

DOMESTIC and FAMILY VIOLENCE LAW ENFORCEMENT 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

The Armstrong County Violence Against Women task force understands that domestic/family violence calls are among the most difficult and sometimes frustrating calls requiring law enforcement assistance. When responding to a domestic disturbance involving family, household members, and/or intimate partners' law enforcement must be alert, impartial, and provide victim sensitive interventions with their primary concern focused on the safety of the victims and themselves. Anger, frustration and intense emotion, along with a history of violence, often characterize these incidents. Due to their volatile, violent nature of these incidents what appears to be a minor dispute may quickly escalate into a dangerous conflict. The violence may be redirected toward the responding officers, who may suddenly become the focus and target of the ensuing violence. For this reason it is best practice for at least two officers to respond to a family violence call unless immediate intervention is necessary to prevent serious physical harm.

B. Purpose

1. Pursuant to §6105 (a) of the Protection From Abuse Act, all law enforcement agencies within the Commonwealth are required to adopt a written domestic violence policy.
2. The principal purpose of this protocol is to establish uniform policies and procedures to be followed by law enforcement officers for handling domestic disturbance/family violence calls which involve family, household members, intimate partners and/or those in a dating relationship.
3. Other purposes and goals of this protocol are:
 - (a) To reduce the incidence and severity of domestic/family violence by establishing arrest and prosecution, rather than mediation, as the preferred means of law enforcement response to domestic/family violence;

- (b) To afford maximum protection and support to victims of domestic/family violence through a coordinated program of law enforcement and victim services;
- (c) To ensure that non-discriminatory law enforcement services are as available in domestic/family violence cases as they are in other criminal cases;
- (d) To reaffirm the law enforcement officer's authority and responsibility to make decisions in accordance with established probable cause standards;
- (e) To promote officer safety by ensuring that officers are as fully prepared as possible to respond to domestic/family violence calls;
- (f) To help reduce law enforcement resources consumed in responding to domestic violence by reducing the number of law enforcement interventions required for any particular household;
- (g) To promote victim follow-through in cases of domestic violence by coordinating efforts among law enforcement, prosecutors and victim service agencies.

C. Policy

Domestic/family violence is a crime that differs from other crimes due to the intimate, emotional and interdependent relationship between the victim and the accused. Notwithstanding that difference, law enforcement shall respond to domestic/family violence as they would respond to any other crime. Law enforcement must respond effectively to the scene of domestic/family violence and take specific action to enforce protective court orders and take all reasonable measures to prevent further abuse/violence. Law enforcement shall arrest and pursue criminal charges appropriate to the crime that they believe the accused has committed. In recognition of the difference between domestic/family violence and other crimes, however, law enforcement shall also provide victims with special assistance, ensuring that victims are informed of the services available to them as required by law 18 Pa. C.S. § 2711 (d) and 23 Pa. C.S. §6105 (b) Protection from Abuse Act.

D. Scope of coverage

1. This protocol applies to any law enforcement call reporting a disturbance between persons in a "covered relationship."
2. "Covered relationship" 23 Pa. C.S. § 6102 Definitions Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity (blood) or affinity (marriage),

current or former sexual or intimate partners, or persons who share biological parenthood or persons in a dating relationship.

E. Dispatch

1. Domestic calls shall be processed and dispatched according to established prioritization protocols. When a back-up unit is requested by law enforcement, the dispatcher shall assign a back-up unit immediately.
2. The dispatcher receiving a domestic/family violence call shall attempt to elicit from the caller and communicate to the responding officer as much of the following information, in the following order of importance, as time and the exigencies of the reported incident allow:
 - (a) The nature of the incident including the caller's involvement;
 - (b) The address of the incident, including the apartment number or the number and name of the business, as appropriate;
 - (c) A telephone number for a return telephone call to the caller;
 - (d) Whether weapons and alcohol are involved and whether weapons are accessible at the scene;
 - (e) Whether an ambulance is needed;
 - (f) Whether the suspect is present and if not, the suspect's description, direction of flight, and mode of transportation;
 - (g) Whether there are children at the scene;
 - (h) Whether there is a protection from abuse order in effect; and
 - (i) Whether there are witnesses.
3. If the caller is the victim, the dispatcher shall attempt to keep the caller on the telephone as long as possible and shall tell the caller when help is on the way.
4. If the caller is a witness to a domestic incident in progress, the dispatcher shall keep the caller on the telephone and relay ongoing information provided by the caller to the responding officer to the extent necessary.
5. If the dispatcher is alerted by the CAD system of any prior incidents at the location of the incident, the dispatcher shall forward the information to the responding law enforcement.
6. If the dispatcher is advised by the caller, or otherwise aware of the existence of a protection from abuse order, the responding officer shall be promptly notified.

