

Domestic Violence

Domestic violence is an abusive, violent, coercive, forceful, or threatening act or word inflicted by one member of a family or household to another. 1 in 3 women and 1 in 4 men have been victims of some form of physical violence by an intimate partner in their lifetime. Domestic violence varies from saying unkind or demeaning words to kicking, choking, or even murdering. Stalking can also be a form of domestic violence. The term “domestic violence” often refers to violence between married and cohabiting couples yet can also refer to violence against other members, such as children or elderly relatives.

While domestic violence is an important issue, some unscrupulous parties in family law cases have discovered that a false allegation of domestic violence can be a powerful sword rather than a shield of protection. Because allegations often involve a “he said-she said” scenario with no other witnesses, allegations of domestic violence are particularly susceptible to abuse.

Sanford and Christy Horowitz criminal defense have handled thousands of criminal matters and are experienced at fettering out false allegations. They recognize that parties to family law dispute may exaggerate or fabricate claims of domestic violence to seek restraining orders, residential kick-out orders and the majority of parenting time. Whether attacking the credibility of the complaining witness or exposing unlawful conduct by police, Sanford and Christy Horowitz are highly skilled and will leave no stone unturned when representing individuals facing domestic violence charges.

What Constitutes Domestic Violence under California Law?

A domestic violence offense can include various forms of conduct under the California Penal Code. Many acts of domestic violence also constitute other types of criminal offenses, such as criminal threats, assault, battery, etc. However, domestic violence may be charged when an act of violence, physical force or a threat is committed against a spouse, girlfriend/boyfriend, intimate partner, co-habitant, fiancé or co-parent. When this type of close personal relationship exists between the accused and the complaining witness, the potential punishment can be more severe.

Because domestic violence charges are based on the relationship between the parties, there are several offenses that may be brought under the rubric of domestic violence based on the underlying conduct and identity of the parties. Examples of domestic violence include, but are not limited to:

- Domestic Battery (PC Section 243(e)(1)): This misdemeanor will be charged if an accused inflicts force or violence on a girlfriend/boyfriend, former/current spouse, co-parent, cohabitant, intimate partner or fiancé. There is no requirement that the complaining witness suffer visible injury. Domestic battery is a misdemeanor.
- Corporal Injury to a Spouse or Cohabitant (PC Section 273.5): This offense is the crime

to inflict “corporal injury” that causes “traumatic injury” on a current/former spouse, co-parent or cohabitant. An accused will be charged with this offense for a battery that causes a visible physical injury even if the injury is minor. It is a misdemeanor or felony.

- **Criminal Threats (PC Section 422):** This offense involves intentionally threatening serious harm to someone you intend to scare which causes the target to be fearful. This offense is a “wobbler,” so it could be charged as either a misdemeanor or felony. If an individual is convicted of a felony under PC Section 422, the conviction counts as a “strike” under the California Three Strikes Law.
- **Corporal Punishment (PC Section 273(d)):** This version of domestic violence involves inflicting “corporal punishment” on a child if the conduct is “cruel or inhuman” and causes any type of injury. However, reasonable physical discipline by a parent (i.e. a spanking) will not constitute a violation of this statute, and is fact a defense to this charge.
- **Elder Abuse (PC Section 368):** If the target of physical, financial or emotional abuse, neglect or endangerment is 65 or older, this offense may be charged.
- **Child Abuse/Child Endangerment (PC Section 273(a)):** This offense will be charged for willfully allowing a child (in the custody or care of the accused) to experience harm or to place the health or the safety of the child at risk. An example might include a mother who drives her kids to school without a car seat while under the influence of alcohol. A mom who allows an abusive boyfriend continuous access to her child also might be charged with this offense.

These are simply a couple examples of different forms of domestic violence under the California Penal Code.

Impact of a California Domestic Violence Conviction

If you suffer a conviction of a domestic violence offense, the consequences can have a substantial impact on your future. While the precise penalties will vary depending on the facts, circumstances, injuries, and the defendant’s criminal record, the consequences might include some or all the following:

- **Jail/Prison:** While the period of incarceration will vary city by city in California, being charged with domestic violence as a felony is punishable by up to four years in prison.
- **Loss of Constitutional Rights:** If you are convicted of a domestic violence offense, the court will restrict your ability to own or possess a firearm. You may also be subject to warrantless searches. If you are convicted of a felony form of domestic violence, you also will have your right to vote or serve on a jury suspended.
- **Restraining Orders:** The court will order you to have no contact with the complaining witness. When protective orders are imposed, you also might be excluded from your home and have access to your children limited.

- **Counseling/Education:** A person convicted of a domestic violence crime might be ordered to complete a 52-week domestic batterer class.
- **Record of Conviction:** When you suffer a criminal conviction for a domestic violence offense, the conviction will be part of your criminal record. When employers, landlords, professional licensing entities, immigration agencies or state occupational licensing agencies run a criminal background check, your criminal conviction may have an adverse impact.