that action must be documented on a CHP 216 or CHP 202, as appropriate. Misdemeanor or felony

case numbers shall be assigned consistent with the policy established in General Order (GO) 100.38, Assignment of Case Numbers, and the officer shall check the Domestic Violence box on the report. In instances where it is not possible to immediately obtain a misdemeanor or felony case number, a field-generated report number shall be used.

j. Information Required in the Report. A number of items are required by statute to be documented in the body of a report prepared in response to a domestic violence-related call. Those items are identified below. Recommended report format and headings are contained in Annex C. The items which must be included by law are as follows:

- (1) That the victim was given a CHP 173 with resource information inserted.
- (2) Whether or not the complainant was the victim of a sexual assault.
- (3) If weapons were involved, or specify if the incident involved strangulation or suffocation.
- (4) That the victim was advised of the right to confidentiality. (See paragraph 5.k.)
- (5) That the victim was advised of their follow-up rights.
- (6) That the victim was advised of their right to make a private person's arrest, if appropriate.
- (7) That the victim was advised of their right to have a domestic violence counselor/advocate and a support person present at any interview by law enforcement authorities, prosecutors, or defense attorneys.
- (8) Whether or not a weapon was used. If a weapon was used, officers shall indicate if it was: a firearm; knife or cutting instrument; other deadly weapon; or personal weapon (hands, fists, feet, etc.). Additionally, the reporting law enforcement officer shall note if they found it necessary, for them or other person's protection, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon is present at the location. If the response is affirmative, the officer shall confiscate any firearm or deadly weapon.
- (9) Whether or not the officer(s) responding to the incident observed any signs that the alleged abuser was under the influence of alcohol and/or a controlled substance.

(10) Whether or not the officer(s) responding to the incident determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim. Officers shall contact the agency with primary jurisdiction over the residence address to attempt to determine this information. Any information received from an allied agency indicating a past history of domestic violence, or a previous call for domestic violence at the residence address shall be documented in the report.

(a) If information is received that indicates either party has a past history of domestic violence, this shall be briefly documented in the report.

k. Right to Confidentiality. Pursuant to Section 293(a) PC and Section 6254(f)(2) GC, victims of sexual assault crimes have the right to have their name and address withheld from the CHP 216 or CHP 202, if requested. Pursuant to Section 6254(f)(2) GC, victims of crimes committed against a spouse, cohabitant, or the parent of one's child have the right to have their name and address withheld, if requested.

(1) The officer must notify the victim of the right to request confidentiality in both situations and explain that the victim's name and address will become public record if confidentiality is not requested. The offer of confidentiality shall be made prior to the initiation of a report and a CHP 174 completed with the victim's name and address.

(2) The officer shall then document in the narrative of the CHP 216 or CHP 202 whether or not the victim chose to exercise that right. If confidentiality is not invoked, the CHP 174 shall become an attachment to the CHP 216 or CHP 202. If confidentiality is invoked, the CHP 174 shall become the face page to the report. "John/Jane Doe" shall be inserted in place of the victim's name on the CHP 216 or CHP 202, and the address shall be excluded. The CHP 174 shall remain confidential and only be released with the report when it is provided to the district attorney's office for purposes of prosecution or to an allied law enforcement agency for follow-up investigation.

l. Written Notice to Victim about Follow-up Rights. Pursuant to Section 13701(c)(9) PC, an officer who handles a domestic violence call must provide the victim with a written notice explaining their future options. The CHP 182 contains noncounty-specific information for victims of domestic violence and must be provided at the scene. Some victim assistance information is city/county-specific. This information is contained on a "Victims of Domestic Violence" card (to be obtained from allied law enforcement agencies in the Area's jurisdiction) and includes information such as names, addresses, and telephone numbers of shelters, rape crisis centers, and other community resources. If the local agency

having jurisdiction is not able to respond and a CHP officer handles the incident, the CHP 182 and "Victims of Domestic Violence" card shall be placed inside the CHP 173 and furnished to the victim. The CHP 182 provides many of the items that are required to be provided to the victim. The items which are required by law are:

