



**THE REALITY OF  
FAMILY VIOLENCE CASES**

## The Reality Of Family Violence Cases

These are winnable cases. Remember this as you read through this guide because you must know that being charged does not equate to guilt. Many people have been charged with a family violence issue, and they assume that receiving a fine and/or jail time is a foregone conclusion. You may see this amongst people who get a DWI after failing a breathalyzer. The thought most people have is this: How can I possibly beat this?

It's a question you do not have to answer; your attorney will. Instead of analyzing the facts, bring them to a lawyer. Firms like ours have systems for handling your case. This guide aims to give you an understanding of what a family violence case is, the risks you face if you have been charged in connection to one, and why an attorney can help you resolve this obstacle in your life.

### Family Violence Cases

Family violence, which is also commonly referred to as domestic violence, occurs when one family member does something against another family member with the intent to cause physical harm, sexual assault, or assault. These also extend to making threats against a family member regarding assault, physical harm, or sexual assault.

What constitutes a family member? For example, your spouse is clearly a family member, but what about an in-law? A family member is anyone related to you by blood or marriage. It also applies to:

- Legally adopted children
- Current or former members of a household

These may also apply to people who are dating as well. Laws in Texas classify this as "dating violence" but may deliver the same outcome as a family violence charge.

Typically, these cases begin when someone makes a formal report to a law enforcement officer. This can be done by the alleged victim or by someone who witnessed it. This can be as basic as a 911 call made by someone who has either been physically harmed or someone is threatening to harm them physically.

A police officer will physically go to where the alleged crime has occurred. Should they suspect that a family violence crime has or will take place, they will arrest and charge the suspect. Following this, the alleged victim may seek an order of protection which has to be approved by a judge. In most cases, if one is issued and you violate it, it is a felony.

The police officer who made the arrest files a detailed report that may include:

- When and where it occurred
- Who the victim was
- Who was involved
- The names and statements of witnesses and the victim
- The injuries sustained

Because this is a family violence case, the Department of Family and Protective Services (DPS) will get a copy of the report. It is essential to highlight that this happens **before charges have been officially filed**. Even though you may have been arrested and charged by a police officer, the prosecutor will be the person to file them officially. They will do so if they believe there is enough evidence to bring the case in front of a jury.

It is a common misconception that the prosecutor has to drop the case if the victim does not want to press charges. This is false. Although having a victim who does not wish to pursue the issue through the legal system may present challenges to the prosecution's case, the victim cannot have the charges dropped.

## **The Risks You Face**

Regarding family violence cases, there is something that you should understand. It pertains to plea bargains. Whether you take a plea or are found guilty, it is on your record for life. Taking a plea may have the same negative impact on your life that a guilty verdict would.

- When a future employer runs a background check, it will appear.
- You may lose the right to own a firearm.
- If you are charged again in the future, it is a felony.
- If there is a custody dispute, the judge may factor your criminal record in deciding who can get custody.

## **How Your Attorney Will Help**

As we mentioned at the beginning of this guide, don't assume you are guilty because you have been charged. One does not equal the other. When the police are called to a domestic violence scene, they are faced with two challenges that are at odds with one another:

- Protect the alleged victim
- Make determinations and decisions based on limited information

Imagine arriving on a scene where both people claim they have been attacked by the other. How can you arrive at a definitive conclusion as to what happened? In most circumstances, the police will come after a tense situation between two or more people has de-escalated. Everyone involved may have injuries to varying degrees. Even after they have separated people, so they question everyone without outside interference, they will have a difficult time figuring out what happened.

The person who gets arrested may be the victim due to how complex the situation may be. It becomes even more challenging when the only two witnesses are the two people involved. It is each person's benefit to accuse the other of wrongdoing. Everything that gets said during these scenarios will be questioned and challenged when the victim has to testify.

### **These Are Winnable Cases**

We began with this point, and it is essential to remember it. If you were the person who was arrested, the conclusion of your case has not already been decided. Allow us to hear your side of the story, read the arresting officer's reports, and evaluate the weight of that prosecution's evidence against you. Together, we choose the correct path to pursue. Your future depends on the decisions you make right now. Call us (210) 900-2806 to schedule a FREE consultation or schedule it through our website.



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