

August 25, 2014

TO: Members of the MAG Regional Domestic Violence Council

FROM: Chief Steve Campbell, El Mirage Police Department, Chair

SUBJECT: MEETING NOTIFICATION AND TRANSMITTAL OF TENTATIVE AGENDA

Meeting - 2:00 p.m.

Thursday, September 4, 2014

MAG Office, Suite 200 - Saguario Room

302 North 1<sup>st</sup> Avenue, Phoenix

The next Regional Domestic Violence Council meeting will be held at the MAG offices at the time and place noted above. Members of the Regional Domestic Violence Council may attend either in person, by video conference or by telephone conference call.

The meeting agenda and resource materials are also available on the MAG website at [www.azmag.gov](http://www.azmag.gov). In addition to the existing website location, the agenda packet will be available via the File Transfer Protocol (FTP) site at: <ftp://ftp.azmag.gov/RegionalDomesticViolenceCouncil>. This location is publicly accessible and does not require a password.

Please park in the garage underneath the building. Bring your ticket to the meeting, and parking will be validated. For those using transit, the Regional Public Transportation Authority will provide transit tickets for your trip. For those using bicycles, please lock your bicycle in the bike rack in the garage.

In 1996, the Regional Council approved a simple majority quorum for all MAG advisory committees. If the Regional Domestic Violence Council does not meet the quorum requirement, members who have arrived at the meeting will be instructed a legal meeting cannot occur and subsequently be dismissed. Your attendance at the meeting is strongly encouraged.

Pursuant to Title II of the Americans with Disabilities Act (ADA), MAG does not discriminate on the basis of disability in admissions to or participation in its public meetings. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the MAG office. Requests should be made as early as possible to allow time to arrange the accommodation.

If you have any questions, please contact Nikki Oxford at [noxford@azmag.gov](mailto:noxford@azmag.gov) or (602) 759-1843.

MAG REGIONAL DOMESTIC VIOLENCE COUNCIL  
TENTATIVE AGENDA  
September 4, 2014

**COUNCIL ACTION REQUESTED**

1. Call to Order

1. Welcome and introductions.

2. Call to the Audience

2. Information.

An opportunity will be provided to members of the public to address the Regional Domestic Violence Council on items not scheduled on the agenda that fall under the jurisdiction of MAG, or on items on the agenda for discussion but not for action. Citizens will be requested not to exceed a three minute time period for their comments. A total of 15 minutes will be provided for the Call to the Audience agenda item, unless the Regional Domestic Violence Council requests an exception to this limit. Please note that those wishing to comment on agenda items posted for action will be provided the opportunity at the time the item is heard.

3. Approval of the June 5, 2014 Meeting Minutes

3. Approval of the June 5, 2014 MAG Regional Domestic Violence Council meeting minutes.

4. MAG Regional Plan to End Domestic Violence Annual Report

4. Approve the MAG Regional Plan to End Domestic Violence FY 2014 Annual Report.

The FY 2014 MAG Regional Plan to End Domestic Violence Annual Report was presented to the Committee at the June 5, 2014 meeting for action. The Council voted to table the item to allow additional time for the Committee to review the report. The report on the progress made on implementation of the strategies laid out in the regional plan released in May 2010 will be presented for action.

5. MAG Regional Misdemeanor Domestic Violence Protocol Model Revisions

5. Approve revisions to the MAG Regional Misdemeanor Domestic Violence Protocol Model.

Nikki Oxford, MAG, will offer an overview of revisions recommended for the MAG Regional Misdemeanor Domestic Violence Protocol Model. The recommendations were developed based on input from the law enforcement, prosecution, and victim advocate affinity group

and will include revisions offered by the Committee at the June meeting. The MAG Regional Misdemeanor Domestic Violence Protocol Model is being presented for action.

6. Felony Protocol Model

An report will be offered on input received and recommended revisions for the Maricopa County Attorney's Office Felony Protocol Model including plans to present the draft revisions and seek additional input through three community meetings scheduled in September.

6. Information and discussion.

7. Protocol Evaluation Project Training Resources and Outreach Activities

An update will be offered on outreach and training activities including the Solutions for Safety training event held on August 12<sup>th</sup>, development of the 2014 Law Enforcement training video, Brown Bag Lunch training sessions, and the Domestic Violence Awareness Month press conference. These annual activities are coordinated as part of the work of the Protocol Evaluation Project. The update will include an evaluation of the 2014 PEP project and seek input from the Committee on the scope of work for 2015.

7. Information and discussion.

8. Request for Future Agenda Items

Topics or issues of interest that the Regional Domestic Violence Council would like to have considered for discussion at a future meeting will be requested.

8. Information.

9. Comments from the Council

An opportunity will be provided for Regional Domestic Violence Council members to present a brief summary of current events. The Regional Domestic Violence Council is not allowed to propose, discuss, deliberate or take action at the meeting on any matter in the summary, unless the specific matter is properly noticed for legal action.

9. Information.

Adjournment

MINUTES OF THE  
MAG REGIONAL DOMESTIC VIOLENCE COUNCIL MEETING

June 5, 2014

MAG Office Building, Saguaro Room  
Phoenix, Arizona

MEMBERS ATTENDING

- \* Celeste Adams, Save the Family  
Vice Mayor Robin Barker, City of  
Apache Junction, Vice Chair
- \* John Belatti, City of Chandler  
Prosecutor's Office  
Libby Bissa, City of Phoenix Family  
Advocacy Center  
Larry Grubbs for John A. Blackburn, Jr.,  
Arizona Criminal Justice Commission  
Yvonne Taylor for Allie Bones, Arizona  
Coalition to End Sexual and Domestic  
Violence  
Chief Steve Campbell, City of El Mirage  
Police Department, Chair
- \* Michael Celaya, City of Surprise
- \* Councilmember Samuel Chavira, City of  
Glendale
- \* Chris Christy, Salt River Pima-Maricopa  
Indian Community
- \* Lieutenant Brian Coley, City of Phoenix  
Police Department
- # Councilmember Ginny Dickey, Town of  
Fountain Hills  
Jon Eliason, Maricopa County Attorney's  
Office
- \* President Diane Enos, Salt River Pima-  
Maricopa Indian Community  
Kristen Scharlau for Naomi Farrell, City  
of Tempe  
Maria Garay, Sojourner Center
- Donna Gardner, City of Avondale  
Patricia George for Will Gonzalez, City  
of Phoenix Prosecutor's Office  
Laura Guild, Arizona Dept. of Economic  
Security  
Constance Halonen, City of Apache  
Junction Police Department
- \* Cmdr. Kim Humphrey, City of Phoenix  
Police Department
- \* Lynette Jelinek, City of Glendale Fire  
Dept.  
Alice Ghareib for Mary Lynn Kasunic,  
Area Agency on Aging
- \* Patricia Klahr, Chrysalis Shelter, Inc.  
Councilmember Suzanne Klapp, City of  
Scottsdale
- # Councilmember Sheri Lauritano, City of  
Goodyear  
Councilmember David Luna, City of  
Mesa  
Leah Meyers, Governor's Office for  
Children, Youth and Families  
Maribel Gloria, Chicanos por la Causa  
D.C. Ernst for Kerry Ramella, Phoenix  
Fire Department  
Lynn Selby, City of El Mirage
- \* Kathleen Sullivan, Town of Gilbert
- \* Sarah Youngblood, Community Legal  
Services

\* Those members neither present nor represented by proxy.

# Attended by telephone conference call.

+ Attended by videoconference

## OTHERS PRESENT

Melissa Certo, City of Phoenix Prosecutor's Office  
Kate Henderson, Arizona Department of Public Safety  
Rosalie Hernandez, A New Leaf  
Carl Mangold, Private Practice  
Teisha Portee, Surprise Police Department  
Kristina Bunch, Goodyear Police Department  
Stephanie Smith, Peoria Police Department  
Rita Coronado, Surprise Prosecutor's Office  
Dana Martinez, A New Leaf  
Colleen Hendricks, Maricopa County Attorney's Office-Victim Services  
Isabel Molina, Chicanos por la Causa  
Judge Elizabeth Finn, City of Glendale  
Renaee Tenney, Maricopa Association of Governments  
Nikki Oxford, Maricopa Association of Governments

### 1. Call to Order and Introductions

Chair Steve Campbell, El Mirage Police Department, called the meeting to order at 2:03 p.m.

Chair Campbell asked the Committee members and audience members to introduce themselves. Introductions ensued.

### 2. Call to the Audience

An opportunity was provided to members of the public to address the Regional Domestic Violence Council on items not scheduled on the agenda that fall under the jurisdiction of MAG, or on items on the agenda for discussion but not for action. Chair Campbell requested audience members not to exceed a three minute time period for their comments.

There were no comments made from the audience.

### 3. Approval of the April 3, 2014 Regional Domestic Violence Council Meeting Minutes

Chair Campbell called for approval of the MAG Regional Domestic Violence Council meeting minutes from April 3, 2014. Chair Campbell asked for any revisions to the minutes. Hearing none, Chair Campbell entertained a motion to approve the minutes. Councilmember Luna, City of Mesa, made a motion to approve the minutes. Libby Bissa, City of Phoenix, seconded the motion. All voted and the motion passed.

4. MAG Regional Plan to End Domestic Violence Annual Report

Renae Tenney, MAG, provided the Council with the FY 2013 MAG Regional Plan to End Domestic Violence Annual Report. This report illustrates the progress made on the implementation of strategies laid out in the regional plan released in May 2010.

Ms. Tenney asked the Council to take a moment and read over the Annual Report. Chair Campbell requested Ms. Tenney give the group a brief overview of the report since this is the first time the Council is looking at the document provided.

Ms. Tenney gave a brief background of the Annual Report stating, when the Maricopa Association of Governments released the Regional Domestic Violence Plan in August 1999, it was one of only six regions addressing domestic violence through a coordinated community approach.

The 1999 MAG Regional Domestic Violence Plan laid out 41 recommendations. These recommendations included raising awareness, increasing shelter beds, developing workplace policies, educating teens about dating violence, training various professionals about recognizing and helping victims of abuse, and much more. The foundation of the MAG Regional Plan to End Domestic Violence is built on four areas of focus. These include Funding, Training and Education, Coordination and Collaboration, and Services. The four focus areas consist of 15 strategies for successfully moving the goals of the plan forward, resulting in enhanced processes for keeping more victims safe and holding more abusers accountable.

Ms. Tenney continued updating the Council on recent progress of the region. For example, the Start By Believing Campaign has been tremendously successful with many organizations becoming aware of it. MAG has been working with the O'Connor House to update the Victim Services Application that can be accessed through user's cell phones, the City of Phoenix has seen success with the implementation of their Road Map to Excellence, and MAG has begun of the process of hiring a consultant to continue research on the Victim Satisfaction Survey of Law Enforcements use of the Protocol Model.

Chair Campbell suggested the Council table this agenda item due to the limited amount time provided to the Council to review the report. Chair Campbell entertained a motion to table this agenda item for next meeting. Councilmember Luna, City of Mesa, made a motion to table the agenda item until next time. Jon Eliason, Maricopa County Attorney's Office, seconded the motion. All voted and the motion passed.

5. Regional Protocol Model Implementation Survey

Chair Campbell introduced Nikki Oxford, MAG Human Services Intern, to present recent findings on the updated Protocol Evaluation Project Implementation Survey.

Ms. Tenney asked Ms. Oxford to give a brief overview of what the Protocol Model is and what the survey is for any audience members or council members who may otherwise be

unaware. Ms. Oxford explained the Protocol Model is basically a guide for how law enforcement should handle a domestic violence call and steps for what police should do during this situation. This survey asks law enforcement agencies which parts of the Protocol Model they are fully using in order to determine how implementation rates of the Protocol Model regionally.

Ms. Oxford proceeded to present the survey results of different law enforcement agencies throughout the state responses. The implementation survey was distributed to 73 law enforcement agencies across the state.

Ms. Oxford noted that while many of the responses from 2013 to 2014 are quite similar, a few key responses have shifted considerably. It is important to keep in mind while this shift could be due to the slight shift in population who responded to the survey or from participant bias, it could also be a reflection of the changing needs of the region.

Ms. Oxford explained she started working on this project in the middle of it, picking up where another intern had left off. Ms. Oxford and Ms. Tenney updated the Protocol Model Implementation Survey to reflect revisions made to the Protocol Model within the last year. The updated survey was then sent to law enforcement agencies across Arizona. Ms. Oxford noted both in 2013 and 2014 there were 30 agencies who completed the survey.

Ms. Oxford continued with her presentation pointing out that the population of the participants this year varied slightly from last year. However, the majority of participants are still from Maricopa County. Ms. Oxford urged the Council to review the Survey Report after this meeting, as this presentation is only a glimpse of the data.

Vice Chair Robin Barker, City of Apache Junction, asked how this population change impacts the validity of the survey results. Ms. Oxford explained that because of the shift in population it is possible that the differences in responses are due to the different counties participating in the survey, but that it is unlikely the only reason why some answers changed so significantly. However, it is important to keep in mind the weaknesses of any study and this particular weakness does impact the validity of the results.

Ms. Oxford noted on the “Barriers to Implementation” slide, which asked law enforcement what some of the barriers were in implementing the Protocol Model, that there were increased responses of the options *cost* and *limited staff*. Ms. Oxford noted on the “Additional Resources Needed” slide, which asked law enforcement which additional resources would further implement the protocol model, that there was an increased need for *more training* reported by agencies. This slide also showed a significant decrease in the number of agencies who needed *technical assistance* dropping from 38 percent in 2013 to four percent in 2014.

Ms. Oxford noted in the next slide “Helpful Practice” which asked agencies what current practices have helped them in the implementation of the survey, that participant’s responses from 2013 to 2014 increased for *training by my agency* and decreased for *training outside my agency*. This shows that when agencies say they need more training they are really wanting

more training from within their own organization. Other helpful practices included the adoption of a lethality assessment program. Some agencies reported with the adoption of a lethality assessment program it made it easier to fully implement the Protocol Model due to changes in attitudes and workplace culture.

Ms. Oxford moved on to the last slide of her presentation “Next Steps”. Ms. Oxford discussed how the various partners with MAG, DV Council, Affinity Groups, and other Protocol Evaluation Project partners can move forward in further implementing the Protocol Model. Ms. Oxford noted the *main barriers* to implementation were: time and resources, limited staff and lack of training. Ms. Oxford then identified the *supportive factors* reported by agencies: on-going training within the agency, adopting a lethality assessment program and changing the cultural mentality of the workplace. Ms. Oxford then suggested possible *strategies* for addressing these barriers and supportive factors: develop on-going training for staff within their agency and incorporate a lethality assessment program into the Protocol Model.

Vice Chair Barker, City of Apache Junction, questioned whether the first strategy should really be something the Council would be responsible for. Chair Campbell agreed and asked what kind of training exactly are agencies looking for and is this the role/responsibility of the Council?

Ms. Oxford noted this is an area that needs further research in order to determine the appropriate training topics for agencies. This is something that can be explored further.

Jon Eliason, Maricopa County Attorney’s Office, suggested this strategy be changed to “identifying trainings” instead of “developing trainings”. Ms. Tenney agreed and clarified the role of the Council would be more coordination. Mr. Eliason then asked if it were possible to gather all currently available training materials from various organizations and make them available on the MAG website. Councilmember Luna, agreed with Mr. Eliason saying an inventory of trainings would be helpful.

Ms. Tenney reiterated the purpose of the Implementation Survey is to determine next steps to further enhance or implement the Protocol Model. Ms. Tenney noted the general responses from the survey indicated there was more of a need for officers to receive training on how the Protocol Model works specifically within their agency, rather than general technical assistance about the Protocol Model itself. Ms. Tenney suggested this might be a good piece to take back to the Law Enforcement Affinity Group to discuss further.

Chair Campbell explained every agency has their own way of doing business when it comes to training, but it would be important for the Council to provide some options or suggestions for what these in-house trainings might include and MAG could act as a facilitator of that information.

Mr. Eliason also noted it can be hard for prosecutors to get away from work in order to attend a training but having training materials available on the MAG website would be a great resource. Vice Chair Barker, agreed and added it would be great to have a library style of

information available so that people could search for trainings based on topics. Ms. Tenney noted this can be addressed by re-organizing the information already available on the MAG website into sections by topic.

Kristen Scharlua, CARE7, added she sees the value in gathering this kind of information, but at some point the particular cities that are struggling the most need to be identified so MAG can reach out to them. Chair Campbell also suggested providing more FAQ documents or “how to” trainings for agencies to learn how other agencies have been successful.

Ms. Tenney summarized the next steps for the Implementation of the Protocol Model. The Council agreed the first strategy presented to the Council about the development of on-going training for staff within their agency is not something the Council can directly assist on, but that MAG can reach out to AZPOST in order to gather any current and available training in order to make these resources more accessible to people though the MAG website. This would essentially create an inventory or library of trainings that any agency could access. The MAG website should be re-organized to detail trainings based on topic rather than in a chronological order, which is how they are currently organized on the website. MAG should also take a closer look at the data to identify which cities to towns need more technical assistance in order to reach out to these locations on more of a one-on-one basis for enhancing implementation of the Protocol Model. Ms. Tenney also noted MAG would take the topic of what kind of training is needed for police to the Law Enforcement Affinity Group to explore further.

The Council agreed with the second strategy of incorporating a lethality assessment program into the protocol model. However, one possible issue with this would be deciding which lethality assessment program to use since there are several.

Chair Campbell entertained a motion to approve the Regional Protocol Model Implementation Survey findings and identified next steps. Jon Eliason, Maricopa County Attorney’s Office, made a motion to approve the Regional Protocol Model Implementation Survey findings. Vice Chair Barker, City of Apache Junction, seconded the motion. All voted and the motion passed.

## 6. Regional Protocol Model Revisions

Chair Campbell asked Ms. Tenney to give the Council an update on the revisions of the Protocol Model. Ms. Tenney briefly went over the revisions made to the Protocol Model within this past year and recent additions up for approval of the Council, including the addition of a lethality assessment program throughout the document. Discussion ensued.

Constance Halonen, Apache Junction Police Department, asked about the meaning of predominate aggressor and how police officers should determine this. Chair Campbell noted this definition may vary depending on the lethality assessment language used. Ms. Tenney made note of this question and agreed to make the necessary changes needed.

Jon Eliason, Maricopa County Attorney's Office, commented that police officers should be encouraged to respond to domestic violence not just as a practice, but as a policy. Chair Campbell, in agreement, mentioned how the City of El Mirage has a policy in place for police to respond to domestic violence. Mr. Eliason agreed this policy change would help in shifting the cultural mentalities of professionals when it comes to handling domestic violence cases.

Dana Martinez, A New Leaf, made a comment from the audience about certain word usages throughout the document. She pointed out that lethality assessment and danger assessment might be interchangeable terms, but risk assessment is something else entirely and can have a very different meaning. This is something that should be addresses to ensure consistency throughout the document. Ms. Tenney made note of these corrections. Discussion ensued.

Constance Halonen, Apache Junction Police Department, noted lethality assessment programs results in legal liability issues concerning police departments. However, Jon Eliason, Maricopa County Attorney's Office, noted there are liability issues for municipalities whether they have a lethality assessment program or not, because the lack of lethality assessment is grounds for legal liability also. Discussion ensued.

Leah Meyers, Governor's Office for Children, Youth and Families, noted in the Protocol Model, the phrase "victim is facing in this particular situation" should be framed within the context of a relationship and not a situation. Carl Mangold, Private Practice, also noted the information that is to be given to the victim should be specified to specifically say police should provide victims with the results of the lethality assessment. Ms. Tenney made note of these corrections.

In the interest of time, Chair Campbell asked the Council to forward any further revisions to the Protocol Model to Renae Tenney via email. Chair Campbell entertained a motion to table this agenda item until the next DV Council meeting in September. Patricia George, City of Phoenix Prosecutor's Office, made a motion to table this agenda item. Ms. Meyers seconded the motion. All voted and the motion passed.

## 7. Regional and Statewide Coordination Strategies

Renae Tenney, MAG, informed the Council that MAG would like to move forward with the suggested strategies, as illustrated in the handout. Ms. Tenney noted these strategies came out of the different Affinity Group discussions when different disciplines (law enforcement, prosecutors and victim advocates) were asked what issues they were currently facing in their work.

Chair Campbell, asked how these strategies fall into place at DV Council. Ms. Tenney explained these strategies all relate back to the Protocol Model and how the committee can help to in implementing and/or enhancing it further.

Chair Campbell suggested that strategy number two, which refers to conducting outreach to coordinate a process for patrol officers and other various professionals for accessing 911

recordings, goes into too much detail and would probably not be a good fit for the Council to take on. Jon Eliason, Maricopa County Attorney's Office, agreed with Chair Campbell stating different agencies have different procedures when it comes to pulling 911 call recordings. Libby Bissa, City of Phoenix, also agreed with Chair Campbell and Mr. Eliason noting this strategy was more process than protocol.

Ms. Tenney made note of the agreement among the Council to not pursue strategy number two.

Judge Elizabeth Finn, City of Glendale urged the Council to look back at strategy number one, which refers to the process for how various agencies send cases turned down for felony charges to municipal courts, indicating this is a huge problem for the criminal justice system. Judge Finn noted this problem exists because there is no effective communication set up between professionals and often the successfulness of felony turn down cases depend on the individual and the connections they have made throughout their career. If this person leaves they take the communication they have worked for with them leaving a big hole in the system. There needs to be a system in place that does not depend on one person, but rather is a procedure to be followed.

Jon Eliason, enthusiastically agreed with Judge Finn and noted the Maricopa County Attorney's Office will be going live with an electronic system to address this massive issue.

Ms. Tenney summarized strategy number one has agreement with all members of the Council. Libby Bissa, City of Phoenix, noted in regard to strategy three, which refers to providing trainings about human trafficking, that there is already a taskforce in place to address this need because of the Superbowl that is coming to Arizona. Ms. Bissa also noted strategy number one is so large the Council may not want to take on committing to more than one strategy for the moment. Leah Meyers, Governor's Office for Children, Youth and Families, also noted the Governor's office has trainings available about human trafficking.

Chair Campbell entertained a motion to approve the regional and statewide strategies for enhancing coordination and improving implementation of the MAG Regional Protocol Model strategy number one. David Luna made a motion to approve strategy number one. Ms. Meyers seconded the motion. All voted and the motion passed.

#### 8. PEP Training Resources and Outreach Activities

Ms. Tenney took a few moments to update the Council on upcoming events that MAG will be hosting. Ms. Tenney noted the Brown Bag training series that will have its first training on Friday, June 20<sup>th</sup> from 11:30am-1pm at the Scottsdale Family Advocacy Center which will cover the topic of domestic violence related to tribal laws and jurisdictional overlap. Ms. Tenney also noted the training event coming up on Tuesday, August 12<sup>th</sup> from 8:30am-12:00pm which will feature challenges and solutions panels covering such topics as lethality assessment and orders of protection.

Ms. Tenney then moved onto to discussing topics for the future training video. Ms. Tenney noted that MAG would like to move forward with these topics as soon as possible. Ms. Tenney and Chair Campbell then explained more about the ten minute bench training videos that have been distributed to judges and suggested taking one of these topics and expanding it. Chair Campbell noted these training would be directed at various groups, not one group in particular.

Kristen Scharlua, CARE 7, noted from the victim advocates affinity group most people need more training on orders of protection from every level. This would be great knowledge for everyone to have.

Ms. Tenney noted with domestic violence awareness month approaching soon, MAG was thinking of partnering more with the Start by Believing Campaign during this time.

Councilmember Luna, City of Mesa, made a motion to approve the training video topics. Councilmember Klapp, City of Scottsdale seconded the motion. All voted and the motion passed.

#### 9. Committee Interviews

Vice Chair Barker, City of Apache Junction, took a moment to thank members of the Council for participating in the committee interview process.

Chair Campbell gave a brief overview of the information gathered from the committee interviews. Chair Campbell noted most members found the Council to be relevant and that it presented opportunities to expand knowledge on the subject of domestic violence. Chair Campbell asked the Council to take note of the handouts provided with a summary of the responses gathered from members. In the interested of time Chair Campbell quickly moved to the next item inviting members to email Ms. Tenney with any further questions or comments about Committee Interviews.

#### 10. Request for Future Agenda Items

Chair Campbell asked the Council for any requested topics or issues of interest to consider for future agendas. Ms. Tenney noted it would be helpful for the Council to have someone come and present about the work currently being done in the region related to Human Trafficking.

#### 11. Comments from the Council

Council members were given the opportunity to present a brief summary of current events. The Regional Domestic Violence Council is not allowed to propose, discuss, deliberate or take action at the meeting on any matter in the summary, unless a specific matter is properly noticed for legal action.

Jon Eliason, Maricopa County Attorney's Office, announced that Maricopa County Attorney's Office moved a prosecutor into the Phoenix Family Advocacy Center. Mr. Eliason noted this seems to be working out so far.

#### Adjournment

Chair Campbell thanked everyone for their attendance. The meeting adjourned at 3:40 p.m. The next MAG Regional Domestic Violence Council meeting is scheduled for 2:00 p.m. on Thursday, September 4, 2014.

**Maricopa Association of Governments  
Regional Plan to End Domestic Violence  
FY 2014 Annual Update**

Introduction

Domestic violence occurs in every community. The devastation left in its wake is widespread--impacting our families, our communities, our region, and our state. On average, 24 people per minute are victims of rape, physical violence or stalking by an intimate partner, according to the Centers for Disease Control and Prevention. The Arizona Coalition to End Sexual and Domestic Violence identified 139 domestic violence related deaths in the state in 2012. Domestic violence takes many forms, but the core issue – the need to exert power and control over another person – remains universal.

While domestic violence continues to be a prevalent issue facing our communities, there is hope. Community partners dedicated to putting an end to the pain and trauma of domestic violence continue to raise awareness, increase education, strengthen collaborations, and provide services for victims of domestic violence and their families. The tireless efforts of these individuals and the organizations they represent must be commended. However, there is more work to be done. The work must continue as long as there are opportunities to improve our response to domestic violence that will result in more victims being safe and more abusers being held accountable.

Background

When the Maricopa Association of Governments (MAG) released the Regional Domestic Violence Plan in August 1999, it was one of only six regions addressing domestic violence through a coordinated community approach. This effort was prompted by the brutal death of a young mother, who was killed by her husband in front of their children shortly after seeking safety at a local domestic violence shelter. The shelter had been forced to turn her away because there were no beds available. This tragedy solidified the need for change. The community quickly mobilized, with the goal of preventing such heartbreak from ever happening again.

The 1999 MAG Regional Domestic Violence Plan laid out 41 recommendations. These recommendations included raising awareness, increasing shelter beds, developing workplace policies, educating teens about dating violence, training various professionals about recognizing and helping victims of abuse, and much more. The plan established a multidisciplinary committee, the MAG Regional Domestic Violence Council, to provide oversight for implementing the recommendations. The Council focused on improving the lives of those who experienced abuse while seeking initiatives to ultimately end domestic violence in the region.

Ten years later, a new regional plan would be developed through a collaborative effort between the MAG Regional Domestic Violence Council and St. Luke's Health Initiative. Using a strength-based approach, the FY 2011 MAG Regional Plan to End Domestic Violence identified 15 strategies for helping keep victims safe and holding their abusers accountable. The plan is a

true reflection of the community's dedication to this issue. Development of the plan would not have been possible without the expertise of a diverse group of community stakeholders, including insights shared by survivors of domestic violence. The efforts of those who serve on the MAG Regional Domestic Violence Council, those who participated in the process and those who work tirelessly to make a difference in the lives of those who have experienced the trauma of abuse, are greatly appreciated.

This document serves as an annual report showcasing the progress made on the MAG Regional Plan to End Domestic Violence. This report offers an overview of the progress made on the 15 strategies identified to establish sustainable funding sources, offer training and education, and enhance coordination efforts among law enforcement, the judicial system, domestic violence advocates, healthcare professionals, and the community.

### Progress

The foundation of the MAG Regional Plan to End Domestic Violence is built on four areas of focus. These include *Funding, Training and Education, Coordination and Collaboration, and Services*. The four focus areas consist of 15 strategies for successfully moving the goals of the plan forward, resulting in enhanced processes for keeping more victims safe and holding more abusers accountable. The goal is to increase process efficiencies, leverage resources, and make the most difference in addressing the impact of domestic violence on our families, communities, and region.

*Funding:* Strategy One was identified in the focus area of Funding. This strategy is to communicate the need for sustainable funding for existing programs and services. The Arizona Coalition to End Sexual and Domestic Violence (ACESDV), formerly known as the Arizona Coalition to End Domestic Violence, continues to advocate for state funding. The efforts of the organization's Public Policy Department include advocating for the expansion of the domestic violence line item to include an increase in the Domestic Violence Shelter Fund. In February 2013, ACESDV secured new funding through a \$200,000 grant from the City of Phoenix to support domestic violence services. Funding was allocated for development of a centralized intake process for domestic violence shelters and hiring a mobile housing specialist. This was the first time domestic violence shelters in the region worked collaboratively to secure funding on a systemic issue, benefiting the work of all participating shelter programs.

*Training and Education:* Strategies Two through Six were identified in the Training and Education focus area. These strategies include raising awareness and educating the public about domestic violence, increasing social capital for prevention efforts, and developing multidisciplinary trainings for the criminal justice system as well as victims seeking justice. ACESDV provided oversight of awareness efforts that included distribution of the highly successful national public service announcement campaign through "No More," adoption of the "Start by Believing" campaign for responding to sexual assault victims, continuation of the

“Speak Out” poster campaign in collaboration with the O’Connor House, and the introduction of the Paint Phoenix Purple initiative. Launched in honor of Domestic Violence Awareness Month in October 2013, Paint Phoenix Purple provided a model for city-wide awareness campaigns that were quickly replicated by other municipalities across the state.

The Purple Ribbon Council (PRC) continued to increase social capital through grassroots efforts focused on the prevention of domestic violence, specifically in areas of youth education, community engagement, and family empowerment. With support from the Verizon Foundation, BLOOM for Healthy Relationships, a teen dating violence and domestic abuse primary prevention project, was expanded into a multiple session curriculum. The launch of BLOOM Regional Councils in 2014 will serve to increase community engagement in awareness events such as Pretty in Purple Salon/Spa Campaign, Rock the Purple Run, and Pars Fore Purple Golf Course Campaign. In addition, Project Butterfly will begin serving as a direct advocacy resource for children and families of domestic violence homicide victims. Other primary prevention efforts are underway to teach children about healthy relationships through BLOOM Puppet Theater and BLOOM Reader's Theater.