- (1) A statement informing the victim that, despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.
- (2) A statement informing the victim that they can ask the district attorney to file a criminal complaint.
- (3) A statement informing the victim of the right to go to the superior court and file a petition requesting one of eight orders of relief. (See Annex A and Chapter 4 of this manual for further information.)
- (4) A statement informing the victim of the right to file a civil suit for losses suffered as a result of the abuse.

m. Victims of Violent Crime. Pursuant to Sections 13959-13969 GC, law enforcement agencies are required to inform individuals who are victims of violent crimes of the availability of the indemnification program. If the victim of a domestic violence incident is also the victim of a crime of violence, the officer shall include the CHP 170, Notice to Victims of Violent Crimes, (see HPM 11.1, Administrative Procedures Manual, Chapter 9, Civil Actions, Defense of Employees, Small Claims Actions, Constitutionalist Actions, Indemnification of Citizens, Victims of Violent Crimes) with the materials placed into the CHP 173.

n. Seizure of Weapons. Pursuant to Section 18250 PC, peace officers who are at the scene of a domestic violence incident involving a threat to human life or a physical assault, serving a protective order as defined in Section 6218 FC, or serving a gun violence restraining order issued pursuant to Division 3.2 of the PC, commencing with Section 18100, shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search, as necessary, for the protection of the peace officer or other persons present.

- (1) Officers shall use the CHP 36, Evidence/Property Receipt/Report, to document the seizure of weapons. The CHP 36 shall be completed with a description of the weapon, indicate any identification or serial number (on firearms), include the date after which the owner or possessor can recover the weapon, and include the name and residential mailing address of the owner or possessor of the weapon. A copy of the CHP 36 must be given to the person

who possessed the weapon. Information regarding seized weapons shall be recorded on the CHP 216 or CHP 202.

(2) Weapons shall be held not less than 48 hours and, unless retained for evidence, must be available for release not more than 48 hours after the seizure, or no later than five business days after a Law Enforcement Gun Release Application is approved by DOJ. (See HPM 70.1, Evidence Manual, Chapter 11, Release/Disposal of Weapons, for more information regarding releasing weapons.)

o. Injuries.

(1) Treatment. Officers shall ask the victim if they wish to receive medical treatment, even if injuries are not visible. Officers shall inform the victim that strangulation may cause internal injuries and encourage the victim to seek medical attention. Officers shall arrange for medical treatment, if requested.

(2) Sexual Assault Victims. Pursuant to Section 264.2 PC, if a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 PC is transported to a hospital for any medical evidentiary or physical examination, the victim shall have the right to have a sexual assault counselor/advocate, and a support person of the victim's choosing present at the examination. However, a support person may be excluded from the examination if the law enforcement officer or medical provider determines their presence would be detrimental to the purpose of the examination.

(3) Documentation. Describe any injuries and medical treatment in the narrative of the CHP 216 or CHP 202. This type of documentation is extremely important to support criminal charges. Officers may wish to use the diagram in the CHP 330, Emergency Medical Report (EMT-P, EMT-1, EMR), to assist in the documentation of injuries. Photographs of injuries are extremely helpful in the successful prosecution of domestic violence offenses. Photos taken several days after an incident when bruising appears should be obtained, if possible.

(4) Telephone Number and Address. If a victim intends to leave the premises, the officer shall attempt to obtain the telephone number and address where they can be reached.

p. Enforcement or Initiation of Court Protective Orders. Officers may need to enforce the provisions of a previously issued court protective order at the scene of a domestic violence incident, or they may need to initiate the securement of an EPO. Due to the complexity of court protective orders, they are discussed in detail in Chapter 4 of this manual.

q. Tenancy. Section 602.5 PC makes it a misdemeanor for any person other than a public officer or employee acting within the course and scope of their employment to enter or remain in a residence without the consent of the owner.

(1) Standby. If requested to remove a person from a premises and the officer has determined that the person has no lawful right to occupancy, the officer shall order the person to leave. The officer shall then remain until the person has had the opportunity to remove a reasonable amount of their personal belongings.

