

DOMESTIC VIOLENCE POLICE RESPONSE PROTOCOL

ARMSTRONG COUNTY, PENNSYLVANIA

PREPARED BY THE OFFICE OF THE DISTRICT ATTORNEY OF ARMSTRONG COUNTY IN CONJUNCTION WITH THE ARMSTRONG COUNTY VIOLENCE AGAINST WOMEN TASK FORCE

A. Background

Among the most difficult and most sensitive calls for police assistance are those concerning family disputes. When responding to a domestic disturbance involving family or household members, all officers must be alert, carefully impartial and concerned with the needs of the victims. At the same time they must always anticipate the unexpected. What appears to be a dispute of a minor nature may quickly escalate into a dangerous conflict because of the potentially violent nature of such incidents. Anger, frustration and intense emotion often characterize family disputes. These feelings can easily be directed against the responding officers, who suddenly become the focus and target of the ensuing violence. For this reason, whenever possible, at least two officers should be assigned to a family dispute call unless immediate intervention is necessary to prevent serious physical harm.

B. Purpose

1. The principal purpose of this protocol is to establish uniform policies and procedures to be followed by police officers for handling domestic disturbance calls which involve family or household members.
2. Other purposes and goals of this protocol are:
 - (a) To reduce the incidence and severity of domestic violence by establishing an arrest and prosecution, rather than mediation, as the preferred means of police response to domestic violence;
 - (b) To afford maximum protection and support to victims of domestic violence through a coordinated program of law enforcement and victim assistance services;
 - (c) To ensure that law enforcement services are as available in domestic violence cases as they are in other criminal cases;
 - (d) To reaffirm the police officer's authority and responsibility to make decisions in accordance with established probable cause standards; and
 - (e) To promote officer safety by ensuring that officers are as fully prepared as possible to respond to domestic calls.

C. Policy

Domestic violence is a crime that differs from other crimes because of the intimate relationship between the victim and the accused. Notwithstanding that difference, police should respond to domestic violence as they would respond to any other crime. They must respond effectively to the scene of family disputes, take specific action to enforce protective court orders and take all reasonable measures to prevent further abuse. Police should arrest and pursue criminal charges appropriate to the crime that they believe the accused has committed. In recognition of the difference between domestic violence and other crimes, however, police should also provide victims with special assistance, ensuring that victims are informed of the services available to them.

D. Scope of coverage

1. This protocol applies to any police call reporting a disturbance between persons in a “covered relationship.”
2. “Covered relationship” includes: persons related by blood or marriage; persons who reside or formerly resided together; persons who are biological parents of the same child; and current or former sexual or intimate partners.

E. Initial Police Officer Response

1. Approaching the scene.
 - (a) The responding officer should approach the scene of a domestic dispute as one of high risk. Whenever possible two officers should respond to a domestic call.
 - (b) The unique nature of domestic violence situations requires that officers immediately proceed to the location of the dispute and check with the dispatcher concerning previous incidents and existing orders. **The dispatcher should also advise the responding officer of any weapons involved in the incident.**
 - (c) The responding officers should avoid the use of sirens and emergency lights in the vicinity of the scene of the incident. **Sirens and lights should be employed only when speed is essential.**
 - (d) Officers should be alert for assailants leaving the scene and for the employment of weapons from doors, windows or nearby vehicles.
 - (e) Officers should always employ the **standard precautionary measures** in approaching the scene of the incident.