Multiple trainings were developed to inform the criminal justice system about the complexities of domestic violence, to help professionals better coordinate their efforts, and assist victims with navigating the system in pursuit of justice. The Arizona Supreme Court’s Administrative Office of the Court (AOC) sponsored the 2013 Domestic Violence Summit for criminal justice system professionals, coordinated trainings for judges at the June 2013 Judicial Conference, and facilitated development of a best practices manual for judges issuing protective orders. In 2014, the AOC will create a series of 12 bench briefing videos for judges addressing issues related to domestic violence, AZ POST will assist with cross-training by extending invitations to prosecutors and victim advocates, a three-day training conference will be co-hosted by ACESDV and Arizona Coalition for Victim Services, and MAG will continue to strengthen communication and coordination through affinity groups and brown bag trainings coordinated with ACESDV, AZ POST, and Arizona Prosecuting Attorneys’ Advisory Council.

Additional supports were developed for victim advocates to assist victims with navigating the criminal justice system. Through a joint effort between the O’Connor House, MAG and A New Leaf, these supports included an interactive web application for connecting victims to the help they need ([www.FindDVservices.com](http://www.FindDVservices.com)), topic-specific presentations delivered at Domestic Violence Collaborators meetings, and coordination of informal quarterly brown bag trainings and webinars. These supports will continue to be available for victim advocates in 2014.

*Coordination and Collaboration:* Strategies Seven through 10 were identified in the Coordination and Collaboration focus area. These strategies include increasing collaboration between domestic violence shelters and services, increasing information about available resources, coordinating assessment of domestic violence protocols, and developing a coordinated process for helping people experiencing domestic violence and homelessness obtain critical

resources. To facilitate increased collaboration, ACESDV invited executive directors of domestic violence shelters and programs statewide to participate in monthly meetings. Discussions of this group include systemic issues such as addressing inconsistencies in reporting shelter bed availability. The collaborative spirit of this group contributed to receiving \$200,000 for establishing coordinated intake and housing placement services from the City of Phoenix.

Access to information about available domestic violence resources was expanded. The Arizona Department of Economic Security developed an interactive statewide map containing information about domestic violence programs at the local, county, and statewide level. Through a collaborative effort between MAG and the O'Connor House, [www.FindDVservices.com](http://www.FindDVservices.com) was created to provide an easy way for bystanders to access information about where victims can access help. In 2013, the map was adapted for mobile devices, making it accessible by anyone, anywhere. With the help of Arizona State University, the mobile version is undergoing further enhancements with the goal of taking the application nationwide.

Coordination of multidisciplinary efforts to review protocols for responding to domestic violence expanded. The MAG Protocol Evaluation Project (PEP) continued to assess the protocols used in the criminal justice system's response to domestic violence. The project continues to receive support through a STOP Violence Against Women Formula Grant. Through a partnership between MAG and the Maricopa County Attorney's Office (MCAO), a review of the felony domestic violence protocols will take place in 2014, in addition to the annual review of the Regional Protocol Model, which is specific to misdemeanor domestic violence. Project partners contributing to the statewide expansion of the project include the Arizona Criminal Justice Commission, Arizona Association of Chiefs of Police, Arizona Prosecuting Attorney's Advisory Council, Arizona Peace Officers Standards and Training Board, and Arizona Coalition to End Sexual and Domestic Violence. In addition, the Avon Program for Women and Justice at the O'Connor House initiated a protective order task force to explore better ways for conducting service and notification of orders. An electronic transfer system, which sends issued orders from the court directly to law enforcement for service, was piloted by El Mirage and Apache Junction. Through this process, victims no longer are responsible for coordinating service of their orders of protection.

Tremendous progress was made in developing a coordinated process for helping people experiencing domestic violence and homelessness obtain critical resources. In August 2012, the MAG Continuum of Care Regional Committee on Homelessness (CoC), in collaboration with domestic violence providers, adopted guiding principles for a regional coordinated assessment process. In 2013, an assessment tool was approved as well as development of a parallel system for domestic violence providers to conduct a centralized screening process for their services. The centralized screening process for domestic violence services was initiated in March 2013 by A New Leaf. In August 2013, the coordinated assessment process for homeless services was launched in Phoenix at the Human Services Campus and United Methodist Outreach Ministries.

Coordinated assessment and centralized screening serve to connect people with services and resources to help them on their journey to self-sufficiency.

*Services:* Strategies 11 through 15 were identified in the Services focus area. These strategies include creating a model for culturally competent services, enhancing the process for meeting survivor's housing needs, developing supports for teens, coordinating more transportation options for those staying in shelter, and creating long-term supports for helping survivors maintain safety. ACESDV continues to provide training and technical assistance to programs about offering inclusive services. A Multicultural Advisory Committee was formed to assist with ACESDV's internal assessment, which resulted in the addition of Gender Identity Non-discrimination policies. Plans are underway to ensure the needs of Gender and Sexual Minority (GSM) survivors are included in service provision throughout the state. In addition, the Women of Color Network began a Leadership Academy that was attended by nine participants from Arizona in 2013. An ACESDV staff member serves as state lead for the project through mid-2015.

There were various efforts conducted to enhance the process of meeting survivor's housing needs. The centralized screening process undertaken by A New Leaf in March 2013 is gathering valuable data about the types of services survivors are seeking. This information seems to indicate that survivors may be calling the shelter hotline but not necessarily wanting shelter services. This information was validated by a regional study conducted by the Arizona State University Morrison Institute for Public Policy. The study was funded by Nina Mason Pulliam Charitable Trust in partnership with O'Connor House and ACESDV. Released in February 2014, study findings have provided a starting point for discussions about improving shelter and service provision.

Supports for teens were developed as part of the City of Phoenix's increased focus on addressing domestic violence in October 2013. In partnership with the Phoenix Union High School District, the city delivered workshops, trainings, and outreach events focusing on the importance of healthy relationships. Anti-violence awareness art and poetry contests, youth town halls, resource fairs, and flash mobs helped draw the attention of youth and raise community awareness throughout the month of October, and then again in February for Teen Dating Violence Awareness month. Trainings were provided for teachers, counselors, and school staff about recognizing the signs of dating violence. Plans are underway to conduct an "In Their Shoes" exercise with high school and middle school students as well as coordinating a violence prevention program using the performing arts.

Transportation options for those residing in domestic violence and homeless shelters were explored. Domestic violence shelter directors and program staff were provided with human services transportation resources and opportunities for involvement. A survey was conducted to identify available transit options and gaps to explore possible coordination opportunities. This study looked at the eligibility of clients regarding, low-income, older adults and persons with

disabilities and their requests for transportation such as medical appointments and employment. A map was developed to chart the proximity of shelters to transit lines, employment centers, hospitals, and Community Action Program (CAP) agencies. The survey results were included in the FY 2013 MAG Human Services Coordination Transportation Plan Update.

Efforts were conducted to help create long-term supports for helping survivors maintain their safety. In June 2012, Secretary of State Ken Bennett's office established the Address Confidentiality Program (ACP), which allows people who have experienced domestic violence to keep their residence addresses confidential and not accessible to the general public. Program participants are provided with a substitute address that becomes the participant's lawful address of record. The program processes over 1,000 pieces of mail each month. In July 2014, legislative changes will expand support for the ACP. Another opportunity for insight in creating long-term supports was provided by the study on victims' needs conducted by the Arizona State University Morrison Institute for Public Policy. The multiyear study is supported by the Nina Mason Pulliam Charitable Trust and is being conducted in partnership with the O'Connor House. Released in February 2014, report findings support the need for more community-based resources that provide assistance to victims who do not enter residential programs, and may even remain living with the offender. In addition, the Governor's Office for Children, Youth and Families renewed 11 contracts with victim service providers in 2014.

### Next Steps

Great progress was made on the MAG Regional Plan to End Domestic Violence over the last year. This work was made possible by the tenacity of community partners devoted to ending domestic violence. These community partners continue to bring their enthusiasm for helping others and their perseverance for making a difference to this work. Their commitment to ending domestic violence in the region is truly inspiring. This level of dedication is needed to continue making changes to better serve victims of domestic violence in our communities.

Many of the important efforts laid out in the regional plan will be ongoing. For example, the work of the MAG Protocol Evaluation Project has expanded to include a collaborative project with MCAO to review the felony domestic violence protocols. The community will be engaged to ensure local and national best practices are incorporated into the revised manual. The project continues to develop training resources for law enforcement, prosecutors, and victim advocates to enhance implementation of domestic violence protocols. Increasing communication and collaboration will serve the region well in leveraging resources and improving processes to ultimately keep more victims safe and hold more abusers accountable.

Collaborative relationships will continue to be strengthened among various agencies and organizations with the common goal of ending domestic violence. For example, the efforts of various community agencies resulted in Arizona being named the first Start by Believing state. The Governor's Commission to Prevent Violence Against Women and the MAG Regional Domestic Violence Council's support was quickly followed by the City of Apache Junction and

18 other city councils throughout the state. In April 2014, a proclamation was read on the floor of the Arizona Legislature declaring Arizona a Start by Believing state. This is a great example of the work that can be done with effective communication and strong collaborative relationships.

Promising practices are being identified locally that can be used to improve efforts across the state and the nation. For example, the City of Phoenix’s Roadmap to Excellence invited local, regional, and statewide agencies to participate in an in-depth review of its internal and external response to domestic violence. This work has and will continue to develop models that can be replicated by municipalities throughout the state. During its first year, the concept of the Paint Phoenix Purple awareness campaign was used in cities and towns across the state.

Significant progress was made in the strategic areas laid out in the Regional Plan to End Domestic Violence. This is an exciting time as the community is coming together to analyze existing services and how best to offer those services to help survivors of domestic violence and their families. The work done over the past four years provides a springboard for launching innovative changes in intervention and prevention of domestic violence in the region and across the state.

Appendix

The appendix provides an overview of efforts underway and progress made to date on each of the strategies identified in the Regional Plan to End Domestic Violence. While these efforts continue, ongoing opportunities still exist to become involved and participate in implementing positive change. To find out more about the MAG Regional Plan to End Domestic Violence or the Protocol Evaluation Project, please contact Renae Tenney, Human Services Planner II, at [rttenney@azmag.gov](mailto:rttenney@azmag.gov) or visit the [Regional Domestic Council website](#).

<b>MAG Regional Plan to End Domestic Violence FY 2013 Annual Report</b>			
<b>Strategies</b>	<b>Partners</b>	<b>Timeline</b>	<b>Progress</b>
<b><i>Funding</i></b>			
1. Communicate the need for sustainable funding for existing programs and services.	Arizona Coalition to End Sexual and Domestic Violence (ACESDV) formerly known as AZCADV, Arizona Foundation for Women (AFW).	FY 2011-2012	ACESDV continued to advocate for state funding and the expansion of the domestic violence line item, including an increase in the Domestic Violence Shelter Fund. In February 2013, ACESDV was awarded a \$200,000 grant from the City of Phoenix to establishment a centralized screening process and hire a mobile housing specialist. This was the first time domestic violence programs and shelters worked collaboratively to develop a funding proposal to bring systemic change.

<b><i>Training and Education</i></b>			
2. Develop avenues for systems to raise awareness and educate the public about domestic violence.	Arizona Coalition to End Sexual and Domestic Violence (ACESDV), Arizona Foundation for Women (AFW).	FY 2011-2013	ACESDV participated in the national "No More" campaign, and collaborated with the Avon Program for Women and Justice at the O'Connor House on the statewide "Speak Out" poster campaign. In October 2013, the City of Phoenix launched a local awareness campaign, Paint Phoenix Purple, with the help of 50 community partners, including ACESDV, O'Connor House and MAG. In April 2014, Arizona became the first state to support the "Start by Believing" campaign, which focuses on the importance of believing victims of sexual assault when they report abuse.
3. Increase social capital through grassroots efforts focused on the prevention of domestic violence.	Purple Ribbon Council (PRC)	FY 2011-2012	PRC expanded prevention efforts in the areas of youth education, community engagement, and family empowerment. With support from the Verizon Foundation, BLOOM for Healthy Relationships, a teen dating violence and domestic abuse primary prevention project, was expanded into a multiple session curriculum. The launch of BLOOM Regional Councils in 2014 will serve to increase community engagement. Project Butterfly will begin serving as a direct advocacy resource for children and families of domestic violence homicide victims. Primary prevention efforts are underway for children through BLOOM Puppet Theater and BLOOM Reader's Theater.
4. Develop standardized, multidisciplinary curriculum for providing domestic violence education to criminal justice system and first responders.	Arizona Coalition to End Sexual and Domestic Violence (ACESDV), AZ Supreme Court Administrative Offices of the Court (AOC), Governor's Office for Children, Youth and Families (GOCYF).	FY 2011-2013	The AOC sponsored the 2013 Domestic Violence Summit for criminal justice system professionals, coordinated trainings for judges at the June 2013 Judicial Conference, and facilitated development of a best practices manual for judges issuing protective orders. In 2014, the AOC will create a series of 12 bench briefing videos to address issues related to domestic violence. ACESDV and ACVS will co-host a three-day training conference in September 2014. Conference tracks will include domestic violence, sexual assault, victim services, prevention, and governance and administration. Workshops will promote best practices, unique approaches, and collaboration among various disciplines.

5. Develop multidisciplinary training for victims about the criminal justice process, law enforcement procedures, and realistic expectations of these systems.	Governor's Office for Children, Youth and Families (GOCYF), Phoenix Family Advocacy Center.	FY 2011-2012	In 2012, the O'Connor House and MAG held discussions with victim advocates about what they needed to support their work. These conversations resulted in additional supports for victim advocates, including development of <a href="http://www.FindDVservices.com">www.FindDVservices.com</a> , an interactive web application for connecting victims to the help they need; topic specific presentations at A New Leaf's Domestic Violence Collaborators meetings; quarterly brown bag trainings; and webinars. In 2014, MAG will coordinate affinity groups and brown bag trainings for law enforcement, prosecutors, and victim advocates to assist with understanding the roles and responsibilities of each component of the criminal justice system. These will be coordinated with ACESDV, AZ POST, and APAAC.
6. Develop cross-training between law enforcement, criminal justice system, and advocates.	Arizona Peace Officers Standards and Training Board (AZ POST), Maricopa Association of Governments (MAG)	FY 2012-2013	AZ POST continued to support the MAG Protocol Evaluation Project through trainings to help implement the Regional Protocol Model. Partnerships with local agencies continued to grow, resulting in collaborative training opportunities about victim services, investigation, and prosecution. Partners include U.S. Immigration and Customs Enforcement, victim advocates, the Arizona Attorney General's Office, the Arizona Prosecuting Attorneys' Advisory Council, and ACESDV. In 2014, AZ POST will assist with cross-training by extending invitations to prosecutors and victim advocates to attend AZ POST trainings.
<b><i>Coordination and Collaboration</i></b>			
7. Increase coordination and collaboration between shelters and services.	Arizona Coalition to End Sexual and Domestic Violence (ACESDV)	FY 2011-2012	ACESDV expanded the reach of the monthly Maricopa Domestic Violence Shelter Executive Directors meetings by opening it up to directors statewide. The group was renamed the Urban Domestic Violence Shelter Executive Directors meeting. The work of the group has also expanded to address systemic issues such as inconsistencies in reporting shelter bed availability. The collaborative spirit of this group contributed to receiving \$200,000 for establishing centralized screening and housing placement services.

8. Increase access to information on available resources.	Arizona Coalition to End Sexual and Domestic Violence (ACESDV), AZ Department of Economic Security (DES)	FY 2011-2012	DES provides an interactive statewide map containing information about domestic violence programs at the local, county, and statewide level. Another interactive web map, FindDVservices.com, was developed through a collaboration between MAG and the O'Connor House. The web map provides an easy way for bystanders to access information about where victims can find help. The map was adapted for mobile devices, making it accessible by anyone, anywhere. With the help of Arizona State University, the mobile version is undergoing further enhancements with the goal of taking the application nationwide.
9. Coordinate multidisciplinary effort for reviewing standard protocols and practices for responding to domestic violence.	Maricopa Association of Governments (MAG), Governor's Office for Children, Youth and Families (GOCYF), O'Connor House.	FY 2011-2012	In 2013, the Governor's Office renewed funding for the MAG Protocol Evaluation Project (PEP) to expand assessment of domestic violence protocols. Through a partnership between MAG and the Maricopa County Attorney's Office (MCAO), the felony domestic violence protocols will be reviewed in 2014. The Avon Program for Women and Justice at the O'Connor House initiated a protective order task force to explore better ways of serving and notification of service of orders. An electronic transfer system, which sends issued orders from the court directly to law enforcement for service, was piloted by El Mirage and Apache Junction. Through this process, the victim is no longer responsible for coordinating service of the order.
10. Connect all critical resources for people experiencing domestic violence and homelessness through a coordinated community response.	Maricopa Association of Governments (MAG), Governor's Office for Children, Youth and Families	Ongoing	In August 2012, the MAG Continuum of Care Regional Committee on Homelessness (CoC), in collaboration with domestic violence providers, adopted guiding principles for a regional coordinated assessment process. In 2013, an assessment tool for homeless services was approved as well as development of a parallel system for domestic violence providers to conduct a centralized screening process for their services. The centralized screening process for domestic violence services was initiated in March 2013 by A New Leaf. In August 2013, the coordinated assessment process for homeless services was launched in Phoenix at the Human Services Campus and United Methodist Outreach Ministries (UMOM).
<i>Services</i>			

<p>11. Create an ideal model for culturally competent prevention and intervention services.</p>	<p>Arizona Coalition to End Sexual and Domestic Violence (ACESDV) in partnership with culturally specific organizations, such as Southwest Indigenous Women's Coalition, AZ South Asians for Safe Families, Chicanos por la Causa, Governor's Office for Children, Youth and Families.</p>	<p>FY 2011-2013</p>	<p>ACESDV continued to provide training and technical assistance to programs about offering inclusive services. A Multicultural Advisory Committee was formed to assist with ACESDV's internal assessment, which resulted in the addition of Gender Identity Non-discrimination policies. Plans are underway to ensure the needs of Gender and Sexual Minority (GSM) survivors are included in service provision throughout the state. In addition, the Women of Color Network began a Leadership Academy that was attended by nine participants from Arizona in 2013. An ACESDV staff member serves as State Lead for the project through mid-2015.</p>
<p>12. Enhance the process for appropriately meeting survivors' housing needs.</p>	<p>AZ Coalition Against Domestic Violence (ACESDV), Arizona Housing Alliance</p>	<p>FY 2012-2014</p>	<p>The centralized screening process undertaken by A New Leaf in March 2013 is gathering valuable data about the types of services survivors are seeking. This information indicates survivors may be calling the shelter hotline but not necessarily wanting shelter services. This information was validated by a regional study conducted by the Arizona State University Morrison Institute for Public Policy. The study was funded by Nina Mason Pulliam Charitable Trust in partnership with O'Connor House and ACESDV. Released in February 2014, study findings provide a starting point for discussions about improving shelter and service provision.</p>

<p>13. Develop support groups for teens who have experienced or witnessed domestic violence.</p>	<p>Governor's Division for Women (GOCYF), Court Appointed Special Advocates (CASA), The City of Phoenix</p>	<p>FY 2011-2012</p>	<p>In partnership with the Phoenix Union High School District, the city delivered workshops, trainings, and outreach events focusing on the importance of healthy relationships in October 2013 and February 2014. Anti-violence awareness art and poetry contests, youth town halls, resource fairs, and flash mobs helped draw the attention of youth and raise community awareness. Trainings were provided for teachers, counselors, and school staff about recognizing the signs of dating violence. Plans are underway to conduct an In Their Shoes exercise with high school and middle school students as well as coordinating a violence prevention program using the performing arts in 2014.</p>
<p>14. Develop more transportation options for those residing in shelter.</p>	<p>Maricopa Association of Governments (MAG)</p>	<p>FY 2011-2012</p>	<p>Transportation options for those residing in shelters were explored. Domestic violence shelter directors and program staff were provided with human services transportation resources and opportunities for involvement. A survey was conducted to identify available transit options and gaps to explore possible coordination opportunities. This study looked at the eligibility of clients regarding, low-income, older adults and persons with disabilities and their requests for transportation. A map was developed to show the proximity of shelters to transit lines, employment centers, hospitals, and Community Action Program (CAP) agencies. The survey results were included in the FY 2013 MAG Human Services Coordination Transportation Plan Update.</p>
<p>15. Create long-term supports for helping survivors maintain their safety.</p>	<p>Arizona Coalition to End Sexual and Domestic Violence (ACESDV), Governor's Office for Children, Youth and Families (GOCYF).</p>	<p>FY 2012-2014</p>	<p>The Address Confidentiality Program (ACP) continued to provide survivors of domestic violence with the ability to keep their residence address confidential. To date, ACP has assisted 166 families (352 participants). Legislative changes in July 2014 will expand support for the program. Arizona State University Morrison Institute for Public Policy was commissioned to conduct a multiyear study about victims' needs. Released in February 2014, findings support the need for more community-based resources to assist victims who do not enter residential programs. In 2014, GOCYF renewed 11 contracts with victim service providers initially funded in 2012.</p>

**This draft of the protocol model contains proposed revisions.**

**Maricopa Association of Governments (MAG)  
Domestic Violence (DV) Protocol Evaluation Project  
Misdemeanor DV Protocol Model**

**Revised by MAG Regional Domestic Violence Council on December 17, 2013**

The MAG Domestic Violence (DV) Protocol Evaluation Project strives to increase efficiencies in arresting and prosecuting misdemeanor domestic violence offenders. The goal is to save the lives of domestic violence survivors and save money for the agencies responding to these crimes. During its first year, the project engaged more than 320 community partners in law enforcement, prosecution, and victim advocacy in developing the region's first misdemeanor domestic violence protocol model. An annual review of local and national promising practices informs the model's 29 recommended practices. Training resources created to help put these practices into place include outreach and training videos as well as webinars. Through this work, the project will increase the consistency and efficacy of the criminal justice system's response to domestic violence crimes.

Support of the MAG DV Protocol Evaluation Project grew to include more than 500 community and statewide stakeholders by its third year. Project partners currently include the Arizona Coalition to End Sexual and Domestic Violence; Arizona Criminal Justice Commission; Arizona Peace Officer Standards and Training Board; Arizona Prosecuting Attorneys' Advisory Council; City of Apache Junction Police Department; City of Avondale Police Department; City of Buckeye Police Department; City of El Mirage Police Department; Town of Gilbert Police Department; Glendale City Court; Maricopa County Prosecutor's Office; City of Mesa Prosecutor's Office; O'Connor House; City of Peoria Police Department; City of Phoenix Police Department, Prosecutor's Office, and Family Advocacy Center; City of Scottsdale Prosecutor's Office; Sojourner Center; Southwest Family Advocacy Center; and City of Tolleson Police Department. The goal is to work toward a statewide protocol model for addressing domestic violence crimes.

With ongoing support and continued collaboration, the MAG DV Protocol Evaluation Project continues to streamline the criminal justice system's response to domestic violence by saving money, and more importantly, saving lives. Project resources are available at <https://www.azmag.gov/Projects/Project.asp?CMSID=3780>. For more information, please contact Renae Tenney at (602) 254-6300 or by email at [rtenney@azmag.gov](mailto:rtenney@azmag.gov).

**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. Information should include whether an order of protection applies to the situation.
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. Officer(s) should adopt a neutral approach to the situation regardless of who appears to be at fault, if possible and appropriate.
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,



if warranted and advisable.

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. In cases of intimate partner violence, it is recommended, but not mandated, the officer(s) ask the victim lethality/danger assessment questions to determine the level of lethality/danger the victim is facing in the relationship. The lethality/danger assessment questionnaire, if used, should ask specific questions relating to the frequency and severity of physical and/or emotional violence and/or control in the relationship, as well as other questions linked to increased risk of homicide (i.e. employment status of abuser, incidents of strangulation, ownership of a firearm...etc.) and should be drafted in consultation with the local law enforcement agency. The results of the lethality/danger assessment should be clearly conveyed to the victim.
13. The officer(s) should advise a victim of her/his constitutional rights, both 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.
14. Officer(s) should access translators (i.e., Language Line) as needed to communicate with individuals on scene.

## B. On-Scene Assistance to Victims

15. The officer(s) should call a Crisis Response or Victim Services Unit, if available, to assist victim and her/his family on scene. The officer(s) shall share the outcomes of the lethality/danger assessment questions with the responding Crisis Response or Victim Services Unit.



16. 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 (i.e., emergency order of protection).
- b. Provide information, resource materials, and phone numbers for accessing domestic violence assistance, including 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 and whether an order of protection was served.
- 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

17. 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 witnesses, including children.
  - c. Interview each person in an area out of hearing range from each other and bystanders.
  - d. **When interviewing the victim of intimate partner violence, use lethality/danger assessment questions to determine the level of lethality/danger of the situation and convey this information clearly to the victim. If the victim is found to be in a high lethality relationship, the officer should ensure that the victim is made aware of their status and elevated risk of death or serious injury as well as document how this notification was made to the victim in their report.**
  - e. Take audio recorded statements of interviews. Take video of the victim's statement, if possible.
  - f. Use supportive interviewing techniques to ask about previous incidents, frequency, and severity. Allow parties to describe and explain without interruption before asking questions.
  - g. Talk with children separately from parents, if parents give their consent. Use age-appropriate techniques and document children's age(s).
  - h. Be alert of signs of trauma or abuse. Contact appropriate agency if children are being abused.
  - i. Do not tell victim what action will be taken until all available information is collected.
18. 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 and describe 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 follow up if the officer(s) will not be available.

#### D. Arrest Decision

19. 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.
20. 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.
21. 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?
- 22. In order to arrest both parties, the officer(s) should have probable cause to believe both parties independently may have committed a crime.
- 23. 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)
- 24. 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. Ask questions to determine the presence of firearms in the home or if the suspect has access to firearms.
  - 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

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

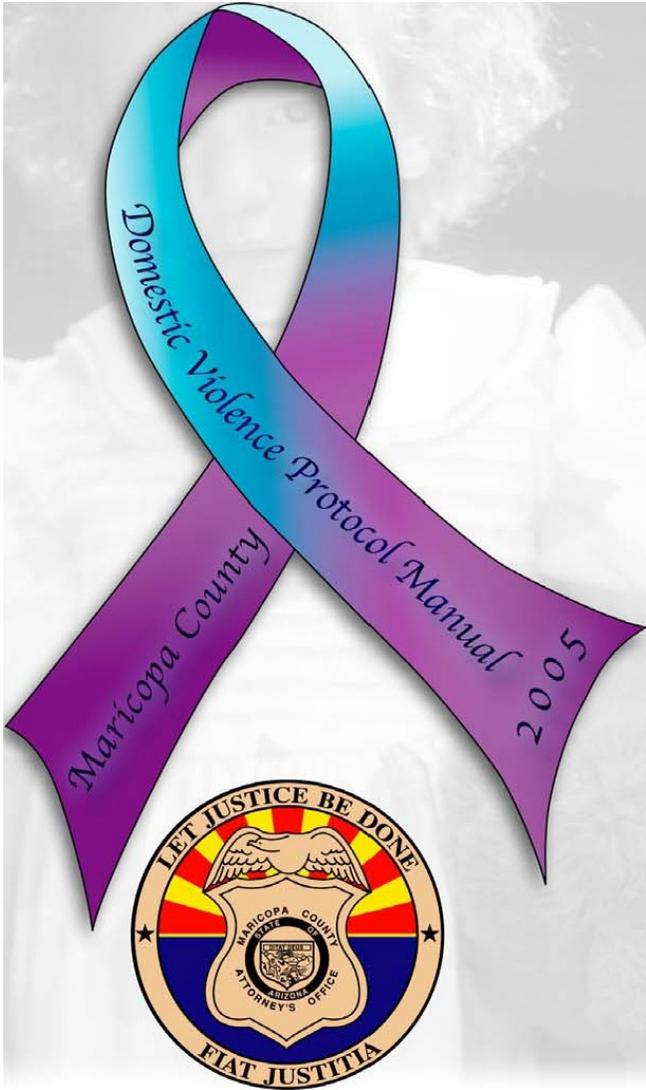
- a. Obtain, and if possible, verify victim's address, home phone number, cell phone number, safe phone number (i.e., name and phone number of friend and/or relative), email, and alternate addresses for contacting victim for follow up. Advise victim her/his information may be given to victim advocates 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 unit contact information for follow up (i.e., station phone number and shift).
- 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. Document the level of lethality/danger determined using the lethality/danger assessment questions. If the victim is found to be in a high lethality relationship, the officer should ensure that the victim is made aware of their status and elevated risk of death or serious injury as well as document how this notification was made to the victim in their report.
- g. 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.
- h. Check protective order to determine if weapons have been ordered to be removed per domestic violence statutory requirements for "cooling-off" period.
- i. Obtain consent from the owner to remove any weapons if no protective order exists.
- j. Ask about and document any information about prior incidents to establish a pattern or history of abuse.
- k. 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.
- l. Take and describe photographs of all injuries found on victim and/or suspect.
- m. The officer(s) should submit a reviewable report prior to the end of shift.