(2) Arrest. If the person refuses to leave, the officer shall inform the complainant, preferably in private, that the person refusing to leave is violating the law. The officer may make an arrest for violation of Section 602.5 PC or the complainant may make a private person's arrest. If the individual is in violation of a previously issued order restraining them from the address or individual at the scene, an arrest should be made for violation of Section 166(4) PC, Contempt of Court, or if the order being violated is a domestic violence order, for Section 273.6 PC, Violation of Restraining Order.

r. Shelter. If the officer determines that a need exists, they shall offer to arrange to transport the victim to a shelter. The victim shall be advised of this option out of the presence of the suspect. The suspect shall not be allowed to know the name or location of the shelter in order to protect the victim and the staff of the shelter. Section 273.7 PC makes it a misdemeanor to maliciously disclose the location of any domestic violence shelter.

6. REPORTING TO THE DEPARTMENT OF JUSTICE.

a. Reporting by County. The total number of domestic violence-related calls and/or incidents responded to by each Area must be reported to the DOJ, by county of occurrence, on a monthly basis.

(1) Reporting will be accomplished through use of the Uniform Crime Reporting System (UCRS).

(2) For all domestic violence-related incidents where an officer has completed a CHP 216 or CHP 202, a CHP 729, Uniform Crime Report, shall also be completed. If there were indications of strangulation or suffocation, include this information on the CHP 729. (Refer to GO 100.100, Uniform Crime Reporting Program, for additional information on completion of the CHP 729 and use of the UCRS.)

b. Weapon-Involved Information. Section 13730(a) PC requires that if a weapon was used in the commission of an act of domestic violence, that information must be reported. The following classifications of weapons are to be reported on the CHP 729.

- (1) Firearm.
- (2) Knife or cutting instrument.
- (3) Other dangerous weapon.
- (4) Personal weapon (hands, fists, feet).

c. If more than one weapon was used, only the most serious weapon may be reported for each incident. The four categories of weapons, in hierarchy from most to least serious, are firearm, knife or cutting instrument, other dangerous weapon, and personal weapon. If no weapons were used, leave this section blank.

d. Negative Reporting Not Required. If there are no calls and/or incidents responded to during the report period, no action is necessary.

ANNEX A

POSSIBLE CRIMES AT A DOMESTIC VIOLENCE INCIDENT

A. FELONIES

1. Penal Code (PC) Section 136.1(c) --- Intimidating or Dissuading a Witness (if threats of force are implied).
2. Penal Code Section 187 --- Murder.
3. Penal Code Section 207 --- Kidnapping.
4. Penal Code Section 236 --- False Imprisonment with Violence, Menace, Fraud, or Deceit (per Section 237 PC).
5. Penal Code Section 243(d) --- Battery with Serious Bodily Injury.
6. Penal Code Section 245 --- Assault with a Deadly Weapon.
7. Penal Code Section 246 --- Discharge Firearm, Maliciously and Willfully at an Inhabited Dwelling, Occupied Building, Occupied Motor Vehicle, Occupied Aircraft, Inhabited Housecar, etc.
8. Penal Code Section 262 --- Rape of Spouse.
9. Penal Code Section 273.5 --- Spouse or Cohabitant Abuse.
10. Penal Code Section 417(c) --- Drawing or Exhibiting a Weapon in a Rude or Threatening Manner in the presence of an officer or another person.
11. Penal Code Section 422 --- Threats to Commit a Crime Resulting in Death or Great Bodily Injury.
12. Penal Code Section 459 --- Burglary.
13. Penal Code Section 591 --- Telephone, Telegraph, Cable Television, or Electric Lines, Malicious Destruction.
14. Penal Code Section 594(b) --- Vandalism (damage of \$400 or more).
15. Penal Code Section 646.9(a) --- Stalking.
16. Penal Code Section 646.9(b) --- Stalking in Violation of a Restraining Order.

ANNEX A

POSSIBLE CRIMES AT A DOMESTIC VIOLENCE INCIDENT (*continued*)

17. Penal Code Section 16590 --- Generally Prohibited Weapon.
18. Penal Code Section 25400(c)(1) --- Crime of Carrying a Concealed Firearm.

