

August 31, 2011

TO: Members of the MAG Management Committee

FROM: Renae Tenney, Human Services Planner I

SUBJECT: MATERIALS FOR AGENDA ITEM #5J, DOMESTIC VIOLENCE PROTOCOL MODEL, ON THE SEPTEMBER 7, 2011, MAG MANAGEMENT COMMITTEE AGENDA

On August 30, 2011, a quorum of the Maricopa Association of Governments (MAG) Regional Domestic Violence Council met to review and take action on the Domestic Violence Council Protocol Evaluation Project. The focus of the meeting was the domestic violence protocol model developed to assist law enforcement and prosecutors address domestic violence through the criminal justice system. At the Committee's August 25, 2011 meeting, additional changes were recommended. The purpose of this memorandum is to provide information about the changes in preparation for the September 7, 2011, MAG Management Committee meeting.

Changes were made to the draft model to ensure it represented a seamless approach to domestic violence that would be applicable in the field. Minor modifications include clarifying which activities were recommended best practices and which are required by State statute; adding protocols to identify predominant aggressors, or situations where there is a clear abuser and a clear victim; and to use terminology that would easily be understood across disciplines. The draft model and this memorandum are provided after the initial mail out of the MAG Management Committee agenda to ensure the MAG Regional Domestic Violence Council had ample opportunity to thoroughly vet all aspects of the draft model.

The model has been collaboratively developed by working closely with law enforcement and prosecutors from throughout the region. The goal of the model is to coordinate a regional approach to misdemeanor domestic violence crimes. This will result in victims being safer, abusers held accountable, and cost savings to municipalities as a result of more efficient prosecution of domestic violence offenders. The model was developed by inventorying protocols used by local municipalities, identifying relevant national best practices, and through extensive engagement with law enforcement, prosecutors, victim advocates, and survivors.

If you have any questions, please contact me at the MAG office at (602) 254-6300.

# **MARICOPA ASSOCIATION OF GOVERNMENTS**

## **INFORMATION SUMMARY... for your review**

**DATE:**

August 31, 2011

**SUBJECT:**

MAG Misdemeanor Domestic Violence Protocol Model

**SUMMARY:**

A report on the MAG Domestic Violence Protocol Evaluation Project was presented to the MAG Management Committee on May 11, 2011, and the MAG Regional Council on May 25, 2011. The MAG Domestic Violence Protocol Evaluation Project has resulted in a protocol model for standardizing the region's response to misdemeanor domestic violence crimes. The model was designed based on feedback from community partners in law enforcement, prosecution, and victim advocacy. Formal support is being sought from the Arizona Peace Officers Standards and Training Board, Arizona Prosecuting Attorney's Advisory Council, and Arizona Association of Chiefs of Police. On July 21, 2011, the Arizona Criminal Justice Commission voted to support the concept of project expansion to include a statewide model. The MAG Misdemeanor Domestic Violence Protocol Model was recommended for approval by the MAG Regional Domestic Violence Council on August, 30, 2011.

**PUBLIC INPUT:**

An opportunity for public input was provided at the MAG Regional Domestic Violence Council meetings on April 7, 2011, June, 16, 2011, August 25, 2011, and August 30, 2011. On August 25, 2011, a member of the public recommended to add protocols for gathering evidence of witness intimidation for pursuing prosecution by forfeiture of wrongdoing. This feedback was incorporated into the protocol model. An additional opportunity for public input was offered at the MAG Regional Domestic Violence Council meeting August 30, 2011. Members of the public including representatives of law enforcement provided technical assistance for fine tuning the document.

**PROS & CONS:**

**PROS:** The Misdemeanor Domestic Violence Protocol Model will have a positive impact on holding abusers accountable by increasing consistency in the region's response to domestic violence crimes. The protocol model will reduce municipal costs for addressing domestic violence by streamlining and standardizing existing processes used by law enforcement and prosecutors. The protocol model highlights national promising practices while allowing flexibility for determining how to implement improvements to best serve each community. Statewide agencies have already shown interest in expanding the project to have a statewide impact. A more consistent response to domestic violence will increase public safety, decrease costs, and help to hold more abusers accountable.