F. Initial Law enforcement Officer Response

1. **Approaching the scene.**

- (a) The responding officer shall approach all domestic/family violence scenes as one of high risk, to both the officer and the victims. Whenever possible two officers shall respond to a domestic/family violence call.
- (b) The unique nature of domestic/family violence situations requires that officers immediately proceed to the location of the incident and check with the dispatcher concerning previous incidents and existing orders. **It is recommended that the dispatcher screens for and advises the responding officer of any weapons/ alcohol 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 shall be alert for assailants leaving the scene and for the employment of weapons from doors, windows or nearby vehicles.
- (e) Officers shall 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, it is recommended that the officers prevent the physical movement of the parties as much as possible and control their access to any potential weapons. The officers shall state their reason for being present, being considerate and attentive toward all parties and their perspectives 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. It is highly recommended that officers remain within view of one another to avoid any possible allegations of mistreatment and for general officer safety.
- (c) Whenever possible law enforcement shall keep the complainants name confidential.
- (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 that 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 shall be persistent about seeing and speaking alone with the identified victim of the call. If access to the victim is denied, the officer shall request the caller's phone number from the dispatcher so that he or she can make the telephone call. If access is still denied, the officer must decide whether to leave, remain and observe, or force entry. If the officer leaves the scene, he/she shall drive by and observe. If the officer remains to observe, he/she shall move to public property to conduct his/her observation. In some circumstances, forced entry is necessary and appropriate.

3. Once inside, the responding officer shall 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 an 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;
- (g) Separating occupants/witnesses from the victim and accused and keeping them out of hearing range to avoid compromising witness status.

4. On Scene Investigation:

- (a) The responding officer shall interview the victim and assailant as fully as circumstances allow. The officer shall make note of any incriminating statements. The officer shall endeavor to obtain either a written or tape recorded statement from the victim.
- (b) The officer shall ensure the victim's safety and privacy by interviewing the victim in an area away from the assailant, witnesses and bystanders. The officer shall use supportive interviewing techniques when questioning the victim. This interview shall include a history of their domestic/family violence to include frequency and severity. The officer shall not tell the victim what action he/she intends to take until all available information has been collected. HAVIN 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 shall elicit as much information as possible as to the whereabouts of the accused.

- (d) The officer shall ascertain if there is a current Protection from Abuse Order (PFA) for this victim. Confirmation and copies of PFA's are available through the Pennsylvania State Law enforcement data base and/or the CLEAN system. The officer shall 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 shall also utilize resources to determine if there are any current warrants for the assailant.
- (e) The officer shall interview all witnesses as fully and as soon as circumstances allow. If witnesses provide information about prior incidents, the officer shall document those incidents in order to establish a pattern.
- (f) Children are to be interviewed in a manner appropriate to their age and developmental abilities. In cases related to the Pennsylvania Child Protective Services Law (CPSL) the officer shall notify Armstrong County Children, Youth and Family Services (CYFS) immediately by telephone. In extreme situations the officer may contact CYFS at 724-548-3466 during business hours or via Armstrong 911 after regular business hours. 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. Officers may also report suspected child abuse to ChildLine, Pennsylvania's State Child Abuse Hotline at 1-800-932-0313. The incident report may include the following:
 - 1.) Names, addresses and telephone numbers of the victim, the accused, witnesses and the caller.
 - 2.) A second permanent address and telephone number for the victim, such as a close family member or friend.
 - 3.) A statement of relationship between victim and accused.
 - 4.) A narrative for the incident including date, time and whether the accused appeared intoxicated or under the influence of a controlled substance.
 - 5.) What, if any weapons were used or threatened to be used.
 - 6.) A description of any injuries observed by the officer.
 - 7.) A description of any injuries described by the victim but not observed by the officer and indication that the injury was not observed.
 - 8.) Documentation of any evidence that would tend to establish that a crime was committed.
 - 9.) The names and ages of any children present in the household and their address and phone number if the children were relocated.
 - 10.) Notation of previous incidents of which the officer is personally aware.

11.) Notation of previous incidents reported by victim or witnesses.

