

## EPO (Family Code 6250)

A judicial officer may issue an EPO when:

1. A person is in immediate and present danger of domestic violence, based on the persons allegation of a recent incident of abuse or threat of abuse **or**
2. A child is in immediate and present danger of abuse by a family or household member **or**
3. Child abduction **or**
4. Stalking (DV and non-DV) **or**
5. Elder abuse (excludes financial abuse alone)

## PC 273.6 (civil orders)

\***EPO** - obtained by a peace officer and is good for 5 court days, up to 7 calendar days.

\***TRO** - an order issued by a family law court and is good for 20 days unless extended.

\***Order after Hearing** - issued after a hearing on a TRO. DVPA and EARO good for 5 years; other types usually 3 years.

## PC 166(c)(1) (criminal orders)

\***DV Order** - may be issued during probation.

\***Criminal Court Protective Order**- issued while a case is pending in court or with a conviction for PC 273.5, PC 646.9, or DV offense for up to ten years.

**Note:** Criminal Orders often do not list children as protected and therefore consider offering an EPO in any new case.  
A new EPO controls over a CPO.

## Firearms and Restraining Orders

**PC 29825(a) (former 12021(g) (1))** –

Purchase or receive a firearm knowing they are prohibited by a restraining order. (Felony)

**PC 29825(b) (Former 12021 (g) (2))** –

Own or possess a firearm knowing they are prohibited by a restraining order.  
(Misdemeanor)

## PC 18250 (Former PC 12028.5)

A peace officer at the scene of a domestic violence incident involving a threat to human life or a physical assault, **shall** take custody of any firearm or other deadly weapon (listed under PC 12020) in plain sight, with a consent search or through any other lawful means. Court can issue a search warrant to seize weapons for safekeeping under PC 1524.

## Dominant Aggressor (PC 13701)

Officers shall make reasonable efforts to identify the dominant aggressor. The dominant aggressor is the person determined to be the **most significant**, rather than the first aggressor.

## Officers shall consider:

- The intent of the law to protect victims.
- The threats creating fear of physical violence.
- The history of violence between the persons.
- Whether either person acted in self defense.

## Officers may consider:

- Presence of fear
- Detail in statement
- Existing court orders
- Criminal history
- Offensive / defensive injuries
- Seriousness of injuries
- Corroborating evidence / witnesses
- Weight /height of parties
- Credibility
- Level of violence
- 911 reporting party
- Use of alcohol/drugs

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# Domestic Violence

## A Quick Reference Guide



## Domestic Violence PC 13700

### Abuse

Against any sex; adult or minor  
Intentionally or recklessly causing or attempting to cause bodily injury or sexual assault; or  
Placing the victim in fear of imminent serious bodily injury to that person or another

### Relationships — If the victim is:

1. The offender's spouse or former spouse
2. The cohabitant or former cohabitant
3. The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined in Section 243(f)(10)
4. The mother or father of the offender's child

## **PC 273.5**

### **(Felony—Evidence of Injury)**

The two parties involved must be:

- Current or former spouse
- Current of former cohabitant
- Have a child in common
- Current or formerly engaged
- Current or formerly dating

And there must be visible injury or evidence of an internal injury.

Officers shall arrest under PC 836(a)

## **PC 243(e)(1)**

### **(Misdemeanor—No evidence of Injury)**

The two parties involved must be:

- Current or former spouse
- Current of former cohabitant
- Have a child in common
- Current or formerly engaged
- Current or formerly dating

Under PC 836(d) an arrest may be made for any 243(e)(1) committed in or out of your presence when:

- You have probable cause to believe an assault or battery has occurred and
- The arrest is made when probable cause arises

*Mandatory booking if arrest made.*

## **PC 273.6 and PC 166(c)(1) (Misdemeanor)**

Under PC 836(d) an arrest shall be made for DV restraining order violations committed in or out of your presence when:

- You have probable cause to believe a willful violation has occurred
- Suspect has notice of the order

*Mandatory booking if committed with violence; or threats to kill or harm; or any violation at the victim's residence or work.*

No Injury	Relationship	Visible injury
PC 243(e)(1)	Married	<b>PC 273.5</b>
PC 243(e)(1)	Ex-spouse	<b>PC 273.5</b>
PC 243(e)(1)	Cohabitant*	<b>PC 273.5</b>
PC 243(e)(1)	Ex-cohabitant*	<b>PC 273.5</b>
PC 243(e)(1)	Child in common	<b>PC 273.5</b>
PC 243(e)(1)	Engaged	<b>PC 273.5</b>
	Past-present	
PC 243(e)(1)	Dating**	<b>PC 273.5</b>
	Past-present	

\*Cohabitation for DV refers to intimate relationship. If ex cohabitant must have had a DV relationship.

\*\*\*"Dating" PC 243(f)(10) - "frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations."

## **Associated DV Laws (Felony)**

PC 136.1 (c) (1) - dissuading a victim from reporting, using threats of force or fear

PC 236 - false imprisonment

PC 243 (d) battery with serious injury

PC 245 (a) (1) ADW

PC 245 (a) (2) ADW w/gun

PC 245 (a)(4) Assault by means likely to produce GBI

PC 273a (a) child endangerment likely to cause GBI or death

PC 422 criminal threats of GBI or death

PC 459 entry with intent to commit a felony

PC 591 interference with or destruction of phone or cable lines

PC 597 animal abuse

PC 594(b) (1) vandalism \$400 or more

PC 646.9 stalking; reasonable fear, a credible threat of harm, and a pattern of conduct

## **Domestic Violence Reports**

### **Victim**

- Note relationship (i.e. length of marriage, cohabitation or dating)
- Describe victims location, demeanor
- Victim's spontaneous statements
- If possible, record victim's interview
- Describe victim's injuries
- Prior D.V. calls (PC 13730(c) (2))
- Alcohol or drug usage in this incident
- Where can the victim later be located
- Give victim referral info. (PC 13701)
- Give victim Marcy's rights information

### **Suspect**

- Describe suspects location, demeanor
- Spontaneous statements by suspect
- Describe suspects injuries
- Alcohol / drug usage (PC 13730(c)(1))
- Interview the suspect

### **Witnesses**

- Find and interview the RP
- Find any witnesses (i.e. neighbors)
- Who did the victim talk with
- Identify witnesses who have left
- Children present (list names & DOB)
- Interview the children
- List agencies on scene (CPS, EMS etc)
- Identify treating doctors

### **Evidence**

- Photograph the injuries of both parties
- Photograph the scene for evidence
- Photograph / seize torn, bloody clothes
- Photograph / take items that may be significant (text messages; objects used as weapons; notes; etc.)
- Consider the 911 call as evidence
- Book weapons (PC 18250)
- Felony - at large cases - obtain a photo of the suspect from the victim