

MAG Protocol Evaluation Project
DRAFT Misdemeanor DV Protocol Model
8/30/11

A. Initial Response

1. Communications Operators are responsible for determining if calls for service are dispatched as "Domestic Violence." All calls involving domestic violence incidents are given the same priority as any other 911 emergency calls.
2. Two officers respond to the call (when possible).
3. Officer(s) are briefed by Communications Operators before arriving on scene.
4. The officer(s) are alert for weapons when arriving on scene.
5. Officer(s) ask victims' and suspects' about the nature of the dispute while noting their mental, emotional, and physical conditions.
6. If suspects is are on scene, the officer(s) restrain suspects (if necessary) and remove them to the patrol cars if immediate detention or arrests are warranted.
7. If suspects flees the scene, the officer(s) locate, interview, and arrest suspects as soon as possible. If warrants are needed, the officer(s) obtain and execute warrants as soon as possible.
8. If entry is consented, the officer(s) enter and conduct searches of the premises.
9. If refused entry, the officer(s) persist about seeing and speaking alone with subjects of the calls. If access is still refused, the officer(s) may force entry for the purpose of ensuring the welfare of all occupants inside.
10. The officer(s) assess injuries, administer first aid, and notify Emergency Medical Services. The officer(s) encourage victims to seek emergency room exams as appropriate and document if treatment is refused.
11. The officer(s) may NOT become involved in the disposition of personal property ownership. The officer(s) may remain neutral and be concerned primarily with maintaining the peace and safety of those present. The officer(s) may stand by while the victims or offenders gather necessities for short-term absences from the home.
12. The officer(s) advise victims of their constitutional rights (verbally and in writing) and take care to specifically explain that suspects' initial court appearance likely will occur in less than 24 hours. The victims should be told of the likely time and place of suspects' initial court appearance and how to contact the court. The officer(s) must advise victims of their right to be present and to be heard at the initial appearance in person or through a

written statement. Victims must be told they have the right to submit to the court any information they want considered before the judge makes a release decision (including requests for "no contact") and how victims 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) may call a Crisis Response or Victim Services Unit, if available, to assist victims and their families on scene.
14. If a Crisis Response or Victim Services Unit is NOT available, the officer(s) may assist with Sections a-h (below).
 - a. Conducting safety planning with victims as they may need to take additional protective measures to maintain their safety.
 - b. Providing information and phone numbers for accessing domestic violence assistance to include help locating lodging per ARS 13-3601(J)(3).
 - c. Informing victims to document any contact or acts of intimidation or influence attempted by suspects (i.e., letters, phone calls, or other statements to victims 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 victims may not appear in court.
 - d. Contacting the appropriate victim advocates, who may be located at the closest Family Advocacy Center, and providing victims' contact information for follow up to maintain the continuum of care.
 - e. Providing Victim Rights Form and Victim Compensation Fund information.
 - f. Informing victims of suspects' status after an arrest is made.
 - g. Helping arrange for transportation to emergency housing, if requested by victims.
 - h. Contacting the appropriate entities for obtaining protective orders.

C. On-Scene Investigation

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

- b. Identifying, separating, and talking with all occupants and witnesses, including children.
 - c. Interviewing each person in an area out of hearing range from each other and bystanders.
 - d. Taking audio recorded statements of interviews. Taking video of victim's statement, if possible.
 - e. Using supportive interviewing techniques to ask about previous incidents, frequency, and severity. Allowing parties to describe and explain without interruption before asking questions.
 - f. Talking with children separately from parents, if parents give their consent. Using age appropriate techniques and documenting age(s).
 - g. Being alert to signs of trauma or abuse. Contacting appropriate agency if children are being abused.
 - h. Not telling victims what action will be taken until all available information is collected.
16. The officer(s) may collect important evidence by following Sections a-d (below).
- a. Collecting and preserving the physical evidence reasonably necessary to support prosecution including evidence that substantiates victims' injuries, and elements of the attack (i.e., weapons, torn clothing, etc.). Recording the crime scenes thoroughly.
 - b. Taking photos of visible injuries and the crime scenes. Documenting these in reports.
 - c. Requesting copies of telephone recordings through their supervisor to impound as evidence, as appropriate.
 - d. Following up with victims, in person, to see if injuries are now visible or if injuries observed at the scene are changing. Arranging for daily follow up if the officer(s) will not be available.