- (g) The officer shall 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. It is recommended that the officer take photographs of visible injuries to the victim and of the crime scene.
 - (1) Audio tapes are available from 911 if needed for prosecution. Tapes must be requested by the chief of the department and submitted to the 911 manager in writing. A request form is available on the county website.
- (h) The officer shall encourage the victim to seek an emergency room examination. If the victim refuses examination at the emergency room, the officer shall document visible injuries and request consent to photograph at the scene. Through their Medical Advocacy program, HAVIN staff is available to transport victims and support them throughout their emergency room treatment. Emergency room documentation and photographs are excellent evidence. The officer shall inquire about injuries to the victim, including those concealed by clothing or otherwise not readily apparent and with consent preserve with photographs. For corroboration, it may be necessary for follow-up photographs, within 72 hours.
- (i) All physical evidence shall 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, including HAVIN, Laurel Legal Services or private counsel for the purpose of filing a Protection from Abuse Petition (PFA). The law requires that Victims' Rights notification cards be provided to all victims. These cards explain their rights including the process of obtaining a PFA or Emergency PFA.
 - 1. PFAs- If an individual needs a PFA and it is during business hours, he or she must contact HAVIN at 724-548-8888 or 1-800-841-8881.
 - 2. Emergency PFAs – If an individual needs a PFA and it is not during business hours, he or she must contact 911 or non-emergency 911 at 724-548-5105. Any requests for an emergency PFA shall be handled as follows:
 - (a) Connect the caller with the magistrate's home phone number. Stay on the line until the magistrate answers.
 - (b) If there is no answer, take the caller's information and call the magistrate's cell phone and/or pager. When the magistrate responds, give the caller's information.
 - (c) Create a CAD incident and note in the narrative how the magistrate was contacted. Do not give out the magistrate's home phone number.

- (k) When appropriate, Armstrong County Children, Youth and Family Services and/or HAVIN staff is available 24-hrs. per day, seven days per week to assist with victim interventions at secure locations.

5. Incidents Involving Law Enforcement Officers or Elected Officials

Domestic Violence incidents involving elected officials and/or law enforcement officers may present particular difficulties for the responding officer(s). In such circumstances the following response is recommended to the responding officer(s):

- (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 shall 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 shall then take appropriate action as per their respective departmental policies.
- (f) In DV incidents involving a law enforcement officer or elected official, it is highly recommended that the District Attorney or their 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 their respective departmental policies.

6. Elder Victims

- (a) When the victim is elderly (60 or older), and the abuser is the sole caretaker and where arrest is indicated, the officer shall make a determination as to whether the victim is physically endangered, either as a result of the abuse or a pre-existing medical condition. If the victim is physically endangered and mentally alert, the officer shall ask the victim for the name of a relative or friend who can be contacted immediately to assist the victim.

- (b) If there is no one available or if the victim appears not to be mentally alert, the officer shall make an emergency referral to the Area Agency on Aging. The officer shall remain at the residence until the protective services worker arrives or shall transport the victim to a medical facility where he/she can wait for the worker.
- (c) In addition to providing the victim with notification or relief available under the Protection From Abuse Act, the officer shall also advise the victim of the availability of protective services through the Area Agency on Aging.

G. The Arrest Decision:

1. The responding officer shall arrest the assailant whenever an arrest is authorized. If the officer makes the decision 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. §2504), 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 someone within a “covered relationship” as defined in section D. 2 of this protocol. 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 following factors are NOT to play a factor in making an arrest decision.
 - (a) The marital status of the parties involved;
 - (b) The ownership or tenancy rights of either party;

- (c) Verbal assurance that the violence will stop;
 - (d) A claim by the accused that the victim provoked or perpetrated the violence; including a violation of a PFA where the defendant claims he/she was welcomed/invited;
 - (e) Denial by either party that the abuse occurred when there is evidence of domestic violence;
 - (f) 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;
 - (g) The disposition of any previous calls involving the same victim;
 - (h) Speculation that the arrest may not lead to a conviction when probable cause exists that a crime occurred;
 - (i) The emotional state of the victim;
 - (j) Concern about reprisals against the victim;
 - (k) That the incident occurred in a private place; and
 - (l) The racial, cultural, social, political, religious, socioeconomic level, professional position, sexual orientation, or gender of either the victim or the assailant.
4. If probable cause exists that a crime has occurred it shall be communicated to both the victim and the assailant that the decision to arrest is the sole responsibility of the officer, and the law requires that the officer makes an arrest regardless of the victims' wishes.
 5. The responding officer shall, in accordance with 18 Pa.C.S. §2711, notify the victim of HAVIN'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 law enforcement report.
 6. If the officer arrests for the commission of a crime, the officer shall confiscate all weapons used or threatened to be used in the commission of the crime, and such weapons shall 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 be effectuated and the juvenile processed pursuant to the Juvenile Act.

8. Determining the Primary Aggressor
 - (a) If there is evidence of mutual violence the officer shall determine which party was the primary aggressor. In making the determination, the officer shall make every reasonable effort to consider the following:
 - 1) The extent of injuries inflicted or serious threats creating fear of physical injury;
 - 2) The history of violence between the parties;
 - 3) The primary aggressor is not necessarily the individual who started the fight; and
 - 4) Check for defensive injuries i.e. (bite marks, face scratches, etc.).
 - (b) If the officer concludes that one party was acting in self-defense, the officer shall arrest only the primary aggressor.
 - 1) When there is a question as to whether or not the victim may reasonably claim that his/her actions were in self-defense, the matter shall be investigated and referred to the District Attorney for review before charges are filed.