26. 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.
27. The officer(s) should clearly mark all written reports and documents as "domestic violence."
28. The officer(s) should submit a report when probable cause exists, even if the victim recants or declines to assist in prosecution.
29. 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.
30. 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. **Any completed lethality/danger assessment information should be submitted to the judge as well to assist with bond setting and hold determinations.**
31. **A copy of any completed lethality/danger assessment should be submitted to the prosecuting attorney along with the report to assist in charging determinations with submittals as well as with asking for higher bond and/or holds on in custody cases.**

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# Domestic Violence Protocol Manual



**ANDREW P. THOMAS**  
Maricopa County Attorney



~~Domestic violence is a serious problem affecting many innocent members of our society. Whether the abuse affects children, the elderly, or a spouse, I am committed to prosecuting those who not only neglect their family responsibilities but cause their family deliberate and violent harm.~~

~~Violence in the home has devastating, long term effects on families—especially children—and must be stopped. From the first response of law enforcement to our ongoing education and prevention efforts, our goal should be the well-being of families and the safety of the entire community.~~

~~The Maricopa County Domestic Violence Protocol is a guide for law enforcement, prosecutors, victim advocates, intervention programs, and the judicial system to help ensure that justice is served and the families in our community are kept safe. Our efforts must include:~~

- ~~• Expert investigation and preservation of evidence.~~
- ~~• Accountability for the offender.~~
- ~~• Victim services, to enhance their safety and their right to participate in the criminal justice process and receive follow up services.~~

~~As law enforcement professionals, your role in the prosecution and prevention of domestic violence is of utmost importance. The Maricopa County Attorney's Office is committed to working with you to end the cycle of domestic violence. Please review this protocol which has been updated with important new guidelines and suggestions which will improve the ability of our office to prosecute crimes involving domestic violence.~~

~~Sincerely,~~

~~Andrew P. Thomas  
Maricopa County Attorney~~

# INTRODUCTION

Please note this version of the felony protocol model contains revisions suggested by professionals in the criminal justice system as part of a collaboration between the Maricopa Attorney's Office and the Maricopa Association of Governments. These suggested revisions are shared for discussion purposes.

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The Maricopa Association of Governments (MAG) is a Council of Governments (COG) that serves as the Regional Planning Agency for the metropolitan Phoenix area. MAG's Regional Domestic Violence Council develops and implements strategies to reduce the incidence of and trauma associated with domestic violence, including the Regional Plan to End Domestic Violence. Areas of focus include working with survivors, law enforcement, prosecutors, and victim advocates to enhance the way the region arrests and prosecutes domestic violence offenders.

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MAG is proud to continue working in close partnership with the Maricopa County Attorney's Office on updating this Domestic Violence Protocol Manual. The Maricopa County Attorney's Office has been an active participant in affinity group meetings which discuss suggested changes to and methods for implementation of felony-level domestic violence protocols. Their participation in the affinity groups has also assisted with taking the work of those in the field to the leadership group for broader discussions. Some suggestions for improving the felony model included strengthening communication and coordination between law enforcement, prosecutors, and victim advocates as well as identifying opportunities to increase follow-up with victims.

The suggested revisions to the current felony protocol were initially solicited and discussed during a meeting of the Felony Work Group composed of community partners in law enforcement, prosecution and victim advocacy. Additional changes were proposed by individuals through the use of a shared review site. Tapping into the expertise of these partners has provided important input for guiding the project and making it as impactful as possible.

## INTRODUCTION

Domestic violence is affecting communities across the country, including Maricopa County. It is a crime that consists of a pattern (or a single incident) of physical, sexual, and/or psychological abuse. Due to the intimate relationship that exists between the victim and the accused, domestic violence is a crime that differs from all others. It is a crime that affects millions of homes every year and, as a result, it is a problem that requires strict and specialized attention.

Domestic violence produces numerous indirect social and psychological costs to women, children, and communities. Children who are exposed to domestic violence endure depression, developmental problems, acute and chronic physical and mental health problems, and aggressive or delinquent behavior.<sup>1</sup> Women who are victims of domestic violence are often required to stay home; are forced to sever social relations with neighbors, friends, and family; are embarrassed by visible injuries in public situations; are constantly on the move in order to avoid their batterers; feel unable to protect their children; hide with family and friends until they become an unacceptable burden; stay in shelters in remote locations making them difficult to track; and lose control of joint resources or custody of their children.<sup>2</sup>

The most pressing concern is the abuse itself. National studies have shown that domestic violence is a learned and culturally reinforced pattern of behavior that, without intervention, becomes more destructive over time. It often consists of more than just a single assault. Perpetrators of domestic violence use a variety of tactics to control and maintain power over their victim. The assaults are part of a history of emotional and psychological abuse that has continued to escalate over a period of time. This continued abuse forms a pattern that is often described as the “cycle of violence.”

The cycle of violence has three separate components: a tension building phase, an acute battering incident, and a honeymoon stage. While law enforcement is usually notified of the abuse following a battering incident, it is most often during the honeymoon stage that the victim is contacted and asked to assist with prosecution.

Given that the victim wants this “honeymoon” to continue, they are often reluctant to aid in the prosecution of their batterer. The cycle repeats itself, however, shortening in length after each new abuse.

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<sup>1</sup> National Research Council, *Understanding Violence Against Women*, eds. Nancy A. Crowell and Ann W. Burgess (1996).

<sup>2</sup> Louise Laurence and Roberta Spatler-Roth, “Measuring the Cost of Domestic Violence Against Women and the Cost-Effectiveness of Interventions: An Initial Assessment and Proposals for Future Research,” *Victims Services and the Institute for Women’s Policy Research* (May 1996).

Maricopa County law enforcement agencies recognize that domestic violence is a preventable crime and that the cycle of violence can be broken. By thoroughly investigating these incidents, realizing that physical and testimonial evidence should be properly collected and documented, prosecution can proceed even without victim participation. In addition to such an investigation, appropriately enforcing applicable laws utilizing “zero tolerance” policies will lead to successful prosecution of domestic violence offenders.

The criminal justice system, therefore, plays a significant role in ending domestic violence by:

- Sending an important message that there are consequences for committing acts of domestic violence;
- Holding domestic violence offenders accountable for their actions;
- Enhancing victim safety;
- Disrupting the “cycle of violence” resulting in intervention opportunities for victims and offenders; and
- Breaking the generational cycle and learned effect of domestic violence on children.

The document that follows is a work in progress and is not to be construed as a completed task but viewed as a step toward eliminating the violence perpetuated in homes and the workplace. The protocol itself draws from the collaborative efforts of those agencies that have paved the way in making sure that violence in the home will not be a secret anymore.

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# 911 COMMUNICATION

# COMMUNICATIONS PROCEDURES

## 911 Operator/Dispatch Response

The communications/911 operators will dispatch a domestic violence call.

1. All calls involving a domestic violence incident "in progress" should be given the same priority as any other 911 emergency call.

2. A minimum of two officers should be dispatched to all domestic violence calls.

Responses should indicate concern for the victim, when appropriate, and offer reassurance that help is on the way.

- The communications/911 operator will not discuss the victim's desire to "press charges," "drop charges," or "prosecute" because an on-scene officer has not yet determined if a crime has been committed. The caller's immediate concerns are for intervention or assistance and he/she should not be dissuaded from calling by the possibility that legal action may be necessary.
- Any comment that places responsibility on the victim for causing the incident, for enforcement action, or minimizes or trivializes the incident should be avoided.

For example, it would be inappropriate to say:

- "He only slapped you?" or
- "You said WHAT to him?"
- Domestic violence and domestic violence related calls should not be cancelled even at the caller's request. The officers should still respond and check welfare on the parties involved.

The communications/911 operator should work with the caller to obtain all necessary information while providing reassurance. They should attempt to determine the following information:

1. What is the emergency?
  - Is the caller the victim?
  - If not, did the caller observe the incident?
  - When did the incident occur (if it is not currently in progress)?
2. Where is the emergency?

- Address, including apartment number if applicable.

3. Are there any injuries?
  - What kind of injuries?
  - Is an ambulance needed?
4. Was there a weapon involved?
  - If “yes,” what kind? Where is the weapon now?
  - If “no,” are there weapons on the premises?
5. Who is the assailant? What is the caller’s relationship to the assailant?
6. Where is the suspect now?
7. What is the physical description of the suspect?
8. What is the suspect’s name?
9. Has anyone involved been drinking alcohol or using drugs?
10. What is the caller’s name?
11. Is there an order of protection against the suspect?
12. Have the police been there before?
  - Have there been calls to the police in other cities or states?
13. Are there any other witnesses:
  - What are their names?
  - Are any of the witnesses children?
  - How old are they?

Once the basic information is obtained, additional questions may be appropriate. Not every question is appropriate in every situation. The circumstances of the emergency may limit the inquiry.

### **911 TAPES IN COURT**

Rules of evidence allow for the introduction of 911 tapes at trial. Depending upon who the caller is and other circumstances, excited utterances from the tape may be admissible in court. A.R.S. § 13-3989.01 allows for the introduction of this evidence without the operator or records custodian appearing if accompanied by the signed form outlined in the statute. The officer should contact the communications/911 operator to obtain the emergency 911 call and the signed form to be submitted with the report.

# **PATROL RESPONSE**

# PATROL RESPONSE<sup>1</sup>

## Enforcement of Laws

1. Suspects arrested “on-scene” cannot be cited and released per A.R.S. § 13-3601(B) if there is a physical injury or a weapon was used. The offender must be held until seen by a judge at an initial appearance.
2. The existence of probable cause for a domestic violence crime will be the sole determinant in making an arrest.
3. The following factors will NOT influence the officer’s course of action in a domestic violence investigation except as it relates to the elements of the crime:
  - The relationship or marital status of the suspect and the victim, e.g., not married, separated, or pending divorce;
  - Whether or not the suspect lives or does not live on the premises with the complainant;
  - The existence or lack of an Order of Protection;
  - The potential financial consequences of arrest;
  - The complainant’s emotional state;
  - The lack of visible injuries on the victim (many injuries are not visible for 24 to 48 hours);
  - The location of the incident, i.e., public or private property; or
  - Speculation that the complainant may not follow through with the criminal justice process or that the arrest may not lead to charges being filed or a conviction.
4. An officer will not make statements that tend to discourage a victim from reporting an act of domestic violence.

Examples of such statements are:

- “You know that we will have to arrest your husband and he won’t be able to work.”
- “This is likely to make him angrier than he already is.”
- “We might have to arrest you both. Is there anyone to take care of the kids?”

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<sup>1</sup> This protocol, in part, was developed by the Arizona Peace Officers Standards Training Board.

5. An officer responding to an incident of domestic violence shall conduct a thorough investigation and, when the elements of a crime are present, prepare a domestic violence report, irrespective of the wishes of the victim or the presence or absence of the suspect.

## Investigation of Domestic Violence Cases

1. Officers arriving at a domestic violence call should conduct a thorough investigation and submit a long form report for all domestic violence crimes.
2. Officers should approach all domestic violence scenes with caution. If practical, officers should look and listen to what is occurring at the scene prior to announcing their presence. This may help officers determine which individual is the primary aggressor. Listening to what is occurring will provide the officer with valuable information for the investigation. This information should be documented in the report.

3. If a tape recorder is available and officer safety is not compromised, an officer should activate the recorder prior to arrival and record the time and date prior to approaching the scene. This tape may be –useful in recording excited utterances and the demeanors of the victim, suspect, and other involved parties.

3-4. If it safe for the officer to do so, a body camera should be worn to record the scene whenever possible. This video recording may assist in future prosecution.

4-5. Victim and witness statements should be tape recorded and written down (per County Attorney protocol) whenever possible. Statements made by children should be recorded regardless of the child

cting an interview.

6. If children are on the scene and have witnessed the domestic violence event, a forensic interview is recommended to obtain relevant information from the child witness.

7. If children witness the domestic violence event, the DCS (Department of Child Safety) hotline should be notified.

The following steps should be included in an officer's investigation and documented in the report:

1. Determine the location and condition of the victim and suspect.
2. Determine if a weapon is involved or in the home.

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3. Provide the appropriate level of aid to injured parties.
4. Determine if anyone else is in the residence.
5. Determine if a victim advocate should be called to the scene (see Victim Services Protocol).

6. Separate the suspect, victim, and witnesses (victims/witnesses should be out of the suspect's view and hearing) as much as possible without compromising officer safety.
7. Photograph all injuries. [REDACTED] so be utilized.
8. Tape record all interviews and impound the tapes as evidence. [REDACTED] if tape and/or digital recording is not possible, victims and witnesses should complete written statements. Written statements by witnesses should be carefully reviewed by the officer and any discrepancies between the written statement and verbal statement should be discussed and documented in the report.
9. Document the condition of the scene. Use photographs and diagrams as warranted.
10. If 911 was called, if possible, attempt to determine who made the call and what was occurring during the call. [REDACTED] is the caller.

In the following circumstances, a detective and a Maricopa County Family Violence Bureau Attorney should be called to the scene:

1. There is serious physical injury resulting in loss of a major body function, such as the loss of a limb, paralysis, loss of eyesight or other significant injury;
2. There is a shooting, stabbing or other event that requires hospitalization beyond an emergency room visit;
3. There is a complex crime scene, numerous victim/witness interviews, or a search warrant is needed;
4. A Domestic Violence Homicide or Child Homicide has occurred. In a case such as this where children are involved, forensic interviews are recommended.

## **Victim Services Assistance**

Several municipalities have a Victim Services Specialist who may be called to the scene.

1. Contact the Communications Division as early in the process as possible to request this additional resource.
2. It is important to document the presence of a Victim Services Specialist, with complete name and telephone number, in the report.

See the Victim Services section of the Protocol for additional information.

## **Preliminary Investigation**

Interview everyone separately: victim, suspect, children, and any witnesses.

1. Officers should ensure the victim's safety and privacy by interviewing the victim in an area away from the suspect, witnesses and bystanders.
2. When questioning the victim, officers should use supportive interview techniques.
  - The officer should ask the victim about previous domestic violence incidents, including their frequency and severity.
  - It is very important to document the victim's state of mind in the report (Were they afraid? What did they think the suspect was going to do?).
3. Document each interview separately.
  - Officers should separate the primary participants involved in the dispute and tape record each witness's statement individually.
    - ♦ Do not group statements (i.e., "Witnesses 1, 2 and 3 all related the same story.").
  - Officers should interview each witness out of the hearing distance of others.
4. Record and document all "excited utterances."
  - Emotionally charged, spontaneous statements are exceptions to the hearsay rule (Rules of Evidence 803.2). It may be possible for the prosecutor to introduce these statements at trial irrespective of the declarant's presence. When documenting these statements, it is essential that the declarant's emotional and physical state be recorded in the report. Written and audio recordings of spontaneous statements are important to a successful prosecution.

For example:

- ◆ When I approached the victim, she was crying and shaking. She immediately blurted out, "He wouldn't stop hitting me," and, "I thought he was going to kill me." She was crying and shaking the entire time I was interviewing her.

As opposed to:

- ◆ I contacted the victim who related the following information: She and her husband were fighting most of the evening when he began hitting the victim in the face multiple times.

5. Family witnesses, including children, should be interviewed.

- Officers should exercise care when interviewing small children. Remind children that what they witnessed was not their fault and that the incident was beyond their control.
- It is recommended that patrol officers limit the questioning of children to the following:
  - ◆ What happened?
  - ◆ Who did this?
  - ◆ Where were you when this happened?
  - ◆ When did this happen?
  - ◆ Where do you go to school?

If questioning needs to be larger than this scope, then a forensic interview should be considered if possible; in all cases the child should be asked open-ended and non-leading questions.

- Police officers should always document the child's demeanor and any spontaneous statements. A tape recorder should be used to record any and all statements.

6. Interview neighbors and any individual(s) who may have called 911 or have knowledge of the incident.

7. Consider the need for a medical examination by a forensic nurse examiner, or Sexual Assault Nurse Examiner (S.A.N.E.) particularly if strangulation is alleged.

7.8. If an officer receives complaints of domestic violence from one or more parties (a mutual combat situation), each complaint shall be evaluated separately to determine who was the primary aggressor.

- The following questions will help determine the primary aggressor:

- ◆ Was one party in actual fear of the other?
- ◆ Did one party escalate the level of violence? For example, did one party react to a slap by beating the other party up?
- ◆ Was one party physically larger and stronger than the other?
- ◆ Was there a history of violence by one of the parties against the other or against other persons?

- ◆ Does one party have a history of being the aggressor?
  - ◆ Does one party have more serious injuries than the other party?
  - ◆ Do any injuries appear to be defense wounds, i.e., wounds inflicted by a person as a last means of escape (bite marks, scratching)?
- When considering who the primary aggressor is in “mutual combat” incidents, officers should consider A.R.S. § 13-411 (Justification of Force).
  - If the officer determines that one person was the primary physical aggressor, the officer shall not arrest the other person in the incident.
  - Mutual combat situations may result in the arrests of both parties for disorderly conduct. This typically occurs when there is an independent third party whose peace was disturbed. Mutual combat participants cannot disturb each other’s peace.
  - An officer shall not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage requests for intervention.

8.9. If a suspect is taken into custody:

- Advise the suspect of his/her rights. If the suspect does not invoke the right to remain silent or to an attorney, the officer should conduct an interview.
- Prevent communication between suspect and victim or witnesses.
- Document and tape record all statements of the suspect.
- Delineate any injuries to the victim. Include other information the judge should have when determining release conditions and availability of bond.
- Determine if the suspect is currently on probation. If so, notify the adult probation officer of record.
- Document confiscated weapons. Follow departmental policy and procedures regarding weapon impoundment or forfeiture. See A.R.S. § 13-3601 for weapon seizure in a domestic violence case.

## Orders of Protection

When an officer responds to a call involving an Order of Protection violation, it is crucial to remember while an Order of Protection is a civil order, the violation of that order is a criminal matter and needs to be treated as such. The officer is obligated to enforce the Order.

The officer needs to recognize there may be more than a violation of a court order occurring and assess the incident for possible stalking or aggravated harassment.

If the plaintiff and defendant of the Order of Protection are in a public place, the officer should read the language on the Order carefully to determine the intent of the judicial officer. At times, the language in the Order is very specific.

If the plaintiff listed in the order is unable to produce the affidavit of service for the Order of Protection, the existence of the Order can be verified through the Maricopa County Sheriff's Office. The validity of the Order can also be verified including date of service and any modifications made during a hearing. Maricopa County Sheriff's Office can fax a copy of the Order of Protection and Affidavit of Service to the officer. The officer should include a copy of the Order of Protection and Affidavit with the departmental report.

If the officer determines that there is not an Order of Protection or the Order is no longer valid, the victim should be notified of that fact. An Emergency Order of Protection may be requested after business hours, from the on-call Judicial Officer.

An officer may obtain an Emergency Order of Protection by calling the Maricopa County Sheriff's Office for access to the on-call Judicial Officer. The officer will call the Judicial Officer and describe the facts of the domestic violence case. After hearing the details, the Judicial Officer may order the Emergency Order of Protection. The officer will call the Sheriff's Office again and obtain the Emergency Order of Protection case number, and fill out the form. If present, the defendant will be served immediately. If the defendant is not present, all copies of the form may be left with the victim so the defendant can be served in the future by an officer. An officer may serve the defendant verbally with the Emergency Order.

1. An Emergency Order of Protection can be obtained and is valid until the close of the next business day. Let the victim know that arrested batterers are often released after they have had their initial appearance.
2. Remind the victim that a non-emergency Order of Protection must be applied for, in person, the next business day.

See the Orders of Protection section of the Protocol for additional information.

## **Special Considerations**

1. Aggravated Domestic Violence [REDACTED]

-  a violation of a domestic violence offense.

- The Maricopa County Attorney's Family Violence Bureau will require certified copies of the convictions (i.e., sentencing documents), along with the departmental report in order to review charges under this statute.

See the Aggravated Domestic Violence section of the Protocol for additional information.

## 2. Aggravated Assault

- The Aggravated Assault statute, A.R.S. § 13-1204, was amended, effective August 6, 1999, to include a new category of aggravated assault. If an assault occurs, and the victim has a valid Order of Protection against the defendant, the defendant can now be charged with Aggravated Assault, a class 6 felony.

## 3. Aggravated Harassment

- Aggravated Harassment is committed when there is a charge of harassment under A.R.S. § 13-2921 and one of the following applies:
  - ♦ There is a valid Order of Protection or Injunction Against Harassment against the defendant and in favor of the victim of the harassment.
  - ♦ The defendant has been previously convicted of an offense included in A.R.S. § 13-3601, and the victim of any previous offense is the same victim in the current offense.

### Patrol Response and Investigation:

- When an officer responds to a call and determines that the incident qualifies as aggravated harassment, a thorough case history must be developed. During the course of taking the history, the following issues, as well as any others that may require additional investigation, should be addressed with the victim:
  - ♦ Inquire about cases or reports in other jurisdictions. What is their current status?
  - ♦ Inquire about any use of \*57 (call tracing) or \*69 (last call return) following phone calls. See the Investigative checklist at the end of this section for more information.

- ◆ Inquire about the effect of the suspect's behavior upon the victim. Include any excited utterances and spontaneous statements made. Use direct quotes in the departmental report.

- Police officers should encourage the victim to keep a log of all phone calls and other contacts made by the suspect and to retain any items that may be used to link the suspect to the incidents.

- ◆ The victim may choose to tape record phone calls or voice mails from the suspect and turn the tapes over to an officer.

ence.

- The victim should be encouraged to develop a safety plan and to be more cognizant of his or her surroundings. Additionally, if victim services are offered through the officer's department, those services should be offered to the victim.
- Prior to submitting the departmental report to the Maricopa County Attorney's Office for review, confirm the victim is the same as the listed victim from the prior offenses. Any history of prior diversion services should be documented. A certified copy of the order, proof of service, and verification of validity of the order should be attached to the submitted report.

See the Aggravated Harassment section of the Protocol for additional information.

#### 4. Stalking

- Stalking requires a course of conduct that proves an intent to harass and place in fear of harm or death. It may prove difficult, at times, to differentiate from Aggravated Harassment. Logs of contacts will be vital in both scenarios. Questions should be directed to the Maricopa County Attorney's Office Family Violence Bureau at (602) 506-5999.

Patrol Response and Investigation:

Stalking should be considered when an officer responds to the following calls:

1. Interference With Judicial Proceedings
2. Burglaries
3. Assaults
4. Criminal Damage
5. Trespassing

6. Kidnapping
7. Harassment

The Patrol Officer should complete a thorough case history.

1. If the case reveals a history between the parties, all other Departmental Reports that list the suspect and victim should be documented. It is important to develop a paper trail to assist both the detective and prosecutor with the case.
2. An Assault Detective (if available) should be contacted if either the victim or the officer suspects stalking. If a suspect is to be arrested, a Family Violence Bureau Attorney from the Maricopa County Attorney's Office should also be contacted. Assault Detectives should check for prior reports that list the victim or other family members to determine if a pattern can be developed to support a charge of stalking.
3. Property Detectives should be alerted to the possibility that stalking may be occurring if there is a history of prior departmental reports with the same victim.
4. It is preferable- that one detective investigates all Interference with Judicial Proceedings- cases so that there is a greater likelihood of identifying behavioral patterns.
5. Officers and detectives should discuss with the victim how to preserve information related to the case.
  - A victim should be encouraged to keep a detailed log of any contacts. At a minimum, the log would include the date, time, place, and a description of the occurrence.
  - Preserved information includes:
    - ◆ Documentation of all telephone calls;
    - ◆ Recorded telephone conversations;
    - ◆ Obtained witness information for in-person contacts;
    - ◆ Retention of any mailed communications (including the envelope);
    - ◆ Preserved electronic communication (e-mail);and

Victims should be advised to contact the Police Department and request a report whenever there is contact.

6. When the suspect is interviewed, videotape should be used to document behaviors and verbal responses. Any statement the suspect makes indicating that there was contact by the victim, or other consensual behavior on the victim's part, needs to be investigated.

7. A report should be written for all calls, no matter how seemingly insignificant.

See the Stalking section of the Protocol for additional information.

5. Domestic Violence in the Workplace

- A domestic violence call originating from a workplace will require additional considerations.

See the Domestic Violence in the Workplace section of the Protocol for additional information.

6. Medical Treatment

- Officers should document any medical attention that is provided at the scene and whether or not hospitalization was required. Unless a detective assumes the investigation, the officer should:
  - ♦ Obtain authorization for release of medical records from the victim, if hospital follow-up is required;
  - ♦ Document extent of injury and treatment, if known; and
  - ♦ Obtain names, addresses, and phone numbers of fire, ambulance, or paramedic personnel treating the victim.

See the Medical Response section of the Protocol for additional information.

## **Domestic Violence Firearm Seizures**

A.R.S. § 13-3601(C,D) allows police officers to:

1. Question persons present at domestic violence incidents to determine if a firearm is present on the premises.
2. Temporarily seize the firearm, upon learning or observing that one is present, if it is in plain view, or if it was found pursuant to a consent search.
  - The officer must reasonably believe that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death.
  - The officer must document the reasons for seizing the firearm in the report.

3. Seize firearms owned or possessed by the victim if there is probable cause to believe that both parties independently have committed an act of domestic violence.
4. Impound a seized weapon.
  - Impounded weapons must be held for a minimum of 72 hours. There is no maximum time limit.
  - Weapons seized per A.R.S. § 13-3601 (E), require the victim is to be notified by law enforcement before the firearm is released from temporary custody.

If spouses are residing together, either may give consent to search the residence. In situations involving non-spouses residing together, or other family members over the age of 18, permission may be given to search any common areas to which that person has access, even if the other party objects to the search.

If the officer concludes that no domestic violence crime was committed, consideration should be given to having the parties consent to having any firearms impounded for safekeeping.

### **Written Reports**

An officer responding to any call covered in this protocol must complete a domestic violence report. Thorough documentation provides the basis for successful prosecution of the case.

Officers should include the following information in their report:

1. Elements of the offense
  - Document each element of the crime in the report. Be specific with names, what occurred, and who witnessed the incident.
2. Injury
  - Document in detail any injuries that the victim or suspect sustained. The preferred method for this to be accomplished is to have photographs taken of the injuries if cameras are available.
3. Addresses
  - Ensure that the names and personal information of all victims and witnesses are documented.

- In addition to the address given by the victim on the date of the incident, document a second address and telephone number for the victim (such as a close family member or friend).
- Include school information for any children.

This information will assist the follow-up detectives and the prosecutor's office if they need to contact the victim and/or any witnesses.

#### 4. Photographs

- Photograph and document any physical evidence including holes in walls, broken doors, damaged furniture or other items that were destroyed. Document the photographs in detail including the factual information surrounding the photograph.

#### 5. History

- Document any history of previous acts of domestic violence whether reported or not, in this jurisdiction or others.

#### 6. Diagrams

- In serious-injury aggravated assaults, crime scene diagrams and measurements are helpful for successful prosecution.

#### 7. 911 Tapes

- Rules of evidence allow for the introduction of 911 tapes at trial. Depending upon who the caller is and other circumstances, excited utterances from the tape may be admissible in court. A.R.S. § 13-3989.01 allows for the introduction of this evidence without the operator or records custodian appearing. Be sure to secure the 911 tape prior to its destruction date.

#### 8. Recanting Victim

- If the victim recants, the officer should contact the communications/911 operator to obtain the emergency 911 tape to determine what information was obtained during the call. If it is determined that relevant information is on the 911 tape, the officer should request a copy to be submitted with the report and document the pertinent information in their written report.

#### 9. Written Documentation

- The officer should, whenever applicable, directly quote the victim or witness and describe in detail both their emotional and physical state.

For example:

- ♦ The victim stated, "He hit me on the right side of the face with an open hand and he tried to choke me using both hands."

- ◆ The victim stated, "I was afraid he was going to kill me."

As opposed to:

- ◆ The victim was struck on the face and choked.
- Document all history of violence, including the victim's account of police responses to domestic violence incidents in the past.
- Note victim/witness emotional state when they are making their statement.

## **Statements**

1. All parties will be interviewed separately, including children, regarding their involvement in the case.
2. Miranda warnings are not required if the suspect is out of custody at the scene. Once an officer decides to make an arrest, the officer must read the suspect Miranda warnings if the suspect is to be questioned regarding the incident.
3. Maintain professional objectivity in reporting. The officer's personal opinions regarding comments made by the victim or suspect are inappropriate.
4. A notation of the fact that a party or witness does not speak English should be included in the witness/victim/suspect information section of the report. Indicate what language was spoken, the name(s) of interpreters, and all vital information, such as social security number, addresses, etc.
5. Indicate in the departmental report if children were present during the incident or reside in the home. Document names and ages of the children.
6. Document in the departmental report if alcohol or drug use has been indicated.
7. Document if the victim is pregnant at the time of the incident.
8. Officers should document whether they have been to the location before and whether they know the suspect or the victim.
9. Officers should document relationships of victim and suspect to establish domestic violence.
10. If available, officers should use their C.A.D. (Computer Assisted Dispatch) or M.D.T. (Mobile Digital Terminal) systems to research prior police responses to the same address and record the information in the police report.

11. Document whether the victim received notification of victims' rights and if he/she invoked those rights at the scene.

**Note:** Officers should not advise victims of domestic violence that they can either press or drop charges. If the victim states that prosecution is not desired, the officer should state that the decision to prosecute is made by the appropriate prosecutorial agency. If made in front of the suspect, this statement can be very effective in alleviating further harassment by the suspect, or others operating on the suspect's behalf, to have the victim drop the charges.

## **Victim Safety**

If an officer is unable to establish that a crime was committed, the victim should be encouraged to seek help again, if necessary. It should be made clear to all parties that although a crime was not committed, abusive behavior is not acceptable. Officers should provide information regarding social service assistance to victims.

The following information may be provided to the victim, out of sight and hearing distance of the suspect:

- Distribute an information card that includes telephone numbers and the general geographic area of all domestic violence shelters.
- Caution the victim to keep safety plans in a place where the batterer cannot find them.
- Discuss and emphasize Orders of Protection.
- Supply the following numbers:
  - ◆ National Domestic Violence Hotline: 1-800-799-SAFE.
  - ◆ Local shelter hotlines: (602) 263-8900 or 1-800-799-7739.

Further information, including safety planning and local resource numbers, can be found in the Victim Services and Local Resources sections of the Protocol.

## **Departmental Personnel Involved in Domestic Violence Situations**

Each department should adopt policies regarding departmental personnel who are parties in a domestic violence case. These are suggested guidelines to consider when developing these policies:

1. The Human Resources Department should be included in the development of these policies to determine what resources, such as counseling, are available.

2. Involve the prosecutor's office early in the process.
3. Make reciprocal agreements with another agency that will complete any investigation.

When sworn personnel are dispatched to a domestic violence scene where employees of the department are involved, the following procedures will be applied:

1. The first responding officer will notify their duty supervisor.
2. After obtaining the facts, the duty supervisor will contact the department's specialty unit/detectives to investigate.
3. The assigned detectives will call their supervisor to the scene.
4. The specialty supervisor will notify his commander and provide updates on the progress of the situation.
5. The specialty commander will make periodic reports to the bureau commander of the involved personnel and the final disposition of the investigation.
6. Detectives will submit the case for review to the appropriate prosecuting authority.

