Date Revised: 12/8/2019

Course Goal: To provide the students with the basic skills necessary to effectively carry out their responsibilities, peace officers need a basic knowledge of legal definitions, terminology and applicable Penal Code Sections as well as an understanding of how to classify the crimes that may lead to arrests.

Learning Objectives:

- Recognize the crime elements required to arrest a suspect for crimes as applied to domestic violence incidents [25.I.B]
- Recognize the crime classification for each crime that may result from a domestic violence incident as a misdemeanor or felony [25.I.C]
- Identify a peace officer's role in reducing domestic violence [25.II.B]
- Recognize under what circumstances an arrest should be made [25.III.B]
- Identify the differences between the types of court order [25.IV.A]
- Demonstrate how to enforce a court order [25.IV.D]

Session Time: 2 hours

Resources:

- Classroom with tables
- Laptop, projector, speakers
- Videos- "Sleeping with the Enemy", "Cleon/Carla LAPD RBC Video Production"
- White board
- Dry-erase markers
- LD 25 Workbook-6.0
- Handouts- Recruit Domestic Violence Reference Documents- "Developing Probable Cause"

Session Summary: The recruit officer will develop the skills and abilities necessary to accomplish responding to a domestic violence call using the proper tactics, basic knowledge of legal definitions, identify and define laws associated with the family violence. Domestic violence causes tremendous harm to victims and society. Current laws afford peace officers greater opportunity to assist victims and provides protection and education to help stop the cycle of violence.

Outline	Instructor Notes
 I. Domestic Violence Laws (Instructor Lead Facilitated Discussion) A. Review Session 10 & 11 1. Distribute 13700 Quiz Review Worksheet (blank) B. 273.5 P.C. – Willful Infliction of Corporal Injury (Felony) [25.I.C] [Note] 	Note: Point out elements of each crime and refer to examples given in POST workbook. Note: Point out and discuss/the Application and Clarify Remind Sections for each PC section.

- 1. Elements of the Crime [25.I.B.1]
 - a. Willfully inflicts injury upon;
 - Current or former spouse, cohabitant, dating or engagement relationship or parties with a child in common
 - 2) Evidence of traumatic condition (no matter how minor or major)
 - 3) Verifiable through:
 - a) Officer's observations
 - b) Medical evaluation (X-ray, Doctor's diagnosis)
 - b. 273.5(d) P.C. Traumatic Condition defined
 - 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.
 - Strangulation and suffocation include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck.
 - c. Application
 - In order to determine if 273.5
 P.C. applies, you must:
 - a) Determine relationship
 - (1) Spouse
 - (2) Former Spouse
 - (3) Cohabitant
 - (4) Former Cohabitant
 - (5) Dating Relationship
 - (6) Former Dating Relationship
 - (7) Engagement
 - (8) Former Engagement
 - (9) Parties with a child in common

[Note]: Group presentations of assigned penal sections from prior session.

- b) Officers verify injury or transport victim to medical facility for diagnosis by a doctor.
- Determine through investigation if injuries were willfully inflicted by suspect.
- d) Mandatory Arrest If suspect is at scene and involved parties are:
 Spouse, Former Spouse,
 Cohabitant, Former
 Cohabitant, Dating
 Relationship, Former Dating
 Relationship, Engagement,
 Former Engagement or
 Child in Common [25.III.B]
 - Complained of pain is not applicable in this section
 - (2) Child must be born in order to meet the criteria of child in common: adoption meets the criteria
 - (3) Also includes same gender couples
- C. 243(e)(1) P.C. Battery as applied to Domestic Violence (Misdemeanor) [25.I.C]
 - 1. Elements of the Crime: [25.I.B.2]
 - a. Force or violence against
 - 1) Spouse
 - 2) Former spouse
 - 3) Cohabitant
 - 4) Parties who have a child in common
 - 5) Fiancé
 - 6) Former Fiancé
 - 7) Dating
 - 8) Former Dating
 - 2. Application:

Ask: Is it legal to detain this person? Expected response: Yes

Ask: Why?
Expected response: "We have reasonable suspicion to believe the suspect was involved in criminal activity."
(Suspect may be detained until a determination regarding injuries has been made.