H. Effectuating the Arrest

1. The responding officer shall take the assailant into custody as soon as the officer determines that the warrantless arrest is appropriate. If a warrant is necessary, the officer shall obtain and execute the warrant as soon as practical.
The officer shall notify the victim of the arrest if possible.
2. When the assailant has fled the scene and is not located after a diligent search, a warrant shall be requested from the appropriate Magisterial District Judge 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.
3. If the responding officer has determined that a warrantless arrest is appropriate, and it is also determined that a voluntary or involuntary commitment to a mental health facility is indicated, the officer shall take the assailant into custody and contact MH/MR for a mental health evaluation of the accused. The possibility of mental illness does not preclude a valid criminal arrest.

I. Procedure When an Arrest is not Made

1. If an arrest is not authorized because the abusive act is a summary offense, it is recommended that the officer issue a citation.
2. If an arrest is not made for reasons to be detailed in the report, the officer shall:

- (a) Encourage the victim to contact HAVIN as identified in the Domestic Violence Notice, required by 18 Pa. C.S. §2711, for information regarding supportive counseling, safety planning and other community 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's domestic violence shelter, including their telephone number, and/or other services in the community. A signed copy of this notification shall be attached to the law enforcement report.

It is recommended that the following occur:

- (c) The officer, upon request of the victim, shall arrange for transportation to emergency housing or to a medical facility. HAVIN is available to assist with transportation when necessary from a secure location.
- (d) To ensure that the District Attorney's office is kept apprised of the situation, the officer shall inform them of the incident as soon as possible.

J. Other On-Scene Assistance to Victims and Dependents

1. Whether or not an arrest is made, the responding officer shall not leave the scene of the incident until the situation is under control and the likelihood of further violence has been eliminated. The officer shall stand by for a reasonable period of time while victims gather necessities for short-term absences from home, such as clothing, medication and necessary documents.
2. If the victim does not speak English or is hearing impaired, the officer shall arrange for translation of the foregoing notice and advice.
3. In circumstances in which it is necessary for the victim to leave the residence temporarily, it is recommended that the officer offer the victim assistance with locating lodging with family, friends, or public accommodations or at HAVIN.
4. A juvenile victim may qualify for a PFA. An adult must be the petitioner, and file on behalf of the child, as a juvenile may not sign a legal document.

K. 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 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 Temporary PFA the victim shall meet with HAVIN staff to complete the "Motion to Dismiss" form and develop a safety plan.
4. If the victim has a Final PFA and wish to dismiss, they shall contact Laurel Legal Services (LLS). If they are financially eligible for LLS, LLS shall refer them to HAVIN to complete a safety plan, and then LLS will complete a petition for the "Motion to Dismiss." If the victim is over LLS's income guidelines they are then referred to HAVIN to complete both the safety plan and "Motion to Dismiss" at HAVIN.

L. Preliminary Arraignment, Bail, Release and Victim Notification

1. Once an arrest has been effectuated, the accused shall be afforded a preliminary arraignment without unnecessary delay. Following standard procedure the arresting officer shall maintain custody of the accused before the preliminary arraignment.
2. It is highly recommended that the officer who takes the accused for arraignment ask the presiding Magisterial District Judge for the following bail provisions authorized by 18 Ps. C.S. §2711 and Pa. R Crim. P. 527.
 - (a) No contact with the victim or witnesses in person, by electronic communication (i.e. email, text messaging, voice mail, etc.), via third party or by telephone.
 - (b) Enjoining the accused from abusing, harassing or intimidating the victim/witnesses
 - (c) Excluding the accused from the home, school or workplace of the victim
 - (d) Restraining the accused from contact that may prevent the victim from performing the victim's normal daily activities.
3. If the accused is released on unsecured bond or makes bail at the preliminary arraignment, for the safety of the victim the officer present shall immediately notify the victim of the accused's release on bail and the protective bail provisions imposed. (See 71 P.S. § 180-9.3 (7.2)).

M. Preliminary Hearing

1. The arresting officer will request that the Magisterial District Judge schedule the hearing on a block hearing day. HAVIN 's Legal Advocate is to be notified of the scheduled hearings by the arresting officer to provide accompaniment to all legal proceedings.
2. The arresting officer shall provide a copy of the law enforcement 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 a prosecutor 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 is to be held. The officer shall provide the previously obtained written statement and/or taped statement. If it is determined that the victim's testimony is necessary then the prosecutor and/or the arresting officer shall 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 staff shall be notified. They will then attempt to make contact with the victim and help ensure the victim's presence on the next scheduled hearing date.