

What Is the Dominant Aggressor Rule Under Penal Code Section 13701?

California Penal Code Section 13701 requires every law enforcement agency in the state to develop, adopt, and implement written policies for responding to domestic violence incidents. These policies treat domestic violence as criminal conduct—not as mere "family matters"—and give these calls the same priority as other violent crimes.

A key part of the law directs officers to identify the dominant aggressor, also known as the primary aggressor.

The dominant aggressor is the person determined to be the most significant aggressor, rather than necessarily the first one to strike or use force.

This approach helps prevent unnecessary dual arrests in situations where both parties may have used some force, often called mutual combat, and instead prioritizes protecting victims from continuing abuse.

In identifying the dominant aggressor, officers must make reasonable efforts and consider specific factors, including:

The intent of the law to protect victims of domestic violence from continuing abuse.

Threats that create fear of physical injury.

The history of domestic violence between the parties involved.

Whether either person acted in self-defense.

Other practical considerations in agency policies, such as the relative severity of injuries, the relative size and strength of the parties, prior incidents, threats or intimidation used, and which party is using force as a means of power and control.

The law encourages arrests when there is probable cause, promotes victim-centered enforcement, and ensures a standardized response across all California police departments.

This section has been a cornerstone of California's domestic violence response since the 1980s, with its most recent significant updates reinforcing these protections.

Domestic violence arrests, even if the case is later dismissed, can have devastating consequences—damaging careers in medicine, business, education, law enforcement, and many other fields. The arrest record often lingers, regardless of the outcome.

The dominant aggressor rule is designed to focus enforcement on the true source of ongoing harm, but mistakes in application can still lead to wrongful or unnecessary arrests.

If you or someone you know has been arrested for domestic violence in California—especially if you're in a professional role where the mere fact of an arrest can jeopardize your livelihood—swift action is essential.

Contact our experienced criminal defense lawyers for an initial consultation. Call the Law Office of Daniel Horowitz at (925) 283-1863 today.