

Defending Your California Domestic Violence Charge



A COMPLETE GUIDE



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About This Guide

Leading California criminal lawyer and author, Joseph Tully, helps individuals defend their freedom and reputation in a broken criminal justice system.

Certified by the California State Bar Board of Legal Specialization, attorney Tully's extraordinary record of not guilty verdicts is driven by his meticulous preparation that consistently uncovers reasonable doubt, identifying every imperfection in the prosecutor's case, discrediting unreliable witnesses, excluding tainted evidence and spotlighting police misconduct.

Tully's recent book, *California: State of Collusion*, highlights his unique understanding of the abuses of power, conspiracy, cover ups, racial prejudice, sociopathic cops, backroom deals and other outrages against legitimate society that are unfortunately widespread in California's criminal justice system.

If you or a family member has been accused of or arrested for domestic violence in the State of California, the information in this guide can help you protect your rights, freedom and future.

To successfully defend yourself against a California domestic violence charge, it is important to (1) recognize what constitutes domestic

violence in California, (2) familiarize yourself with the procedural process of domestic violence charges and (3) identify the most powerful defense options for your specific case.

This guide provides a quick and easy reference for:

- California law governing domestic violence
- Potential consequences of a domestic violence charge
- Steps to take if you are accused of domestic violence
- Powerful strategies to defend your case

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80% of Domestic Violence Accusations Are False

Most domestic violence allegations are false. Millions of individuals make false domestic violence accusations against spouses, exes, roommates and other relations each year.

According to data compiled by Stop Abusive and Violent Environments (S.A.V.E), up to 80% of all abuse claims are false.¹ One study of couples involved in custody disputes found that 59% of domestic violence allegations “could not be substantiated by the courts as true.”²

SAVE estimates that 1.2 to 1.8 million individuals are wrongfully accused of domestic violence each year, with approximately 70% of restraining orders issued each year being unnecessary or false.³ An analysis of domestic violence restraining orders issued in West Virginia concluded that 81% were unnecessary or false.⁴ Furthermore, these restraining orders are not cheap. It costs an estimated \$2000.00 in taxpayer dollars to issue, service and adjudicate a single restraining order.⁵

According to a study conducted by the Massachusetts Trial Court Office of the Commissioner of Probation, approximately 50% of restraining

1 Research, STOP ABUSIVE AND VIOLENT ENVIRONMENTS (2011), [HTTP://WWW.SAVESERVICES.ORG/CAMP/FAAM-2011/RESEARCH-ON-FALSE-ALLEGATIONS-OF-ABUSE/](http://www.saveservices.org/camp/faam-2011/research-on-false-allegations-of-abuse/).

2 Janet R. Johnson et al, *Allegations and Substantiations of Abuse in Custody-Disputing Families*, 43 FAM. CT. REV. 284 (2005).

3 Joel H. Garner & Christopher D. Maxwell, *Prosecution and Conviction Rates for Intimate Partner Violence*, 34 CRIM. JUST. REV. 44 (2009).

4 Benjamin P. Foster, *Analyzing the Cost and Effectiveness of Governmental Policies*, 22 COST MGMT. 5 (2008).

5 Bruce Watson, *The High Price of Restraining Orders*, AOL.COM (Mar. 30, 2010), <https://www.aol.com/2010/03/30/the-high-price-of-restraining-orders/>.

orders result from calls in which physical assault is not even alleged.⁶ For example, in 2005, Santa Fe District Court Judge Daniel Sanchez granted a television viewer, Colleen Nestler, a temporary restraining order against TV celebrity David Letterman because she claimed he was beaming code words at her and tormenting her through the television.⁷

The American media portrays domestic violence as an abhorrent crime, yet continually fails to highlight just how susceptible a domestic violence allegation is to false accusation.

Domestic violence cases, more so than other cases, demonstrate how very wide the net is in terms of people getting caught up in the system who really do not deserve to be there.

Unlike other crimes, even a mere allegation of domestic violence can damage your ability to gain employment, housing, child custody and other important necessities of life. Judges in 48 states must consider mere allegations or findings of domestic violence before awarding child custody.⁸ No conviction is required.

If you have been accused of or arrested for domestic violence in California, the odds are unfortunately against you right from the start. The

6 *False Accusations of Domestic Violence, By the Numbers*, STOP ABUSIVE AND VIOLENT ENVIRONMENTS (2011), [HTTP://WWW.SAVESERVICES.ORG/CAMP/FAAM-2011/FALSE-ACCUSATIONS-OF-DOMESTIC-VIOLENCE-BY-THE-NUMBERS/](http://www.saveservices.org/camp/faam-2011/false-accusations-of-domestic-violence-by-the-numbers/).

7 Watson, *supra* note 5.

8 *False Accusations of Domestic Violence, By the Numbers*, STOP ABUSIVE AND VIOLENT ENVIRONMENTS (2011), [HTTP://WWW.SAVESERVICES.ORG/CAMP/FAAM-2011/FALSE-ACCUSATIONS-OF-DOMESTIC-VIOLENCE-BY-THE-NUMBERS/](http://www.saveservices.org/camp/faam-2011/false-accusations-of-domestic-violence-by-the-numbers/).

scales of justice are tipped in favor of the accuser, more so than almost any other type of crime.

Arrests are mandatory, protective orders do not require a hearing, and even when the accuser later decides they do not want to press charges, dropping charges is nearly impossible.

But there ARE ways to beat this lopsided system and defend yourself against a domestic violence allegation.

In this guide, we will discuss the unique injustices of domestic violence charges, the frightening consequences of failing to put up a good fight, and how you can protect your rights and come out of the whole thing with a better chance of being unscathed.



Questions About Your California Domestic Violence Charge?

Call Joseph Tully at (925) 229-9700 or visit www.tully-weiss.com

Motives for False Accusations of Domestic Violence

Every individual who alleges they have suffered domestic violence has a motive for doing so. Understanding the motive behind your domestic violence charge can be extremely helpful in developing your defense.

One potential motive is that the allegations are warranted. However, as

discussed above, most accusations of domestic violence are false. There are several common motives for falsely accusing someone of domestic violence including, but not limited to:

- The accuser likes playing the “victim” role and wants the attention
- The accuser is seeking revenge against their spouse for having an affair
- The accuser wants a bigger chunk of the divorce settlement
- The accuser wants custody of the kids
- The accuser is suffering from mental health problems
- The accuser wants to get the person out of their life
- The accuser wants to keep the apartment or get their hands on the accused’s belongings

Divorce is a big instigator for domestic violence allegations. Allegations of domestic violence are made in an estimated 25% of divorces.

Custody battles are a major reason for this. Under California law, both parents should have equal custody of their children. If a wife does not want her ex-husband to have joint custody, the easiest way to remove him from the custody picture is to have him arrested for domestic violence.

The result is a restraining order, loss of visitation rights, loss of property and a terrible stain on his reputation. He may even lose his job.

An angry partner mixed with faulty police work and a biased legal system can be a lethal concoction, leading to many innocent people being wrongly convicted of domestic violence.