- a. In order to determine if 243(e)(1)
 P.C. is the correct booking section, you must:
 - Determine if the parties fall under one of the 8 special relationships
 - 2) Determine if force or violence was used
 - No visible injury necessary, complained of pain fits under this section
- b. Clarify and remind:
 - Complained of injuries are applicable
 - Applies to same gender relationships with complained of injuries
 - 3) Former Cohabitant is not included in 243(e)(1) P.C.
- D. 836(d)P.C. Warrantless Arrest (Authority Section)
 - 1. Elements of Crime
 - a. A peace officer may arrest a suspect without a warrant for 241P.C. (assault), 243P.C. (battery), and 243(e)(1) P.C. (battery as applied to domestic violence) even when the act is not committed in his or her presence. [25.III.B]
 - b. Parties
 - 1) Spouse
 - 2) Former spouse
 - 3) Cohabitant
 - 4) Former Cohabitant
 - 5) Parties who have a child in common
 - 6) Fiancé
 - 7) Former fiancé
 - 8) Dating
 - 9) Former dating
 - 10) Child of party

- 11) People related by consanguinity or affinity within second degree
 - a) Consanguinity means the relationship between blood relatives. It includes half brothers and sisters, mother or father, sister or brother.
 - b) Affinity means the relationship by marriage to the blood relatives of a person's spouse and that spouse's relatives by marriage. It includes inlaws, grandparents and grandchildren.
- c. Additionally, it includes any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship.

2. Application:

- There must be reasonable suspicion to believe that the suspect has committed assault or battery, whether it has been committed.
- b. Arrest is made as soon as probable cause arises.
- 3. Clarify and remind:
 - a. Probable cause must be more than "he said" "she said."
 - b. Probable cause is set of facts that would cause a reasonable innocent person to form an honest and strong belief that the person to be arrested has committed a crime⁷.
 - Direct recruit attention to Recruit DV Reference Documents and handout entitled "Developing Probable Cause"
 - d. Any additional corroboration is enough
 - e. This is an authority section only, not an arrest or booking section

- f. Example: Officers respond to a call "Domestic Violence." Upon arrival, they are met by an 89-year-old grandmother. She tells them that her grandson who lives at her house slapped her. The officers observe the red raised handprint on the victim's face.
 - Probable cause verifiable injury
 - 2) Relationship household member and grandson
 - Domestic violence does not meet the criteria for 243(e)(1)
 P.C., this is family violence
 - 4) However may arrest for 243P.C. under authority of 836(d)P.C.
- g. Mandatory arrest LAPD policy [25.III.B]
 - 1) If suspect is spouse
 - 2) Cohabitant
 - 3) Parties with a child in common
 - 4) Officers have probable cause to believe that a battery occurred⁹
 - 5) Arrest is made as soon as is reasonable
- E. 422 P.C. Criminal Threats (Felony) [25.I.C]
 - 1. Elements of the crime: [25.I.B.6]
 - A threat to commit a crime resulting in death or great bodily injury to a person or his or her immediate family.
 - The threat must be such as to cause a person reasonably to be in sustained fear for his or her own safety or his immediate family's safety.
 - c. Note: The threat can be made to the victim or to a third party.
 - d. Note: The threat must be made verbally, in writing, or by means of

- electronic communication devices such as computers, cellphones, facsimile machines, and pagers, and can be explicit or implicit.
- e. The threat must be made with specific intent that the statement be taken as a threat, whether the person intends to carry it out.
- f. The threat must on its face and under the circumstances made, be so unequivocal, unconditional, immediate, and specific as to convey a gravity of purpose and immediate prospect of execution
- g. The victim must be placed in sustained fear; a fear that is not transitory, fleeting, or momentary.
- h. Note: There is no minimum time requirement for sustained fear. Fifteen minutes is enough.
- i. Note: Unequivocal, unconditional, immediate, and specific refer to:
 - A condition that must be performed immediately; the condition is one the abuser has no right to impose, and the abuser appears to intend to force performance by using violence (i.e., "If you testify, I will kill you.")
 - 2) A threat that could reasonably induce fear in the victim (i.e., an abuser has beaten his wife many times before. Last time he strangled her to unconsciousness and broke three of her ribs. During an argument today, he told his wife, "Remember last time. I think it's time to finish what I began." The victim is in fear).
 - 3) Officers should ask the victim what the threat means to him or

her. Note: To prove that the victim is reasonably in fear and to show that the abuser is capable of inflicting injury on the victim, prior history of domestic violence is relevant.

2. Application:

- a. In order to determine if 422 P.C. applies, you must:
 - Determine if the victim believes the threat
 - Determine if the threat is "so" unequivocal and unconditional, immediate and specific
 - The "so" in front of unconditional allows for a seemingly conditional threat contingent on an act highly likely to occur
 - May convey to the victim a gravity of purpose and immediate prospect of execution.
 - 5) Would a reasonable person think it was meant as a threat? "If you breathe, I will kill you."
 - 6) Threat not excluded merely because of condition
 - If the threat or threats were reasonably conveyed to the victim that they are intended.