All officers should be familiar with their department's policies and procedures regarding personnel who become involved in domestic violence.

# DOMESTIC VIOLENCE INVESTIGATION REPORT CHECKLIST

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**Agency**

**Department Report Number**

## **1. Victim**

- Described the victim's location upon arrival
- Described first aid administered to the victim
- Recorded spontaneous statements by the victim
- Described the victim's emotional condition
- Described the victim's physical condition (make specific note of any changes in victim's demeanor)
- Documented the victim's injuries in detail
- Made note of the victim's relationship to the suspect
- Recorded any history of abuse
- Provided the victim with written information about available resources
- Documented a temporary address and telephone numbers of family and friends that can be used to leave a message for the victim
- Explained victims' rights and how to request those rights
- Documented addresses and telephone numbers of friends and relatives who will always be able to contact the victim in the future

## **2. Suspect**

- Described the suspect's location upon arrival

- \_\_\_ Described first aid administered to the suspect
- \_\_\_ Recorded any spontaneous statements made by the suspect
- \_\_\_ Described the suspect's emotional condition
- \_\_\_ Described the suspect's physical condition
- \_\_\_ Documented the suspect's injuries in detail
- \_\_\_ Documented evidence of substance abuse and/or chemical abuse by the suspect
- \_\_\_ Interviewed the suspect
- \_\_\_ Documented suspect's statements about his/her relationship with the victim

**3. Witness(es)**

- \_\_\_ Interviewed the reporting party
- \_\_\_ Identified all witnesses and interviewed separately
- \_\_\_ Listed names, ages, and schools of the children present
- \_\_\_ Interviewed the children
- \_\_\_ Recorded names, addresses and phone numbers of emergency personnel
- \_\_\_ Identified treating physician
- \_\_\_ Recorded any statements made by victims/witnesses to emergency personnel and noted the demeanor of the person making the statements
- \_\_\_ Recorded the 911 # \_\_\_\_\_ and the incident # \_\_\_\_\_

1. A police domestic violence documentation report was attached to this section.
2. Victims receiving harassing phone calls should be asked about any use of either \*57 or \*69 following phone calls.

\*57 is known as the “call tracing system”. If the client performs the function, they will be connected with a pre-recorded message system to log the call. After the third call has been activated in the message system, the US West or Cox Security Department will be notified. They will contact the client to verify the three pre-recorded messages and keep a record of all traced calls for future reference. They will contact the caller by phone or by letter to cease calling the client or legal action will be initiated. There is a cost attached to the use of this service.

\*69 is known as the “last call return.” If a client performs the function, the phone system will automatically redial the last number a call came from. There is a cost attached to the use of this service.

# STRANGULATION RESPONSE

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## STRANGULATION RESPONSE

Per ARS § 13-1204.B1, Domestic Violence Strangulation is an aggravated assault class four (4) felony. To obtain successful prosecution of this crime, a multi-disciplinary response is recommended.

A. Responding Detectives and/or Officers will determine if the following criteria are met:

1. Domestic violence relationship as defined in ARS § 13-3601

2. The victim's breathing and/or circulation was, even if momentarily impeded

3. The victim expresses at least one of the signs and/or symptoms of strangulation:

- Victim reports their neck/throat was "choked" or "strangled" by hands, arms, legs or object
  - Victim reports suffocation; possibly with a pillow (or any other device used to cover the victim's nose/mouth to impede breathing)
  - Breathing or circulation was impaired/impeded
  - Signs and symptoms include but are not limited to:
    - Loss of Consciousness, fainting
    - Memory loss and/or confusion
    - Loss of control of urine or bowels
    - Confusion/loss of sense of time
    - Lightheaded or dizziness
    - Nausea or vomiting
    - Voice changes (raspy, whisper, hoarse)
    - Difficulty breathing and/or swallowing
    - Pain with swallowing
    - Redness, bruising (contusions), scratches (abrasions), swelling, pain to the neck
    - Petechiae (very small red dots) at and/or above the point of constriction
- \* Many times injuries exist but are not visible at the time and location of law enforcement's response
- \*\*Victim may be unable to verbalize symptoms due to confusion or stress at the time of the call. (It is okay to ask them if they experienced any of the listed symptoms and document positive responses).

4. Responding law enforcement officer will make an assessment to determine if emergency medical response is warranted.

5. The victim is asked if s/he is willing to voluntarily participate in a medical-forensic examination at no cost to the victim

6. Transportation to an advocacy center or hospital (if medically indicated) is arranged.

7. Consider notifying law enforcement victim advocate.

8. Audio and/or video record all interviews with the victim, suspect and witnesses if possible.

9. Document the condition of the scene, victim and suspect upon arrival

10. Document all the excited utterances upon arrival by the victim, suspect, witnesses, etc.

11. Photograph and collect all evidence from the scene including:

- Ligatures, such as jewelry, cords, ropes, etc.
- Pillows, linens, clothing or other items that may have been used to smother

12. Follow all other domestic violence response protocols and policies set by your agency

#### B. Forensic Nurses Role

1. The Scottsdale Lincoln Health Network (SLHN) Forensic Nurse or Sexual Assault Nurse Examiner (S.A.N.E.) is notified and requested to respond to the victim's location.

a. Advocacy Center

b. Hospital

- If the victim was transported to a hospital, the medical forensic exam can be performed there if the victim is not medically cleared to be discharged.
- If the victim is transported to a hospital for evaluation, but not admitted, the exam will be performed at an advocacy center after the victim is discharged.

c. Jail or Prison

- Medical Unit

2. The forensic nurse or Sexual Assault Nurse Examiner (S.A.N.E.) performs the medical-forensic exam

- Patient History
- Head to toe examination
  - Written and photographic documentation of all injuries
  - Swabs if indicated
- Aftercare instructions, including but not limited to safety plan, strangulation warnings

3. Domestic Violence kit, including written report and CD of jpeg photos provided to law enforcement generally within 2 hours of completion of exam

4. Original chart along with RAW and jpeg photos will be maintained by SLHN forensic nurse examiners. They will be available for the DCA and/or the court to review if needed.

#### C. In jail or long form?

- If in jail arrest, must have **all** evidence, **including photos and**

- exam reports** or it will likely be a further
- Must submit complete package (9-1-1 call, long form, nurse report and photos, etc.) for in jail cases to be reviewed
  - Be prepared to short-notice follow up to retrieve photos or exam reports on in jail cases if not included and DCA calls
  - Strangulation/suffocation/lethality + in jail = need for complete case up front
  - Cases that require further investigation *probably not* in jails

D. Follow up with victim after exam/submittal/arrest

- FNE will recommend follow up photos/appointment as part of overall exam. These will be done at the Scottsdale Family Advocacy Center by appointment during business hours
- Consider law enforcement transport to that appointment as an opportunity to intervene with the victim again – lethality issues/recantations
- **If nothing else consider 2<sup>nd</sup> set of photos of victim**
- Consider use of law enforcement victim advocates to respond to centers to allow victims access to early services

E. Training/Resources

- MCAO has a short 7-10 minute strangulation training video available for all first time responders
- The SLHN Forensic Nurse Examiners are available to speak to all first responders (law enforcement and fire), prosecutors, advocates on lethality of strangulation and presentation of strangulation victims
- Basic strangulation and lethality training is necessary for all patrol and first responders
- Agencies should expect all Sergeants and detectives to keep current on in-depth strangulation training to assess lethality issues.
- Strangulation webinar by Aequitas
  - <http://www.aequitasresource.org/trainingDetail.cfm?id=50>
- Strangulation training institute
  - <http://www.strangulationtraininginstitute.com>

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# **MEDICAL RESPONSE**

## MEDICAL RESPONSE

Intimate partner violence (IPV) is a serious preventable public health problem. It is associated with a higher risk for a wide range of adverse health outcomes. Health care providers perform a vital role in identifying, assessing, and intervening with victims of domestic violence. Yet many health care providers fail to properly recognize the signs and symptoms of domestic/intimate partner violence. It is recommended all health care providers ask screening questions as part of every health history. (ENA & IAFN joint position statement)

### Medical Records

Health care providers treating victims of domestic violence should bear in mind the importance of fact-based documentation in the medical chart. Victim information can be vital in ~~prosecution and~~ the prevention of further abuse but also in prosecution. Health care providers should make HIPAA-compliant release forms available for patients. These forms should authorize the immediate release of information to the proper law enforcement agency to better facilitate a prompt response and more thorough investigation.

Documentation is critical even in cases where the victim is unable to cooperate ~~with in~~ the prosecution process. Health care providers should utilize a domestic violence screening documentation form to record the essential elements.

### Elements of Documentation<sup>1</sup>

#### 1. History

A patient's history should be broadly developed to better assist in evaluating the patient's situation. Histories should include a specific chronological sequence of events, transport history, identification of family members present at the health care facility, and the patient's demeanor. If possible this should be done out of earshot of the abuser/alleged abuser.

- Chief complaint/history of present illness for purposes of diagnosis and treatment. Record verbatim, use quotation marks, clarify ambiguous statements, and do not use the term "alleged" in the history or final diagnosis.
- Past medical history/review of systems
- Sexual history
- Medication history

<sup>1</sup> Carol Warsaw, MD. "Identification, Assessment, and Intervention with Victims of Domestic Violence." *Improving the Health Care Response to Domestic Violence – A Resource for Health Care Providers*. June 1995.

- Relevant social history
- Safety assessment

## 2. Physical Exam

Record precise details of findings related to the abuse, including a neurological and mental status exam. Most common areas for injury include: the head, face, chest, breast and abdomen. Most common injuries seen are: contusions, sprains, minor lacerations, fractures, abdominal injuries, gunshot or knife wounds and strangulation.

- Injuries, including tenderness, should be described in narrative that includes location, measurement in centimeters, description, and mechanism or cause if known.
- Use a body map: Body maps are extremely useful when documenting sites of injury and assist the health care provider in recalling the physical condition of the patient (see page 31).
- Photographs: Whenever possible, photographs of injuries are instrumental in assisting in the prosecution. Photographs should be of the actual injuries, with a color spectrum bar to better assist in the evaluation of the type and nature of injuries. Law enforcement may assist with this process.

## 3. Laboratory and Other Diagnostic Procedures

- Record the results of any lab test, x-rays, or diagnostic procedures.

## 4. Safety Assessment

- Is the abuser present at the location of the exam?
- Assess and record information pertaining to the patient's risk for suicide or homicide and potential for serious harm or injury.
- Determine if it is physically/psychologically safe for the victim to go home. Are the children or other dependents safe?
- Assess the victim's degree of entrapment and level of fear.
- It is critical to obtain the history from the patient alone and in a confidential setting regarding the current injuries and events.
- Do not use a family member as a translator for this process.

## 5. Police Report

- Hospital staff ~~should~~ be aware of mandatory ~~reporting~~ requirements in Arizona.
- Note whether ~~one~~ a police report was filed and record the name of investigating officers actions taken.

## 6. Options Discussed and Referrals Offered

- Health care providers should request a consult by social workers, case managers or other specialized resource (i.e. crisis intervention specialist or police department victim services) if possible to review options and local referrals.

#### 7. Arrangements for Follow-Up/Discharge Information and Safety Plans.

### Signs and Symptoms to Recognize if the Patient is a Victim of Domestic Violence

1. History
  - Traumatic injury or sexual assault
  - Was this a suicide attempt, overdose, or does the victim have suicidal ideation
  - Vague or non-specific complaints
  - Injuries inconsistent with patient history.
  - Delay in seeking needed care
  - Repeated visits
  - Physical symptoms related to stress
2. Physical Clues
  - Patient is reluctant to speak in front of partner
  - Patient may be evasive in responses
  - Little or poor eye contact
  - Partner is over-protective or controlling (partner will try and answer questions for the patient)
3. Verbal Clues
  - Directly or indirectly brings up the subject of abuse. Include specific quotes used by the patient.
  - Soft spoken
  - Hesitant responses/speech

### Health Care Issues For Domestic Violence Victims<sup>2</sup>

1. Health Impact
  - Sleep Disturbances
  - Alcohol and/or Drug abuse
  - Chronic pain/somatization
  - Disorders
  - Anxiety, panic attacks
  - Depression
  - Post-traumatic stress disorder

<sup>2</sup>Dr. Elaine Albert, MD. *Partner Violence: How to Recognize and Treat Victims of Abuse – A Guide for Physicians and Other Health Care Professionals*. (Massachusetts Medical Society Committee on Violence, 1996.)

- Hyper vigilance
- Dissociation during medical procedures
- Suicidal ideation or attempts
- Unwanted pregnancies
- Miscarriages
- Sexually transmitted infections
- Eating disorders
- Chronic mental and/or physical conditions

## 2. Barriers to Care

- System issues
  - ◆ Time demands
  - ◆ Confidentiality issues
  - ◆ Role definition for health plans
  - ◆ Hospital infrastructure
  - ◆ Community infrastructure
  - ◆ Money
  - ◆ Society and culture
  - ◆ Education for first responders
- Provider issues
  - ◆ Provider/patient relationship
  - ◆ May be the health plan for the abuser
  - ◆ May know the family socially
  - ◆ Time restraints for screening and responding, especially in ensuring follow-up
  - ◆ Education/IPV knowledge deficit

## 3. Screening – How to Ask

- Direct Questions
  - ◆ At any time has a partner hit, kicked, or otherwise hurt or frightened you?
  - ◆ Has your partner or ex-partner ever hit you or hurt you?
  - ◆ Has he/she threatened to hurt you or someone close you?
  - ◆ Has your partner ever tried to restrict your freedom or keep you from doing things that were important to you?
  - ◆ Has your partner taken your phone or otherwise restricted your contacting friends/family members?
- Indirect Questions
  - ◆ When I see a woman with an injury like yours, it is sometimes because someone hurt her. Has someone been hurting you?
  - ◆ How has the abuse affected the patient's health?

◆ Do you have any chronic medical problems (irritable bowel syndrome, frequent headaches, insomnia, eating disorders, etc.?)

• Current Episode Questions

◆ Please tell me why you are here What happened?

◆ How did this occur?

◆ How were you hurt?

◆ Were alcohol or drugs involved?

◆ Was a weapon involved?

• Follow-Up Questions

◆ Has this ever happened before?

◆ Have your children ever seen or heard the abuse?

◆ ~~Have your children ever been threatened or hurt?~~

◆ Have your pets been hurt/killed or threatened to be hurt/killed?

- ◆ Have you sought help in the past?
- ◆ Have you ever tried to leave? What happened?
- ◆ Do you want help?
- ◆ Do you have/want a safety plan?
- ◆ What resources are available in the community?

#### 4. Lethality Assessment – Homicide Risk

- How has the control or violence changed in frequency/severity?
- Does the abuser use drugs and/or alcohol?
- Has he/she ever threatened or tried to kill you or others close to you?
- Do you believe he is capable of killing you?
- Is there a firearm in the home?
- Have you ever been threatened with a weapon or has a weapon been used on you?
- Have you ever been strangled or choked?
- Are you planning to leave/divorce him/her? Is he/she aware of your plans?
- Is it safe for the victim to go home? How much danger is the victim in if she/he stays/leaves?
- Are there warning signs that allow her/him to anticipate impending danger? Does the victim have a safety plan?
- What kind of access does the perpetrator have to the victim?

#### Legal Obligations

##### 1. Duty to Warn

- If a health care provider is aware of a patient's intent to injure a third party, the provider has a legal duty to breach patient confidentiality and warn the third party of impending danger. In cases of domestic violence, the provider must intervene in a way that protects the victim and the batterer.
  - ◆ The victim must be told of the provider's intent and offered protective services.
  - ◆ If the patient has been committed to a psychiatric facility, the third party is protected and does not have to be warned.

##### 2. Duty to Report

- A.R.S. § 13-3620 requires health care providers to report non-accidental injuries of minors. For minors, refer to the Maricopa County Multidisciplinary Protocol for the Investigation of Child Abuse.
- A.R.S. § 13-3806 requires health care providers to report gunshot wounds, stab wounds, and material injury that may have resulted from a fight or brawl.
- A.R.S. § 46-454 Health care providers responsible for the care of an incapacitated or vulnerable adult and who has a reasonable basis to believe that abuse or neglect of the adult has occurred or that exploitation of the adult's property has occurred shall immediately report. For elders and vulnerable adults,

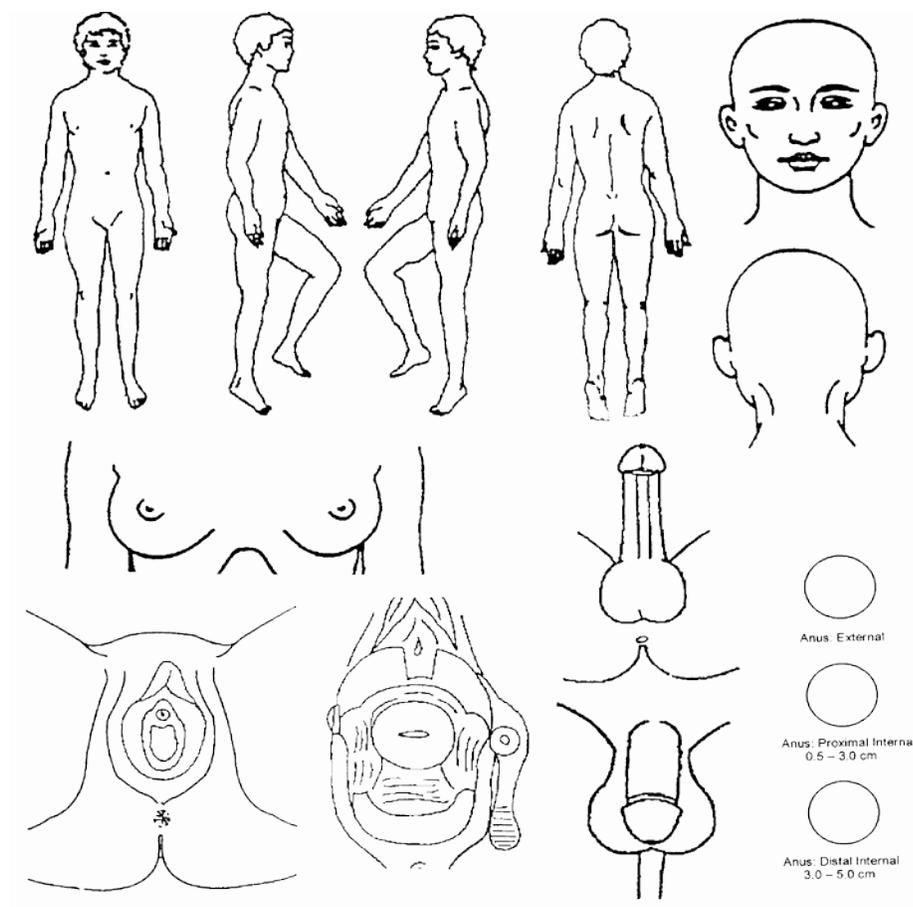
refer to the Maricopa County Elder Abuse Protocol.

- Although the provider is required to make a report in certain circumstances, it is up to the victim to determine if she or he would like to speak to the responding officer. ***In cases where mandatory reporting does not apply, patient permission or patient request must be obtained to notify law enforcement or other outside agencies to avoid a HIPAA violation.***
  - ◆ Providers should document the officer responding to the call, the badge number, and the report number in the case notes.

Standards of Intimate Partner Violence, International Association of Forensic Nurses,

## BODY MAP

Patient Name: _____	Agency Name: _____
Date Of Examination: ____ / ____ / ____	Agency Report #: _____
Shade area of injury and assign number to each injury. Describe each injury on Injury Log. If additional space is needed to document injury, copy this sheet prior to use.	
Examiner's Signature: _____	Title: _____



# PROSECUTION

## PROSECUTION

Domestic violence occurs when an offense listed in A.R.S. § 13-3601 (A) is committed and one of the following applies:

1. The victim:
  - Is the spouse or former spouse of the defendant
  - Is the parent of a child of the defendant
  - Is pregnant by the defendant
  - Resides or resided in the same household as the defendant
2. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.
3. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

The goal of domestic violence prosecution is to:

1. Provide safety for the victim;
2. Uphold the law;
3. Hold the offender accountable; and
4. Provide an opportunity for offender rehabilitation, if appropriate.

Initial and continued domestic violence training for all attorneys working in family violence is strongly encouraged.

### Submittal

When an officer believes that a suspect has been identified and that sufficient evidence exists, a case will be submitted to a prosecutor for review.

A Deputy County Attorney will review the case if:

1. The offense is a felony that was committed within Maricopa County; or
2. The offense is a misdemeanor that was:

- committed within the county but outside of any city limits
- a violation of an order of protection which was issued from a Justice Court by a Justice of the Peace or from the Superior Court.

If it is determined that the crime presented is not a felony, it may still be charged as a misdemeanor by the Maricopa County Attorney's Office or it may be submitted to a municipal prosecuting agency.

## **Charging Domestic Violence**

### **Considerations:**

The prosecuting attorney must determine, from the available evidence, whether a reasonable likelihood of conviction exists. The following are general considerations established to assure that cases filed have a reasonable likelihood of conviction.

1. Does the police report contain sufficient evidence (including foundation, recorded statements/911-calls and photos, if applicable) to support all elements of the crime?
2. Are the witnesses credible, available, and competent to testify?
3. Does the investigation as submitted provide all the documentation, scientific evidence, and witnesses or does it need to be "furthered" (i.e., referred back to police for additional information)?
4. Are there any obvious defenses to the crime? If there are, does the available evidence overcome those defenses?

Based on the nature of domestic violence cases, the likelihood of recidivism, and the ongoing danger to the victim and others, a domestic violence case will be charged (if it meets the criteria) even if the victim does not wish to proceed with prosecution.

### **Offenses:**

The following offenses are included in A.R.S. § 13-3601 (A) and should be given special consideration:

### 1. Aggravated Assault

- The Aggravated Assault statute (A.R.S. § 13-1204), effective August 6, 1999, includes a new category of Aggravated Assault. If an assault occurs, and the victim has a valid Order of Protection against the defendant, the defendant can be charged with Aggravated Assault, a class 6 felony.

### 2. Aggravated Domestic Violence

- Aggravated Domestic Violence is a class 5 felony and occurs when an offender is convicted of a third or subsequent domestic violence offense within a period of ~~five~~ seven years (A.R.S. § 13-3601.02). The prior convictions may be from another state, a tribal court, or a court of the United States if they would be considered domestic violence offenses had they occurred in this state.

“A person is guilty of aggravated domestic violence if the person within a period of ~~sixty~~ eighty-four months commits a third or subsequent violation of a domestic violence offense or is convicted of a violation of a domestic violence offense and has previously been convicted of any combination of convictions of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a violation of a domestic violence offense.” A.R.S. § 13-3601.02

- Prior convictions for misdemeanor domestic violence offenses must have been committed on or after January 1, 1999.
- The Maricopa County Attorney’s Family Violence Bureau will require certified copies of the convictions (i.e., sentencing documents), including usable fingerprint documentation, along with the departmental report in order to review charges under this statute.

See the Aggravated Domestic Violence section of the Protocol for additional information.

### 3. Aggravated Harassment

- Aggravated Harassment is committed when there is a charge of harassment under A.R.S. § 13-2921 and one of the following applies:
  - ♦ There is a valid Order of Protection or Injunction Against Harassment against the defendant and in favor of the victim of the harassment.
  - ♦ The defendant has been previously convicted of an offense included in A.R.S. § 13-3601, and the victim of any previous offense is the same victim in the current offense.

- It is possible that a case may appear to be an aggravated harassment and upon further investigation, it is actually a stalking. It is also possible that a presumed stalking case will not meet the level of stalking but can be filed as an aggravated harassment. Review the Stalking Protocol for more information.

See the Aggravated Harassment section of the Protocol for additional information.

#### 4. Stalking

- A prosecutor assigned to a defendant's case that has several Interference with Judicial Proceeding charges should review the charges and determine whether the elements of stalking are present.
  - ♦ According to A.R.S. § 13-2923, in order to file a class 3 felony stalking charge, there must be proof that the defendant's conduct would cause a reasonable person to fear death to that person or that person's immediate family.
  - ♦ In order to file a class 5 felony stalking charge, there must be proof that the defendant's conduct would cause a reasonable person to fear for that person's safety or the safety of that person's immediate family.
- If a prosecutor determines that the elements of stalking exist, he or she should contact the law enforcement agency involved and request that a detective be assigned to further investigate the case, if needed.
  - ♦ The detective should gather existing Interference with Judicial Proceeding departmental reports from all law enforcement agencies in Maricopa County.
  - ♦ Questions about the availability and location of victims and witnesses should be resolved prior to submitting Stalking charges.
- If the prosecutor determines that no follow-up investigation is necessary to prove stalking charges, the prosecutor should still request that a detective be assigned to the case for the purpose of becoming the case agent. The detective will then submit charges to the Maricopa County Attorney's Office.

See the Stalking section of the Protocol for additional information.

## 5. Custodial Interference

- Custodial Interference charges may be brought against anyone who takes, entices, or keeps from lawful custody any child under the age of 18, or any person who is incompetent, and who is entrusted to the legal custody of another person or institution (A.R.S. § 13-1302). This may include situations where the parties have co-equal or joint custody, and the intent of taking the individual is to totally exclude the other party.
- Charges may be filed when:
  - ♦ A child is taken from the state under legal conditions and not returned.
  - ♦ A child is taken and does not leave the state.
- If the person suspected of taking the child is the biological parent of the child, it must be determined if the parents were ever married.
  - ♦ If the person suspected of taking the child is the biological parent of the child and is currently married to the other parent of the child, a certified copy of the marriage license and child's birth certificate are needed before charges can be considered.
  - ♦ If the person suspected of taking the child is the biological parent of the child and is divorced from the other parent of the child, a certified copy of the child's birth certificate, the divorce decree, and any signed orders concerning custody and/or visitation are required before charges can be considered.
  - ♦ All court orders must be signed by the judge in order to be enforceable in a criminal case for custodial interference.
- If the suspect was never married to the child's other parent, and if the suspect is male, it must then be determined whether or not the suspect ever filed to establish paternity and visitation. If the suspect did file, certified copies of court paperwork will be needed before charges can be considered. A copy of the child's birth certificate will also be needed.
- Charges will not be filed where there is verifiable, substantial evidence that the suspect is protecting the child from immediate danger. In addition, if the suspect is questioned, the suspect shall be asked his or her motive for taking the child and will be specifically asked if the suspect recently sought an Order of Protection or recently filed to change custody. Any statements the suspect makes concerning abuse or neglect by a custodial parent must be included in the departmental report.

## 6. Class 6 Felony

- A.R.S. §13-604(E): "A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense than that for which such person currently stands convicted."

### **Furthers and No Files**

1. All domestic violence submittals are reviewed for determination of filing charges. If additional information is required, the prosecutor will generate a request for further information from the submitting police department stating the reasons for denial of prosecution at that time. The prosecutor will request the information required to proceed with a final decision on prosecution.
2. If the prosecuting attorney determines charges cannot be filed, a no file decision is also sent to the submitting department with reasons for denial of charging the case. The victim should be notified of the decision not to file charges.
3. If an officer/detective has questions as to why a case was not filed or further information requested, then the officer/detective should contact the charging prosecutor directly.
  - If, after speaking with the prosecutor, the officer/detective still has sufficient reasons for disagreeing with the decision, the officer/detective and/or the officer/detective's supervisor may contact the prosecutor's supervisor to review the matter.

### **Plea Negotiations**

Maricopa County Attorney's Office policies and procedures should be followed when negotiating plea agreements. The following elements should be considered:

1. Victim's input.
2. Defendant's criminal history.
3. Past arrests.
4. Nature and circumstances of the offense(s).

5. Level of violence.
6. Whether children were present.
7. Whether or not the victim was pregnant at the time of the incident and the defendant had reason to know of the pregnancy.
8. Whether a domestic relationship as defined by statute exists. (The nature of the domestic violence relationship should be stated in all plea agreements.)

For information on misdemeanor sentencing provisions, see A.R.S. §§ 13-707, 13-802, 13-902, 13-3601.02.

For information on felony sentencing provisions, see A.R.S. §§ 13-604, 13-604.01, 13-701, 13-702, 13-702.01, 13-702.02, 13-801, 13-902.

## **Trial Preparation**

The prosecutor should take the following steps when assigned a case for trial.

1. Obtain and disclose all relevant evidence. This would include but is not limited to:
  - Police Departmental Reports
  - Photographs
  - 911 tapes
  - Medical Reports
    - ◆ Doctors Notes
    - ◆ Nurses' Notes
    - ◆ Hospital Records
    - ◆ Paramedic reports
  - Documentation of any Weapons
  - Documentation of any Damaged Property
  - Tape-recorded Interviews
  - Certified Copies of Orders of Protection
  - Certified Copies of Prior Convictions
2. Speak to the victim as soon as possible after the case is assigned, even if the victim has already spoken to an advocate. It is important to speak with the victim to explain trial expectations and make the victim more comfortable with the judicial process. It is also important to speak with the victim at an early stage in the proceedings to determine if he/she is a reluctant or recanting witness, which will materially affect how the case is prepared for trial.
3. All witnesses should be interviewed when appropriate.

4. Consider filing any and all appropriate pre-trial motions, including:
  - All applicable sentencing enhancements, including
    - ♦ Notice of all aggravating factors/circumstances
    - ♦ Notice of all alleageable prior felony and misdemeanor convictions
    - ♦ Notice of dangerous nature of offense(s) if not included in charging document
    - ♦ Notice if the victim was known by the Defendant to be pregnant at the time of the offense(s) – A.R.S. §§ 13-711, 13-3601(L).
  - Notice of the State's intent to present testimony from a domestic violence expert, which may include noticing an outside expert or the designation of a qualified officer/detective as an expert.
  - Rule 404 (b) motions: Although evidence of a defendant's crimes and other bad acts is not admissible to prove that he/she has a bad character and that he/she has acted in conformity with this character, such evidence is admissible for other purposes, such as proof of motive, opportunity, knowledge, identity, or lack of mistake.
  - Rule 609 motions: Evidence of a witness's (including the defendant) prior convictions can be used to impeach his/her credibility at trial.
  - Motions in Limine: In domestic violence cases, an appropriate motion in limine would include a motion to prohibit defense counsel from offering evidence of an unduly prejudicial nature, or irrelevant evidence, such as evidence of the victim's infidelity during her marriage to the defendant.
  - Weapons Forfeiture: Under A.R.S. § 13-3105 (A), upon the conviction of any person for the violation of any felony in this state in which a deadly weapon, dangerous instrument or explosive was used, displayed or unlawfully possessed by such person, the court shall order the article forfeited and sold, destroyed or otherwise properly disposed.
5. Subpoena Witnesses.