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California Laws Governing Domestic Violence

According to Webster’s Dictionary, “violence” is defined as behavior involving physical force intended to hurt, damage, or kill someone or something.⁹ Likewise, most individuals hear “domestic violence” and think of spouses or partners physically assaulting one another.

But under California law, no physical interaction is required for a charge of domestic violence.

Domestic violence can occur within a number of relationship types (not just spouses or partners) and may include verbal threats, destruction of personal property or even disturbing the peace. Familiarizing yourself with exactly what constitutes domestic violence under California law can help you construct a strong defense.

⁹ Violence, Merriam-Webster’s Dictionary (2017), <https://www.merriam-webster.com/dictionary/violence>.

Who Can Be Charged with Domestic Violence?

California Penal Code sections 240–248 et. seq. and 270–273.75 et. seq. define domestic violence as a criminal act within one of the following relationship types:

- Spouses or former spouses
- Cohabitants or former cohabitants in a home
- Parents of the same child
- Partners in a dating or former relationship

While this is a fairly short list, it includes a wide range of individuals. People who can charge you of domestic violence may include your wife, husband, ex-wife, ex-husband, roommate, former roommate, parent of your child, parents, grandparents, children or siblings who live under the same roof, ex-boyfriends and ex-girlfriends.

Even if you just took someone out for dinner and ended up in a one-night stand that went nowhere, that date could come back and legally accuse you of domestic violence.

What Activities Constitute Domestic Violence?

In California, the definition of domestic violence pertains to far more than just physical abuse. That one-night stand does not even have to accuse you of physical assault to get a restraining order for domestic violence.

Domestic violence under California law also includes verbal, emotional or mental abuse.

While California's domestic violence criminal charges of "domestic battery" and "corporal injury to a spouse or cohabitant" both require some kind of physical touching, other domestic violence charges apply that do not involve physical contact.

Specifically, California domestic violence laws make it illegal to use physical force or communicate threats of harm against a past or present partner, cohabitant, minor or elder. A number of criminal charges exist relating to domestic violence, including:

- Corporal injury to a spouse or cohabitant (Pen. Code, § 273.5): Willfully striking a relation in a violent way that causes visible injury.
- Domestic battery (Pen. Code, § 243, subd. (e)(1)): Willful and unlawful, harmful or offensive touching of a relation in a violent way, even without visible injury.
- Child abuse (Pen. Code, § 273, subd. (d)): Physically injuring or inflicting cruel physical punishment on a minor.
- Child endangerment (Pen. Code, § 273, subd. (a)): Allowing or causing a minor to suffer unjustifiable mental suffering, physical pain, injury or placement in a dangerous situation even without physical injury.
- Elder abuse (Pen. Code, § 368): Endangerment, neglect,

physical abuse, emotional abuse or financial exploitation of an individual 65 years of age or older.

- Criminal threats (Pen. Code, § 422): Specific, unambiguous threats (written, verbal or recorded) to physically harm or kill a relation, causing fear for their safety or the safety of others, even without intent to carry out the threat.

Other charges that are frequently associated with domestic violence crimes include:

- Damaging a telephone line (Pen. Code, § 591): Cutting or otherwise damaging phone equipment.
- Aggravated trespass (Pen. Code, § 601): Making a criminal threat with intent to scare the relation, then unlawfully entering the relation's residence or workplace within 30 days of making the threat.
- Revenge porn (Pen. Code, § 647, subd. (j)(4)): Intentionally distributing sexual photos of the relation online with intent to cause emotional distress.
- Indirect electronic harassment (Pen. Code, § 653.2): Using an electronic device to communicate information about a relation with the intent to incite a third party to harass or harm the relation.
- Threatening or dissuading a witness (Pen. Code, § 136.1): Knowingly and maliciously preventing or dissuading a witness or victim from attending or giving testimony at any trial or inquiry authorized by law.

With such an all-encompassing definition, there probably is not a person on the planet who would not qualify as an abuser or victim at some point in their life. Fortunately, most people are not going to call 911 and claim abuse over minor spats or name-calling.

Most people recognize that domestic violence is a serious issue with life-changing consequences, and do not make such claims lightly. However, “most people” does not include everybody.



More Questions About Your Specific Domestic Violence Case?

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Penalties Applied to Domestic Violence Convictions

Penalties for a domestic violence conviction can be severe. Domestic violence cases can be wobblers, meaning the same act can qualify as a felony OR misdemeanor depending on the extent of the injuries, criminal history, risk of bodily harm and other facts of the case.

Listed below are guidelines to the penalties that can apply under the California Penal Code:

Corporal Injury to a Spouse or Cohabitant (Pen. Code, § 273.5)

Willfully striking a past or present partner or cohabitant in a violent way that causes visible injury (even a slight swelling or bruise) is either a felony or misdemeanor depending on the case facts and criminal history of the offender. Misdemeanors are punishable by up to 1 year in county jail and/or a fine of up to \$6000. Felonies are punishable by up to 4 years in state prison.

Domestic Battery (Pen. Code, § 243, subd. (e)(1))

Willful and unlawful touching that is harmful or offensive against a past or present partner or cohabitant in a violent way, even without visible injury, is a misdemeanor punishable by a fine of up to \$2000 and/or up to 1 year in county jail.

Child Abuse (Pen. Code, § 273(d))

Physically injuring or imposing cruel physical punishment on a minor is a misdemeanor or felony depending on the case facts and criminal history of the offender. Misdemeanors are punishable by up to 1 year in county jail. Felonies are punishable by up to 6 years or more in state prison.

Child Endangerment (Pen. Code, § 273, subd. (a))

Causing or permitting a minor to suffer unjustifiable physical pain, mental suffering, injury, or placement in a dangerous situation (even without physical injury) is a misdemeanor or felony depending on the level of risk of bodily harm. Misdemeanors are punishable by up to 1 year in county jail. Felonies are punishable by up to 6 years in state prison.

Elder Abuse (Pen. Code, § 368)

Physical or emotional abuse, neglect or endangerment, or financial exploitation of an individual 65 years of age or older is either a misdemeanor or felony, depending on the case facts and criminal history of the offender. Misdemeanors are punishable by up to 1 year in county jail and monetary damages. Felonies are punishable by up to 4 years in state prison.

Criminal Threats (Pen. Code, § 422)

Specific and unequivocal threats (verbal, in writing or recorded) to physically harm or kill another, causing that person to fear for her safety or the safety of others (even without intent to carry out the threat) is either a misdemeanor or felony depending on the case facts and criminal history of the offender. Misdemeanors are punishable by up to 1 year in county jail. Felonies are punishable by up to 4 years in

state prison. Use of a dangerous weapon increases the sentence by 1 year.

Bias in Favor of Felonies

In general, misdemeanors are punishable by up to one year in county jail and/or a fine of up to \$1,000 to \$6,000, depending on the specific charge. Felonies are punishable by up to 3 to 6 years in prison, depending on the specific charge.

Unfortunately, cops are reviewed on how many felony arrests they make each year. More felony arrests mean more promotions and bonuses. Because most cops value these benefits over treating someone fairly, 99.9% of the time someone is going to be arrested on a felony rather than on a misdemeanor. This means higher bail and greater long-term consequences.