B. MISDEMEANORS

1. Penal Code Section 148 --- Resisting, Delaying, or Obstructing an officer.
2. Penal Code Section 166(a) (4) --- Contempt of Court.
3. Penal Code Section(s) 240/241 --- Assault.
4. Penal Code Section 243(a) --- Battery.
5. Penal Code Section 243(e) --- Battery (on a former spouse/fiancé/fiancée, or current/previous dating partner).
6. Penal Code Section 273.6 --- Violation of Restraining Order.
7. Penal Code Section 273.65 --- Intentional and Knowing Violation of a Protective Order Issued under the Welfare and Institutions Code Regarding a Minor Child.
8. Penal Code Section 415 --- Fighting, Causing Loud Noise, or Using Offensive Words in a Public Place.
9. Penal Code Section 417(a) --- Drawing or Exhibiting a Weapon in a Rude or Threatening Manner.
10. Penal Code Section 418 --- Forcible Entry into Lands or other Possessions of Another.
11. Penal Code Section 594(a) --- Vandalism.
12. Penal Code Section 602.5 --- Unauthorized Entry of Noncommercial Property.
13. Penal Code Section 603 --- Forcible Entry with Damage to Property.
14. Penal Code Section 647(f) --- Disorderly Conduct; Public Drunkenness.
15. Penal Code Section 647(h) --- Disorderly Conduct; Loitering.

ANNEX A

POSSIBLE CRIMES AT A DOMESTIC VIOLENCE INCIDENT (*continued*)

16. Penal Code Section 653m(c) --- Annoying Telephone Calls.
17. Penal Code Section 17500 --- Deadly Weapons: Possession with Intent to Assault.
18. Penal Code Section 25400 --- Crime of Carrying a Concealed Firearm.
19. Penal Code Section 25850 --- Crime of Carrying a Loaded Firearm in Public.
20. Welfare and Institutions Code Section 213.5 --- Willful and Knowing Violation of a Court Order to Exclude a Person from the Household.

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ANNEX B

RESPONSE TO DOMESTIC VIOLENCE DECISION TREE

1. WHAT IS THE ALLIED AGENCY ESTIMATED TIME OF ARRIVAL?

- a. Soon – Stabilize, wait for allied agency arrival, and turnover.
- b. Long-term – Proceed with enforcement contact, including:
 - (1) Take report (see required report narrative, following);
 - (2) Provide required advisements to victim which include:
 - (a) The right to make a private person's arrest;
 - (b) That the restrained individual may be released at any time;
 - (c) That a local shelter is available;
 - (d) Furnishing the CHP 173, Domestic Violence Referral, card (with resource information inserted);
 - (e) Offering the right to confidentiality of name and address in the report;
 - (f) Offering the right to obtain an Emergency Protective Order (EPO);
 - (g) The right to have a domestic violence counselor/advocate and a support person present at any interview by law enforcement authorities, prosecutors, or defense attorneys; and
 - (h) Furnishing Victims of Violent Crimes information, Marsy's Rights Card and Resources, and Victims' Bill of Rights, when applicable.

2. IS MEDICAL TREATMENT NECESSARY?

- a. Ask if victim wishes to receive medical treatment, even if injuries are not visible.
- b. Arrange for medical treatment if so requested.

3. HAS A FELONY OCCURED?

- a. Execute arrest.

ANNEX B

RESPONSE TO DOMESTIC VIOLENCE DECISION TREE (*continued*)

4. DID A MISDEMEANOR OCCUR?

- a. Execute arrest or cite and release.

5. HAS AN UNWITNESSED MISDEMEANOR OFFENSE OCCURED?

- a. Inform victim of right to safely execute a private arrest.

- b. Take custody of offender.

c. If a violation of a domestic violence protective order is alleged and the officer has reason to believe the violator had knowledge of the terms of the order, the violator shall be arrested without a warrant, whether or not the violation occurred in the presence of the officer.

d. If a person commits an assault or battery upon a current/former spouse, fiancé/fiancée, a current/former cohabitant, a person with whom the suspect currently is having/has previously had an engagement relationship or dating relationship, a person with whom the suspect has parented a child, or is presumed to have parented a child, a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, or any other person related to the suspect by blood relation or marriage, or any person who is 65 years of age or older and related to the suspect by blood or legal guardianship, an officer may arrest the suspect without a warrant if both of the following circumstances apply:

(1) The officer has probable cause to believe that the person to be arrested has committed the assault or battery whether or not it has in fact been committed; and

(2) The 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.