## **Trial Issues in Domestic Violence Cases**

1. Testimony of Victim
  - If the victim recants on the stand, his/her testimony can be impeached with evidence of his/her prior statements to the police and other available evidence. It is therefore necessary that the victim's statements to police personnel be recorded and any injuries be photographed. Those audiotapes and photographs must be provided for disclosure to defense counsel as soon as practical. The audiotapes of the victim's police interviews and photographs of any injuries should be available at trial.
  - If the victim is uncooperative, the court may allow the prosecutor to ask leading questions of the witness under Rules of Evidence 611(c).

- In exceptional cases, expert witnesses may be used to explain the victim's recantation or lack of cooperation.
- Establish that a domestic relationship did exist between the victim and the defendant.

## 2. Witnesses

- Question witnesses regarding observations of both victim and defendant including physical and emotional state, statements made by either party, and conduct observed.

## Sentencing

### 1. Sentencing Memorandum

- Prosecutor shall develop a sentencing memorandum for the court, identifying all aggravating circumstances, including information that may not have been admissible at trial, as well as victim and State sentencing recommendations.

### 2. Victims' Rights

- Either through the State's Sentencing Memorandum or during the actual courtroom sentencing proceedings, the prosecutor should convey the sentiments of the victims. If the victim chooses, the victim may personally address the court. If the victim prefers, the prosecutor can inform the court of the victim's position regarding sentencing. Under the Victims' Bill of Rights, the state must convey the victim's position even if that position differs from the sentencing requests of the state.

### 3. Supervised Probation

- The prosecutor should have the court consider whether a "no contact" order should be a provision of the defendant's terms of probation.
- Counseling should be requested whenever the circumstances dictate that it would be appropriate, regardless of the defendant's desires, interest, or acknowledgment of responsibility.
- Deferred jail time is often an incentive for the defendant to successfully comply with the terms of probation. It can and should be imposed if the defendant is found in violation of probation for any reason. Felony cases should include a request for domestic violence terms.

- If the defendant is incarcerated as a condition of his probation, he may be permitted to continue to work during the day while remaining incarcerated at night through three distinct programs: Work Release, Work Furlough or the Day Reporting Center.
  - ♦ A recommendation of Work Release should be opposed in domestic violence cases because the defendant's release is unmonitored by either the jail or the adult probation office.

#### 4. Supervised Probation for Misdemeanor Domestic Violence

- As of January 1 1999, a person who commits a second misdemeanor domestic violence offense within sixty months may be placed on supervised probation by a limited jurisdiction court for up to 36 months and may be incarcerated as a condition of probation. In order to ensure that the defendant receives proper supervision, it is essential that the following steps be taken for placement on a domestic violence caseload:
  - ♦ The defendant must sign a copy of the domestic violence probation terms and include his/her address and phone number.
  - ♦ Court sentencing forms along with a signed copy of the probation terms, police departmental reports, and terms of confinement (if applicable), should be faxed to the Maricopa County Probation Department at (602) 372-5557 by the court. These documents serve as a notice of placement on probation and it is imperative that they be sent as quickly as possible. It is equally imperative that the originals be sent as quickly as possible to:

Maricopa County Probation Department  
Attention: Domestic Violence Program  
East Day Reporting Center  
245 N. Centennial Way  
Mesa, Arizona 85201

#### 5. Imprisonment/Incarceration

- A prison disposition or a term of incarceration as an initial condition of probation should be requested in all appropriate cases.

#### 6. Fines

- Fines may be requested as a punitive sanction.

## 7. Summary Probation

- With required counseling per A.R.S. §§ 13-3601.01 in an offender treatment program that is approved by the department of health services or probation department.

## 8. Restitution

- If the victim has incurred economic loss as a result of the acts of the defendant, restitution must be requested by the state and may be ordered by the court as a term of the defendant's sentence.

## **Victims' Rights in Prosecution**

Victims in Arizona have the right to confer with the prosecutor prior to release hearings, trial, any plea agreement, and have the right to refuse a defense interview. At sentencing, the victim has the right to make a statement to the court regarding the impact that the crime has had on the victim's life.

1. Prosecutors' offices may require a victim to request notification in order to exercise victims' rights.
2. In domestic violence cases, it is recommended that every effort be made to contact the victim(s) soon after charges have been filed to ascertain the safety of the victim(s) and to ensure that the victims' opinions are taken into consideration throughout the prosecution of the case.
3. Files should be kept so that the prosecutor knows when notices have been mailed and whether those mailings have been returned for whatever reason.
  - If the notification has been returned, a reasonable attempt (including telephonic) should be made to contact the victim.
  - If the prosecutor's office has been unsuccessful in making contact with the victim prior to significant hearings (for instance, change of plea or sentencing hearings), a motion to continue should be made so that all reasonable efforts to locate and confer with the victim can be made.
  - The prosecutor is responsible for assuring that every effort was made to contact the victim before disposing of the case.

4. If a victim has asserted his or her victims' rights, the prosecutor or victim services advocate must make all reasonable efforts to speak with the victim about the disposition of the case before conveying a plea offer to the defendant.
  - The prosecutor shall consider the views of the victim when deciding how to proceed with the case and whether to dispose of it by plea agreement or diversion.
  - According to A.R.S. § 13-4419, the prosecutor alone decides how to proceed after conferring with the victim.

It is the policy of the Maricopa County Attorney's Office to make a reasonable effort to consult with the victim regarding plea agreements, even if the victim has not opted in for victims' rights.

### **Weapon Seizures in Prosecution**

The police may be authorized to seize a firearm while at the scene of a domestic violence call. After this seizure occurs, the prosecutor is required to make a determination of the necessity of retaining the firearm. See A.R.S. §. 13-3601 (C) (D) (E).

1. The officer should document any firearms seized at the scene pursuant to A.R.S. § 13-3601 (D) in addition to notifying the prosecutor's office pursuant to A.R.S. § 13-3601 (F). A required form outlines the following details:
  - the owner's and/or possessor's name, date of birth, and address;
  - a description of the firearm; and
  - a written incident narrative.
2. Upon notice, the prosecutor will decide whether to retain the firearm. If the decision is made to retain the firearm, notification is sent to the police agency, the court is notified, and a certified letter is sent to the owner or possessor. A.R.S. § 13-3601 (F)
3. If the owner of the firearm requests a hearing, the court immediately notifies the prosecutor of the request. The prosecutor provides notices to substantiate the grounds for retention of the firearm.

**Note:** Federal law (18 U.S.C. § 922) prohibits the release of firearms to persons under an Order of Protection or convicted of a domestic violence crime.

# **AGGRAVATED DOMESTIC VIOLENCE**

## AGGRAVATED DOMESTIC VIOLENCE

Under A.R.S. § 13-3601.02, an offender commits Aggravated Domestic Violence when convicted of a third or subsequent domestic violence offense within a period of ~~sixty-eighty-four~~ months (~~five-seven~~ years).

1. The prior convictions may be from another state, a tribal court, or a court of the United States, if they would be considered domestic violence offenses had they occurred in this state.
  - A “domestic violence offense” means an offense as defined in A.R.S. § 13-3601.
2. A person convicted of two previous domestic violence offenses within an ~~sixty-eighty-four~~ month period is not eligible for probation until the person has served a minimum of four months in jail.
3. A person convicted of three previous domestic violence offenses within an ~~sixty-eighty-four~~ -month period is not eligible for probation until the person has served a minimum of eight months in jail.
4. The dates of the commission of the offenses are the determining factor in applying the ~~sixty-eighty-four~~ month provision. A third or subsequent violation for which a conviction occurs may not include a conviction arising out of the same series of acts.
5. Aggravated Domestic Violence is applicable to misdemeanors~~-~~ committed after January 1, 1999.
6. Aggravated Domestic Violence is a class 5 felony.

In order to review Aggravated Domestic Violence charges, the Maricopa County Attorney’s Office will require certified copies of the prior convictions along with the departmental report for the submitted offense.

# **AGGRAVATED HARASSMENT**

# AGGRAVATED HARASSMENT

**AGGRAVATED HARASSMENT IS COMMITTED WHEN THERE IS A CHARGE OF HARASSMENT**

**UNDER A.R.S. § 13-2921 AND ONE OF THE FOLLOWING APPLIES:**

1. There is a valid Order of Protection or Injunction Against Harassment against the defendant and in favor of the victim of the harassment.
  - A person violating the statute under this condition is guilty of a class 6 felony.
  - A person who commits a second or subsequent violation of the statute under this condition is guilty of a class 5 felony.
2. The defendant has been previously convicted of an offense included in A.R.S. § 13-3601 and the victim of any previous offense is the same victim in the current offense.
  - A person violating the statute under this condition is guilty of a class 5 felony.

For the purposes of this statute, a juvenile adjudication may be used if that act had constituted an offense included in A.R.S. § 13-3601, and if the juvenile was tried as an adult for the offense.

## **Similarity to Stalking**

It is possible that a case may appear to be aggravated harassment and upon further investigation, it is actually a stalking. It is also possible that a presumed stalking case will not meet the level of stalking but can be filed as an aggravated harassment. Review the Stalking Protocol for more information.

# STALKING

# STALKING

Under A.R.S. § 13-2923, a person commits stalking if they intentionally or knowingly engage in a course of conduct<sup>1</sup> that is directed toward another person and either:

1. Causes that person to fear for their safety or the safety of an immediate family member.
2. Causes that person to fear death to themselves or to an immediate family member.

A person violating the statute under the first condition is guilty of a class 5 felony. If an individual violates the statute under the second condition, it is a class 3 felony.

## Stalker Profiles<sup>2</sup>

There are four main categories of stalkers:

### 1. Simple Obsessional

- A prior relationship exists.
- It can be a love relationship gone sour or a perception of mistreatment.
- Stalking begins after a schism in the relationship.
- It is shorter in duration.

This is the most common type of stalker. It is usually a male who knows the victim as an ex-spouse, ex-lover, or former boss and begins a campaign of harassment against them.

### 2. Erotomania

The suspect believes (falsely) that it is the victim who really loves the suspect.

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<sup>1</sup> "Course of conduct" means that on two or more occasions over a period of time, however short, a person either: 1) Maintains visual or physical proximity to a specific person; or 2) Directs verbal, written, or other threats to a specific person, whether expressed or implied. This does not include a constitutionally protected activity.

<sup>2</sup> Dr. Michael Zona, M.D., "Psychiatric Factors Involved in Stalking Cases," (Threat Management Conference, 1994). Dr. Zona is a consultant for the Los Angeles Police Department Threat Management Unit.

- The suspect usually knows the victim through the media only (TV anchor, actor or actress, political figure).
- The suspect may have delusional disorders, in rare cases.

The stalker is usually female and falsely believes that the victim is in love with her. The stalker believes that, if not for some external influence, they would be together.

### 3. **Love Obsessional**

- Usually, no prior relationship exists.
- The suspect may be fanatic in the extreme and usually has schizophrenia or bi-polar mania.
- The suspect begins a campaign of stalking and other contact behavior.

This stalker is a stranger to the victim but is obsessed and thus mounts a campaign of harassment to make the victim aware of the stalker's existence.

### 4. **False Victimization Syndrome**

- A fictitious campaign of stalking or harassment developed by the victim.
- Motivation can be either conscious or unconscious.

This is not a true stalking. The victim creates the scenario of being stalked by an alleged stalker to receive attention.

## **Victims of Stalking Safety Issues<sup>3</sup>**

The detective, victim advocate, or prosecutor from the Maricopa County Attorney's Office should remind the victim to be extra cautious regarding their personal safety. Time should be spent reviewing the following guidelines with the victim. These are only suggestions.

### **Residential safety suggestions:**

1. Be alert for suspicious persons. Positively identify anyone at the door prior to opening, and request identification of all repairmen prior to admission to the residence.

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<sup>3</sup> Detective Diane McNair, "Victim's Handbook," (Los Angeles Police Department).

2. Install security lighting, dead bolt locks on all outside doors, and locks on all fence gates.
3. Account for all keys or change locks. Keep all doors locked when gone and at home. Keep garage doors closed and locked at all times.
4. Trim all shrubbery so windows and doors can be seen from the street.
5. Keep the fuse box locked and backup flashlights in the residence.
6. Obtain an unlisted telephone number. If unusual calls are received, notify law enforcement. Record any such phone calls if possible and save any answering machine or voice mail messages. List emergency numbers on all phones.
7. Be alert for unusual packages or boxes found. Notify law enforcement prior to touching such packages if the source cannot be accounted for.
8. Install smoke detectors and keep fire extinguishers in more than one location in the residence and in the garage.
9. When away from the home, leave lights, a radio, or television on.
10. Prepare an evacuation plan for the household and teach children what to do in an emergency.
11. Consider purchasing a dog.
12. Know the whereabouts of family members at all times. Children should always be accompanied.
13. Routines should be varied. Do not consistently use the same routes or times.
14. Provide trusted neighbors with information regarding the situation and request that law enforcement be alerted if suspicious activity is noted.
15. Save any correspondence from the suspect, including envelopes and enclosures whether received at home, work, or at a separate location.
16. Do not contact the suspect under any circumstances.

**Workplace safety suggestions:**

1. If possible, a receptionist should handle packages and visitors. Do not accept or open packages unless you have ordered them.
2. Co-workers should be advised, if possible, of the situation.

3. Park in a secured area if at all possible. Have your name removed from any parking spot or other areas that are accessible.
4. Consult with security if available.
5. Have calls screened by someone else if possible.
6. Be vigilant about anyone following you to or from work.

**Vehicle safety suggestions:**

1. Park vehicles in a well-lit and secure area. When parked in a garage at home, lock both the vehicle and the garage.
2. Equip the vehicle with a locking gas cap, ideally controlled from the interior of the vehicle.
3. Visually check the vehicle before entering.
4. Keep vehicle doors locked at all times, whether in or out of the vehicle.
5. Be alert to vehicles that appear to be following you. Make contingency plans and know where assistance is available.
6. Do not stop to assist a stranded motorist, call for help instead.

**Personal security suggestions:**

1. Remove home address from personal checks and business cards.
2. Utilize a private mailbox service (mail drop, not a U.S. Post Office Box) to receive all incoming mail. File a change of address with the U.S. Postal Service, Motor Vehicle Division, and all current creditors listing the mail drop address as your new address.
3. Contact credit reporting agencies and request all past addresses be removed and that the new mail drop address be used.
4. Place real property in a trust and list all contracts, titles, and utilities in the name of the trust.
5. Register to vote using the mail drop address and file for confidential status.
6. Destroy all discarded mail.

# **VICTIM SERVICES**

## VICTIM SERVICES

The criminal justice system offers victims of domestic violence several assistance resources. There are two types of assistance in addition to that provided by community-based organizations: on-scene responders and prosecution-based advocates.

The purpose of victim services specialists is to keep victims informed and prepared. The victim services specialist in a domestic violence case can assist the victim in understanding the criminal justice process, in assessing their needs, and in determining how to meet those needs.

Each group of specialists has specific parameters regarding what assistance can be offered. The Arizona Coalition for Victim Services has developed standards that can be obtained by calling the Arizona Attorney General's Office at (602) 542-8409. In addition to the information provided below, the Local Resources section of the Protocol contains information that can be utilized by victims.

### On-Scene Responders

1. After assessing a domestic violence scene for the level of danger, the patrol officer should consider whether or not to call out an on-scene crisis intervention specialist.

Officers should consider calling a specialist when any of the following situations arise:

- There is serious physical injury to the victim.
- There are children at the scene that have witnessed the events and may be traumatized.
- Shelter is needed for the victim and/or the children.
- The suspect has made threats or used weapons.
- The suspect has not been taken into custody.
- There are basic unmet needs.
- The victim is emotionally distraught and/or needs a support person.
- When it is in accordance with departmental policy.

2. The on-scene crisis intervention specialist will assess the needs of the victim and may:
  - De-escalate the situation.
  - Assess immediate needs of both the victim and family members.
  - Locate any on-scene children and assess immediate needs including additional personnel to assist with childcare.

- Provide an emotional support person for the victim.
  - Facilitate transportation to a shelter or other destination.
  - Obtain minimal emergency supplies.
  - Coordinate, with the officer, a brief history of the occurrence and the background of the couple.
  - Develop a plan of action with the victim, including immediate and short-term goals entailing safety planning, lethality assessment, emergency orders of protection, shelter information and other referrals as necessary.
  - Explain victims' rights and how to activate those rights.
  - Provide referrals to agencies that can provide long-term assistance.
  - Close out the scene with the victim and offer ongoing support.
  - Follow-up with the victim in 24-48 hours as possible.
3. If the scene is not safe or if the suspect is not arrested, the crisis intervention specialist should meet the victim at a neutral location.

### **Prosecution-Based Victim Advocates**

The advocates that work within the prosecutors' offices have more structured duties than the on-scene responders.

1. A victim services specialist will offer assistance and information throughout the prosecution of a case and information on the next step in the criminal justice process if the defendant is convicted.

Advocates may provide the following:

- An initial contact either by telephone or letter asking the victim to contact the office. The purpose of this contact is to acquaint the victim with the services available from the prosecutors' office and provide an overview of the criminal justice system. The advocate will work to establish a rapport with the victim.
  - An assessment of victim needs and referrals to resources in the community.
  - Assistance in securing direct services such as temporary shelter, childcare, parking, and transportation.
2. The advocate will work to assist the victim in meeting needs and providing resources. The advocate will also educate the victim on the criminal justice system, victim rights, and what to expect from the process.

The services offered through the victim services offices may include:

- An explanation of the criminal justice system as it pertains to the case.
- Written information regarding domestic violence and/or the criminal justice system.
- An explanation of victims' rights and the notification process.
- A review of safety issues and concerns with the victim.

- Information regarding office policy on domestic violence, including the “no drop” policy.
  - If applicable, the prosecutor’s name and telephone number.
  - Referrals to victim compensation and community resources as needed.
  - An explanation of the dynamics and cycle of violence.
  - An inquiry of what the victim would like to see occur in the case and a transmission of that information to the prosecutor.
  - Financial assistance with child care, food and other needs, if funds are available.
  - Court escorts and personal meetings if desired.
  - Arrangements for follow-up contact.
3. Many of the municipal victim services agencies have advocates who can offer assistance when a victim applies for an Order of Protection through municipal courts. This affords an opportunity to intervene prior to an actual criminal case being filed and to disseminate information to the victim, thereby possibly interrupting the cycle of violence.
  4. Most offices have advocates available to accompany a victim to various hearings to offer support and a measure of reassurance.

When the victim requests a court escort, the following will be provided:

- Arrangements for a safe environment for the victim to wait.
- Education about the upcoming proceeding.
- A familiarization with the physical layout of the courtroom.
- Introduction to the prosecutor or court coverage attorney.
- Assistance with the victim’s trial preparation as appropriate.

## **Community-Based Organizations**

Organizations not affiliated with the criminal justice system can often assist in meeting the needs of a victim that the criminal justice system cannot. Some of the assistance offered by the community-based organizations includes housing, support groups, outpatient counseling, and advocacy.

See the Local Resources section of the Protocol for additional information.

## **Safety Planning**

Advocates should work with victims in developing a safety plan. The following information should be discussed with and disseminated to the victim in an effort to educate them on ways to ensure their safety before, during and after an incident, and to maintain their emotional well-being.

A. Suggestions for victims regarding their emotional health:

- Plan to attend a support group for at least two weeks to gain support from others and learn more about yourself and the relationship.
- Read books and articles to help you feel stronger.
- Decide whom to call to talk freely and openly and to give you the support you need.
- Think positively about yourself.
- Be assertive with others about your needs.
- If you have to communicate with the abuser, determine the safest way to do so.
- If you are thinking of returning to a potentially abusive situation, discuss an alternative plan with someone you trust.

B. Ways victims can keep safe:

1. With an Order of Protection:

- Keep order with them at ALL times, and give copies to family, friends, school personnel, employers and babysitters.
- Call the police if partner violates the Order of Protection.
- Think of alternative ways to keep safe if the police do not respond right away.

2. At Home:

- Change door locks.
- Buy additional locks and safety devices to secure windows.
- Identify a neighbor who can be told about the violence and asked to call the police if they hear a disturbance coming from the home.

3. With Children:

- Plan and rehearse an escape route out of the home.
- Teach children a code word that tells them to call 911 and instruct them on how to use a public telephone.
- Inform children's school, day care, etc. about who has permission to pick up children.
- Give school personnel a photo of the abuser.
- Ask school personnel not to divulge victim address and phone number.

4. During an Incident:

- Stay out of rooms with no exit.

- Avoid rooms that may have weapons such as the kitchen.
  - Select and use a code word that alerts friends, family, neighbors and children to call the police.
  - Practice how to get out of the home safely. Identify which doors, windows, stairwells, etc., could be best.
  - Decide and plan where to go to if it is necessary to leave home quickly.
  - Leave, with a friend, a suitcase and items on the checklist of things needed when leaving.
  - Use instincts and good judgment. If the situation is very dangerous, have the victim consider giving the abuser what he/she wants to calm him/her down. Victims have a right to protect themselves until they are out of danger.
5. When the victim is preparing to leave:
- Open a savings account in their own name and a post office box so they can receive mail and checks
  - Leave money, an extra set of keys, copies of important documents and a change of clothes, with someone they trust, so they can leave quickly
  - Keep shelter phone numbers nearby and keep some change or a calling card on them at all times
  - Review their safety plan as often as possible
  - Go over “Checklist of things needed when leaving”

**NOTE: Remember that leaving the abuser is the most dangerous time for the victim.**

6. At Work and In Public: Employers should provide all employees easy access to domestic violence information and resources while keeping the matter somewhat confidential.
- Tell a trusted co-worker, supervisor, or manager, and ask for help
  - Give security a photo of the abuser and a copy of the Order of Protection
  - Arrange to have someone screen their calls
  - Contact Human Resource Department and/or Employee Assistance Program (EAP) personnel for assistance as soon as possible
  - Notify their supervisor of the possible need to be absent and find out the leave options (sick, annual, shared leave, compensatory time, or leave without pay). Have them be clear about the plan to return to work and maintain communications

with their supervisor during their absence. If necessary, have them make alternative arrangements for receiving their paycheck.

- Take advantage of flextime if possible, to take care of court appearances, shelter and child care issues.
- Always carry a copy of the Order of Protection and Affidavit of Service.
- Devise a safety plan for leaving work – have an escort to their car or bus, vary route home, think about what to do if something happens on the way home.
- Consider getting a cell phone.
- Carry a noisemaker or personal alarm.
- Report all incidences of abuse, harassment and violations of the Order of Protection to the police. Always request a report be made by law enforcement when a violation occurs.

C. Checklist of things needed when leaving

- Personal identification
- Divorce, paternity, custody papers
- Birth certificates for victim and their children
- Lease/rental agreements/house deed
- Social Security cards for victim and their children
- Mortgage payment book, current unpaid bills
- School and medical records
- Insurance papers and cards
- Money, bankbooks, credit cards
- Address book
- Keys to the house, car and/or office
- Pictures, jewelry, items of sentimental value
- Driver's license and registration and insurance papers for car
- Children's favorite toys, blankets, etc.
- Medications
- Personal Protection Order & Affidavit of Service
- Change of clothes
- Small objects that can be sold
- Welfare identification
- Toiletries/diapers
- Passport(s), green card(s), work permit

**Note: Explain to the victim that many of the above items can be replaced at a later date if they are unable to obtain them prior to leaving.**

# PROBATION

# PROBATION

## Presentence Report

Domestic violence cases present an immediate threat to the physical safety of the community and to the victim. Therefore, sentencing reports in these cases ~~are~~ should be prepared by presentence investigators, probation officers trained in the particulars of domestic abuse. Reports consist of criminal history of defendant, synopsis of the violation, statement from the victim or other interested parties, defendant's social history, sentencing recommendations, and reasoning for recommendation. In some class 6 felonies, including domestic violence related cases, pre-sentence reports are not created. If resources are available, domestic violence cases warrant a full investigation and a complete presentence report. If a report is created, presentence investigators should include special domestic violence probation terms (term 25), when the offender and victim meet the relationship test in a one-page format are never acceptable; all domestic violence cases warrant a full investigation and long-form report. Therefore, whenever possible, domestic violence reports should be prepared by presentence investigators trained in the particulars of domestic abuse.

## Combo Reports

Combination Reports are created by the supervising probation officer. If a defendant was placed on probation for a previous case and ~~commits~~ a new offense, the supervising probation officer combines the old case with the new case, thus the term `combo report. Combo reports are similar to presentence reports, but include the reason for revocation and what the new charge entails. It is important to note that not all domestic violence cases or charges having domestic violence terms are supervised by a domestic violence officer. If the defendant is not assigned to DV officer, probation violations will be seen at revocation court. If the defendant is assigned to a DV officer, it is highly probable that most probation violations and all review hearings will be seen in domestic violence court. Therefore, whenever possible, domestic violence combo reports should be prepared by probation officers trained in the particulars of domestic abuse.

## Presentence Interviewing

1. Require the defendant to be specific about instances of physical violence.

- See that all- behaviors involved are enumerated (e.g., slapping, hitting, choking, restraining, vandalism, threatening, use of weapons, etc.) and specified (e.g., Hand open or closed? Struck how many times? Which cheek? For how long? What was destroyed? What specific words were used? What kind of knife? etc.).
2. Inform the defendant that the victim will be contacted.
  3. Make every effort to contact the victim.
    - It is impossible to adequately assess the risk or danger posed by a batterer without information from the victim. Frequently, this will require more than one contact. In many cases, victims will recant or offer a different version of events than was previously related. Officers should understand this to be a result of systematic abuse and not allow it to alter their recommendations for a violent individual.
    - If the defendant was not charged with a domestic violence offense, the victim should still be sent the domestic violence form letter.
    - In cases where attempts to reach the victim are unsuccessful, the assigned County Attorney Victim Services Advocate should be consulted for further assistance.

### **Preparing a Report**

1. Obtain a complete criminal history.
  - Ninety percent of domestic violence charges are misdemeanors; therefore, previous offenses will often have no disposition noted. It is necessary to contact the agency indicated to obtain all available information on the defendant. Because issues of community safety may be involved, the court must be able to make a fully informed decision regarding the risk posed to the victim and community by a violent offender.
2. The report should describe patterns of abusive behavior.
  - Illuminate the extent of an individual's behavior as well as any apparent trends. These patterns may have been exhibited in this relationship or with multiple partners in past relationships.
  - Identifying patterns and trends will allow the court to see the defendant in the most accurate light. It will also enable the probation officer who ultimately supervises the case to implement an appropriate supervision plan.

3. The report should contain the victim's statement, if possible. It is highly recommended that a victim's safety be considered and advise the victim that a pre-sentence or combo report will be made available to defense. Prior to using any information a victim provides in a court proceeding, the officer should obtain permission from the victim. In addition, it needs to be noted the victim is not required to make a statement; it is only a victims' right.

### **Recommendations**

1. Always recommend specialized domestic violence terms when the offender and victim meet the relationship test.
2. Recommend domestic violence counseling.
  - DO NOT recommend anger management, couples counseling or marriage/family therapy. The courts do not have jurisdiction over victims. Thus, victims are not subject to court orders or orders from probation officers.
3. In cases where victim contact is permitted, recommend contact only when authorized by the supervising probation officer.
4. On most domestic violence cases, officers should not recommend domestic violence offenders be considered for early termination. Supervision and monitoring are the most effective tools to reduce violence. If early termination is being considered, the officer should screen the case with a domestic violence probation officer supervisor, check local police jurisdiction to insure there have been no police call outs to the residence, and discuss early termination with the victim (regardless if victim is opted in or not) prior to making the recommendation.

### **Post-Conviction Supervision**

Domestic violence offenders are the most lethal population on probation. They often have easy access to the person to whom they are the greatest threat. Because domestic violence homicides are so common, these offenders require consistent, vigilant supervision.

### **New Cases**

1. Officers need to thoroughly familiarize themselves with the case file (e.g., PSI, criminal history, victim statements, available DR's).

2. If the defendant was recently in custody, check criminal justice system records for a record of who visited the defendant while in jail.
3. Check with police records bureaus to determine if the victim's or defendant's residence has had recent police visits.
4. At the first meeting, advise the defendant that they will be supervised actively and to expect frequent contacts. Emphasize the Probation Department's zero-tolerance for violence; the defendant will be held accountable for any violent behavior.
5. Establish communication with the victim (refer to the Victim Services section of the Protocol).

When supervising cases, the following standards should be met:

- Frequent field and office visits; frequent, irregular night visits.
- Frequent, unannounced urine and breath analysis in field and office if substance abuse issues are apparent.
- Pay particular attention to defendants' access to weapons and to those who have weapons.
- Use collateral contacts: victims, children, neighbors, co-workers, etc.
- Document specifically after every contact.

### **Treatment Referrals**

1. Always treat violence and substance abuse separately. If —significant substance abuse issues are present, they should be addressed prior to the probationer participating in a domestic violence treatment program.
2. Never direct an offender to anger classes, couples or marriage counseling, support groups, or individual psychotherapy.

### **Probation Violations**

Neither the victims of violence, the community, or the defendant are well-served by a tolerant approach to violent crime. In order to successfully reduce aggressive behavior, the targeted individual must perceive the consequences of violence to be swift, severe, and certain. Probation officers supervising these cases must not be reluctant to use the power of arrest to protect public safety.

In particular, new incidents of physical violence or violations of Orders of Protection should result in the defendant's arrest. In those rare cases where an arrest has not been made, then the court should be notified by memorandum.

For cases being supervised in the domestic violence unit, technical violations may be addressed through increased sanctions and the probationer will be required to participate in Review hearings in Domestic Violence Court.

### **Violation Guidelines**

The following violation guidelines have been set by the Maricopa County Adult Probation Department.