The district attorney also has the ability to decide whether or not a domestic violence charge is a felony or misdemeanor regardless of how the police charged it. Prosecutors will normally file the case as a felony charge if there is visible injury like a bruise or broken bone. Lesser injuries will usually qualify as a misdemeanor.

Other Consequences of Domestic Violence Convictions

In California, a domestic violence conviction will normally bring a minimum 3 years of probation, a 52-week mandatory batterer's treatment program (unless you are sentenced to prison time) and a protective order. California Penal Code section 1203.097 also requires a \$400 payment to go toward funding domestic violence programs.

If you are not a U.S. citizen, a domestic violence conviction can result in denial of naturalization or deportation, even with resident status.

Loss of Gun and Ammo Rights

Unless you want to lose gun rights for a decade of your life, you really need to fight domestic violence cases. While a felony conviction is required for most crimes to lose gun rights, under California law, you lose your gun rights for 10 years with a misdemeanor domestic violence conviction. Even a misdemeanor battery under California law triggers a 10-year firearm ban.

Moreover, it is not just all firearms, but also all bullets. I have had multiple cases where responsible gun owners, who properly surrendered their firearms, were accused of violating probation terms merely due to a few misplaced bullets.

If a police or probation officer walks through that house for a probation search and they see even one bullet, the defendant will get a probation violation and/or a new felony charge of “Prohibited Person in Possession of Ammunition.”

Basically, you can get a firearms ban for not having committed any act of violence. This can end a career in military, law enforcement or security. A good California domestic violence defense attorney may be able to prevent this by getting a lesser charge or an acquittal.

Under federal gun laws, any felony conviction results in a lifetime prohibition on firearm possession or use. While California state misdemeanor domestic violence convictions create a 10-year gun ban, the federal ban is permanent—and federal law always trounces state law.

In addition, anyone under a restraining order is not allowed to own firearms.

Under California law, a defendant does not have to be convicted of domestic violence charges to lose gun rights—a charge alone suffices. California’s burden of proof in domestic violence cases is so low that thousands of people—overwhelmingly men—are unfairly losing not only their gun rights, but most of their other rights as well.



Get Started Building Your Defense Now

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How California's System Favors the Accuser

One of the reasons fighting a domestic violence charge is so difficult is that individuals charged with domestic violence do not have the same rights as individuals charged with most other crimes.

Most crimes like murder or theft invoke procedural rules that are in place to protect the innocent from being wrongly accused. But domestic violence charges trigger a unique set of rules that place the defendant at a disadvantage right off the bat, even if they are innocent.

The procedural deck is already stacked against the alleged offender. Penalties apply at the point of arrest instead of the point of conviction. A mere arrest and protective order can result in the loss of child custody, gun rights, your home and your job.

The civil definitions for domestic violence in 32 states include being afraid, fearful, apprehensive, or experiencing emotional distress—very vague elements to work with.¹⁰

10 STOP ABUSIVE AND VIOLENT ENVIRONMENTS, EXPANDING DEFINITIONS OF DOMESTIC VIOLENCE (2010), [HTTP://WWW.SAVESERVICES.ORG/DOWNLOADS/EXPANDING-DEFINITIONS-OF-DOMESTIC-VIOLENCE](http://WWW.SAVESERVICES.ORG/DOWNLOADS/EXPANDING-DEFINITIONS-OF-DOMESTIC-VIOLENCE).

In a California domestic violence call, an arrest will almost always be made, a protective order will almost always result, and charges will NOT be dropped once filed—even when the accuser decides to recant their accusations. We see this repeatedly here in the San Francisco Bay Area from San Francisco proper to Concord in Contra Costa County.

Legal modifications that apply to domestic violence cases include:

- Mandatory arrest
- Decreased ability to drop charges
- Court orders without hearing
- Prior accusations can be used against you

Mandatory Arrest

Approximately 700,000 individuals are wrongfully arrested for domestic violence each year.¹¹ Research findings demonstrate that only 30% of those arrested for domestic violence are convicted.¹² The remaining 70% are wrongfully detained.

In fact, this may be an underestimate since many convictions are the result of a plea bargain. Innocent defendants often agree to plead guilty to a misdemeanor charge in order to avoid prison time.

11 STOP ABUSIVE AND VIOLENT ENVIRONMENTS, ARREST POLICIES FOR DOMESTIC VIOLENCE (2010), [HTTP://WWW.SAVESERVICES.ORG/DOWNLOADS/JUSTICE-DENIED-DV-ARREST-POLICIES](http://www.saveserVICES.org/downloads/justice-denied-dv-arrest-policies).

12 Garner & Maxwell, *supra note 3*.

Contra Costa County (Concord, Walnut Creek, Danville and the rest) is just one jurisdiction that has developed a “zero tolerance” policy for domestic violence. That means even if the police do not really think you committed domestic violence, they will arrest you anyway.

For them, it’s basically make an arrest or explain to their superiors why they didn’t. Making the arrest shields cops from liability in case someone accused of domestic violence later seriously injures or kills the accuser. Rather than face possible liability, the accused will almost always go to jail, regardless of guilt or innocence.

Police officers responding to a domestic violence call must follow strict protocol. State guidelines may not prove as strict as those in a particular county or city. In the majority of domestic violence calls, the whole “investigation” takes just a few minutes. Police cannot take into account the following, according to state guidelines:

- Non-visible injuries
- The accuser’s emotional state
- The accuser’s history of prior complaints
- The accuser’s history that an arrest be made or not be made

Thus, it is entirely possible that an angry accuser who has made false allegations in the past and has no apparent injuries causes the false arrest of another.

Decreased Ability to Drop Charges

For most criminal cases, an accuser or prosecutor can drop charges anytime they feel the defendant is innocent or that winning a case is impossible. But in domestic violence cases, the accuser and the prosecutor may not simply drop the charges.

There are two reasons for this: First, the state of California treats domestic violence crimes as crimes against the State. Even if the complaining witness recants their allegations, prosecutors may still press charges on behalf of the State. Second, California domestic violence laws assume that the complaining witness will want to protect their abuser.

When a “victim” later recants—admitting he lied and no abuse actually occurred—prosecutors will usually continue on, using the complaining witness’ original allegations in court and claiming that the “victim” just recanted their allegations because they were scared of the alleged abuser.

This “no drop” policy means that, once accused, the defendant will find having charges dismissed very difficult, if not impossible. One major reason for this no-drop policy is “battered woman syndrome,” the common phenomenon where an abused woman tends to side with their abuser—often out of extreme fear.¹³

13 Lenore E. Walker, *Battered Woman Syndrome*, PSYCHIATRIC TIMES (JULY 7, 2009), [HTTP://WWW.PSYCHIATRICTIMES.COM/TRAUMA-AND-VIOLENCE/BATTERED-WOMAN-SYNDROME](http://www.psychiatrictimes.com/trauma-and-violence/battered-woman-syndrome).

The problem is that now the prosecutors and judges assume that every “victim” in every domestic violence case is suffering from battered woman syndrome and wants to protect the “abuser.” In fact, district attorneys have a higher win rate in trial when the complaining witness comes to court and fully recants, admitting to previous lies, than when she comes to court and testifies it happened!