**CONS:** None.

**TECHNICAL & POLICY IMPLICATIONS:**

**TECHNICAL:** The protocol model was created after developing a regional protocol inventory, researching local and national promising practices, and in the process, strengthening working

relationships across the law enforcement, prosecution, and victim advocacy communities. Assessment of the existing protocols based on promising practices and input from field experts resulted in development of the protocol model. The model provides a menu of options for enhancing existing systems. Training to help with implementation of the enhancements will be provided at a training event on October, 20, 2011, as well as through a training video and webinar.

**POLICY:** The protocol model will serve to increase cost efficiency when moving domestic violence cases through the criminal justice system. Increasing communication between law enforcement and prosecutors will strengthen existing collaborations, help to leverage limited resources, and provide opportunities for streamlining processes. The community will benefit as more victims feel safe and more abusers are held accountable. Local government will benefit from the cost savings generated by streamlining the criminal justice system. These savings can be used to meet other community needs.

**ACTION NEEDED:**

Recommend approval of the MAG Misdemeanor Domestic Violence Protocol Model.

**PRIOR COMMITTEE ACTIONS:**

On August 30, 2011, the MAG Regional Domestic Violence Council voted unanimously to recommend approval of the Misdemeanor Domestic Violence Protocol Model.

MEMBERS ATTENDING

- \* Celeste Adams, Save the Family
- + Christina Avila, Avondale
- + Sgt. Marc Rivers for Lt. Robert Bates, Phoenix Police Dept.
- \* John Belatti, Chandler
- John A. Blackburn, Jr., AZ Criminal Justice Commission
- + Allie Bones, Arizona Coalition Against Domestic Violence
- \* Rick Buss, Gila Bend
- + Chris Christy, Salt River Pima-Maricopa Indian Community
- \* JoAnn Del-Colle, Phoenix Family Advocacy Center
- \* Councilmember Roy Delgado, El Mirage
- \* President Diane Enos, Salt River Pima-Maricopa Indian Community
- + Kristen Scharlau for Naomi Farrell, Tempe
- + Patricia George for Will Gonzalez, Phoenix Prosecutor's Office
- + Laura Guild, Arizona Dept. of Economic Security
- + Cmdr. Kim Humphrey, Phoenix Police Dept., Chair
- + Lynette Jelinek, Glendale Fire Dept.
- \* Mary Lynn Kasunic, Area Agency on Aging
- \* Patricia Klahr, Chrysalis Shelter Inc.
- \* Councilmember Suzanne Klapp, Scottsdale
- \* Councilmember Sheri Lauritano, Goodyear
- \* Councilmember Phil Lieberman, Glendale
- \* Jodi Beckley Liggett, Arizona Foundation for Women
- + Barbara Marshall, Maricopa County Attorney's Office, Vice Chair
- + Mary Murphy, Governor's Office for Children, Youth, and Families
- + Dottie O'Connell, Chicanos Por la Causa
- \* Connie Phillips, Sojourner Center
- + Lynn Potts for John Pombier, Mesa Prosecutor's Office
- + Kerry Ramella, City of Phoenix Fire Dept.
- \* Sarah Youngblood, Community Legal Services

- + Those attending by video/audio conference
- \* Those not present or represented by proxy

**CONTACT PERSON:**

Renaë Tenney, MAG Human Services Planner, (602) 254-6300.