2. *Initial contact with involved parties.*

- (a) The initial contact by the responding officers must convey a professionally calm and respectful attitude. Upon arrival at the scene, the officers should prevent the physical movement of the parties as much as possible and control their access to any potential weapons. The officers should state their reason for being present, being considerate and attentive toward all parties and their problems regardless of the officer's own view or personal reactions toward the matter.
- (b) The responding officers must take immediate control of the situation and separate the parties to prevent any violent actions. Officers should remain within view of one another to avoid any possible allegations of mistreatment and for general officer safety.
- (c) If the person who called the police is someone other than the victim of the call, the officer should not reveal the caller's name.
- (d) The officers may enter and conduct a search of the premises relevant to the incident if consent has been given to do so.
- (e) Officers may enter private premises where there is probable cause to believe a felony has been or is being committed, or that there is an imminent danger of violence, which could result in death or serious bodily injury.
- (f) If refused entry, the officer should be persistent about seeing and speaking alone with the victim of the call. If access to the victim is refused, the officer should request the dispatcher to contact the victim. If access is still refused, the officer must decide whether to leave, remain and observe, or force entry. If the officer leaves the scene, he/she should drive by and observe frequently. If the officer remains to observe, he/she should move to public property to conduct his/her observation. In some circumstances, forced entry is necessary and appropriate.

3. *Once inside, the responding officer should establish control by:*

- (a) Identifying potential weapons in the surroundings;
- (b) Separating the victim and the assailant;
- (c) Restraining the assailant if necessary, and removing the assailant to the patrol car if immediate arrest is warranted;
- (d) Assessing injuries, administering first aid, and/or notifying emergency medical services if warranted or requested;

- (e) Inquiring as to the nature of the dispute;
- (f) Identifying all occupants/witnesses from the victim and accused and keeping them out of hearing range;
- (g) Separating occupants/witnesses from the victim and accused to avoid compromising witness status.

4. *On Scene Investigation:*

- (a) The responding officer should interview the victim and assailant as fully as circumstances allow. The officer should make note of any incriminating statements. The officer should obtain either a written or tape recorded statement from the victim.
- (b) The officer should ensure the victim's safety and privacy by interviewing the victim in an area away from the assailant, witnesses and bystanders. The officer should use supportive interviewing techniques when questioning the victim. This interview should include a history of their domestic violence. The officer should not tell the victim what action he/she intends to take until all available information has been collected. HAVIN Inc. staff is available to assist with this interview if the scene is secured.
- (c) In a situation where the accused has been arrested prior to the interview, the accused must be given his/her Miranda warning before being questioned. If the accused has fled the scene, the officer should elicit as much information as possible as to the whereabouts of the accused.
- (d) The officer should ascertain if there is a current PFA for this victim. Confirmation and copies of PFA's can be obtained from HAVIN Inc. staff. The officer should make careful note of the effective period and restrictions imposed by the Order so that it can be determined whether there is probable cause to believe the Order has been violated. The officer should also utilize resources to determine if there are any current warrants for the assailant.
- (e) The officer should interview all witnesses as fully and as soon as circumstances allow. If witnesses provide information about prior incidents, the officer should document those incidents in order to establish a pattern.
- (f) Children should be interviewed in a manner appropriate to their age and developmental abilities. In cases related to the CPSL, the officer shall notify Armstrong County Children, Youth and Family Services (CYFS) immediately by telephone. In extreme situations the officer may contact CYFS via Armstrong 911. Law enforcement officers are considered Mandated Reporters in accordance with Act 154 of 1994, Pennsylvania's Child Protective Services

Law (CPSL) Title 23 PA CSA Chapter 63, §6313. The suspected child abuse form, a CY 47, must be completed and forwarded to CYFS within 48 hours of the oral report.