They feel that an accuser changing their mind to support the accused is actual evidence that the accuser was abused in some way.

A good percentage of domestic violence accusers recant their accusations, but that often does nothing to help the accused. A recantation does not drop the charges, in fact it happens so often that the prosecution team and judge are expecting it. A recant can actually bolster the prosecution’s case.

Court Orders Without Hearing

If the cops have reasonable grounds to believe that someone is in immediate danger, the court may issue an immediate “ex parte” protective order upon arrest—without requiring a hearing. Judges, not juries, hand out these protective orders (and do not hesitate to do so).

These orders prohibit contact between the complaining witness and alleged abuser until the hearing, including kicking you out of your own home. Violating this order can get you arrested for violating a

protective order, even if you are acquitted for the original domestic violence charge.

If you are convicted, the court may issue an order preventing you from having contact with the victim for up to 10 years.

Through an *ex parte* protective order, a judge can order a defendant not to stalk, threaten or harass the protected party. While you cannot be convicted under domestic violence for just words (unless it is a criminal threat), you could be found in violation of a court-issued protective order for being in the vicinity of someone who you were ordered not to stalk or harass—even if you accidentally run into them at the grocery store or on the street.

A violation of a protective order can result in an additional crime, the most common being criminal threats (Pen. Code, § 422), threatening or dissuading a witness (Pen. Code, § 136.1) and violating a court order (Pen. Code, § 166, subd. (a)(4)). Both Penal Code sections 422 and 136.1 can be felonies and, as such, are strikes. They are punishable by up to one year in jail or three years in prison.

Prior Accusations Can Be Used Against You

It is a time-honored, even ancient, principle of law, that the system cannot use prior convictions against you to prove a new conviction.

This prevents the cops from relying on “the usual suspects” just to close the books on a new crime.

For instance, the fact that someone committed three bank robberies twenty years ago has nothing to do with whether or not they robbed a bank last week. The prior bank robberies would not be allowed in a new trial unless they had unique value as evidence.

However, in a domestic violence trial, all those centuries of law are thrown out the window in an effort to gain an easier conviction for the prosecutor. If your ex-spouse is friends with your current spouse and they commiserate together, the district attorney can bring in the ex-spouse to talk about what a horrible person you were—and there’s nothing you can do about it.



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Powerful Defense Strategies for Domestic Violence Charges

The key to beating a domestic violence charge is to fight. Don’t ignore it and hope it will go away.

Domestic violence charges tend to grow worse the more time you give

them. You must equip yourself with every possible tool and prepare to do battle.

This is where a top-rated California domestic violence defense attorney is indispensable. An attorney with decades of experience winning domestic violence cases is going to know every nuance of even the most complex cases and be able to pull out all the stops.

An experienced California domestic violence defense attorney is going to have several powerful defenses available. Common defense strategies used to fight domestic violence charges in California include:

- Disproving the charge
- Factual contradiction
- Self-defense
- Defense of others
- Defense of property
- Accidental injury
- False accusation
- Mistaken identification
- Right to free speech
- Illegal search and seizure
- Police misconduct/entrapment
- Prosecutorial misconduct

Disproving the Charge

Each type of violation has a set of elements that the state is required to prove beyond a reasonable doubt (meaning more than 50:50). Your California domestic violence defense attorney will attempt to show that one or more of these elements were not present.

The elements required to prove each charge are as follows:

- Corporal Injury to a Spouse or Cohabitant: The prosecutor must prove that (1) you willfully inflicted physical injury on someone (2) that resulted in a traumatic condition, and (3) the person injured was a past or present partner or cohabitant.¹⁴
- Domestic Battery: The prosecutor must prove that (1) you willfully touched another person, (2) the touching was harmful or offensive, and (3) the person touched was a past or present partner or cohabitant.¹⁵
- Child Abuse: The prosecutor must prove that (1) you willfully inflicted cruel and inhuman punishment and/or injury on a minor, (2) that the punishment or injury caused the minor to suffer a traumatic physical condition, and (3) your actions were not part of reasonable discipline.¹⁶
- Child Endangerment: The prosecutor must prove that (1) you willfully inflicted, caused or permitted a minor to undergo

14 CALCRIM No. 840 (2017), <https://www.justia.com/criminal/docs/calcrim/800/840.html>.

15 CALCRIM No. 841 (2017), <https://www.justia.com/criminal/docs/calcrim/800/841.html>.

16 CALCRIM No. 822 (2017), <https://www.justia.com/criminal/docs/calcrim/800/822.html>.

unjustifiable physical pain, mental suffering, injury or placement in a dangerous situation, or acted under circumstances likely to produce great bodily harm or death, (2) you were criminally negligent (in certain cases), and (3) you did not act while reasonably disciplining the minor.¹⁷

- Elder Abuse: The prosecutor must prove that (1) you willfully or negligently subjected (or caused another to subject) an elder to physical pain or mental suffering, (2) your actions were likely to endanger life or health of the elder or produce great bodily injury or death, and (3) you knew or reasonably should have known that the victim was of age 65 or older.¹⁸
- Criminal Threats: The prosecutor must prove that (1) you willfully threatened to kill or seriously injure another, (2) you intended your communicated statement to be a threat, (3) the threat was so unequivocal, unconditional, immediate and specific that it conveyed an immediate possibility of execution, and (4) that the threatened individual feared for their safety or the safety of their immediate family.¹⁹

Factual Contradiction

This defense works well when your defense lawyer can produce evidence contradicting the allegations. This evidence might include wit-

¹⁷ CALCRIM No. 821 (2017), <https://www.justia.com/criminal/docs/calcrim/800/821.html>.

¹⁸ CALCRIM No. 830 (2017), <https://www.justia.com/criminal/docs/calcrim/800/830.html>.

¹⁹ CALCRIM No. 1300 (2017), <https://www.justia.com/criminal/docs/calcrim/1300/1300.html>.

ness statements, receipts or other documents that support your claims of innocence or strengthen your alibi.

Self-Defense

In California, if you reasonably believe that you are in imminent danger of being unlawfully touched, killed or injured, you may take reasonable measures to defend yourself. This defense strategy is especially successful when evidence shows the complaining witness initiated an altercation.

“Imminent” usually means right then and there, so if a partner threatened you previously, it is difficult to argue self-defense if you waited a period of time to use physical force. However, a lawyer might establish that you were in a state of fear of harm because of the previous actions of the person accusing you.

In this defense, the response to the fear must be proportional to the danger. If the person was simply raising his or her voice, hitting them won't meet the self-defense criteria. If the person was threatening harm to you but hadn't touched you and had no weapon, self-defense becomes a murky area.

Any self-defense strategy boils down to whether your actions during the incident were reasonable or unreasonable, and much comes down to appearances, unless there is strong evidence in favor of self-defense.

For example, a smaller woman claiming her actions were self-defense against a larger man appears on the surface as more credible than the opposing scenario. However, if she was lunging at the man with a knife, he has the right to defend himself against the potential assault if he can prove she presented harm to him first. If she did not have a weapon but tried to hit him first, his defense still must be “reasonable.”

