

Avoid Trouble at Holiday Time, by Lara Marks Baker

The holiday season can be a wonderful, happy time for families. But for some, it can also be a time of stress, anger or loneliness. All too often, this practice sees clients who, in a moment of miscommunication or anger at their romantic partner, find themselves with a criminal matter whose effects last a lifetime. The term “domestic violence” is not reserved for assaults or violent crimes, and it is a misconception to believe otherwise. To the contrary, most of the domestic violence cases we see involve alleged harassment of some kind, whether it be via email, telephone or other electronic medium. The pattern is often the same. Romantic partners are in the process of a breakup, one moves in a direction that seemingly disrespects or disregards the other. Sometimes alcohol fuels anger or sadness, and sometimes it is simply a breakdown in the ability to communicate. The scenario generally involves one person who wants to hash out an issue and the other no longer wants to talk about it, whether it be the breakup, a custody issue, or any other difficult circumstance. The sender sends several emails, text messages or calls too many times. The recipient stops answering, or even asks that the communication stop, but the sender is frustrated that his or her attempt at communication are being ignored. Finally, the recipient calls the police, thinking that a police officer can simply make contact with the sender, and that will resolve the issue. Unfortunately, once police are notified of a domestic violence incident, they are obligated to make an immediate arrest, even in cases as seemingly minor as sending several unwanted text messages. Once that happens and a case gets filed, prosecutors generally will not drop the case – even if the alleged victim asks that it be dismissed. A protection order goes into a place, and families find themselves in a situation that they often had no intention of creating. It is important to note that “Domestic Violence” is a designation, which is added to a charge for an underlying act. Domestic Violence is not the crime itself. But, the classification requires that the underlying act was an “act or threatened act of violence upon a person with whom the actor has been involved in an intimate relationship. Domestic violence also includes any other crime against a person or against property...when used as a method of coercion, control, punishment, intimidation or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.” C.R.S. 18-6-800.3. In this example, the criminal charge is usually Harassment by Telephone, Domestic Violence. As you head into this holiday season, remember that it is better to take a step back from the frustrating communication than to take a trip to the county jail. If you, or someone you know, finds themselves facing this or any other criminal scenario, please do not hesitate to contact this office.

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