- (g) The officer should collect and preserve all reasonable physical evidence necessary to support prosecution, including evidence substantiating the victims' injuries, evidentiary articles that substantiate the attack (weapons, torn clothing etc.), and evidence recording the crime scene. The officer should ensure that photographs are taken of visible injuries to the victim and of the crime scene.
- (h) The officer should encourage the victim to seek an emergency room examination. Through their Medical Advocacy program, HAVIN Inc. staff is available to transport victims and support them throughout their emergency room treatment. Emergency room photographs are excellent evidence of injuries. The officer should inquire about injuries to the victim that are concealed by clothing or otherwise not readily apparent. Also, because in some cases bruises do not appear for several days after an assault, the officer should advise the victims to contact the police and/or HAVIN, Inc. staff for photographs if injuries later appear.
- (i) All physical evidence should be collected, noted in reports, and vouched as in any other criminal investigation.
- (j) The responding officer shall inform the victim of the services available such as HAVIN, Inc., Laurel Legal Services or private counsel for the purpose of obtaining a Protection from Abuse Order (PFA). Victims Rights cards should be provided to all victims, which explains obtaining PFA's utilizing the PFAD system at HAVIN Inc.
- (k) When appropriate, Armstrong County Children, Youth and Family Services and/or HAVIN Inc., staff is available by pager 24-hrs. per day, seven days per week, to assist with victim interventions at secure crime scenes.

5. Incidents Involving Law Enforcement Officers or Elected Officials

Domestic Violence incidents involving elected officials or law enforcement officers may present particular difficulties for the responding officer(s). In such circumstances the responding officer (s) should:

- (a) Request that a supervisor or senior officer respond to the scene.
- (b) If the incident involves a supervisor or senior officer, it is strongly suggested that the District Attorney or his designee be notified.
- (c) In accordance with established DV protocol, the investigating officer shall take whatever action necessary to protect the victim.

- (d) When there is reasonable suspicion to believe that the accused has committed a crime, the procedure followed upon the arrival of the investigating officer should be the same as it would be in any other DV incident.
- (e) When a DV investigation is in progress or when an arrest has been made, the investigating/arresting department shall immediately notify the supervisor within the involved officer's department. The officer's department will then take appropriate action as per their departmental policies.
- (f) In DV incidents involving a law enforcement officer or elected official, it is recommended that the District Attorney or his designee be notified and kept apprised of the situation.
- (g) If a law enforcement officer is named a defendant in a PFA, he/she shall notify their supervisor immediately and the department will follow departmental policies

F. The Arrest Decision:

1. The responding officer should arrest the assailant whenever an arrest is authorized. If the officer decides not to arrest, he/she must include in their report of the incident a detailed explanation of why an arrest was not made.
2. Under current Pennsylvania law, arrest is authorized in the following circumstances.
 - (a) When the officer has probable cause to believe that the suspect has committed a felony.
 - (b) When the officer observes the commission of a felony or a misdemeanor.
 - (c) When the officer has probable cause to believe that the suspect has committed a domestic violence misdemeanor, as specified in 18 Pa. C.S. §2711, which authorizes warrantless arrest if the misdemeanor is involuntary manslaughter (18 Pa. C.S. §2404), simple assault (18 Pa. C.S. §2701), recklessly endangering another person (18 Pa. C.S. §2705), terroristic threats (18 Pa. C.S. § 2706), harassment and stalking (18 Pa. C.S. §2709(b)), or the officer observes recent physical injury or other corroborative evidence against a "covered relationship." A "Covered relationship" is defined by statute as persons related by blood or marriage; persons who reside or formerly resided together; persons who are biological parents of the same child; and current or former sexual or intimate partners. The domestic violence misdemeanor need not have been committed in the officer's presence.
 - (d) When the officer has probable cause to believe that the suspect has violated a valid Protection from Abuse Order. The violation need not have occurred in the officer's presence, and no corroborative evidence is required.