3. Clarify and remind;

- a. An unconditional threat would be a statement such as "I am going to shoot your eyes out tonight",
- b. However, a conditional threat would be "If you look at another guy again, I will shoot your eyes out"
- Unequivocal threats would not allow the victim any way to change suspect's mind
- d. An immediate threat is when the victim perceives the threat as going

- to be carried out now (i.e. calls 911 or leaves residence for a safe location)
- e. Suspect does not have to possess the intent or commit and overt act to carry out the threat, victim's fear of the threat is considered intention enough.
- f. An example of a statement by the suspect that would show the intent to threaten would be "I wasn't really going to kill her I just wanted to scare her".
- F. 646.9 P.C. Stalking (Felony) [25.I.C]
 - 1. Elements of the crime: [25.I.B.3]
 - a. Any person who willfully, maliciously and repeatedly follows another person, or
 - 1) Repeatedly is defined as
 - a) On more than one occasion
 - Willfully, and maliciously and repeatedly harasses another person
 - 1) 646.9 (e)P.C. Harassed defined
 - a) Knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorized the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must cause substantial emotional distress.
 - 2) Course of Conduct defined
 - a) Pattern of conduct composed of a series of acts over a period, however

short, evidencing a continuity of purpose.

- c. Makes a credible threat
 - 1) 646.9(g)P.C. Credible Threat Defined
 - a) Encompasses not only a verbal or written threat, including that performed using an electronic communication device (i.e. fax, email, pagers, etc.),
 - b) but also "a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements
 - and conduct made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her immediate family,
 - d) And made with the apparent ability to carry out the treat to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.
 - e) Their threat does not need to be direct.
- d. With specific intent to place the person in reasonable fear for his or her safety or the safety of his or her immediate family.
- e. Note: The specific intent element is satisfied if the suspect intended to place the victim in fear; intent to carry out the threat is not required. Therefore, incarceration is not a defense in stalking cases.

- f. Note: The victim must be aware of, and distressed by, the stalkers conduct. However, the awareness can come later.
- 2. Application:
 - a. In order to determine if 646.9 (b)
 PC is the correct booking section you must:
 - Establish that a credible threat has occurred as defined by the penal code, "a conduct of two or more incidents by the suspect, so that a reasonable person would fear for their safety or that of their family."
 - A "credible threat" as defined above can be established through
 - a) 911 calls made by victim
 - b) Restraining order violations
 - victim actions to avoid contact (leaving residence, getting a restraining order"
 - d) Taped conversations
 - e) Evidence left by suspect (bullet left on windshield)
- 3. Clarify and Remind:
 - Document all suspect's activities in chronological order
 - b. Closed and pending cases
 - c. Annoying phone calls
 - d. Annoying letters
 - e. Document if a restraining order is in effect, list the number, date obtained, date expires and if the restraining order has been served
 - f. Officers must conduct a thorough interview to establish the pattern of stalking
- G. 591PC Malicious Destruction of Telephone lines (Felony) [25.I.C]
 - 1. Elements of the Crime: [25.I.B.4]

- a. Occurs when a person unlawfully and maliciously takes down, removes, injures, severs a wire of, obstructs, or makes an unauthorized connection with a telegraph, telephone, or cable television, or any other line that conducts electricity, including connected equipment.
- Before peace officers can make an arrest, they need to establish if the instrument and/or lines were operational.
- c. Cellular telephones do not fall within this section.
- 2. Application:
 - a. In order to determine if 591 is the correct booking section, you must:
 - Establish if the lines were operational
 - c. Establish ownership
- 3. Clarify and remind:
 - a. Take pictures if possible
 - b. If joint property is destroyed vandalism may be the correct section
- H. 591.5 PC Wireless Communication Devices (Misdemeanor)
 - 1. Elements of the crime:
 - a. Any person who unlawfully and maliciously:
 - Removes, injures, destroys, damages or obstructs
 - 2) Any wireless communication device with the intent
 - To prevent the use of the device to summon assistance or notify law enforcement; this is a misdemeanor
 - 2. Application:
 - a. In order to determine if 591.5 is the correct booking section you must:

- b. Determine ownership of the cell phone
- The device was being used to summon assistance or notify law enforcement
- I. 136.1 PC Preventing or Dissuading a Witness or Victim from Testifying (Felony)
 [25.I.C]
 - 1. Elements of the crime: [25.I.B.5]
 - Knowingly and maliciously preventing or dissuading, or attempting to prevent or dissuade, a witness or victim from (one or more the following:
 - Attending or giving testimony at a trial or other inquiry authorized by law
 - Reporting a crime to a law enforcement, parole, probation, or correctional officer, judge, or prosecutor
 - Causing a complaint or other charging document to be sought, issued, or assisting in the prosecution
 - 4) Arresting or seeking the arrest of a subject