1. All allegations of violence should be investigated immediately and documented in the case file. In cases where independent verification is available (i.e., a departmental report, tape recordings of phone calls, etc.), an arrest or memorandum to the court should follow.
2. New incidents of physical violence or violations of Orders of Protection should result in the defendant's arrest or at the very minimum, the filing of a memorandum with the court.
3. Technical violations involving behaviors that are typically precursors to violence should be promptly addressed. These behaviors include substance abuse, possession of weapons, and unauthorized victim contact. In these types of technical violations, arrest or increased sanctions should be seen as a means to prevent new violence.
4. Warrants for violent offenders are to be given priority. This requires immediate delivery to the court and the warrants unit, contact with a warrant's office to expedite apprehension and contact with the Maricopa County Attorney's Office.

If a victim has opted in for post-conviction Victims' Rights, they should always be notified of the violation, arrest, termination, revocation, modification, and any court hearings if they have requested their victim's rights if restitution has been ordered and is delinquent by 60 days or more, a copy of the memorandum sent to the court concerning restitution delinquency.

### **Victim Issues**

Victims of domestic violence often have had negative experiences with the criminal justice system. Probation officers must be cognizant of this and devote the time necessary to attempt to establish rapport and open dialogue with a victim.

If a victim's whereabouts are known, the supervising probation officer must contact the victim within thirty days of receiving the defendant's case. If the whereabouts remain known and they want to be contacted by the officer, follow-up contact should take place at least every six months. If the officer is unable to contact the victim, the attempts should be noted.

### **Victim Guidelines**

The following guidelines are to be used when dealing with victims of partner abuse:

1. Never talk with the victim in the presence of the defendant. When calling by phone, always ask if it is a good time to talk.
2. Emphasize that the defendant is responsible for his/her own behavior. Stress to the victim that there is no justification for violence and that the victim's safety, and that of any children, are the officer's top priorities.
3. Assure the victim that the officer is always accessible and available.
4. Fully explain the role and limitations of the probation officer. While supervised probation may provide options and responses that might reduce danger to a victim, it does not guarantee safety.
5. Alert victims to available community resources. Local battered women's shelters offer expert safety planning, emergency shelter, legal advocacy, counseling, and support groups.
6. Avoid victim-blaming. Never ask a victim why she or he remains in a relationship. An officer should always convey understanding, support, and belief. Avoid trying to "rescue" a victim because the victim is the only person who may decide when to change the status of the relationship.
7. Obtain a history of violence in the relationship.
8. Be extremely cautious in handling information from a victim. Never disclose something stated by a victim without first considering what effect such disclosure might have. Never reveal to a defendant what a victim has said, even with permission, unless there is a compelling reason to do so.
  - Information from victims must be treated with —strict confidentiality. Probation officers must understand that inappropriate disclosure of information may result in injury or death to a victim.

# **ORDERS OF PROTECTION**

## ORDERS OF PROTECTION

An Order of Protection may be applied for in any court unless there is an action for annulment, dissolution of marriage, maternity or paternity action, or legal separation action pending. In those situations, the order must be applied for in the Superior Court. If an order is applied for in a lower court and written notification of a pending Superior Court action is received by the lower court, the case must be immediately transferred to the Superior Court, except as explained below.

A scheduled lower court hearing may be held if the hearing was requested prior to the receipt of notice from the Superior Court action. If transferred prior to a hearing, the Superior Court hearing should be scheduled close to the original lower court hearing date.

**An Order of Protection is valid for 12 months from the date of service.**

**Note: The Order of Protection should be enforced whether the plaintiff initiated contact or not. The plaintiff should not be charged with violating the Order of Protection**

~~It is important to recognize that A~~ Although the defendant is may have been invited by the plaintiff to enter the residence or the plaintiff initiated the contact, the defendant has- violated the order. The order is not quashed by the plaintiff allowing contact. The order can only be quashed by a judicial officer. It is still a violation of the order, even if the plaintiff has initiated contact. The officer should follow through and treat this as an Order of Protection violation.

However, it is possible that if the plaintiff/victim initiates contact and NO injury/violence occurs during the contact, the Maricopa County Attorney's Office may not file charges.

When requesting an Order of Protection, the plaintiff has the option of requesting the defendant's guns be seized when the order is served.

## Emergency Orders of Protection

Emergency Orders of Protection are available to victims through law enforcement. It is imperative the victim be reminded that the emergency order is only valid until the close of the next business day.

## Quashing an Order of Protection

When a request to quash an order of protection is received, a judicial officer should request identification to determine that the person requesting the order be quashed is indeed the plaintiff. When a plaintiff and defendant appear together to request that an Order of Protection be quashed, the judicial officer should separate the parties to determine whether the plaintiff is appearing under duress or coercion.

~~Additional information on Orders of Protection can be found in the “Bench Book for Orders of Protection and Injunctions Against Harassment in Domestic Violence Cases,” which was prepared by the Committee on the Impact of Domestic Violence in the Courts and its Advisory Committee. It can be obtained by calling the Administrative Offices of the Court at 602-542-9250.~~

## When Children Are Involved

The Order of Protection may not address the issue of the children. The best alternative for the parties is to request a custody hearing through the Superior Court. If the children are listed on the Order as protected parties, the defendant should not be at the residence for any reason. If there is a visitation schedule, the transfer of the children should be in a neutral location with a third party present.

These issues should be addressed at the time the plaintiff applies for the Order of Protection. A statement could be added to the Order that any exchange of the children be handled in an expedient manner and no interaction except on issues related to the children should take place.

## FULL FAITH AND CREDIT PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT

Domestic violence crosses many boundaries including socioeconomic, ethnic and geographic. A difficult situation occurs when a victim must leave a home state or tribal location where an order of protection has already been issued. Further attacks by a batterer may necessitate moving to a new state or tribal location.

**Note:** Under the Violence Against Women Act of 1994 (18 U.S.C. § 2265), it is now a federal offense to cross state or tribal lines when violating an Order of Protection.

1. Federal 18 U.S.C. § 2265 and Arizona Revised Statute §13-3602 (R) provides, "A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction."

A protective order is to be granted full faith and credit if:

- The court had jurisdiction over the parties and the matter under the law of such state or tribe, and
  - Reasonable notice and opportunity to be heard were given to the person against whom the order was sought sufficient to protect that person's right of due process.
  - In the case of ex parte orders, notice and opportunity to be heard must be provided within the time frames required by state or tribal law and in any event within a reasonable time after the order is issued to protect the respondent's right to due process.
2. **Registration** in the new jurisdiction is not required for the order to be valid. Often the registration process for the new jurisdiction is very different from the jurisdiction left behind and the victim who has fled a prior jurisdiction cannot be expected to navigate the criminal justice system in such a time of crisis.
  3. **Enforcement** is required even if:
    - The victim would not be eligible for an order of protection in Arizona.
    - The out-of-state or tribal order provides greater relief than would have been received under Arizona law.

Domestic violence orders may be titled:

- Restraining orders
- Orders of protection
- Abuse prevention orders
- Stay away orders.

Not only will the names of domestic violence orders from other states or tribes be different, but the forms may be as well. Additionally, the duration of the effectiveness of the order will vary from six months to permanent.

It is the intention of the Full Faith and Credit Provision in Arizona that the victim's safety be of primary consideration. Immunity from civil liability, when enforcing an out of state or tribal protection order may be provided under 42 U.S.C.A. 1983. Additionally, A.R.S. § 13-3602 (R) 4 provides:

A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that an order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

The National Crime Information Center is the national repository of orders of protection. In Arizona, this also includes Injunctions Against Harassment but not Emergency Orders of Protection. This data can be accessed through the established criminal justice systems. An officer should not solely rely on this data or lack thereof, in determining the validity of an order.

# **LOCAL RESOURCES**

## LOCAL RESOURCES

### DOMESTIC VIOLENCE SHELTERS

**DVSTOP**

**(480) 835-5555**

**SHELTER HOTLINE**

**(602) 263-8900**

**NATIONAL HOTLINE**

**1(800) 799-7233**

**1(800) 787-3224 TTY**

**1(800) 799-7739**

Lists available beds in Maricopa County for all shelters.

Autumn House  
Prehab of Arizona  
P.O. Drawer 5860  
Mesa, AZ 85211-5860  
(480) 835-5555

[www.sojournercenter.org](http://www.sojournercenter.org)

[www.turnanewleaf.org](http://www.turnanewleaf.org)  
[www.prehab.org](http://www.prehab.org)

~~Cassie's House~~  
~~8914 West Vernon~~  
~~Phoenix, AZ 85037~~  
~~(623) 936-7446~~

Chrysalis  
P.O. Box 9956  
Phoenix, AZ 85068  
[24 hr. Crisis Hotline](http://www.chrysalis-shelter.org)  
(602) 944-4999  
[www.chrysalis-shelter.org](http://www.chrysalis-shelter.org)

Chrysalis  
P.O. Box 1551  
Scottsdale, AZ 85252  
[Transitional Housing](http://www.chrysalis-shelter.org)  
(480) 481-  
0402 [www.chrysalis-shelter.org](http://www.chrysalis-shelter.org)

De Colores  
Chicanos por la Causa  
P.O. Box 6553  
Phoenix, AZ 85005-6553  
(602) 269-1515  
(Spanish Speaking Services Available)

Prehab Faith House  
P.O. Box 5860  
Mesa, AZ 85211-5860  
(623) 939-6798  
[www.turninganewleaf.org/faithhouse](http://www.turninganewleaf.org/faithhouse)  
[www.prehab.org](http://www.prehab.org)

My Sister's Place  
610 North Alma School Road, #18  
Mesa, AZ 85224  
(480) 821-1024

New Life Shelter  
P.O. Box 5005  
Goodyear, AZ 85338  
(623) 932-  
4404 [www.newlifectr.org](http://www.newlifectr.org)

Sojourner Center  
P.O. Box 20156  
Phoenix, AZ 85036  
(602) 244-0089 ext. 1

## ADVOCACY CENTERS

~~Glendale Family West Valley~~ Advocacy Center Phoenix Family Advocacy Center  
~~6829 N. 57<sup>th</sup> Avenue~~ 1600 W. Glendale 2120 North Central Avenue  
Glendale, AZ 85301 Suite 250  
(623) 930-3720 Phoenix, AZ 85004  
(602) 254-9000 – crisis line (602) 534-2120  
[www.glendaleaz.com/advocacycenter/index.cfm](http://www.glendaleaz.com/advocacycenter/index.cfm)  
[www.ci.glendale.az.us](http://www.ci.glendale.az.us) 1(888) 246-0303  
<https://www.phoenix.gov/humanse>  
[rvices/programs/victims/fac](https://www.phoenix.gov/humanse/rvices/programs/victims/fac) ~~www.p~~  
~~hoenix.gov~~ [www.p](https://www.phoenix.gov/humanse/rvices/programs/victims/fac)  
[hoenix.gov](https://www.phoenix.gov/humanse/rvices/programs/victims/fac)

Mesa Center Against Family Violence Scottsdale Advocacy Center  
225 East First Street, Suite 102 3700 N 75<sup>th</sup> Street  
Mesa, AZ 85201 Scottsdale, AZ 85251  
(480) 644-2188 (480) 312-6306  
(480) 644-4075 [www.scottsdaleaz.gov/assistance/fac](http://www.scottsdaleaz.gov/assistance/fac)  
~~http://www.mesaaz.gov/police/MFAC/default.aspx~~  
[www.ci.mesa.az.us/police/cafv](http://www.ci.mesa.az.us/police/cafv)

## LEGAL SERVICES

Arizona Coalition Against  
Domestic Violence  
100 West Camelback Road, Ste 109  
Phoenix, AZ 85013  
Legal Advocacy Hotline  
(602) 279-2900  
(800) 782-6400  
[www.azcadv.org](http://www.azcadv.org)

Community Legal Services – Central  
(602) 258-3434

Community Legal Services – East  
(480) 833-1442

Crime Victims Legal Assistance Project  
Arizona Voice for Crime Victims  
(480) 600-2661  
~~(480) 965-5640~~  
[www.voiceforvictims.org](http://www.voiceforvictims.org)

Family Lawyers Assistance Project  
201 West Jefferson, 6th Floor  
Phoenix, AZ 85003  
(602) 506-7948

Maricopa County Lawyer Referral  
(602) 257-4434

Maricopa County Superior Court  
SELF-HELP Center  
(602) 506-7353

## SUPERIOR COURT SELF-HELP CENTER

Forms available for pick up at the following locations:

**Downtown--Phoenix** (East Court Building)  
101 West Jefferson, 1<sup>st</sup> Floor  
In the Law Library  
(602) 506-SELF (7353)

**Southeast--Mesa** (Southeast Court Complex)  
222 East Javelina, 1<sup>st</sup> Floor  
In the Law Library  
(602) 506-SELF (7353)

**Northwest--Surprise** (Northwest Regional Center)  
14264 West Tierra Buena Lane  
(602) 372-9400

Forms can also be downloaded at: [www.superiorcourt.maricopa.gov](http://www.superiorcourt.maricopa.gov)

Filing forms for a family law cases:

**Downtown--Phoenix**  
201 West Jefferson  
Phoenix, AZ  
(South side between 1<sup>st</sup> and 3<sup>rd</sup> Ave)

**Southeast--Mesa**  
222 East Javelina, 1<sup>st</sup> Floor  
Mesa, AZ  
In the Law Library

**Northwest--Surprise**  
14264 West Tierra Buena Lane  
Surprise, AZ

## VICTIM SERVICES

Arizona Coalition Against Domestic Violence

[2800 N. Central Ave. Ste 1570](#)

[Phoenix, AZ 85004](#)

[100 W. Camelback Rd. Ste 109](#)

[Phoenix, AZ 85013](#)

(602) 279-2900

[www.azcadv.org](http://www.azcadv.org)

Arizona Attorney General's Office

Victim Services

1275 W. Washington

Phoenix, Arizona 85007

(602) 542-4911

<https://www.azag.gov/victim-services>

[www.ag.state.az.us/victims-rights](http://www.ag.state.az.us/victims-rights)

Avondale City Police Department

11485 W. Civic Center Drive

Avondale, AZ 85323

(623) ~~932-3660~~[333-7000](tel:6233337000)

[www.avondale.org](http://www.avondale.org)

Chandler Police Department

Victim Assistance

Mail Stop 303 PO Box 4008

Chandler, AZ 85244

(480) 782-~~4535~~[4130](tel:4804130)

[www.chandleraz.gov](http://www.chandleraz.gov)

[www.ci.chandler.az.us](http://www.ci.chandler.az.us)

City of El Mirage

[12401 W. Cinnabar Ave.](#)

[El Mirage, AZ 85335](#)

~~[12145 NW Grand Avenue](#)~~

~~[El Mirage, AZ 85335](#)~~

~~[\(623\) 500-3090](tel:6235003090)~~

~~[\(623\) 815-2186](tel:6238152186)~~

[www.cityofelmirage.org](http://www.cityofelmirage.org)

Gilbert Police Department

75 E. Civic Center Drive

Gilbert, AZ 85296

(480) 635-7701

<http://www.gilbertaz.gov/>

[www.ci.gilbert.az.us](http://www.ci.gilbert.az.us)

Glendale Police Department  
Victim Assistance Services  
6835 North 57th Drive  
Glendale, AZ 85301  
(623) 930-3030

<http://www.glendaleaz.com/advocacycenter/index.cfm>  
[www.ci.glendale.az.us/police](http://www.ci.glendale.az.us/police)

Goodyear Police Department  
Crisis Services Unit  
119 N. Litchfield Road  
Goodyear, AZ 85338  
(623) 882-7677

[www.ci.goodyear.az.us](http://www.ci.goodyear.az.us)

Town of Guadalupe  
9241 S. Avenida Del Yaqui  
Guadalupe, AZ 85283  
(480) 730-3080

[www.guadalupeaz.org](http://www.guadalupeaz.org)

Maricopa County Adult Probation  
Victim Services  
111 S. 3<sup>rd</sup> Avenue  
Phoenix, AZ 85003  
(602) 372-8286

[www.superiorcourt.maricopa.gov](http://www.superiorcourt.maricopa.gov)

Maricopa County Attorney  
Victim Services Division  
301 West Jefferson  
Ninth Floor  
Phoenix, AZ 85003  
(602) 506-8522

[www.maricopacountyattorney.org](http://www.maricopacountyattorney.org)

Maricopa County Attorney  
Victim Services Division

[301 W. Jefferson,](#)  
[Suite 900](#)

[Phoenix, AZ 85003](#)

[222 E. Javelina, Suite 2400](#)

[Mesa, Arizona 85210](#)

(602) 506-~~8522~~488

[www.maricopacountyattorney.org](http://www.maricopacountyattorney.org)

Mesa Police Department  
Victim Services Unit

130 North Robson

Mesa, AZ 85201

~~130 North Robson~~

~~Mesa, AZ 85201~~

(480) 644-4075

(480) 644-2211 after hours

[www.ci.mesa.az.us/police](http://www.ci.mesa.az.us/police)

Mesa City Prosecutor's Office  
Victim Services

250 East First Avenue

Suite 222

PO Box 1466

Mesa, AZ 85211-1466

~~245 West 2<sup>nd</sup> Street, Ste 201~~

~~Mesa, AZ 85201~~

(480) 644-2188

[www.ci.mesa.az.us](http://www.ci.mesa.az.us)

Peoria Police Department  
Victim Assistance

8351 W. Cinnabar Ave.

Peoria, AZ 85345

~~8343 W. Monroe St.~~

~~Peoria, AZ 85345~~

(623) 773-7019

(623) 773-8311 after hours

[www.peoriaaz.com/policedept](http://www.peoriaaz.com/policedept)

Peoria Prosecutor's Office  
Victim Assistance  
8401 W. Monroe St, Court Bldg  
Peoria, AZ 85345

(623) 773-7347

[www.peoriaaz.com](http://www.peoriaaz.com)

Phoenix Police Department  
Victim Services

2120 N. Central Ste 250

Phoenix, AZ 85004

(602) ~~524-1440~~ 534-2120

[www.phoenix.gov/police](http://www.phoenix.gov/police)

Phoenix City Prosecutor's Office  
Victim Services Unit

300 W. Washington

Phoenix, AZ 85003

PO Box 4600  
Phoenix, AZ 850~~3003~~  
(602) 261-8192  
[www.phoenix.gov](http://www.phoenix.gov)

Scottsdale City Attorney's  
Victim Assistance Program  
3700 North 75th Street  
Scottsdale, AZ 85251  
(480) 312-4226  
[www.scottsdaleaz.gov](http://www.scottsdaleaz.gov)

Scottsdale Police Department  
Crisis Intervention Unit  
3700 N. 75<sup>th</sup> Street  
Scottsdale, AZ 85251  
(480) 312-5055  
[www.scottsdaleaz.gov/police](http://www.scottsdaleaz.gov/police)

Tempe City Prosecutor's Office  
~~21 E. 6<sup>th</sup> Street Suite 201~~  
~~Tempe, AZ 85281 1440 E. 5<sup>th</sup>~~  
~~Street, Ste 303~~  
~~Tempe, AZ 85284~~  
(480) 350-8227  
[www.tempe.gov](http://www.tempe.gov)

City of Tempe  
CARE 7 Response Team  
1000 E. University  
Tempe, AZ 85281  
(480) 350-8004  
[www.tempe.gov](http://www.tempe.gov)

U.S. Attorney's Office  
Victim Services  
Two Renaissance Square  
40 N. Central, Ste 1200  
Phoenix, AZ 85004  
(602) 514-75~~9568~~  
[www.usdoj.gov](http://www.usdoj.gov)

## COURT LOCATIONS & PHONE NUMBERS

### Avondale Magistrate Court

~~521 East Western Avenue~~  
~~11325 West Civic Center~~  
~~Drive~~

-Avondale, AZ 85323  
623-~~333-5800932-3860~~

### Buckeye Justice Court

100 North Apache, Suite C  
Buckeye, AZ 85326

623-~~349-6510386-4822~~

### Buckeye Magistrate Court

100 North Apache, Suite C-1  
Buckeye, AZ 853236  
623-386-5908

### Carefree Municipal Court

100 Easy St.  
Carefree, AZ 85377  
480-488-1689

### Cave Creek Municipal Court

37622 North Cave Creek  
Cave Creek, AZ 85331  
480-488-1409

### Central Phoenix Justice Court

One West Madison  
Phoenix, AZ 85003

602-~~372-8000596-4468~~

### Chandler Justice Court

~~2051 West Warner Road, Suite 20~~  
~~Chandler, AZ 85224~~

201 E Chicago Street  
Chandler, AZ 85225

~~80-963-6694602-372-3400~~

### Chandler Municipal Court

200 East Chicago Street  
Chandler, AZ 85225  
480-782-4700

### East Mesa Justice Court

4811 East Julep, Suite 128  
Mesa, AZ 85205

480-985-0188

East Phoenix Justice Court #1  
One West Madison, Suite 1  
Phoenix, AZ 85003  
602-~~506-3577~~372-8000

East Phoenix Justice Court #2  
620 W. Jackson Street  
~~4109 North Twelfth Street~~  
Phoenix, AZ ~~85003~~85014  
602-266-3741

El Mirage City Court  
~~14405 N. Palm Street~~  
14010 N. El Mirage  
Rd.  
El Mirage, AZ 85335  
623-815-2186

Fountain Hills Magistrate Court  
16705 E. Avenue of the Flags  
~~16836 East Palisades Blvd., Bldg. B~~  
Fountain Hills, AZ 85268  
480-816-5144

Gila Bend Justice Court  
209 East Pima Street  
Gila Bend, AZ 85337  
~~520-683-2654~~928-683-2781

Gilbert Municipal Court  
55 E. Civic Center Drive  
Gilbert, AZ 85296  
480-635-7800

Glendale City Court  
5711 West Glendale Avenue  
Glendale, AZ 85301  
623-930-2400

~~Glendale Justice Court~~  
~~5222 W. Glendale Ave.~~  
~~Glendale, AZ 85304~~  
~~623-939-9477~~

Goodyear Magistrate Court  
14455 W. Van Buren St. Ste.  
B101  
~~20 E. Western Ave.~~  
Goodyear, AZ 85338  
623-~~882-7200~~932-3013

Guadalupe Municipal Court  
9241 South Avenida del Yaqui  
Guadalupe, AZ 85283  
| 480-~~505-5378~~730-3085

Litchfield Park Magistrate Court  
214 West Wigwam Boulevard  
Litchfield Park, AZ 85340  
623-935-7091

Maryvale Justice Court  
4622 West Indian School Road, Suite D-10  
Phoenix, AZ 85031  
623-245-0432

Mesa City Court  
250 E. First Ave.  
~~245 West Second Street~~  
Mesa, AZ 85210  
480-644-2255

North Mesa Justice Court  
1837 South Mesa Drive, Suite A201  
Mesa, AZ 85210  
480-926-9731

~~Northeast Phoenix Justice Court~~  
~~10255 North 32nd Street~~  
~~Phoenix, AZ 85028~~  
~~602-506-3734~~

~~Northwest Phoenix Justice Court~~  
~~11601 North 19th Avenue~~  
~~Phoenix, AZ 85029~~  
~~602-395-0293~~

North Valley Justice Court  
14264 W. Tierra  
Buena Lane  
Surprise, AZ 5222 W.  
Glendale  
Glendale, AZ 85301  
623-~~372-9400~~~~915-2877~~

Paradise Valley Municipal Court  
6401 East Lincoln Drive  
Paradise Valley, Az. 85253  
480-948-7620

Peoria Municipal Court  
8401 W. Monroe St.  
10100 N. 83<sup>rd</sup> Ave.  
Peoria, AZ 85345  
623-773-7400

~~Peoria Justice Court~~  
~~7420 West Cactus Road~~  
~~Peoria, AZ 85381~~  
~~623-979-3234~~

Phoenix City Court  
300 W. Washington  
Phoenix, AZ 85003  
602-262-6421

Scottsdale City Court  
3700 North 75th Street  
Scottsdale, AZ 85251  
480-312-7975

~~Scottsdale Justice Court~~  
~~8230 E. Butherus Drive~~  
~~Scottsdale, AZ 85260~~  
~~480-443-6600~~

~~South North Mesa/Gilbert~~ Justice  
Court  
1837 South Mesa Drive, B -103  
Mesa, AZ 85210  
480-926-~~9731 3054~~

~~South Phoenix Justice Court~~  
~~217 East Olympic Drive~~  
~~Phoenix, AZ 85040~~  
~~602-243-0318~~

Surprise City Court  
~~16081 N. Civic~~  
~~Center Plaza Ste.~~  
~~105~~  
~~12604 Santa Fe Drive~~  
Surprise, AZ 85374  
623-~~222-4800 583-1082~~

Tempe City Court  
140 East Fifth Street, Suite 200  
Tempe, AZ 85281  
480-350-8271

~~Tempe East Justice Court~~  
~~1845 East Broadway, Ste. 8~~  
~~Tempe, AZ 85282~~  
~~480-967-8856~~

~~Tempe West Justice Court~~  
~~1845 East Broadway, Ste. 8~~  
~~Tempe, AZ 85282~~  
~~480-350-9442~~

Tolleson Justice Court  
9550 West Van Buren, Suite 6  
Tolleson, AZ 85353  
623-936-1449

West Mesa Justice Court  
2050 West University Dr.  
Mesa, AZ 85201  
480-964-2958

West Phoenix Justice Court  
1 West Madison  
Phoenix, AZ 85003  
602-~~372-8000~~ ~~256-0292~~

Wickenburg ~~Justice Municipal~~  
Court 155 North Tegner St.,  
Suite ~~BD~~  
Wickenburg, AZ 85390  
~~928-668-0515~~ ~~520-684-2404~~

Youngtown Municipal Court  
12033 Clubhouse Square  
Youngtown, AZ 85363  
623-972-8226

# **ARIZONA REVISED STATUTES ON DOMESTIC VIOLENCE**

## ARIZONA REVISED STATUTES

### § 13-1102 – Negligent homicide; classification

- A. A person commits negligent homicide if with criminal negligence the person causes the death of another person, including an unborn child.
- B. An offense under this section applies to an unborn child in the womb at any stage of its development. A person may not be prosecuted under this section if any of the following applies:
  - 1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
  - 2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
  - 3. The person was the unborn child's mother.
- C. Negligent homicide is a class 4 felony.

### § 13-1103 – Manslaughter; classification

- A. A person commits manslaughter by:
  - 1. Recklessly causing the death of another person; or
  - 2. Committing second degree murder as defined in § 13-1104, subsection A upon a sudden quarrel or heat of passion resulting from adequate provocation by the victim; or
  - 3. Intentionally aiding another to commit suicide; or
  - 4. Committing second degree murder as defined in § 13-1104, subsection A, paragraph 3, while being coerced to do so by the use or threatened immediate use of unlawful deadly physical force upon such person or a third person which a reasonable person in his situation would have been unable to resist; or
  - 5. Knowingly or recklessly causing the death of an unborn child by any physical injury to the mother.
- C. An offense under subsection A, paragraph 5 of this section applies to an unborn child in the womb at any stage of its development. A person shall not

be prosecuted under subsection A, paragraph 5 of this section if any of the following applies:

- 1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
- 2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
- 3. The person was the unborn child's mother.

C. Manslaughter is a class 2 felony.

**§ 13-1104 – Second degree murder; classification**

A. A person commits second degree murder if without premeditation:

- 1. The person intentionally causes the death of another person, including an unborn child or, as a result of intentionally causing the death of another person, causes the death of an unborn child; or
- 2. Knowing that the person's conduct will cause death or serious physical injury, the person causes the death of another person, including an unborn child or, as a result of knowingly causing the death of another person, causes the death of an unborn child; or
- 3. Under circumstances manifesting extreme indifference to human life, the person recklessly engages in conduct that creates a grave risk of death and thereby causes the death of another person, including an unborn child or, as a result of recklessly causing the death of another person, causes the death of an unborn child.

B. An offense under this section applies to an unborn child in the womb at any stage of its development. A person may not be prosecuted under this section if any of the following applies:

- 1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
- 2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.
- 3. The person was the unborn child's mother.

C. Second degree murder is a class 1 felony and is punishable as provided by §

13-705 if the victim is under fifteen years of age or is an unborn child, § 13-706, subsection A or § 13-710.

**§ 13-1105 – First degree murder; classification**

A. A person commits first degree murder if:

1. Intending or knowing that the person's conduct will cause death, the person causes the death of another person, including an unborn child, with premeditation or, as a result of causing the death of another person with premeditation, causes the death of an unborn child.
2. Acting either alone or with one or more other persons the person commits or attempts to commit sexual conduct with a minor under § 13-1405, sexual assault under § 13-1406, molestation of a child under § 13-1410, terrorism under § 13-2308.01, marijuana offenses under § 13-3405, subsection A, paragraph 4, dangerous drug offenses under § 13-3407, subsection A, paragraphs 4 and 7, narcotics offenses under § 13-3408, subsection A, paragraph 7 that equal or exceed the statutory threshold amount for each offense or combination of offenses, involving or using minors in drug offenses under § 13-3409, drive by shooting under § 13-1209, kidnapping under § 13-1304, burglary under § 13-1506, 13-1507 or 13-1508, arson under § 13-1703 or 13-1704, robbery under § 13-1902, 13-1903 or 13-1904, escape under § 13-2503 or 13-2504, child abuse under § 13-3623, subsection A, paragraph 1 or unlawful flight from a pursuing law enforcement vehicle under § 28-622.01 and, in the course of and in furtherance of the offense or immediate flight from the offense, the person or another person causes the death of any person.
3. Intending or knowing that the person's conduct will cause death to a law enforcement officer, the person causes the death of a law enforcement officer who is in the line of duty.

B. Homicide, as prescribed in subsection A, paragraph 2 of this section, requires no specific mental state other than what is required for the commission of any of the enumerated felonies.

C. An offense under subsection A, paragraph 1 of this section applies to an unborn child in the womb at any stage of its development. A person shall not be prosecuted under subsection A, paragraph 1 of this section if any of the following applies:

1. The person was performing an abortion for which the consent of the pregnant woman, or a person authorized by law to act on the pregnant woman's behalf, has been obtained or for which the consent was implied or authorized by law.
2. The person was performing medical treatment on the pregnant woman or the pregnant woman's unborn child.

-  
3. The person was the unborn child's mother.