**MAG Protocol Evaluation Project**  
**DRAFT Misdemeanor DV Protocol Model**  
**8/31/11**

**A. Initial Response**

1. The Communications Operator should be responsible for determining if a call for service is dispatched as "Domestic Violence." Any call involving a domestic violence incident should be given the same priority as any other emergency call.
2. Two officers should respond to the call (when possible).
3. The officer(s) should be briefed by the Communications Operator before arriving on scene.
4. The officer(s) should be alert for weapons when arriving on scene.
5. The officer(s) should ask victim and suspect about the nature of the dispute while noting their mental, emotional, and physical conditions.
6. If suspect is on scene, the officer(s) should restrain suspect (if necessary) and remove suspect to the patrol car if immediate detention or arrest is warranted.
7. If suspect flees the scene, the officer(s) should locate, interview, and arrest suspect as soon as possible. If a warrant is needed, the officer(s) should obtain and execute the warrant as soon as possible.
8. If entry is consented, the officer(s) should enter and conduct a search of the premises.
9. If refused entry, the officer(s) should persist in seeing and speaking alone with the subject of the call. If access is still refused, the officer(s) should force entry for the purpose of ensuring the welfare of all occupants inside.
10. The officer(s) should assess injuries, administer first aid, and notify Emergency Medical Services. The officer(s) should encourage victim to seek emergency room exams as appropriate and should document if treatment is refused.
11. The officer(s) should NOT become involved in the disposition of personal property ownership. The officer(s) should remain neutral and be concerned primarily with maintaining the peace and safety of those present. The officer(s) should stand by while victim or suspect gathers necessities for a short-term absence from the home.
12. The officer(s) shall advise a victim of her/his constitutional rights (verbally and in writing) and take care to specifically explain that the suspect's initial court appearance likely will occur in less than 24 hours. The victim shall be told of the likely time and place of suspect's initial court appearance and how to contact the court. The officer(s)

shall advise the victim of her/his right to be present and to be heard at the initial appearance in person or through a written statement. The victim must be told she/he has the right to submit to the court any information she/he wants considered before the judge makes a release decision (including requests for "no contact") and how she/he can submit written statements to the court for the initial court appearance. See Arizona Constitution Article II, Section 2.1; Arizona Revised Statute (ARS) 13-4405 and 4406.

## **B. On-Scene Assistance to Victims**

13. The officer(s) should call a Crisis Response or Victim Services Unit, if available, to assist victim and her/his family on scene.
14. If a Crisis Response or Victim Services Unit is NOT available, the officer(s) should assist with Sections a-h (below).
  - a. Conduct safety planning with the victim as she/he may need to take additional protective measures to maintain her/his safety.
  - b. Provide information and phone numbers for accessing domestic violence assistance to include help locating lodging per ARS 13-3601(J)(3).
  - c. Inform the victim to document any contact or acts of intimidation or influence attempted by the suspect (i.e., letters, phone calls, or other statements to the victim or children) and to give that information immediately to the case agent and/or prosecutor. Acts that can be in violation of an order may include leaving notes on vehicles and certain acts or gestures made in the past indicating a threat or that violence was going to occur. These activities increase the likelihood that a victim may not appear in court.
  - d. Contact the appropriate victim advocates, who may be located at the closest Family Advocacy Center, and provide the victim's contact information for follow up to maintain the continuum of care.
  - e. Provide Victim Rights Form and Victim Compensation Fund information.
  - f. Inform the victim of suspect's status after an arrest is made.
  - g. Help arrange for transportation to emergency housing, if requested by victim.
  - h. Contact the appropriate entities for obtaining protective orders.

## **C. On-Scene Investigation**

15. The officer(s) should conduct thorough interviews by following Sections a-h (below).
  - a. Conduct complete interviews and obtain written statements as soon as possible.

- b. Identify, separate, and talk with all occupants and witnesses, including children.
  - c. Interview each person in an area out of hearing range from each other and bystanders.
  - d. Take audio recorded statements of interviews. Take video of the victim's statement, if possible.
  - e. Use supportive interviewing techniques to ask about previous incidents, frequency, and severity. Allow parties to describe and explain without interruption before asking questions.
  - f. Talk with children separately from parents, if parents give their consent. Use age appropriate techniques and document children's age(s).
  - g. Be alert of signs of trauma or abuse. Contact appropriate agency if children are being abused.
  - h. Do not tell victim what action will be taken until all available information is collected.
16. The officer(s) should collect important evidence by following Sections a-d (below).
- a. Collect and preserve the physical evidence reasonably necessary to support prosecution including evidence that substantiates victim's injuries, and elements of the attack (i.e., weapons, torn clothing, etc.). Record the crime scene thoroughly.
  - b. Take photos of visible injuries and the crime scene. Document these in the report.
  - c. Request a copy of the telephone recording through a supervisor to impound as evidence, as appropriate.
  - d. Follow up with victim, in person, to see if injuries are now visible or if injuries observed at the scene are changing. Arrange for daily follow up if the officer(s) will not be available.