6. DOES THE VICTIM WISH NAME AND ADDRESS CONFIDENTIALITY?

- a. Prior to initiating the report, the victim must be offered the right to have their name and address withheld from the body of the CHP 216, Arrest-Investigation Report, or CHP 202, Driving Under the Influence Arrest-Investigation Report, when driving under the influence was involved.

ANNEX B

RESPONSE TO DOMESTIC VIOLENCE DECISION TREE (*continued*)

- b. Complete a CHP 174, Right to Privacy Acknowledgement, with the victim's name and address.
- c. If confidentiality is not invoked, use the CHP 174 as an attachment to the report.
- d. If confidentiality is invoked, the CHP 174 shall become the face page to the report. Insert "John/Jane Doe" in place of the victim's name, and exclude the victim's address.

7. DID A SEXUAL OFFENSE OCCUR?

- a. Advise victim of the right to have their name and address withheld from the report, and complete a CHP 174. If confidentiality is requested, insert "John/Jane Doe" in place of the victim's name, and exclude the victim's address.
- b. Refer to local county protocol for handling sexual offenses, and provide a "Victims of Domestic Violence" card obtained from the allied law enforcement agency of jurisdiction.
- c. After obtaining approval to do so from the victim, the officer shall also immediately notify the local rape victim counseling center pursuant to Section 264.2(b)(1) of the Penal Code (PC) if the sexual offense involves an alleged violation of one of the following sections:
 - (1) Penal Code Section 261, rape.
 - (2) Penal Code Section 261.5, unlawful intercourse with a person under age 18.
 - (3) Penal Code Section 262, rape of a spouse.
 - (4) Penal Code Section 286, sodomy.
 - (5) Penal Code Section 288a, oral copulation.
 - (6) Penal Code Section 289, penetration of genital or anal openings by foreign or unknown objects.
- d. A victim of crimes listed above has the right to have a sexual assault counselor and a support person of their choosing present at any medical evidentiary or physical examination.

ANNEX B

RESPONSE TO DOMESTIC VIOLENCE DECISION TREE (*continued*)

8. HAS A VIOLENT CRIME OCCURRED?

- a. Provide CHP 170, Notice to Victims of Violent Crimes.
- b. Provide Marsy's Rights Card and Resources, Victims' Bill of Rights.

9. DOES THE VICTIM CLAIM THERE IS A RESTRAINING ORDER OR EMERGENCY PROTECTIVE ORDER ON FILE?

- a. Contact the communications center and request confirmation of the order.
 - (1) Both types of orders will be in the Department of Justice system. A search may be made through a "wanted/missing persons" inquiry, or directly into the Domestic Violence Restraining Order System on screens 121 through 123 in the Management Information System.
 - (2) If a "hit" is returned, the issuing agency must be contacted for verification of the validity and terms of the order.

10. IS THE RESTRAINING OR EMERGENCY PROTECTIVE ORDER UNSERVED?

- a. If the subject can be reasonably located, serve the order;
- b. Notify the subject of the terms of the order;
- c. Seize firearms upon issuance of the EPO;
- d. Inform subject that failure to comply will result in an arrest;
- e. Document service/nonservice in the narrative of the CHP 216, or CHP 202;
- f. Notify the communications center of which type of order was served.

11. IS THERE A PREVIOUSLY SERVED RESTRAINING ORDER OR STAY AWAY AGAINST THE PERPETRATOR?

- a. Arrest for violation of Section 166(4) PC, contempt of court.

ANNEX B

RESPONSE TO DOMESTIC VIOLENCE DECISION TREE (*continued*)

- b. If the order is a domestic violence restraining order, arrest for violation of Section 273.6 PC, violation of restraining order.

12. IS SOMEONE IN IMMEDIATE AND PRESENT DANGER OF DOMESTIC VIOLENCE?

- a. Obtain supervisory concurrence.
- b. Contact on-call judge.
- c. Issue Application for EPO (CHP 175, Application for Emergency Protective Order).
- d. Seize firearms upon issuance of the EPO.

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ANNEX C

REQUIRED REPORT NARRATIVE (CHP 216, ARREST - INVESTIGATION REPORT, OR CHP 202, DRIVING UNDER THE INFLUENCE ARREST - INVESTIGATION REPORT)

1. SUMMARY (FACTS).

a. Notification.