3. The officer should not consider the following factors in making an arrest decision.
 - (a) The marital status of the parties involved;
 - (b) Verbal assurance that the violence will stop;
 - (c) A claim by the accused that the victim provoked or perpetuated the violence;
 - (d) Denial by either party that the abuse occurred when there is evidence of domestic violence.
 - (e) Concern that the victim will not follow through with prosecution based on previous incidents involving the same victim, the victim's hesitancy about pursuing prosecution or any other factor;
 - (f) The disposition of any previous calls involving the same victim;
 - (g) The emotional state of the victim;
 - (h) The racial, cultural, social, political, religious, socioeconomic level, professional position, sexual orientation, or gender of either the victim or the assailant.
4. It is the officer's responsibility to determine whether an arrest should be made. If the officer does arrest, he/she should emphasize to both the victim and the assailant that the criminal action being taken is an action of the Commonwealth and not an action of the victim.
5. The responding officer shall, in accordance with 18 Pa.C.S. §2711, notify the victim of HAVIN Inc.'s domestic violence shelter, including their telephone number, or other appropriate services in the community including adult and juvenile Victim-Witness Advocates at the District Attorney's Office. A signed copy of this notification will be attached to the police report.
6. If the officer arrests for the commission of a crime, the officer should confiscate all weapons used or threatened to be used in the commission of the crime, and such weapons should be held as evidence for prosecution.
7. When the accused is a minor, the provisions of this order shall be fully applicable, except the arrest should be effectuated and the juvenile processed pursuant to the Juvenile Act. A PFA awarded to a juvenile must be signed by a legal guardian.
8. If an arrest is not authorized because the abusive act is a summary offense, the officer should issue a citation.

G. Effectuating the Arrest

1. The responding officer should take the assailant into custody as soon as the officer determines that the warrantless arrest is appropriate. If a warrant is necessary, the officer should obtain and execute the warrant as soon as practical.
2. When the assailant has fled the scene and is not located after a diligent search, a warrant shall be requested from the appropriate District Justice as soon as practical. However, the criminal complaint application for warrant of arrest shall be prepared and or completed prior to the end of the duty shift during which the incident occurred.

H. Procedure When an Arrest is not Made

1. If an arrest is not made for reasons to be detailed in the report, the officer should:
 - (a) Encourage the victim to contact the Domestic Violence Program (HAVIN Inc.) identified in the Domestic Violence Notice, required by 18 Pa. C.S. §2711, for information regarding counseling and other services available to victims.
 - (b) The responding officer shall, in accordance with 18 Pa. C.S. §2711, notify the victim of the availability of HAVIN Inc.'s domestic violence shelter, including their telephone number, and/or other services in the community. A signed copy of this notification will be attached to the police report.
 - (c) The officer, upon request of the victim, shall arrange for transportation to emergency housing or to a medical facility. HAVIN Inc. can assist with transportation when necessary from a secure scene or neutral location.
 - (d) The officer shall advise the District Attorney's Office as soon as possible, so to keep the District Attorney's Office apprised of the situation.

I. Follow-up Procedure

1. If a victim requests that the charges be dropped against their abuser, he or she shall be informed that the Victim-Witness Advocate and/or HAVIN Inc. staff is available for consultation with them to discuss their case and the possible sentencing alternatives that are available.
2. If the victim chooses to pursue dropping the charges, the officer shall obtain a written statement to that effect and furnish a copy of the same to the District Attorney's Office.
3. If the victim chooses to drop their PFA, and Laurel Legal Services is unavailable to represent them. They may obtain counsel, or the officer may refer them to HAVIN Inc. staff to complete this Pro Se process.

J. Preliminary Hearing

1. The arresting officer should request that the District Justice schedule the hearing on a block hearing day. HAVIN Inc.'s Legal Advocates should be notified to provide accompaniment to all legal proceedings.
2. The arresting officer shall provide a copy of the police report and attachments to the District Attorney's Office prior to the preliminary hearing and may, at the officer's discretion, request that the District Attorney's Office provide an Assistance District Attorney to be present for any such proceedings.
3. If the victim does not appear at the preliminary hearing and there is sufficient evidence to support a Prima Facie case without the victim's testimony, the hearing should be held. The officer should provide the written statement and/or taped statement. If the victim's testimony is necessary then the Assistant District Attorney or the arresting officer should request a continuance of the hearing.
4. If the hearing is continued because of the failure of the victim to appear, and a continuance has been granted, the Office of the Victim-Witness Services and/or HAVIN Inc. staff shall be notified. They will then attempt to make contact with the victim and ensure the victim's presence on the next scheduled hearing date.