D. First degree murder is a class 1 felony and is punishable by death or life imprisonment as provided by §§ 13-751 and 13-752.

#### **§ 13-1201 – Endangerment; classification**

- A. A person commits endangerment by recklessly endangering another person with a substantial risk of imminent death or physical injury.
- B. Endangerment involving a substantial risk of imminent death is a class 6 felony. In all other cases, it is a class 1 misdemeanor.

#### **§ 13-1202 – Threatening or intimidating; classification**

- A. A person commits threatening or intimidating if such person threatens or intimidates by word or conduct:
  - 1. To cause physical injury to another person or serious damage to the property of another; or
  - 2. To cause, or in reckless disregard to causing, serious public inconvenience including, but not limited to, evacuation of a building, place of assembly, or transportation facility; or
  - 3. To cause physical injury to another person or damage to the property of another in order to promote, further or assist in the interests of or to cause, induce or solicit another person to participate in a criminal street gang, a criminal syndicate or a racketeering enterprise.

B. Threatening or intimidating pursuant to subsection A, paragraph 1 or 2 is a class 1 misdemeanor, except that it is a class 6 felony if:

1. The offense is committed in retaliation for a victim's either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.

2. The person is a criminal street gang member.

~~B.C. Threatening or intimidating pursuant to subsection A, paragraph 1 or 2 is a class 1 misdemeanor.~~ Threatening or intimidating pursuant to subsection A, paragraph 3 is a class ~~4~~ 3 felony.

#### **§ 13-1203 – Assault; classification**

**A.** A person commits assault by:

1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
3. Knowingly touching another person with the intent to injure, insult or provoke such person.

- B. Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.

**§ 13-1204 – Aggravated assault; classification**

A. A person commits aggravated assault if the person commits assault as defined in section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.
2. If the person uses a deadly weapon or dangerous instrument.
3. If the person commits the assault by any means of force that causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part or a fracture of any body part.
4. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.
5. If the person commits the assault after entering the private home of another with the intent to commit the assault.
6. If the person is eighteen years of age or older and commits the assault ~~upon child the age of~~ on a minor under fifteen years of age ~~or under~~.
7. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.
8. If the person commits the assault knowing or having reason to know that the victim is any of the following:
  - (a) A peace officer or a person summoned and directed by the officer while engaged in the execution of any official duties.
  - (b) A constable, or a person summoned and directed by the constable while engaged in the execution of any official duties.
  - (c) A fire fighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties, or a person summoned and directed by such individual while engaged in the execution of any official duties.

(d) A teacher or other person employed by any school and the teacher or other employee is on the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.

(e) A health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. This subdivision does not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550, or is afflicted with alzheimer's disease or related dementia.

(f) A prosecutor.

(g) A code enforcement officer as defined in section 39-123.

(h) A state or municipal park ranger.

(i) A public defender.

9. If the person knowingly takes or attempts to exercise control over any of the following:

(a) a peace officer's or other officer's firearm and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties.

(b) any weapon other than a firearm that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties.

(c) any implement that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution of any official duties. For the purposes of this subdivision, "implement" means an object that is designed for or that is capable of restraining or injuring an individual. Implement does not include handcuffs.

10. If the person meets both of the following conditions:

(a) Is imprisoned or otherwise subject to the custody of any of the following:

(i) The state department of corrections.

(ii) The department of juvenile corrections.

(iii) A law enforcement agency.

(iv) A county or city jail or an adult or juvenile detention facility of a city or county.

(v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.

(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities prescribed by subdivision (a) of this paragraph.

B. A person commits aggravated assault if the person commits assault by either intentionally, knowingly or recklessly causing any physical injury to another person, intentionally placing another person in reasonable apprehension of imminent physical injury or knowingly touching another person with the intent to injure the person, and both of the following occur:

1. The person intentionally or knowingly impedes the normal breathing or circulation of blood of another person by applying pressure to the throat or neck or by obstructing the nose and mouth either manually or through the use of an instrument.

2. Any of the circumstances exists that are set forth in section 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

C. A person who is convicted of intentionally or knowingly committing aggravated assault on a peace officer while the officer is engaged in the execution of any official duties pursuant to subsection A, paragraph 1 or 2 of this section shall be sentenced to imprisonment for not less than the presumptive sentence authorized under chapter 7 of this title and is not eligible for suspension of sentence, commutation or release on any basis until the sentence imposed is served.

D. Except pursuant to subsections C and D of this section, aggravated assault pursuant to subsection A, paragraph 1, or 2 or paragraph 9, subdivision (a) of this section is a class 3 felony except if the victim is under fifteen years of age in which case it is a class 2 felony punishable pursuant to section 13-705. Aggravated assault pursuant to subsection

A, paragraph 3 or subsection B of this section is a class 4 felony. Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, or 7, or paragraph 8, subdivision (b), (c), (d), (e), or (f) or paragraph 9, subdivision (c) of this section is a class 6 felony.

E. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph 3 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 8, subdivision (a) of this section resulting committed on a peace officer while the officer is engaged in the execution of any official duties is a class 5 felony unless the assault results in any physical injury to a the peace officer while the officer is engaged in the execution of any official duties, in which case it is a class 4 felony.

F. Aggravated Assault pursuant to:

1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony if committed on a prosecutor.
2. Subsection A, paragraph 3 of this section is a class 3 felony if committed on a prosecutor.
3. Subsection A, paragraph 8, subdivision (f) of this section is a class 5 felony if the assault results in physical injury to a prosecutor.

G. For the purposes of this section, "prosecutor" means county attorney, municipal prosecutor or attorney general and an assistant or deputy county attorney, municipal prosecutor or attorney general.

~~A. A person commits aggravated assault if the person commits assault as defined in section 13-1203 under any of the following circumstances:~~

- ~~1. If the person causes serious physical injury to another.~~
- ~~2. If the person uses a deadly weapon or dangerous instrument.~~
- ~~3. If the person commits the assault after entering the private home of another with the intent to commit the assault.~~
- ~~4. If the person is eighteen years of age or more and commits the assault upon a child the age of fifteen years or under.~~
- ~~5. If the person commits the assault knowing or having reason to know that the victim is a peace officer, or a person summoned and directed by the officer while engaged in the execution of any official duties.~~

~~6.—If the person commits the assault knowing or having reason to know the victim is a teacher or other person employed by any school and the teacher or other employee is upon the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, or any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties, or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.~~

~~7.—If the person meets both of the following conditions:~~

~~(a) Is imprisoned or otherwise subject to the custody of any of the following:~~

~~(i) The state department of corrections.~~

~~(ii) The department of juvenile corrections.~~

~~(iii) A law enforcement agency.~~

~~(iv) A county or city jail or an adult or juvenile detention facility of a city or county.~~

~~(v) Any other entity that is contracting with the state department of~~

~~corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.~~

~~(b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities prescribed by subdivision (a) of this paragraph.~~

~~8. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.~~

~~9. If the person commits the assault knowing or having reason to know that the victim is a fire fighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties, or a person summoned and directed by such individual while engaged in the execution of any official duties.~~

~~10. If the person commits the assault knowing or having reason to know that the victim is a licensed health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. The provisions of this paragraph do not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550 or is afflicted with Alzheimer's disease or related dementia.~~

~~11. If the person commits assault by any means of force which causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part, or a fracture of any body part.~~

~~12. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.~~

~~13. If the person commits the assault knowing or having reason to know that the victim is a prosecutor.~~

~~B. Except pursuant to subsection C and D of this section, aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section is a class 3 felony except if the victim is under fifteen years of age in which case it is a class 2 felony punishable pursuant to section 13-604.01. Aggravated assault pursuant to subsection A, paragraph 11 of this section is a class 4~~

~~felony. Aggravated assault pursuant to subsection A, paragraph 7 of this section is a class 5 felony. Aggravated assault pursuant to subsection A, paragraph 3, 4, 5, 6, 8, 9, 10, 12 or 13 of this section is a class 6 felony.~~

~~C. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 2 felony. Aggravated assault pursuant to subsection A, paragraph 11 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph 5 of this section resulting in any physical injury to a peace officer while the officer is engaged in the execution of any official duties is a class 5 felony.~~

~~D. Aggravated Assault pursuant to:~~

~~1. Subsection A, paragraph 1 or 2 of this section is a class 2 felony if committed on a prosecutor.~~

~~2. Subsection A, paragraph 11 of this section is a class 3 felony if committed on a prosecutor.~~

~~3. Subsection A, paragraph 13 of this section is a class 5 felony if the assault results in physical injury to a prosecutor.~~

~~E.A. For the purposes of this section, "prosecutor" means county attorney, municipal prosecutor or attorney general and an assistant or deputy county attorney, municipal prosecutor or attorney general.~~

**§ 13-1302 – Custodial interference; child born out of wedlock; defenses; classification**

- A. A person commits custodial interference if, knowing or having reason to know that the person has no legal right to do so, the person does one of the following:
1. Takes, entices or keeps from lawful custody any child, or any person who is incompetent, and who is entrusted by authority of law to the custody of another person or institution.
  2. Before the entry of a court order determining custodial rights, takes, entices or withholds any child from the other parent denying that parent access to any child.
  3. If the person is one of two persons who have joint legal custody of a child takes, entices or withholds from physical custody the child from the other custodian.

4. At the expiration of access rights outside this state, intentionally fails or refuses to return or impedes the return of a child to the lawful custodian.
- B. If a child is born out of wedlock, the mother is the legal custodian of the child for the purposes of this section until paternity is established and custody or access is determined by a court.
- C. It is a defense to a prosecution pursuant to subsection A, paragraph 2 if both of the following apply:
  1. The defendant has begun the process to obtain an order of protection or files a petition for custody within a reasonable period of time and the order of protection or petition states the defendant's belief that the child was at risk if left with the other parent.
  2. The defendant is the child's parent and has the right of custody and the defendant either:
    - (a) Has a good faith and reasonable belief that the taking, enticing or withholding is necessary to protect the child from immediate danger.
    - (b) Is a victim of domestic violence by the other parent and has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent.

D. Subsection A, paragraphs 2 and 3 do not apply to a person who is the child's parent if both of the following apply:

1. The person has filed an emergency petition regarding custodial rights with the superior court and has received a hearing date from the court.

2. The person has a good faith and reasonable belief that the child will be in immediate danger if the child is left with the other parent

D.E. A violation of this section is:

1. A class 3 felony if committed by a person other than the parent or agent of the parent or custodian or agent of the custodian.
2. Notwithstanding paragraph 3 of this subsection, a class 4 felony if the child or incompetent person is taken, enticed or kept from lawful custody out of this state by the parent or agent of the parent or custodian or the agent of the custodian.
3. A class 6 felony if committed by a parent or agent of the parent or custodian or agent of the custodian.

4.—~~A class 1 misdemeanor if the child or incompetent person is voluntarily returned without physical injury prior to by the parent or defendant or the agent of the parent or defendant arrest or the issuance of an arrest warrant no later than forty-eight hours after the parent or defendant takes, entices or keeps from lawful custody the child or incompetent person~~A class 1 misdemeanor if the child or incompetent person is voluntarily returned without physical injury prior to arrest or the issuance of an arrest warrant.

**§ 13-1303 – Unlawful imprisonment; classification**

- A. A person commits unlawful imprisonment by knowingly restraining another person.
- B. In any prosecution for unlawful imprisonment, it is a defense that:
  - 1. The restraint was accomplished by a peace officer acting in good faith in the lawful performance of his duty; or
  - 2. The defendant is a relative of the person restrained and the defendant's sole intent is to assume lawful custody of that person and the restraint was accomplished without physical injury.
- C. Unlawful imprisonment is a class 6 felony unless the victim is released voluntarily by the defendant without physical injury in a safe place prior to arrest in which case it is a class 1 misdemeanor.

**§ 13-1304 – Kidnapping; classification; consecutive sentence**

- A. A person commits kidnapping by knowingly restraining another person with the intent to:
  - 1. Hold the victim for ransom, as a shield or hostage; or
  - 2. Hold the victim for involuntary servitude; or
  - 3. Inflict death, physical injury or a sexual offense on the victim, or to otherwise aid in the commission of a felony; or
  - 4. Place the victim or a third person in reasonable apprehension of imminent physical injury to the victim or such third person.
  - 5. Interfere with the performance of a governmental or political function.
  - 6. Seize or exercise control over any airplane, train, bus, ship or other vehicle.
- B. Kidnapping is a class 2 felony unless the victim is released voluntarily by the defendant without physical injury in a safe place prior to arrest and prior to accomplishing any of the further enumerated offenses in subsection A of this section in which case it is a class 4 felony. If the victim is released pursuant to an agreement with the state and without any physical injury, it is a class 3 felony. If the victim is under fifteen years of age kidnapping is a class 2 felony punishable pursuant to section 13-604.01. The sentence for kidnapping of a victim under fifteen years of age shall run consecutively to any other sentence imposed on the defendant and to any undischarged term of imprisonment of the defendant.

**§ 13-1406 – Sexual assault; classification; increased punishment**

A. A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.

B. Sexual assault is a class 2 felony, and the person convicted shall be sentenced pursuant to this section and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until the sentence imposed by the court has been served or commuted. If the victim is under fifteen years of age, sexual assault is punishable pursuant to § 13-705. The presumptive term may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E. If the sexual assault involved the intentional or knowing administration of flunitrazepam, gamma hydroxy butyrate or ketamine hydrochloride without the victim's knowledge, the presumptive, minimum and maximum sentence for the offense shall be increased by three years. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable. The term for a first offense is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
<u>5.25 years</u>	<u>7 years</u>	<u>14 years</u>

The term for a defendant who has one historical prior felony conviction is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
<u>7 years</u>	<u>10.5 years</u>	<u>21 years</u>

The term for a defendant who has two or more historical prior felony convictions is as follows:

<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
<u>14 years</u>	<u>15.75 years</u>	<u>28 years</u>

C. The sentence imposed on a person for a sexual assault shall be consecutive to any other sexual assault sentence imposed on the person at any time.

D. Notwithstanding § 13-703, § 13-704, § 13-705, § 13-706, subsection A and § 13-708, subsection D, if the sexual assault involved the intentional or knowing infliction of serious physical injury, the person may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until at least twenty-five years have been served or the sentence is commuted. If the person was at least eighteen years of age and the victim was twelve years of age or younger, the person shall be sentenced pursuant to § 13-705.

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**§ 13-1425 - Unlawful distribution of images; state of nudity; classification; definitions**

A. It is unlawful to intentionally disclose, display, distribute, publish, advertise or offer a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in specific sexual activities if the person knows or should have known that the depicted person has not consented to the disclosure.

B. This section does not apply to any of the following:

1. Lawful and common practices of law enforcement, reporting unlawful activity, or when permitted or required by law or rule in legal proceedings.
2. Lawful and common practices of Medical treatment.
3. Images involving voluntary exposure in a public or commercial setting.
4. An interactive computer service, as defined in 47 United States Code section 230(f)(2), or an information service, as defined in 47 United States Code section 153, with regard to content provided by another person.

C. A violation of this section is a class 5 felony, except that a violation of this section is a class 4 felony if the depicted person is recognizable.

D. For the purposes of this section, "state of nudity" and "specific sexual activities" have the same meanings prescribed in section 11-811.

**§ 13-1502 – Criminal trespass in the third degree; classification**

- A. A person commits criminal trespass in the third degree by:
  - 1. Knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry.
  - 2. Knowingly entering or remaining unlawfully on the right-of-way for tracks, or the storage or switching yards or rolling stock of a railroad company.

B. Pursuant to subsection A, paragraph 1 of this section, a request to leave by a law enforcement officer acting at the request of the owner of the property or any other person having lawful control over the property has the same legal effect as a request made by the property owner or other person having lawful control of the property

~~B.C.~~ Criminal trespass in the third degree is a class 3 misdemeanor.

**§ 13-1503 – Criminal trespass in the second degree; classification**

- A. A person commits criminal trespass in the second degree by knowingly entering or remaining unlawfully in or on any nonresidential structure or in any fenced commercial yard.
- B. Criminal trespass in the second degree is a class 2 misdemeanor.

**§ 13-1504 – Criminal trespass in the first degree; classification**

- A. A person commits criminal trespass in the first degree by knowingly:
  - 1. Entering or remaining unlawfully in or on a residential structure or in a fenced residential yard; or
  - 2. Entering any residential yard and, without lawful authority, looking into the residential structure thereon in reckless disregard of infringing on the inhabitant's right of privacy.
  - 3. Entering unlawfully on real property subject to a valid mineral claim or lease with the intent to hold, work, take or explore for minerals on such claim or lease.
  - 4. Entering or remaining unlawfully on the property of another and burning, defacing, mutilating or otherwise desecrating a religious symbol or other religious property of another without the express permission of the owner of the property.
- B. Criminal trespass in the first degree is a class 6 felony if it is committed by entering or remaining unlawfully in or on a residential structure or committed pursuant to subsection A, paragraph 4. Criminal trespass in the

first degree is a class 1 misdemeanor if it is committed by entering or

| remain<sup>i</sup>ng unlawfully in a fenced residential yard or committed pursuant to

subsection A, paragraph 2 or 3.

**§ 13-2904 – Disorderly conduct; classification**

- A. A person commits disorderly conduct if, with intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, such person:
1. Engages in fighting, violent or seriously disruptive behavior; or
  2. Makes unreasonable noise; or
  3. Uses abusive or offensive language or gestures to any person present in a manner likely to provoke immediate physical retaliation by such person; or
  4. Makes any protracted commotion, utterance or display with the intent to prevent the transaction of the business of a lawful meeting, gathering or procession; or
  5. Refuses to obey a lawful order to disperse issued to maintain public safety in dangerous proximity to a fire, a hazard or any other emergency; or
  6. Recklessly handles, displays or discharges a deadly weapon or dangerous instrument.
- B. Disorderly conduct under subsection A, paragraph 6 is a class 6 felony. Disorderly conduct under subsection A, paragraph 1, 2, 3, 4 or 5 is a class 1 misdemeanor.

**§ 13-2910 – Cruelty to animals; interference with working or service animals; classification; definitions**

A. A person commits cruelty to animals if the person does any of the following:

1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.
2. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.
3. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.
4. Recklessly subjects any animal to cruel mistreatment.
5. Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of

the owner.

6. Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
7. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result.
8. Intentionally or knowingly subjects any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal.
9. Intentionally or knowingly subjects any animal to cruel mistreatment.
10. Intentionally or knowingly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
11. Intentionally or knowingly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
12. Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal.
13. Intentionally or knowingly obtains or exerts unauthorized control over a service animal with the intent to deprive the service animal handler of the service animal.

B. It is a defense to subsection A of this section if:

1. Any person exposes poison to be taken by a dog that has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed and the poison is removed by the person exposing the poison after the threat to the person or the person's livestock or poultry has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".
2. Any person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state, excluding any fur-bearing animals as defined in § 17-101.

C. This section does not prohibit or restrict:

1. The taking of wildlife or other activities permitted by or pursuant to title

- 17.
2. Activities permitted by or pursuant to title 3.
3. Activities regulated by the Arizona game and fish department or the Arizona department of agriculture.
- D. A peace officer, animal control enforcement agent or animal control enforcement deputy may use reasonable force to open a vehicle to rescue an animal if the animal is left in the vehicle as prescribed in subsection A, paragraph 7 of this section.
- E. A person who is convicted of a violation of subsection A, paragraph 6 or 10 of this section is liable as follows:
1. If the working or service animal was killed or disabled, to the owner or agency that owns the working or service animal and that employs the handler or to the owner or handler for the replacement and training costs of the working or service animal and for any veterinary bills.
  2. To the owner or agency that owns a working or service animal for the salary of the handler for the period of time that the handler's services are lost to the owner or agency.
  3. To the owner for the owner's contractual losses with the agency.
- F. An incorporated city or town or a county may adopt an ordinance with misdemeanor provisions at least as stringent as the misdemeanor provisions of this section, except that any ordinance adopted shall not prohibit or restrict any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock or is permitted by or pursuant to title 3.
- G. A person who violates subsection A, paragraph 1, 2, 3, 4, 5, 6, 7 or 12 of this section is guilty of a class 1 misdemeanor. A person who violates subsection A, paragraph 8, 9, 10, 11 or 13 of this section is guilty of a class 6 felony.
- H. For the purposes of this section:
1. "Animal" means a mammal, bird, reptile or amphibian.
  2. "Cruel mistreatment" means to torture or otherwise inflict unnecessary serious physical injury on an animal or to kill an animal in a manner that causes protracted suffering to the animal.
  3. "Cruel neglect" means to fail to provide an animal with necessary food, water or shelter.
  4. "Handler" means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's agency or the service animal owner and who used a specially

trained animal under the direction of the person's agency or the service animal owner.

5. "Service animal" means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.

6. "Working animal" means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.

### **§ 13-2921 – Harassment; classification; definition**

A. It is unlawful for a person to do any of the following:

1. Knowingly refuse to yield or surrender the use of a party line to another person to report a fire or summon police or medical or other aid in case of emergency.

2. Ask for or request the use of a party line on the pretext that an emergency exists, knowing that no emergency in fact exists.

3. Intentionally prevent or interfere with the use of a telephone by another person in an emergency situation.

B. Every telephone directory that is compiled and distributed to subscribers shall contain a notice explaining this section. The notice shall be printed in type that is no smaller than any other type on the same page, other than headings, and shall be preceded by the word "warning". This subsection does not apply to directories that are distributed solely for business advertising purposes, commonly known as classified directories.

C. This section does not require a person to allow another person to enter the person's home or place of residence for the purpose of using a telephone in an emergency situation.

D. A person who violates this section is guilty of a class 2 misdemeanor.

E. For the purposes of this section:

1. "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.

2. "Emergency situation" means a situation in which both of the following apply:

(a) Human health, life or safety is in jeopardy and the prompt summoning of aid is essential.

(b) It is reasonable to believe that a domestic violence offense pursuant to § 13-3601 is being, has been or is about to be committed.

3. "Party line" means a subscriber's line telephone circuit, consisting of

two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

**§ 13-2921 – Harassment; classification; definition**

- A. A person commits harassment if, with intent to harass or with knowledge that the person is harassing another person, the person:
1. Anonymously or otherwise contacts, communicates or otherwise causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses.
  2. Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.
  3. Repeatedly commits an act or acts that harass another person.
  4. Surveils or causes another person to surveil a person for no legitimate purpose.
  5. On more than one occasion makes a false report to a law

enforcement, credit or social service agency.

6. Interferes with the delivery of any public or regulated utility to a person.
- B. A person commits harassment against a public officer or employee if the person, with intent to harass, files a nonconsensual lien against any public officer or employee that is not accompanied by an order or a judgment from a court of competent jurisdiction authorizing the filing of the lien or is not issued by a governmental entity or political subdivision or agency pursuant to its statutory authority, a validly licensed utility or water delivery company, a mechanics' lien claimant or an entity created under covenants, conditions, restrictions or declarations affecting real property.
- C. Harassment under subsection A is a class 1 misdemeanor. Harassment under subsection B is a class 5 felony.
- D. This section does not apply to an otherwise lawful demonstration, assembly or picketing.
- E. For the purposes of this section, "harassment" means conduct that is directed at a specific person and that ~~which~~ would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person.

**§ 13-2921.01 – "Aggravated harassment; classification; definition"**

- A. A person commits aggravated harassment if the person commits harassment as provided in section 13-2921 and any of the following applies:
  1. A court has issued an order of protection or an injunction against harassment against the person and in favor of the victim of harassment and the order or injunction has been served and is still valid.
  2. The person has previously been convicted of an offense included in section 13-3601.
- B. The victim of any previous offense shall be the same as in the present offense.
- C. A person who violates subsection A, paragraph 1 of this section is guilty of a class 6 felony. A person who commits a second or subsequent violation of subsection A, paragraph 1 of this section is guilty of a class 5 felony. A person who violates subsection A, paragraph 2 of this section is guilty of a class 5 felony.
- D. For the purposes of this section, "convicted" means a person who was

convicted of an offense included in section 13-3601, who had judgment deferred pursuant to section 13-3601, subsection M or who was adjudicated delinquent for conduct that would constitute a historical prior felony conviction if the juvenile had been tried as an adult for an offense included in section 13-3601.

#### § 13-2923 – Stalking; classification; definitions

- A. A person commits stalking if the person intentionally or knowingly engages in a course of conduct that is directed toward another person and if that conduct either:
1. Would cause a reasonable person to fear for the person's safety or the safety of that person's immediate family member and that person in fact fears for their safety or the safety of that person's immediate family member.
  2. Would cause a reasonable person to fear death of that person or that person's immediate family member.
- B. Stalking under subsection A, paragraph 1 of this section is a class 5 felony. Stalking under subsection A, paragraph 2 is a class 3 felony.
- C. For the purposes of this section:

1. "Course of conduct" means:

(a) Means any of the following:

(i) Maintaining visual or physical proximity to a specific person or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short.

(ii) Using any electronic, digital or global positioning system device to surveil a specific person or a specific person's internet or wireless activity continuously for twelve hours or more or on two or more occasions over a period of time, however short, without authorization.

(b) Does not include constitutionally protected activity or other activity authorized by law, the other person, the other person's authorized representative or if the other person is a minor, the minor's parent or guardian.

~~D. — maintaining visual or physical proximity to a specific person or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short, but does not include constitutionally protected activity.~~

~~1.2.~~ "Immediate family member" means a spouse, parent, child or sibling or any other person who regularly resides in a person's household or resided in a person's household within the past six months.

#### § 13-3601 – Domestic violence; definition; classification; sentencing

option; arrest and procedure for violation; weapon seizure; notice; report; diversion;

A. “Domestic violence” means any act which is a dangerous crime against children as defined in section 13-705 or an offense defined in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1425, 13-1502, 13-1503, 13-1504 or 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3, or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following apply: Domestic violence”  
~~means any act which is a dangerous crime against children as defined in section 13-604.01 or an offense defined in section 13-1201 through 13-1204, 13-1302 through 13-1304, 13-1502 through 13-1504 or 13-1602, section 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3, or 6, section 13-2916 or section 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following apply:~~

1. The relationship between the victim and the defendant is one of

marriage or former marriage or of persons residing or having resided in the same household.

2. The victim and the defendant have a child in common.
3. The victim or the defendant is pregnant by the other party.
4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.

5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.

6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:

(a) The type of relationship.

(b) The length of the relationship.

(c) The frequency of the interaction between the victim and the defendant.

(d) If the relationship has terminated, the length of time since the termination.

- B. A peace officer may, with or without a warrant, arrest a person if the officer has probable cause to believe that domestic violence has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether such offense is a felony or a misdemeanor and whether such offense was committed within or without the presence of the peace officer. In cases of domestic violence involving the infliction of physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, the peace officer shall arrest a person who is at least fifteen years of age, with or without a warrant, if the officer has probable cause to believe that the offense has been committed and the officer has probable cause to believe that the person to be arrested has committed the offense, whether such offense was committed within or without the presence of the peace officer, unless the officer has reasonable grounds to believe that the circumstances at the time are such that the victim will be protected from further injury. Failure to make an arrest does not give rise to civil liability except pursuant to section

12-820.02. In order to arrest both parties, the peace officer shall have probable cause to believe that both parties independently have committed an act of domestic violence. An act of self-defense that is justified under chapter 4 of this title is not deemed to be an act of domestic violence. The release procedures available under section 13-3883, subsection A, paragraph 4 and section 13-3903 are not applicable to arrests made pursuant to this subsection.

- C. A peace officer may question the persons who are present to determine if a firearm is present on the premises. On learning or observing that a firearm is present on the premises, the peace officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to

search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. A firearm owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

- D. If a firearm is seized pursuant to subsection C of this section, the peace officer shall give the owner or possessor of the firearm a receipt for each seized firearm. The receipt shall indicate the identification or serial number or other identifying characteristic of each seized firearm. Each seized firearm shall be held for at least seventy-two hours by the law enforcement agency that seized the firearm.
- E. If a firearm is seized pursuant to subsection C of this section, the victim shall be notified by a peace officer before the firearm is released from temporary custody.
- F. If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim, the person who reported the assault or threat or another person in the household, the prosecutor shall file a notice of intent to retain the firearm in the appropriate superior, justice or municipal court. The prosecutor shall serve notice on the owner or possessor of the firearm by certified mail. The notice shall state that the firearm will be retained for not more than six months following the date of seizure. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure or to request an earlier return date. The court shall hold the hearing within ten days after receiving the owner's or possessor's request for a hearing. At the hearing, unless the court determines that the return of the firearm may endanger the victim, the person who reported the assault or threat or another person in the household, the court shall order the return of the firearm to the owner or possessor
- G. A peace officer is not liable for any act or omission in the good faith exercise of the officer's duties under subsections C, D, E and F of this section.
- H. Each indictment, information, complaint, summons or warrant that is issued and that involves domestic violence shall state that the offense involved domestic violence and shall be designated by the letters DV. A domestic violence charge shall not be dismissed or a domestic violence conviction shall not be set aside for failure to comply with this subsection.
- I. A person arrested pursuant to subsection B of this section may be released

from custody in accordance with the Arizona rules of criminal procedure or other applicable statute. Any order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions which the court deems appropriate, including participation in any counseling programs available to the defendant.

J. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall inform in writing any alleged or potential victim of the procedures and resources available for the protection of such victim including:

1. An order of protection pursuant to section 13-3602, an injunction pursuant to section 25-315 and an injunction against harassment pursuant to section 12-1809.

2. The emergency telephone number for the local police agency.

3. Telephone numbers for emergency services in the local community

3-4. Websites for local resources related to domestic violence.