D. Arrest Decision

17. The officer(s) make an arrest decision based on credible statements and supporting evidence. Criminal action is initiated by the State, not by victims.

18. If officer(s) determine there is no evidence of a crime ~~or and~~ there has been no allegation of a domestic violence offense, the officer(s) may find the call unfounded. A specific Computer Automated Dispatch entry is entered for all domestic violence calls including those lacking physical evidence of a crime.
19. The officer(s) determine if there is a predominant aggressor by considering questions a-f (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 ~~intent of the law to protect victims~~ law regarding self-defense?
 - g. Was either party armed with weapon or use a weapon?
 - h. What were the circumstances leading up to and surrounding the confrontation?
 - f.i. What was said by the parties?
20. In order to arrest both parties, the officer(s) must have probable cause to believe both parties independently have committed an act of domestic violence.
21. The officer(s) may become familiar with Class 6 Domestic Violence felonies to assist with submission of misdemeanors for elevation to felony charges.
22. The officer(s) may provide victims with written information for contacting victims' assistance programs, if available, whether or not an arrest is made.
23. If officer(s) may follow an arrest decision by following Sections a-d (below).
 - a. Taking the accused into custody as soon as they determine a warrantless arrest is appropriate.
 - b. Temporarily seizing any firearms in plain view or found pursuant to consenting to search, and if the officer(s) reasonably believe the firearms expose the victims or other persons in the household to the risk of serious bodily injury or death. Any firearms owned or possessed by victims 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. Arresting juveniles only when appropriate to the incident. If suspects are under 18 years of age, the officer(s) may process using Juvenile Code.
 - d. Submitting suspects' fingerprints and photographs with the Departmental Report (DR) and forwarding them onto the Arizona Automated Fingerprint Identification System (AAFIS).

E. Complete Reports

24. The officer(s) may complete department reports before arrests are made. The officer(s) may use Long Forms instead of citations. They may thoroughly complete reports by following Sections a-k (below).
- a. Obtaining, and if possible, verifying victims' addresses, home phone numbers, cell phone numbers, safe phone numbers (i.e., names and phone numbers of friends and/or relatives), emails, and alternate addresses for contacting victims for follow up as well as advising victims their information may be given to victim advocates for follow up.
 - b. Documenting any possible incriminating statements and any excited utterances.
 - c. Documenting evidence of substance and/or chemical abuse by suspects, victims, and witnesses.
 - d. Identifying any emergency medical personnel who responded as well as providing their names and cell phone numbers for follow up.
 - e. Providing officers' names and contact information (direct numbers and cell phone numbers), and Departmental Report (DR) numbers for follow up by prosecutors.
 - f. Determining if victims have protective orders. If so, verifying the protective orders with the agency or entity housing them and requesting faxed copies for inclusion in reports.
 - g. Checking protective orders to determine if weapons have been ordered to be removed per domestic violence statutory requirements for "cooling-off" period.
 - h. Obtaining consent from owners to remove weapons if no protective orders exist.
 - i. Asking about and documenting any information about prior incidents to establish patterns or histories of abuse.
 - j. Making 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. Filling out Injury Documentation Picture Reports of all injuries found on all victims and/or suspects.
25. The officer(s) submit all evidence of suspects attempting to intimidate or influence victims as this may deter victims' participation in the prosecution process.
26. The officer(s) may clearly mark all written reports and documents as "domestic violence."

27. The officer(s) may submit reports when probable cause exists, even if victims recant or decline to assist in prosecution.
28. The officer(s) may locate and interview suspects if there is evidence a crime has occurred (i.e., physical injuries or damaged property), especially if there are no witnesses for corroboration. Reports may be written even if reasonable attempts to contact suspects are unsuccessful.
29. Judges are provided completed Form IVs to review before making release decisions. Information in the Form IVs should include whether suspects pose threats to victims or others (i.e., threatening comments or conduct by suspects), whether suspects have access to weapons, and whether protective orders against suspects have been issued by a court.