Grabbing her by the arms to stop her is reasonable; knocking her unconscious is not. Since the entire case may rest on “he said, she said,” along with evidence of any injuries, it is imperative that the accused hire a skilled lawyer who can mount a thorough investigation of the incident.

An experienced domestic violence lawyer works to prove you exerted only reasonable force. Each domestic violence case is different, and it’s safe to say that many of them are complicated.

Your attorney must prove to the court or jury that you had reasonable grounds to believe you were in imminent danger and you had to defend yourself, and that you exerted no more force than necessary to defend yourself.

A judge or jury can take into consideration whether your accuser made previous threats to cause you harm, or actually did harm you in the past. Evidence such as threatening texts, emails or voicemails can bolster your self-defense claim.

Defense of Others

Similar to self-defense, if you reasonably believe that someone else was in imminent danger of being unlawfully touched, killed or injured, you may take reasonable measures to defend them. This defense is often used in cases where a child was present and in potential danger.

As with personal self-defense, you must “reasonably believe that the other person is in imminent danger of being killed, injured or touched unlawfully.”

Defense of Property

In certain cases, California’s defense of property law may apply. Again, the danger to your property must be imminent. If your ex shows up at your house with a baseball bat and starts breaking your windows or destroying your car, you have the right to physically restrain him or her in defense of your property. Remember, the physical restraint must be reasonable.

Taking the bat and using it to hit the person in the head would not be reasonable physical restraint.

Accidental Injury

This defense can be useful when the defense attorney can show you

had no intent to harm anyone, were not acting negligently and were otherwise engaged in lawful activity at the time of the alleged incident.

False Accusation

When your domestic violence lawyer can show evidence that a spouse has a motive behind making false allegations, like greed, anger, jealousy or revenge, this can be a strong defense. This defense is useful in the midst of breakups, divorce, child custody battles or other domestic trials.

Mistaken Identification

When the identity of the person who caused an injury is questionable, a domestic violence defense lawyer can try to demonstrate that reasonable doubt exists regarding the identity of the abuser. Perhaps three people were present in a dark room and the complaining witness cannot be certain exactly who injured them.

Right to Free Speech

Since California's criminal threat law does not apply to constitutionally protected speech, mere angry outbursts, which lack the legal elements of a crime, do not qualify for a domestic violence charge.

If you have been arrested on charges of domestic violence but your

accuser is claiming threats or harassment rather than physical abuse, it is quite possible your right to free speech is being violated. We see this kind of accusation all the time in courts in Northern California, from Alameda County to San Francisco County.

This is why it is essential to contact a lawyer focused on defending domestic violence charges immediately if you are arrested. It is quite possible that what you are alleged to have said is not a crime at all.

Under California law, verbal abuse includes “making someone reasonably afraid that he or she or someone else is about to be seriously hurt (such as threats or promises to harm someone).”

Simply getting mad at an ex and saying nasty things does not constitute verbal abuse as it pertains to a domestic violence charge. “I am going to kill you if you don’t get off the phone right now,” is rightly perceived as a threat. “I hate you and wish you would drop dead,” is a hurtful thing to hear, but contains no threatening language.

Because two people in an emotional, angry situation, do not always recall what exactly was said, accusations of threat may also lead to a factual contradiction defense. If there is any evidence that you did not use threatening language—such as video or audio recordings—this can help your case.

So can any witness testimony that may contradict your accuser’s version. Your attorney will examine all police and other pertinent reports

for any inconsistency in the accuser's statements. A cross-examination of the accuser will highlight such inconsistencies and contradictions.

Illegal Search and Seizure

If the police gathered the evidence used against you in an unconstitutional manner, used an invalid search warrant or searched areas outside the terms of a warrant, that evidence may not be eligible to use against you in court.

This is called a suppression motion or, in California, a Penal Code section 1538.5 motion. Do not hold your breath on this though, judges are more apt to cheer prosecutors and police on it in court than rule against them. Still, these motions should be filed where applicable and can also be a valuable source of seeing how the cops act on the stand.

Police Misconduct and Entrapment

Because there is such a strong bias by law enforcement against the accused in domestic violence situations, it is not unusual for police to engage in misconduct when dealing with a person accused of domestic violence.

If the cops use intimidation, false arrest, racial profiling or brutality to create charges of domestic violence against you (and you can prove it in court) the charges will most likely be dismissed.

Again, a typical judge is more likely to pull out pom-poms and cheer on the prosecutor and police officer rather than use a gavel to dismiss their case. But still, these motions must be filed and aggressively fought and they can be won.

We see these situations every day in courthouses from Alameda to Napa to Sacramento. If you think the police mishandled your case, it's a question of proving it to the judge and jury. Make sure to tell your lawyer if any of the following happened:

- Did the police deny your request for an attorney?
- Were you read your Miranda—right to remain silent—rights?
- Was there a police interrogation that was not recorded?
- Did the police ask for your side of the story prior to the arrest?
- Do you feel the police used racial profiling in the way you were treated? For example, did you hear an officer say something along the lines of, “All these XXX beat their women.”
- Were you physically brutalized by the police?

Your lawyer can use these and other mistakes or omissions to prove police misconduct was involved.

Prosecutorial Misconduct

Even if the police did not mishandle your case, it is possible that the prosecutor did. A prosecutor's job is to get convictions. They often

overstep boundaries in their zeal to win at all costs, not caring about innocent parties being found guilty.

This defense is useful if the prosecutor does not follow proper procedure, tries to sway the jury toward a wrongful conviction or attempts to impose an overly harsh punishment. Your lawyer will know if the prosecutor did not follow proper procedure or invited the jury to speculate about issues for which no evidence was offered.

Getting Domestic Violence Charges Dropped

Even if your accuser wants to “drop the charges,” that’s not going to help keep the case from going to court, and it will not help to keep you from paying large fines and/or going to jail. Getting domestic violence charges dropped is rare in the state of California and usually not even an option.

However, under certain circumstances, an experienced domestic violence defense lawyer may be able to persuade the prosecutor to offer a plea agreement, reduce charges to a lesser offense or drop charges altogether if he or she can demonstrate one or more of the following:

- Little to no evidence of abuse
- The complaining witness isn’t credible
- The complaining witness has a motive to lie
- The complaining witness chooses to defend alleged abuser
- The complaining witness statements are inconsistent

- The defendant has a strong alibi
- The defendant has no prior domestic violence offenses

A number of other possible defense strategies may exist depending on the specific circumstances of your case. An experienced California domestic violence lawyer will be able to use every applicable defense to help you fight a domestic violence charge.



Get Started Building a Powerful Defense Today

Call Joseph Tully at (925) 229-9700 or visit www.tully-weiss.com

Procedural Tactics Used in Domestic Violence Charges

There are a number of facts about the legal process that are good to know if you have been accused of or arrested for domestic violence or are facing a preliminary hearing or trial.

Domestic violence calls almost always involve a police report, an emergency protective order, a potential preliminary hearing if the case is a felony, and perhaps a private restraining order from the complaining witness. Understanding the tactics that cops, prosecutors and your defense attorney use during these steps can help put you in a better position to protect your rights and defend your case.