#### **D. Arrest Decision**

17. The officer(s) should make an arrest decision based on credible statements and supporting evidence. Criminal action is initiated by the State, not by the victim.
18. If an officer(s) determines there is no evidence of a crime or there has been no allegation of a domestic violence offense, the officer(s) should find the call unfounded. A specific

Computer Automated Dispatch entry should be entered for every domestic violence call including those lacking physical evidence of a crime.

19. The officer(s) should determine if there is a predominant aggressor by considering factors, including Section a-i (below):
  - a. What is the prior history of violence between the couple?
  - b. Is there a size differential between the parties?
  - c. What is the relative severity and extent of the injuries?
  - d. What is the likelihood of future injury to each party?
  - e. What is the relative fear of each party to the other?
  - f. What is the law regarding self-defense?
  - g. Was either party armed with a weapon or did either party use a weapon?
  - h. What were the circumstances leading up to and surrounding the confrontation?
  - i. What was said by the parties?
20. In order to arrest both parties, the officer(s) should have probable cause to believe both parties independently may have committed a crime.
21. The officer(s) shall provide victim with written information for contacting victims' assistance programs, if available, whether or not an arrest is made. ARS 13-3601(J)
22. Following an arrest decision, the officer(s) should conduct tasks including those in Sections a-d (below).
  - a. Take the accused into custody as soon as it is determined a warrantless arrest is appropriate.
  - b. Temporarily seize any firearms in plain view or found pursuant to consenting to search, and if the officer(s) reasonably believes the firearms expose victim or other persons in the household to the risk of serious bodily injury or death. Any firearms owned or possessed by victim may not be seized unless there is probable cause to believe both parties independently committed an act of domestic violence. ARS 13-3601(C)
  - c. Arrest juveniles only when appropriate to the incident. If suspects are under 18 years of age, the officer(s) should process using Juvenile Code.

- d. Submit the suspect's fingerprints and photographs with the Departmental Report (DR) and forward them onto the Arizona Automated Fingerprint Identification System (AAFIS).

## **E. Complete Reports**

23. The officer(s) should thoroughly complete reports by following Sections a-k (below).

- a. Obtain, and if possible, verify victim's address, home phone number, cell phone number, safe phone number (i.e., name and phone number of friend and/or relative), email, and alternate addresses for contacting victim for follow up. Advise victim her/his information may be given to victim advocates for follow up.
- b. Document any possible incriminating statements and any excited utterances.
- c. Document evidence of substance and/or chemical abuse by suspect, victim, and witnesses.
- d. Identify any emergency medical personnel who responded. Provide their names and cell phone numbers for follow up.
- e. Provide the officer(s)' names and contact information (direct numbers and cell phone numbers), and Departmental Report (DR) numbers for follow up by prosecutors.
- f. Determine if victim has a protective order. If so, verify protective order with the agency or entity housing it and request a faxed copy for inclusion in the report.
- g. Check protective order to determine if weapons have been ordered to be removed per domestic violence statutory requirements for "cooling-off" period.
- h. Obtain consent from the owner to remove any weapons if no protective order exists.
- i. Ask about and document any information about prior incidents to establish a pattern or history of abuse.
- j. Make records checks on both parties in the dispute. Felony charges should be submitted if criminal histories elevate a misdemeanor to a felony given the number of prior misdemeanor convictions.
- k. Fill out Injury Documentation Picture Reports of all injuries found on victim and/or suspect.

24. The officer(s) should submit all evidence of suspect attempting to intimidate or influence victim. This may deter victim's participation in the prosecution process.
25. The officer(s) should clearly mark all written reports and documents as "domestic violence."
26. The officer(s) should submit a report when probable cause exists, even if the victim recants or declines to assist in prosecution.
27. The officer(s) should locate and interview suspect if there is evidence a crime has occurred (i.e., physical injuries or damaged property), especially if there are no witnesses for corroboration. A report should be written even if reasonable attempts to contact the suspect are unsuccessful.
28. Judges will be provided a completed Form IV to review before making a release decision. Information in the Form IV should include whether suspect poses a threat to victim or others (i.e., threatening comments or conduct by the suspect), whether suspect has access to weapons, and whether a court has issued a protective order against the suspect.