- (1) Time of call.
- (2) Response location.
- (3) Time of arrival.

b. First Observations.

- (1) Perception of the situation upon arrival.
- (2) Location of subjects. Use "John/Jane Doe" in place of victim's name if confidentiality of name and address has been requested.
- (3) Description of injuries.
- (4) Description of appearance (e.g., disheveled or torn clothing).
- (5) Weapons present? (Seize pursuant to Section 12028.5 of the Penal Code.)
- (6) Was the alleged abuser under the influence of alcohol and/or a controlled substance?

c. Statements. Need not be verbatim, but should record pertinent substance of statement.

- (1) Identify parties and witnesses by number and last name.
- (2) If statement is obtained by question and answer technique, include both question and answer.
- (3) When written statements are obtained, "statement attached" is sufficient.
- (4) Statement need not repeat previous statements.
- (5) If no statement is obtained, so state.

ANNEX C

REQUIRED REPORT NARRATIVE (CHP 216, ARREST - INVESTIGATION REPORT, OR CHP 202, DRIVING UNDER THE INFLUENCE ARREST - INVESTIGATION REPORT) (*continued*)

(6) If not previously noted, indicate location of witness at time of observance.

(7) Include victim's description of the suspect (to aid in identification should service of a restraining or protective order after the fact be necessary).

d. Required Advisements (Mandatory).

(1) Referral. Indicate that victim was given a Domestic Violence Referral card with local information inserted.

(2) Confidentiality. Indicate that the victim was advised of the right to confidentiality, and whether it was invoked.

(3) Follow-up Rights. Indicate that the victim was advised of their follow-up rights.

(4) Private Person's Arrest. Indicate that the victim was advised of the right to make a private person's arrest (if arrest not executed by officer).

e. Injuries.

(1) Type of injury (indicate none, if applicable), and whether or not medical treatment was necessary and/or requested. If strangulation occurred, internal injuries may be present. Encourage the victim to seek medical attention.

(2) Location of injury.

(3) If weapons were involved, include if the incident involved strangulation or suffocation. Type of weapon used to inflict injury (mandatory).

(a) Firearm.

(b) Knife or cutting instrument.

(c) Other dangerous weapon.

(d) Personal weapon (hands, fists, feet).

ANNEX C

REQUIRED REPORT NARRATIVE (CHP 216, ARREST - INVESTIGATION REPORT, OR CHP 202, DRIVING UNDER THE INFLUENCE ARREST - INVESTIGATION REPORT) (*continued*)

f. Arrest.

- (1) Indicate if subject was cited and released, or is in-custody.
- (2) Location where subject was booked.
- (3) Any additional charges.

2. OPINIONS AND CONCLUSIONS.

- a. Evaluate all elements of the offense(s).
- b. If charge involves injury, describe injuries and give source of diagnosis (e.g., doctor, own observation). If the source of diagnosis was a doctor, obtain and include the patient number for future reference.

3. RECOMMENDATIONS.

- a. Indicate the follow-up action recommended by the investigating officer, including:
 - (1) Whether it was determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.
 - (2) Any information received from an allied agency indicating a past history of domestic violence by either party to the incident, or a previous call for domestic violence at the residence address, shall be briefly documented in the report.
 - (3) Whether the case should be filed with the local district attorney based on established elements of the offense.
 - (4) If follow-up is required by this Department or an allied agency.

4. WITNESSES.

- a. List all witnesses by name, address, and telephone numbers (home and work).

ANNEX C

REQUIRED REPORT NARRATIVE (CHP 216, ARREST - INVESTIGATION REPORT, OR CHP 202, DRIVING UNDER THE INFLUENCE ARREST - INVESTIGATION REPORT) (*continued*)

b. Include a short synopsis of the involvement of each witness.

5. EVIDENCE.

a. List and describe all available evidence.

b. Indicate where the physical evidence is stored.

6. SUPPORTING DOCUMENTS. Attach supporting documents, as appropriate.

a. Emergency Protective Order.

b. Temporary Restraining Order.

c. Prior reports taken by the California Highway Patrol.

d. CHP 174, Right to Privacy Acknowledgement.

e. CHP 36, Evidence/Property Receipt/Report