Police Report

When cops are called to a domestic violence scene, they are going to write their report to create as airtight of a case as possible. The arrest depends on the evidence gathered at the scene and identifying the “abuser” versus the “victim.” The officer will decide who the “victim” is, record any damage to the premises, take photos of any injuries and record statements from the complaining witness, supposed abuser and any witnesses.

Since an arrest is normally required for a domestic violence call, cops are not going to leave themselves up for liability writing a report that does not justify an arrest. Otherwise, you could turn around and sue them for false arrest.

In their police report, cops will normally guide the conversation with the complaining witness to make it all sound believable and legally accurate. The police will then write their narrative to justify their report.

Restraining Order

The police will usually advise the complaining witness if they want to follow up with a restraining order. This is where your defense case starts looking better. Complaining witnesses will usually get a restraining order on their own, or a day or two later after the prodding of their friends and/or law enforcement.

Whereas the police report is written by a legal professional to sound believable and make the case airtight, the restraining order is written by the complaining witness who usually goes off the rails and starts lying and/or exaggerating. While the police report may state that the complaining witness said they were “shoved twice,” the restraining order may read, “I was shoved and pushed four times, punched five times. Then once I was on the ground, I and was kicked eight times.”

Restraining orders must be written under oath. This makes them a valuable tool for defense attorneys defending a domestic violence case, who can compare them to the police report and determine if a complaining witness is lying.

Preliminary Hearing

One thing that people should be aware of in domestic violence cases are the different strategies used by defense lawyers in preliminary hearing versus jury trial. An experienced defense attorney will attempt to obtain every discrepancy in the complaining witness’ story at the preliminary hearing.

This means your attorney will induce the complaining witness to talk about the events as much as possible. Every word will then be used to compare with complaining witness statements contained (1) on the police report, (2) in the restraining order and (3) to what the complaining witness testified to under oath in court for the prosecutor.

In many cases of false allegations, at preliminary hearing the complaining witness will exaggerate the injuries and alleged misconduct more than they did in the restraining order, and even more than they did with the police officer.

The defense attorney can pinpoint these discrepancies later and use them to show the jury that the complaining witness is not credible. The three narratives are often very different if not completely inconsistent.

It is important to remember that your attorney is not doing you a disservice by urging the complaining witness to exaggerate their claims more and more and more at a preliminary hearing. This is a technique used to your benefit. A liar will want to keep lying and lying if given the opportunity.

For example, if the witness says, “Yes, this happened during the day time,” and you know for sure it happened during the night, the defense attorney will try to pin the witness down to their day time story.

Lawyer: *“So, Witness, you told the police officer that this happened during the day?”*

Complaining Witness: *“Yes, I did.”*

Lawyer: *“And that was accurate?”*

Complaining Witness: “Yes.”

Lawyer: “*And you remember it being during the day, specifically?*”

Complaining Witness: “Yes.”

Lawyer: “*And, you remember it being during the day because the sun was out?*”

Complaining Witness: “Yes.”

Lawyer: “*And you specifically remember the sun being out?*”

Complaining Witness: “Yes.”

Lawyer: “*And, you remember it was during the day because you remember there were shadows. The sun was out and it was causing shadows?*”

Complaining Witness: “Yes.”

Lawyer: “*And, you specifically remember seeing shadows caused by the sun because this happened during the day?*”

Complaining Witness: “Yes.”

Once the witness is pinned down to his lie, when your attorney confronts him later during jury trial with proof that it happened during the night time, he cannot change the story and say, “Oh, I misspoke and said ‘day’ but I meant ‘night.’” This is another technique you want your defense attorney to employ during a preliminary hearing on a domestic violence case.

Jury Trial

Jury trial techniques are the exact opposite. In jury trial, the defense attorney will use a very narrow narrative, staying on the facts of the case and highlighting only those facts that are beneficial to the client.

Your defense attorney will also wait until jury trial to ‘out’ the accuser’s false statements. No mention of the accuser’s false statements will be made during the preliminary hearing. They will just be allowed to talk and talk.

It is only at jury trial that the accuser will be confronted with their inconsistencies between testimony, police reports and restraining order statements.

Check out our videos at www.tully-weiss.com for more information on preliminary hearings, misdemeanor procedure and felony procedure.



Let Us Help You Protect Your Freedom and Future

Call Joseph Tully at (925) 229-9700 or visit www.tully-weiss.com

What to Do If You Are Accused of Domestic Violence

Recognizing what constitutes domestic violence under California law and familiarizing yourself with potential defense strategies is the first step toward safeguarding your rights and freedom. Equally as important is knowing what to do should you be accused of or arrested for domestic violence.

Step 1: Contact A California Domestic Violence Defense Attorney

Every American citizen, innocent or guilty, has the right to make the legal system prove their guilt beyond a reasonable doubt before being punished for a crime. The role of the domestic violence defense attorney is to protect their client and make sure the government plays by the rules.

A good domestic violence defense attorney has years of experience defending these types of cases and wants to impart that valuable experience to their client.

Domestic violence convictions have dire consequences that can affect an individual for the rest of his life. Without a knowledgeable and experienced attorney on your side who understands how to communicate your side of the story to the judge and jury, the domestic violence system can swallow you whole.

Considering Using a Public Defender or other Court-Appointed Attorney?

While these attorneys are good at what they do, there is no guarantee that they, (1) are well-versed in domestic violence defense or (2) can dedicate enough time to your case to successfully fight a domestic violence charge in California.

An experienced California domestic violence attorney is your best bet to achieve the most favorable outcome.

Perhaps the biggest downside of using a public defender for a domestic violence case is that a public defender can only help you once you go to court and the judge appoints them. On the other hand, a private attorney can:

1. Help you with bail and even get you a discount since bail bondsmen recognize someone hiring a private attorney will not skip out on their case.
2. Get started immediately on defending your case, including

- hiring a private investigator to take pertinent witness statements while memories are still fresh (a vindictive lover can often feel guilty the next day and will welcome speaking to a private investigator to clear the air about the person they just had falsely arrested).
3. Begin negotiating with the district attorney before their office decides whether or not to file charges.

With the right defense attorney with the right investigation, sometimes the district attorney will decline to file charges altogether.

Even if you do not want to hire a lawyer at all or want to use a public defender, a free consultation with an experienced California attorney who specializes in domestic violence charges can give you invaluable advice on how to best deal with your situation—for free.

Step 2: Gather Evidence to Support Your Defense

Often, a domestic violence accusation is one person's word against another's, with little to no direct evidence available to support either side. Because domestic violence does not equate to physical injury under California law, whether or not the accuser has any physical injuries is immaterial.

However, many times there IS evidence that a person intends to make a phony domestic violence allegation. That's especially true in the midst

of a divorce or breakup where child custody is involved. A domestic violence allegation—not necessarily a conviction—can quash your chances of getting custody, and the other parent knows that.

If you are in the midst of a nasty breakup, you may have evidence of your ex's mindset in old texts and emails.

If the other person threatens to harm you over custody or a divorce settlement, that is a text or email your lawyer really needs to see. If you recall such a message but deleted it, go online to find out how to restore deleted messages on a particular phone or system or contact a technician to help you recover deleted files.