2. Application:

- a. Applies when a victim is calling "911", and the suspect knows she is in fact calling the police and snatches the phone out of her hand.
- Applies when a neighbor states he will call the police and the suspect attempts or prevents him from calling
- Includes actions and statements made by the suspect ("If you call the police, I'll take care of you.")
- 3. Clarify and Remind:

- Victims recant their stories in court which may affect criminal prosecution.
- J. 273.6 PC/166(a)(4) PC Violation of a Court Order (Misdemeanor)
 - 1. Elements of the crime:
 - Knowing and willful violation of an order issued under the DVPA, FLA, UPA and harassment statute with no prior convictions is misdemeanor
 - 2. Application:
 - a. Every person who
 - 1) Willfully disobeys
 - 2) The written term of any process or court order
 - 3) Lawfully issued by any court
 - 3. Clarify and Remind:
 - a. In future sessions we will discuss necessary elements to make a restraining order lawful
 - 836 (c)P.C. allows for officers to make a misdemeanor arrest for violation not committed in their presence
 - c. Is a violation even if protected person tells
- K. 262 PC Spousal Rape (Felony) [25.I.C]
 - 1. Elements of the crime: [25.I.B.7]
 - a. Is a nonconsensual penile/vaginal intercourse with a person who is the spouse of the perpetrator
 - An act of penile/ vaginal intercourse, which
 - 2) Is against the will of the spouse (i.e.; without consent)
 - Against a person will means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury
 - (1) 262(a)(5)(b) PC Duress defined

- (a) Means direct or implied threat of force, violence, danger, or retribution enough to coerce a reasonable person of ordinary susceptibilities to perform an act to which one otherwise would not have submitted.
- (2) 262 (a)(5)(c) PC Menace defined
 - (a) Means any threat, declaration, or act that shows an intention to inflict an injury upon another.
- 2. Application:
 - a. In order to determine if 262 PC is the correct booking section you must:
 - Determine if there was an act of penile/vaginal intercourse, which
 - Is against the will of the spouse (without consent)
- 3. Clarify and Remind:
 - Penal Code Section 262 requires that the offense be reported within one year of occurrence, unless the offense can be independently corroborated
- 653(m)PC Telephone calls or contact by electronic device with the intent to annoy (Misdemeanor)
 - 1. Elements of the crime:
 - Every person who, with the intent to annoy, telephones or makes contact by means of an electronic communication device and uses obscene language or makes a

- threat of injury to the person, that person's property, or a member of that person's family.
- b. A person makes repeated telephone calls or makes repeated contact by means of an electronic communication device with the intent to annoy another person at that person's residence, whether a conversation ensues.
- c. A person makes repeated telephone calls or makes repeated contact by means of electronic communication device with intent to annoy another person at the person's place of work and (one of the following):
 - 1) There is a court order in effect prohibiting the contact; or
 - 2) There are more than 10 contacts in a 24-hour period, whether or not conversation ensues, and the contacts are to the workplace of an adult or minor who is the person's spouse, former spouse, cohabitant, or person with whom the person has had a child, or is having or has had a dating or engagement relationship.

2. Application:

- a. Electronic communication devices include but is not limited to:
 - 1) Telephones
 - 2) Cellular phones
 - 3) Computers
 - 4) Video recorded
 - 5) Fax machines or pagers
 - 6) Intent to annoy could include obscene language,

Learning Activity #1: DV Scenario Discussion

- 7) Or any threat to inflict injury to the person or property or any member of his or her family.
- 3. Clarify and Remind:
 - a. The repetitive nature of the contact is what makes it a crime
 - b. It applies to place of work if someone calls 10 or more times in 24 hours
 - Even if a conversation does not ensure if the party calling is one of the 9 special relationships
- 4. Reinforce key points
 - Peace officers must know the crime elements required to arrest a suspect for various crimes, as well the crime classification.
 - Officers should be aware of other crimes that may relate to domestic violence.
 - c. It is important that officers be able to distinguish the difference between Willful Infliction of Corporal Injury (273.5PC), and Battery as applied to Domestic Violence (243(e)(1) PC).
 - d. To effectively carry out their responsibilities, officers need a basic knowledge of legal definitions and terms associated with domestic violence

Instructor:

If you have time play the video and complete Learning Activity #2

Learning Activity # 2
Interviewing a Domestic Violence Victim

Learning Activity # 1 273.5 PC, 243 (e) (1) and PC, 836 (d) PC DV Scenario Discussion

- I. 273.5 PC, 243 (e)(1) and PC, 836 (d) PC Scenario Discussion
 - A. READ THE FOLLOWING EXAMPLES ALOUD TO ENSURE RECRUITS HAVE A CLEAR UNDERSTANDING OF 273.5PC, 243(e)(1), AND 836(d)PC. Solicit responses from the class and clear up any misunderstandings.
 - Ben and Julie have been dating for 6 months. While they were out with friends Ben became intoxicated. Julie became enraged and slapped Ben across his face causing a red mark to his right cheek. Julie admitted to slapping Ben.
 - a) Answer: 273.5PC, Dating Relationship, and a verifiable injury.
 - 2. Ellen and Howard have been living together for one year. When Ellen complained about Howard's drinking too much, Howard punched Ellen on the nose. An X-ray revealed that the Ellen's nose was fractured.
 - a) Answer: 273.5PC, Cohabitants, and a verifiable injury.
 - 3. Junior and Yvonne have been married for one year. During an argument over Junior's in-laws, Junior slapped Yvonne in the face. The next-door neighbor Levell heard Yvonne scream and phoned the police for assistance. Levell told the officers he was looking through his kitchen window and saw his neighbor strike his wife. Junior had a previous arrest for assaulting Yvonne, who complained of pain to her face, but had no verifiable injuries.
 - a) **Answer:** 243(e)(1), wit's statement, and prior history gives the officer's probable cause to arrest under authority of 836(d)PC. LAPD Policy: mandatory arrest, spouse with probable cause, Battery 243(e)(1) P.C.
 - 4. Alexander and his domestic partner Andy were arguing over the fact that Andy was being a little too friendly whenever they would go to social functions. When Andy denied the behavior, Alexander became upset, slapped him and shoved him against the wall causing the hanging picture to fall and break. When officers arrived, Andy was crying and visibly shaken. He told officers what happened, and Alexander denied ever laying a hand on Andy. Officers did observe broken glass on the floor, but no verifiable injuries to Andy. No witnesses were present.

- a) **Answer:** 243(e)1, although there are no wits present, the radio call, the broken glass, the demeanor of the victim, as well as the batterer (denial) leads an officer with training and experience to believe that a crime took place –836(d) PC
- 5. Referring to the above scenario, when officers arrived, they observed Alexander sitting on the couch watching television. Andy did not appear to be upset or visibly shaken. When he told officer's what happened, Alexander said he never laid a hand on him and it was Adam who actually hit him. Officer's observed no signs of injury, there was no broken glass, and the house appeared to be intact. No witnesses were present.
- a) **Answer:** Private persons arrest (PPA). There is no probable cause that would lead officers to believe that a crime took place.

Learning Activity # 2 Interviewing a Domestic Violence Victim

- I. Interviewing a Domestic Violence Victim
 - A. Apply the guidelines for interviewing a victim
 - 1. We are going to look at how to effectively interview battered victims. Point out the importance of developing a strong line of questioning to determine the elements of 13700 PC, the crime, history of violence, and other information necessary for prosecution and writing a complete and accurate report.
 - 2. Remind class what they learned during Police Science Event and remind students that victims of crimes will have various emotional, cognitive, behavioral and physical reactions to the crisis they are in. Remind them of their classmates' reactions when they were victims of crime as discussed during the Police Science Event.
 - a) Procedure: Small group discussion
 - b) Divide the class into tables.
 - c) Refer students back to "Sleeping with the Enemy "or Cleon/Carla videos.
 - d) Ask half the tables to discuss: "What are some things officers could do and say to "open the door" and build a rapport with the victim to get her to discuss the circumstances surrounding the abuse?"
 - (1) Ensure the following points are covered
 - (a) Reassure the victim that she is safe, and you will not allow anything to happen to her.
 - (b) Assess her needs (offer medical treatment)
 - (c) Make sure the suspect has no visual or physical contact with her.
 - e) **Ask** the other tables to discuss: "What specific questions would you ask the victim that would be pertinent to your investigation?"
 - (1) Capture responses on the board and discuss.
 - 3. Have students write down the following statements on the back of that sheet and advise that they may refer to it for preparation for the scenario tests.
 - a. "I'm concerned for your safety."
 - b. "I'm concerned for the safety of your children."
 - c. "You don't deserve to be treated like this."
 - d. "It will only get worse."

e. "We are here when you are ready to leave."