If the accuser has ever made similar threats against another party, let your lawyer know.

If you have evidence that you were not present during the time the accuser says the domestic violence incident occurred, or information the accuser gave the police is false, hunt that evidence down. That may include cell phone records, if the accuser referenced phone calls you did not make, or timed receipts from any place of business coinciding with the period in question.

If you have witnesses who can swear you were with them during that time, find them and provide your attorney with their contact information.

While an experienced California domestic violence attorney will have extensive investigative resources to gather all evidence surrounding your case, any evidence to support your innocence—photos, audio recordings, video, documents or records—can be extremely valuable.

Step 3: Protect Yourself During the Process

From the moment you are arrested for or accused of domestic violence, it is critical that you protect your rights and your defense case. Specifically:

- Do not speak to law enforcement, media, the accuser or others about your case without your lawyer being present.
- Refrain from posting anything about your case on social media or other internet vehicles.
- Do not argue with your accuser. In many cases, the accuser will attempt to provoke an argument (often while recording your voice) to support their allegations of domestic violence. In general, maintain as little contact as possible with your accuser.
- Obey your protective order. Whether you are convicted for domestic violence or not, disobeying a protective order is a separate crime in itself. Disobeying a protective order can also harm your domestic violence case and potential penalties.
- Attend all court dates. Your California domestic violence defense attorney can help ensure that you understand all

required dates and deadlines you must meet to keep your case on track.

Do not hesitate to contact us with questions about your case. If you have been accused of or arrested for domestic violence in California, contact California domestic violence defense attorney Joseph Tully now for a free, confidential, no-obligation case consultation.



We Can Answer Your Questions In A Free Case Consultation
Call Joseph Tully at (925) 229-9700 or visit www.tully-weiss.com

APPENDIX

Frequently Asked Questions About Domestic Violence Charges

Who can be charged with domestic violence?

California Penal Code sections 240-248 et. seq. and 270-273.75 et. seq. define domestic violence as a criminal act between spouses or former spouses, cohabitants or former cohabitants in a home, parents of the same child or partners in a dating or former dating relationship.

What does California law consider domestic violence?

Under California law, several acts (including verbal threats, physical injury, emotional or mental abuse) may constitute domestic violence. Property damage, stalking and internet harassment may also be considered forms of domestic violence.

Specific charges of domestic violence include corporal injury to a spouse or cohabitant, domestic battery, child abuse, child endangerment, elder abuse and criminal threats.

What are the potential consequences of a domestic violence conviction?

In California, the same act of domestic violence can qualify as a felony OR misdemeanor depending on the extent of the injuries, criminal history, risk of bodily harm and other facts of the case. In general, misdemeanors are punishable by up to one year in county jail and/or a fine of up to \$1,000 to \$6,000, depending on the specific charge.

Felonies are punishable by up to 3 to 6 years in prison, depending on the specific charge.

Domestic violence convictions normally bring a minimum 3 years of probation, a 52-week mandatory batterer's treatment program (unless you are sentenced to prison time) and a protective order. California Penal Code section 1203.097 also requires a \$400 payment to go toward funding domestic violence programs. If you are not a U.S. citizen, a domestic violence conviction can result in denial of naturalization or deportation, even with resident status.

Under California law, you lose your gun rights for 10 years with a misdemeanor domestic violence conviction. Under federal gun laws, any felony conviction results in a lifetime prohibition on firearm possession or use. In addition, anyone under a restraining order is not allowed to own firearms.

A defendant does not have to be convicted of domestic violence charges to lose gun rights—a charge alone suffices.

How can I defend a charge of domestic violence?

Depending on the facts involved in your specific case, your California domestic violence defense attorney will be able to construct your defense using one or more of several defense strategies.

These defense strategies may include: disproving the charge of domestic violence; showing a factual contradiction; arguing self-defense, defense of others or defense of property; arguing accidental injury; showing a false accusation; arguing mistaken identification; arguing your right to free speech; or dismissing evidence or other components of the case because of illegal search and seizure, police misconduct, entrapment or prosecutorial misconduct.

How much evidence do I need to prove my innocence?

In many cases, direct evidence of domestic violence may not be available. The court therefore accepts circumstantial evidence.

While an experienced California domestic violence defense attorney will have extensive investigative resources to gather all evidence surrounding your case, any texts, emails, photos, audio recordings, video or other records involving the incident in question, your accuser's motives or your accuser's character can be helpful in defending your case.

What should I do if I have been arrested for domestic violence?

Call an experienced California domestic violence defense lawyer immediately—before you speak with investigators, police, your accuser or others. Your lawyer will answer all of your questions and guide you through the appropriate procedures in a way that safeguards your rights and future.

What does a domestic violence defense lawyer do?

The domestic violence defense lawyer is the single most important tool anyone accused of domestic violence uses to protect their rights, freedom and future. From the instant someone accuses you of domestic violence, these important advocates help direct your every move. Why?

An experienced California domestic violence defense lawyer can:

- Help you with bail and even get you a discount since bail bondsmen recognize someone hiring a private attorney will not skip out on their case.
- Get started right away on defending your case, including hiring a private investigator to take pertinent witness statements while memories are still fresh.
- Begin negotiating with the district attorney before their office decides whether or not to file charges.

- Explain the legal process and procedures involved in California domestic violence cases.
- Navigate the challenges regarding the California domestic violence system.
- Help protect your rights, reputation and future throughout the process.
- Explain how you should approach conversations with law enforcement and your accuser.
- Help you gather documents or evidence that can be helpful for your case.
- Locate and expose weaknesses in the prosecution's argument.

What happens once I contact a domestic violence defense lawyer?

Your first consultation with a domestic violence defense lawyer often involves a confidential discussion around your situation and potential defenses that may be applicable to your case. Based on your specific information, your lawyer will discuss how best to proceed. Our initial consultations with clients are free of charge.



Let Us Answer Your Questions About Domestic Violence Charges
Call Joseph Tully at (925) 229-9700 or visit www.tully-weiss.com

Dos and Don'ts of Domestic Violence Cases

Do not speak to the police without your attorney present

You may think you can easily explain the situation to law enforcement—it's so obvious to you that your partner has issues—but it rarely works that way in real life. Remember that anything you say can be used against you, and your lawyer is there to make sure you do not cross the line.

If possible, do not speak to or have any contact with your accuser

If the individual contacts you via text or email, do not reply, but save all text messages and/or emails to show your attorney. Your lawyer can guide you on how to address your accuser.

Always have a third party with you

If you cannot avoid having some sort of contact with the person accusing you, such when you must pick up your child, always have a third party with you. The third party might also record the contact on his or her phone. Have as little interaction with the accuser as possible and do not respond to any provocations.

Write down what happened

As soon as possible, write down a detailed account of what happened during the incident to the best of your recollection. Include any dates, times, what was said from both sides and any names of others who were present. This information can be valuable to your defense.

Do not violate any aspect of the restraining order

Even if it seems trivial. It is essential that you stick to the restraining order's requirements absolutely. If you have any questions, contact your lawyer.

Change your personal passwords and usernames

If your accuser has access to this information, change your usernames and passwords on your social media, email, cellphone and other important accounts. You don't want the person to start sending malicious texts from your accounts pretending that they are from you.

Top 4 Mistakes Made After a Domestic Violence Accusation

Mistake #1: Failing to contact a lawyer immediately

The advice and guidance of an experienced California domestic violence defense lawyer is critical from the moment you suspect you are being accused of domestic violence.

Speaking with law enforcement, investigators, your accuser or others about your case, or attempting to defend yourself without the guidance of your lawyer can damage your case in the future. Your lawyer is there to protect your rights and the success of your defense. This protection must begin immediately upon the discovery of a domestic violence accusation.

Mistake #2: Failing to take a domestic violence accusation seriously

Many people accused of domestic violence think, “she will change her mind and drop the charges,” or “I’m not guilty so I’m not worried about it,” without considering the fact that they could lose their freedom, career opportunities, child custody, gun rights and more.

Don’t be afraid to contact an experienced domestic violence defense lawyer right away. Better to be mistaken than to be right and have

prosecutors continue pushing the case against you forward to a felony conviction.

Mistake #3: Failing to keep a detailed written log of information

From the moment you are accused of domestic violence, create a safe place to log information, including specific dates, times and places of any related event, any prior related incidents, and any names of relevant individuals who may have witnessed an event.

These details can be critical to proving your case and protecting your rights.

Mistake #4: Reporting concerns to the wrong individual

In some situations, it may seem easiest to discuss your concerns about the domestic violence charge on social media, or with your accuser or a police officer. Keep in mind, however, this can damage your ability to defend your case in the long run. Your lawyer can help you determine the proper practices for protecting your rights.



More Questions on California Domestic Violence Charges?

Call Joseph Tully at (925) 229-9700 or visit www.tully-weiss.com

5 Helpful Resources on Domestic Violence Defense

Resource #1: Reasonable Doubt Blog

The Tully & Weiss Reasonable Doubt Blog is continually updated with information regarding California criminal defense, changes in the legal system, cases of vindicated victims of the California legal system and novel ways to protect your rights and freedoms as an American citizen.

Read the Tully & Weiss Reasonable Doubt Blog at <http://www.tully-weiss.com/blog.php>.

Resource #2: *California: State of Collusion* by J. Tully (Sutton Hart Press)

To learn more about the realities of the California legal system and how you can protect yourself from misconduct by law enforcement, prosecutors and abuses of power by government officials, read Joseph Tully's latest book, *California: State of Collusion*. Subjects in this volume include conspiracy, cover ups, racial prejudice, sociopathic cops, backroom deals, and other outrages against legitimate society that are an unfortunately widespread in California's criminal justice system.

Resource #3: California Felony Procedure

Informative video discussing how CA criminal courts handle felony cases. A legal insider's Felony Procedure 101 for people charged with felonies: Here's what happens at each stage of the process.

View the video at <http://www.tully-weiss.com/video.php?article=joseph-tully-felony-procedure> 32.



Resource #4: California Misdemeanor Process and Procedure

Informative video explaining California's misdemeanor process and procedure for people charged with a crime in California.

View the video at <http://www.tully-weiss.com/video.php?article=joseph-tully-california-misdemeanor-procedure> 34.



Resource #5: California Bail Process

Informative video covering how a California criminal defendant can use the bail process to get out of jail while awaiting trial.

View the video at http://www.tully-weiss.com/video.php?article=joseph-tully-california-bail-process_33.





Learn How To Fight Your California Domestic Violence Charge
Call Joseph Tully at (925) 229-9700 or visit www.tully-weiss.com

5 Essential Criteria for Hiring a Qualified Domestic Violence Defense Lawyer

Selecting your California domestic violence defense lawyer could be the single most important decision you make. The right lawyer can mean the difference between a successful defense and the loss of your freedom and future opportunities.

Because of the complex California domestic violence defense process, potential procedural obstacles and the aggressive opposition, those accused of domestic violence in California need a California domestic violence defense lawyer with the specialized expertise, investigative resources and extensive track record required to win these important and difficult cases.

Here are a few factors to consider in hiring an experienced California domestic violence defense attorney:

Experienced & Proactive Criminal Defense Team

Your domestic violence defense attorney should lead an aggressive team of investigators, lawyers, and paralegals with a great record of

positive outcomes. If you are charged with domestic violence in California, your lawyer's team must have complete focus on keeping you out of jail and minimizing the effect of the domestic violence charges on your career, family, and future.

High-Level Criminal Trial Experience

Your domestic violence defense lawyer must have a superb level of criminal trial experience including rough and complex trials against shrewd prosecutors in front of tough juries, preferably holding the elite expert status of California Criminal Law Specialist, a State Bar designation affirming a beyond-the-norm experience, expertise and effectiveness in criminal law.

Impressive Track Record Of California Criminal Defense Wins

Your domestic violence defense lawyer must have an exceptional track record in the most difficult felony and misdemeanor charges across California including murder and violent felony crimes, criminal domestic violence and assault, firearm and gun crime offenses, federal and California state white collar cases, sex offenses and internet crimes, misdemeanors and DUI defense, California and federal drug charges and marijuana criminal defense.

Reputation for Outworking Police and Prosecutors

Your domestic violence defense attorney must be willing to uncover every defect in the prosecutor's case. They must demand and receive early on the proof against you including police reports, witness statements, and physical evidence and scrutinize each for defects.

They must review your charges and arrest for violations of your Constitutional rights or police misconduct and have a team of investigators who work to expose untruthful witnesses, reveal tainted evidence, uncover lies or speculation in the prosecution's case, and identify any history of disciplinary problems among the police involved.

At Tully & Weiss, we do this and much more for every client, quickly and long before a trial to find a way to have the charges reduced to something nominal or completely dismissed with minimal disruption to your life, family, and job. We know what's at stake and what we have to do. We turn the tables on the government – hard and fast, always.

We Work Aggressively to Defend Your Rights - Your Freedom - Your Future

If you or someone you know is facing false or exaggerated claims of domestic violence, act fast!

Police and prosecutors are already working to build their case against

you. Our domestic violence defense lawyers at Tully & Weiss will work to aggressively defend your case from the moment you contact us.

Tully & Weiss criminal defense lawyers represent people accused of domestic violence across Northern California. If you or a loved one has been charged with domestic violence, call us at once for a free, confidential discussion of your options.

TULLY & WEISS
CALIFORNIA CRIMINAL DEFENSE ATTORNEYS

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FOCUSED ON YOUR LIBERTY

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About the Author

Author Joseph Tully founded and leads a high profile California criminal defense and civil rights law firm, Tully & Weiss - that helps people defend their liberty and reputation in a broken criminal justice system.



His remarkable record of earning Not Guilty verdicts is based on his willingness to fight back and win against state and federal law enforcement's presumption of guilt and bullying based system.

Joseph's elite status among California criminal lawyers has made him a go-to expert for media commentary ranging from the *Los Angeles Times* to San Francisco bay area and national television media outlets. A sought after speaker on the government's criminal justice failures and a broadly read blogger, Joseph Tully's new book *California: State of Collusion* releases early 2018 with Sutton Hart Press.

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