K. A peace officer is not civilly liable for noncompliance with subsection J of this section.

L. ~~An~~ If a person is convicted of an offense involving domestic violence and the victim was pregnant at the time of the commission of the offense, at the time of sentencing the court shall take into consideration the fact that the victim was pregnant and may increase the sentence ~~offense included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified.~~

~~M. If~~ An offense that is included in domestic violence carries the classification prescribed in the section of this title in which the offense is classified. If the defendant committed a felony offense listed in subsection A of this section against a pregnant victim and knew that the victim was pregnant or if the defendant committed a felony offense causing physical injury to a pregnant victim and knew that the victim was pregnant, the maximum sentence otherwise authorized for that violation shall be increased by up to two years ~~the defendant is found guilty of a first offense included in domestic violence, the court shall provide the following written notice to the defendant:~~

~~You have been convicted of an offense included in domestic violence. You are now on notice that:~~

~~1. If you are convicted of a second offense included in domestic violence, you may be placed on supervised probation and may be incarcerated as a condition of probation.~~

~~2.1. A third or subsequent charge may be filed as a felony and a conviction for that offense shall result in a term of incarceration.~~

**N. When a peace officer responds to a call alleging that domestic violence has been or may be committed, the officer shall determine if a minor is present. If a minor is present, the peace officer shall conduct a child welfare check to determine if the child is safe and if the child might be a victim of domestic violence or child abuse.**

#### **13-3601.01 – Domestic violence; treatment; definition**

- A. The judge shall order a person who is convicted of a misdemeanor domestic violence offense to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department. If a person has previously been ordered to complete a domestic violence offender treatment program

pursuant to this section, the judge shall order the person to complete a domestic violence offender treatment program unless the judge deems that alternative sanctions are more appropriate. The department of health services shall adopt and enforce guidelines that establish standards for domestic violence offender treatment program approval.

- B. On conviction of a misdemeanor domestic violence offense, if a person within a period of sixty months has been previously convicted of a violation of a domestic violence offense or is convicted of a misdemeanor domestic violence offense and has previously been convicted of an act in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense, the judge may order the person to be placed on supervised probation and the person may be incarcerated as a condition of probation. If the court orders supervised probation, the court may conduct an intake assessment when the person begins the term of probation and may conduct a discharge summary when the person is released from probation. If the person is incarcerated and the court receives confirmation that the person is employed or is a student, the court, on pronouncement of any jail sentence, may provide in the sentence that the person, if the person is employed or is a student and can continue the person's employment or studies, may continue the employment or studies for not more than twelve hours a day nor more than five days a week. The person shall spend the remaining day, days or parts of days in jail until the sentence is served and shall be allowed out of jail only long enough to complete the actual hours of employment or studies.
- C. The person shall pay the cost of the domestic violence offender treatment program.
- D. If a person is ordered to attend a domestic violence offender treatment program pursuant to this section, the program shall report to the court whether the person has attended the program and has successfully completed the program.
- E. For the purposes of this section, prior convictions for misdemeanor domestic violence offenses apply to convictions for offenses that were committed on or after January 1, 1999.
- F. For the purposes of this section, "domestic violence offense"; means an offense involving domestic violence as defined in section 13-3601.

**13-3601.02 – Aggravated domestic violence; classification; definition**

- A. A person is guilty of aggravated domestic violence if the person within a period of ~~sixty-eighty-four~~ months commits a third or subsequent violation of a domestic violence offense or is convicted of a violation of a domestic

violence offense and has previously been convicted of any combination of convictions of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a violation of a domestic violence offense.

- B. A person who is convicted under this section and who within a period of ~~sixty-eighty-four~~ months has been convicted of two prior violations of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than four months in jail.
- C. A person convicted under this section who within a period of ~~sixty-eighty-four~~ months has been convicted of three or more prior violations of a domestic violence offense or acts in another state, a court of the United States or a tribal court that if committed in this state would be a domestic violence offense is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than eight months in jail.
- D. The dates of the commission of the offenses are the determining factor in applying the ~~sixty-eighty-four~~ month provision in subsection A of this section regardless of the sequence in which the offenses were committed. For purposes of this section, a third or subsequent violation for which a conviction occurs does not include a conviction for an offense arising out of the same series of acts.
- E. For the purposes of this section, prior convictions for misdemeanor domestic violence offenses apply only to convictions for offenses that were committed on or after January 1, 1999.
- F. Aggravated domestic violence is a class 5 felony.
- G. For the purposes of this section, “domestic violence offense” means an offense involving domestic violence as defined in section 13-3601.

**§ 13-3602 – Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction**

- A. A person may file a verified petition, as in civil actions, with a magistrate, justice of the peace or superior court judge for an order of protection for the purpose of restraining a person from committing an act included in domestic violence. If the person is a minor, the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian or

custodian as the plaintiff and the minor is a specifically designated person for the purposes of subsection G of this section. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. For the purposes of this section, notwithstanding the location of the plaintiff or defendant, any court in this state may issue or enforce an order of protection.

B. An order of protection shall not be granted:

1. Unless the party who requests the order files a written verified petition for an order.
2. Against a person who is less than twelve years of age unless the order is granted by the juvenile division of the superior court.
3. Against more than one defendant.

C. The petition shall state the:

1. Name of the plaintiff. The plaintiff's address shall be disclosed to the court for purposes of service. If the address of the plaintiff is unknown to the defendant, the plaintiff may request that the address be protected. On the plaintiff's request, the address shall not be listed on the petition. Whether the court issues an order of protection, the protected address shall be maintained in a separate document or automated data base and is not subject to release or disclosure by the court or any form of public access except as ordered by the court.
2. Name and address, if known, of the defendant.
3. Specific statement, including dates, of the domestic violence alleged.
4. Relationship between the parties pursuant to § 13-3601, subsection A and whether there is pending between the parties an action for annulment, legal separation or dissolution of marriage.
5. Name of the court in which any prior or pending proceeding or order was sought or issued concerning the conduct which is sought to be restrained.
6. Desired relief.

- D. A fee shall not be charged for filing a petition filed under this section. Fees for service of process may be deferred or waived under any rule, statute or other law applicable to civil actions. The court shall advise a plaintiff that the plaintiff may be eligible for the deferral or waiver of these fees at the time the plaintiff files the petition. The court shall not require the petitioner to perform community service as a condition of the waiver or deferral of filing fees and fees for service of process. A law enforcement agency or constable shall not require the advance payment of fees for service of process of orders of protection. If the court does not waive the fees, the serving agency may assess the actual fees against the plaintiff. On request of the plaintiff, each order of protection issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order. On request of the plaintiff, each order of protection issued by a justice of the peace shall be served by the constable or sheriff for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable or sheriff in the jurisdiction in which the defendant can be served shall serve the order. On request of the plaintiff, each order of protection issued by a superior court judge shall or commissioner shall be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served shall serve the order. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel. The court shall make reasonable efforts to provide to both parties an appropriate information sheet on emergency and counseling services that are available in the local area.
- E. The court shall review the petition, any other pleadings on file and any evidence offered by the plaintiff- including any evidence of harassment by electronic contact or communication, to determine whether the orders requested should issue without further hearing. The court shall issue an order of protection under subsection G of this section if the court determines that there is reasonable cause to believe any of the following:
1. The defendant may commit an act of domestic violence.
  2. The defendant has committed an act of domestic violence within the past year or within a longer period of time if the court finds that good cause exists to consider a longer period.
- F. For purposes of determining the period of time under subsection E, paragraph 2 of this section, any time that the defendant has been

incarcerated or out of this state shall not be counted. If the court denies the requested relief, it may schedule a further hearing within ten days, with reasonable notice to the defendant.

G. If a court issues an order of protection the court may do any of the following:

1. Enjoin the defendant from committing a violation of one or more of the offenses included in domestic violence.
2. Grant one party the use and exclusive possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result. If the other party is accompanied by a law enforcement officer, the other party may return to the residence on one occasion to retrieve belongings. A law enforcement officer is not liable for any act or omission in the good faith exercise of the officer's duties under this paragraph.
3. Restrain the defendant from contacting the plaintiff or other specifically designated persons and from coming near the residence, place of employment or school of the plaintiff or other specifically designated locations or persons on a showing that there is reasonable cause to believe that physical harm may otherwise result.
4. If the court finds that the defendant is a credible threat to the physical safety of the plaintiff or other specifically designated persons, prohibit the defendant from possessing or purchasing a firearm for the duration of the order. If the court prohibits the defendant from possessing a firearm, the court shall also order the defendant to transfer any firearm owned or possessed by the defendant immediately after service of the order to the appropriate law enforcement agency for the duration of the order. If the defendant does not immediately transfer the firearm, the defendant shall transfer the firearm within twenty-four hours after service of the order.
5. If the order was issued after notice and a hearing at which the defendant had an opportunity to participate, require the defendant to complete a domestic violence offender treatment program that is provided by a facility approved by the department of health services or a probation department or any other program deemed appropriate by the court.

6. Grant relief that is necessary for the protection of the alleged victim and other specifically designated persons and that is proper under the circumstances.

~~6-7. Grant the petitioner the exclusive care, custody or control of any animal that is owned, possessed, leased, kept or held by the petitioner, the respondent or a minor child residing in the residence or household of the petitioner or the respondent, and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of section 13-2910 or otherwise disposing of the animal.~~

H. The court shall not grant a mutual order of protection. If opposing parties separately file verified petitions for an order of protection, the courts after consultation between the judges involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit a court from issuing cross orders of protection.

I. At any time during the period during which the order is in effect, a party who is under an order of protection or who is restrained from contacting the other party is entitled to one hearing on written request. No fee may be charged for requesting a hearing. A hearing requested by a party under an order of protection or restrained from contacting the other party shall be held within ten days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing shall be held within five days from the date requested. The hearing shall be held at the earliest possible time. An ex parte order issued under this section shall state on its face that the defendant is entitled to a hearing on written request and shall include the name and address of the judicial office where the request may be filed. After the hearing, the court may modify, quash or continue the order.

J. The order shall include the following statement:

**Warning**

This is an official court order. If you disobey this order, you will be subject to arrest and prosecution for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.  
~~This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this order.~~

K. A copy of the petition and the order shall be served on the defendant within one year from the date the order is signed. An order of protection that is not

served on the defendant within one year expires. An order is effective on the defendant on service of a copy of the order and petition. An order expires one year after service on the defendant. A modified order is effective upon service and expires one year after service of the initial order and petition.

K.L. A supplemental information form that is utilized by the court or a law enforcement agency solely for the purposes of service of process on the defendant and that contains information provided by the plaintiff is confidential.

L.M. Each affidavit, acceptance or return of service shall be promptly filed with the clerk of the issuing court. This filing shall be completed in person, shall be made by fax or shall be postmarked, if sent by mail, no later than the end of the seventh court business day after the date of service. If the filing is made by fax, the original affidavit, acceptance or return of service shall be promptly filed with the court. Within twenty-four hours after the affidavit,

acceptance or return of service has been filed, excluding weekends and holidays, the court from which the order was issued shall forward to the sheriff of the county in which the court is located a copy of the order of protection and a copy of the affidavit or certificate of service of process or acceptance of service. On receiving these copies, the sheriff shall register the order. Registration of an order means that a copy of the order of protection and a copy of the affidavit or acceptance of service have been received by the sheriff's office. The sheriff shall maintain a central repository for orders of protection so that the existence and validity of the orders can be easily verified. The effectiveness of an order does not depend on its registration, and for enforcement purposes pursuant to section 13-2810, a copy of an order of the court, whether or not registered, is presumed to be a valid existing order of the court for a period of one year from the date of service of the order on the defendant. Any changes or modifications of the order are effective upon entry of an order of the court and shall be registered with the sheriff within twenty-four hours of the entry of the order, excluding weekends and holidays.

M.N. A peace officer may, with or without a warrant, arrest a person if the peace officer has probable cause to believe that the person has violated section 13-2810 by disobeying or resisting an order issued in any jurisdiction in this state pursuant to this section, whether or not such violation occurred in the presence of the officer. Criminal violations of an order issued pursuant to this section shall be referred to an appropriate law enforcement agency. The law enforcement agency shall request that a prosecutorial agency file the appropriate charges. A violation of an order of protection shall not be adjudicated by a municipal or justice court unless a complaint has been filed or other legal process has been requested by the prosecuting agency. The provisions for release under section 13-3883, subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made pursuant to this section. For purposes of this section, any court in this state has jurisdiction to enforce a valid order of protection that is issued in this state and that has been violated in any jurisdiction in this state.

N.O. A person arrested pursuant to subsection M of this section may be released from custody in accordance with the Arizona rules of criminal procedure or any other applicable statute. An order for release, with or without an appearance bond, shall include pretrial release conditions necessary to provide for the protection of the alleged victim and other specifically designated persons and may provide for additional conditions which the court deems appropriate, including participation in any counseling programs available to the defendant. The agency with custody of the defendant shall make reasonable efforts to contact the victim and other specifically designated persons in the order of protection, if known to the custodial agency, who requested notification

immediately on release of the arrested person from custody.

Q.P. The remedies provided in this section for enforcement of the orders of the

court are in addition to any other civil and criminal remedies available. The superior court shall have exclusive jurisdiction to issue orders of protection in all cases if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. A municipal court or justice court shall not issue an order of protection if it appears from the petition that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties. After issuance of an order of protection, if the municipal court or justice court determines that an action for maternity or paternity, annulment, legal separation or dissolution of marriage is pending between the parties, the municipal court or justice court shall stop further proceedings in the action and forward all papers, together with a certified copy of docket entries or any other record in the action, to the superior court where they shall be docketed in the pending superior court action and shall proceed as though the petition for an order of protection had been originally brought in the superior court. Notwithstanding any other law and unless prohibited by an order of the superior court, a municipal court or justice court may hold a hearing on all matters relating to its ex parte order of protection if the hearing was requested before receiving written notice of the pending superior court action. No order of protection shall be invalid or determined to be ineffective merely because it was issued by a lower court at a time when an action for maternity or paternity, annulment, legal separation or dissolution of marriage was pending in a higher court. After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees, if any. An order entered by a justice court or municipal court after a hearing pursuant to this section may be appealed to the superior court as provided in title 22, chapter 2, article 4, § 22-425, subsection B and the superior court rules of civil appellate procedure without regard to an amount in controversy. No fees may be charged to either party for filing an appeal. For the purposes of this subsection, “pending” means, with respect to an action for annulment, legal separation or dissolution of marriage or for maternity or paternity, either that:

1. An action has been commenced but a final judgment, decree or order has not been entered.
2. A post-decree proceeding has been commenced but a judgment, decree or order finally determining the proceeding has not been entered.

| P.Q. A peace officer making an arrest pursuant to this section or section 13-

3601 is not civilly or criminally liable for such arrest if the officer acts upon probable cause and without malice.

Q.R. In addition to persons authorized to serve process pursuant to rule 4(d) of the Arizona rules of civil procedure, a peace officer or a correctional officer as defined in section 41-1661 who is acting in the officer's official capacity may serve an order of protection issued pursuant to this section. Service of the order of protection has priority over other service of process that does not involve an immediate threat to the safety of a person.

R.S. A valid protection order that is related to domestic or family violence and that is issued by a court in another state, a court of a United States territory or a tribal court shall be accorded full faith and credit and shall be enforced as if it were issued in this state for as long as the order is effective in the issuing jurisdiction. For the purposes of this subsection:

1. A protection order includes any injunction or other order that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to, another person. A protection order includes temporary and final orders other than support or child custody orders that are issued by civil and criminal courts if the order is obtained by the filing of an independent action or is a pendente lite order in another proceeding. The civil order shall be issued in response to a complaint, petition or motion that was filed by or on behalf of a person seeking protection.
2. A protection order is valid if the issuing court had jurisdiction over the parties and the matter under the laws of the issuing state, a United States territory or an Indian tribe and the person against whom the order was issued had reasonable notice and an opportunity to be heard. If the order is issued ex parte, the notice and opportunity to be heard shall be provided within the time required by the laws of the issuing state, a United States territory or an Indian tribe and within a reasonable time after the order was issued.
3. A mutual protection order that is issued against both the party who filed a petition or a complaint or otherwise filed a written pleading for protection against abuse and the person against whom the filing was made is not entitled to full faith and credit if either:

- (a) The person against whom an initial order was sought has not filed a cross or counter petition or other written pleading seeking a protection order.
  - (b) The issuing court failed to make specific findings supporting the entitlement of both parties to be granted a protection order.
- 4. A peace officer may presume the validity of and rely on a copy of a protection order that is issued by another state, a United States territory or an Indian tribe if the order was given to the officer by any source. A peace officer may also rely on the statement of any person who is protected by the order that the order remains in effect. A peace officer who acts in good faith reliance on a protection order is not civilly or criminally liable for enforcing the protection order pursuant to this section.

**§ 13-411 – Justification; use of force in crime prevention**

- A. A person is justified in threatening or using both physical force and deadly physical force against another if and to the extent the person reasonably believes that physical force or deadly physical force is immediately necessary to prevent the other's commission of arson of an occupied structure under section 13-1704, burglary in the second or first degree under section 13-1507 or 13-1508, kidnapping under section 13-1304, manslaughter under section 13-1103, second or first degree murder under section 13-1104 or 13-1105, sexual conduct with a minor under section 13-1405, sexual assault under section 13-1406, child molestation under section 13-1410, armed robbery under section 13-1904, or aggravated assault under section 13-1204, subsection A, paragraphs 1 and 2.
- B. There is no duty to retreat before threatening or using deadly physical force justified by subsection A of this section.
- C. A person is presumed to be acting reasonably for the purposes of this section if he is acting to prevent the commission of any of the offenses listed in subsection A of this section.

**§ 13-4419 – Victim conference with prosecuting attorney**

- A. On request of the victim, the prosecuting attorney shall confer with the victim about the disposition of a criminal offense, including the victim's views about a decision not to proceed with a criminal prosecution, dismissal, plea or sentence negotiations and pretrial diversion programs.

- B. On request of the victim, the prosecuting attorney shall confer with the victim before the commencement of the trial.
- C. The right of the victim to confer with the prosecuting attorney does not include the authority to direct the prosecution of the case.

**§ 13-602 – Designation of offenses**

- A. The particular classification of each felony defined in this title is expressly designated in the section or chapter defining it. Any offense defined outside this title which is declared by law to be a felony without either specification of the classification or of the penalty is a class 5 felony.
- B. The particular classification of each misdemeanor defined in this title is expressly designated in the section or chapter defining it. Any offense defined outside this title which is declared by law to be a misdemeanor without either specification of the classification or of the penalty is a class 2 misdemeanor.
- C. Every petty offense in this title is expressly designated as such. Any offense defined outside this title without either designation as a felony or misdemeanor or specification of the classification or the penalty is a petty offense.
- D. Any offense which is declared by law to be a felony, misdemeanor or petty offense without specification of the classification of such offense is punishable according to the penalty prescribed for such offense.
- E. Any offense defined within or outside this title without designation as a felony, misdemeanor or petty offense is punishable according to the penalty prescribed for such offense.
- F. Any offense defined outside this title with a specification of the classification of such offense is punishable according to the provisions of this title.
- G. Any petty offense, class 3 misdemeanor or class 2 misdemeanor, except a violation of title 28, is deemed a minor nontraffic offense for the limited purpose of armed forces recruitment.

**§ 13-604 – Dangerous and repetitive offenders; definitions**

- A. Except as provided in subsection F, G or H of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation,

pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 4	3 years	4.5 years	6 years
Class 5	1.5 years	2.25 years	3 years
Class 6	1 year	1.75 years	2.25 years

- B. Except as provided in subsection I, J or K of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 2	6 years	9.25 years	18.5 years
Class 3	4.5 years	6.5 years	13 years

- C. Except as provided in subsection F, G, H or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has two or more historical prior felony convictions shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range

prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

- D. Except as provided in subsection I, J, K or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, and who has two or more historical prior felony convictions, shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

- E. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense than that for which such person currently stands convicted.
- F. Except as provided in section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument without having previously been convicted of any felony shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence,

probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 4	4 years	6 years	8 years
Class 5	2 years	3 years	4 years
Class 6	1.5 years	2.25 years	3 years

- G. Except as provided in section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has a historical prior felony conviction involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

- H. Except as provided in subsection S of this section or section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has two or more historical prior felony convictions involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced

to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 4	12 years	14 years	16 years
Class 5	6 years	7 years	8 years
Class 6	4.5 years	5.25 years	6 years

- I. Except as provided in section 13-604.01, upon a first conviction of a class 2 or 3 felony involving discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or upon conviction of a class 2 or 3 felony when the intentional or knowing infliction of serious physical injury upon another has occurred, the defendant shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 2	7 years	10.5 years	21 years
Class 3	5 years	7.5 years	15 years

- J. Except as provided in section 13-604.01, upon conviction of a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has a historical prior felony conviction that is a class 1, 2 or 3 felony involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible

for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

- K. Except as provided in subsection S of this section or section 13-604.01, upon conviction for a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has two or more historical prior felony convictions that are class 1, 2 or 3 felonies involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 2	21 years	28 years	35 years
Class 3	15 years	20 years	25 years

- L. For the purposes of subsections I, J and K of this section in determining the applicability of the penalties provided in this section for second or subsequent class 2 or 3 felonies, the conviction for any felony committed prior to October 1, 1978 which, if committed after October 1, 1978, could be a dangerous felony under this section may be designated by the state as a prior felony.

- M. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for purposes of this section.
- N. A person who has been convicted in any court outside the jurisdiction of this state of an offense which if committed within this state would be punishable as a felony or misdemeanor is subject to the provisions of this section. A person who has been convicted as an adult of an offense punishable as a felony or a misdemeanor under the provisions of any prior code in this state shall be subject to the provisions of this section.
- O. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced under subsection E of this section shall not be included in the two years required to be free of convictions for purposes of that subsection.
- P. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if the previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody as provided in subsection R of this section is charged in the indictment or information and admitted or found by the court or if the dangerous nature of the felony is charged in the indictment or information and admitted or found by the trier of fact. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or provision of law that specifies a later release or completion of the sentence imposed prior to release. The court shall allow the allegation of a prior conviction, the dangerous nature of the felony or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody at any time prior to the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the defendant was in fact prejudiced by the untimely filing and states the reasons for these findings, provided that when the allegation of a prior conviction is filed, the state must make available to the defendant a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody shall not be read to the jury. For the purposes of this subsection, "dangerous nature of the felony" means a felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another.

- Q. Intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title shall be deemed to be malfeasance.
- R. A person who is convicted of committing any felony offense, which felony offense is committed while the person is released on bail or on the defendant's own recognizance on a separate felony offense or while the person is escaped from preconviction custody for a separate felony offense, shall be sentenced to a term of imprisonment two years longer than would otherwise be imposed for the felony offense committed while released on bond or on the defendant's own recognizance or while escaped from preconviction custody. The additional sentence imposed under this subsection is in addition to any enhanced punishment that may be applicable under any of the other subsections of this section. The defendant is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the two years are served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.
- S. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a serious offense except a drug offense, first degree murder or any dangerous crime against children, whether a completed or preparatory offense, and who has previously been convicted of two or more serious offenses not committed on the same occasion shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not less than twenty-five years or the sentence is commuted.
- T. A person who is convicted of committing any felony offense with the intent to promote, further or assist any criminal conduct by a criminal street gang shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive, minimum and maximum sentence for the offense shall be increased by three years. The additional

sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable.

- U. A person who is convicted of intentionally or knowingly committing aggravated assault on a peace officer while the officer is engaged in the execution of any official duties pursuant to section 13-1204, subsection A, paragraph 1 or 2 shall be sentenced to imprisonment for not less than the presumptive sentence authorized under this chapter and is not eligible for suspension of sentence, commutation or release on any basis until the sentence imposed is served.
- V. As used in this section:
1. "Absconder" means a probationer who has moved from the probationer's primary place of residence without permission of the probation officer and cannot be located within ninety days of the previous contact, and a petition to revoke has been filed in the superior court alleging that the probationer's whereabouts are unknown. A probationer is no longer deemed to be an absconder when voluntarily or involuntarily returned to probation service.
  2. "Historical prior felony conviction" means:
    - (a) Any prior felony conviction for which the offense of conviction:
      - (i) Mandated a term of imprisonment except for a violation of chapter 34 of this title involving a drug below the threshold amount; or
      - (ii) Involved the intentional or knowing infliction of serious physical injury; or
      - (iii) Involved the use or exhibition of a deadly weapon or dangerous instrument; or
      - (iv) Involved the illegal control of a criminal enterprise; or
      - (v) Involved aggravated driving under the influence of intoxicating liquor or drugs, driving while under the influence of intoxicating liquor or drugs with a suspended, canceled, revoked or refused driver license or driving under the influence of intoxicating liquor or drugs with two or more driving under the influence of intoxicating liquor or drug convictions within a period of ~~sixty-eighty-four~~ months; or
      - (vi) Involved any dangerous crime against children as defined in section 13-604.01.

(b) Any class 2 or 3 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the ten years immediately preceding the date of the present offense. Any time spent incarcerated is excluded in calculating if the offense was committed within the preceding ten years.

(c) Any class 4, 5 or 6 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the ~~five-seven~~ years immediately preceding the date of the present offense. Any time spent incarcerated is excluded in calculating if the offense was committed within the preceding ~~five-seven~~ years.

(d) Any felony conviction that is a third or more prior felony conviction.

3. "Preconviction custody" means the confinement of a person in a jail in this state or another state after the person is arrested for or charged with a felony offense.
4. "Serious offense" means any of the following offenses if committed in this state or any offense committed outside this state which if committed in this state would constitute one of the following offenses:
  - (a) First degree murder.
  - (b) Second degree murder.
  - (c) Manslaughter.
  - (d) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
  - (e) Sexual assault.
  - (f) Any dangerous crime against children.
  - (g) Arson of an occupied structure.
  - (h) Armed robbery.
  - (i) Burglary in the first degree.
  - (j) Kidnapping.
  - (k) Sexual conduct with a minor under fifteen years of age.

5. "Substantive offense" means the felony, misdemeanor or petty offense that the trier of fact found beyond a reasonable doubt the defendant committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the defendant otherwise would be subject.

**§ 13-604.01 – Dangerous crimes against children; sentences; definitions**

- A. A person who is at least eighteen years of age and who stands convicted of a dangerous crime against children in the first degree involving sexual assault of a minor who is twelve years of age or younger or sexual conduct with a minor who is twelve years of age or younger shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. This subsection does not apply to masturbatory contact.
- B. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is under twelve years of age or second degree murder of a minor who is under twelve years of age or sexual assault of a minor who is under twelve years of age or sexual conduct with a minor who is under twelve years of age may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. If a life sentence is not imposed pursuant to this subsection, the person shall be sentenced to a presumptive term of imprisonment for twenty years.
- C. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is twelve, thirteen or fourteen years of age, second degree murder of a minor who is twelve, thirteen or fourteen years of age, sexual assault of a minor who is twelve, thirteen or fourteen years of age, taking a child for the purpose of prostitution, child prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen years of age or continuous sexual abuse of a child or involving or using minors in drug offenses shall be sentenced to a presumptive term of imprisonment for twenty years. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a

presumptive term of imprisonment for thirty years.

- D. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the first degree involving aggravated assault, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor, child abuse or kidnapping shall be sentenced to a presumptive term of imprisonment for seventeen years. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for twenty-eight years.
- E. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children involving sexual abuse under section 13-1404 is guilty of a class 3 felony and shall be sentenced to a presumptive term of imprisonment for five years, and unless the person has previously been convicted of a predicate felony, the presumptive term may be increased or decreased by up to two and one-half years pursuant to section 13-702, subsections C, D and E. If the person is sentenced to a term of imprisonment the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. If the convicted person has been previously convicted of one predicate felony the person shall be sentenced to a presumptive term of imprisonment for fifteen years and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.
- F. The presumptive sentences prescribed in subsections B, C and D of this section or subsection E of this section if the person has previously been convicted of a predicate felony may be increased or decreased by up to seven years pursuant to the provisions of section 13-702, subsections B, C and D.
- G. Except as provided in subsection E of this section, a person sentenced for a dangerous crime against children in the first degree pursuant to this section is not eligible for suspension of sentence, probation, pardon, or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court

has been served or commuted.

- H. A person who stands convicted of any dangerous crime against children in the first degree pursuant to subsection C or D of this section having been previously convicted of two or more predicate felonies shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not fewer than thirty-five years or the sentence is commuted.
- I. Notwithstanding chapter 10 of this title, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a dangerous crime against children in the second degree pursuant to subsection C or D of this section or luring a minor for sexual exploitation pursuant to section 13-3554 is guilty of a class 3 felony and shall be sentenced to a presumptive term of imprisonment for ten years. The presumptive term may be increased or decreased by up to five years pursuant to section 13-702, subsections B, C and D. If the person is sentenced to a term of imprisonment the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. A person who is convicted of any dangerous crime against children in the second degree having been previously convicted of one or more predicate felonies is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.
- J. Section 13-604, subsections M and O apply to the determination of prior convictions.
- K. The sentence imposed on a person by the court for a dangerous crime against children under subsection D of this section involving child molestation or sexual abuse pursuant to subsection E of this section may be served concurrently with other sentences if the offense involved only one victim. The sentence imposed on a person for any other dangerous crime against children in the first or second degree shall be consecutive to any other sentence imposed on the person at any time, including child molestation and sexual abuse of the same victim.
- L. In this section:

1. "Dangerous crime against children" means any of the following committed against a minor under fifteen years of age:
  - (a) Second degree murder.
  - (b) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
  - (c) Sexual assault.
  - (d) Molestation of a child.
  - (e) Sexual conduct with a minor.
  - (f) Commercial sexual exploitation of a minor.
  - (g) Sexual exploitation of a minor.
  - (h) Child abuse as prescribed in section 13-3623, subsection A, paragraph 1.
  - (i) Kidnapping.
  - (j) Sexual abuse.
  - (k) Taking a child for the purpose of prostitution as defined in section 13-3206.
  - (l) Child prostitution as defined in section 13-3212.
  - (m) Involving or using minors in drug offenses.
  - (n) Continuous sexual abuse of a child.
  - (o) Attempted first degree murder.

A dangerous crime against children is in the first degree if it is a completed offense and is in the second degree if it is a preparatory offense, except attempted first degree murder is a dangerous crime against children in the first degree.

2. "Predicate felony" means any felony involving child abuse pursuant to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, or a dangerous crime against children in the first or second degree.

**§ 13-701 – Sentence of imprisonment for felony; presentence report**

- A. A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law, shall be committed to the custody of the state department of corrections.
- B. No prisoner may be transferred to the custody of the state department of corrections without a certified copy of the judgment and sentence, signed by the sentencing judge, and a copy of a recent presentence investigation report unless the court has waived preparation of the report
- C. Except as provided in section 13-604 the term of imprisonment for a felony shall be determined as follows for a first offense:
  - 1. For a class 2 felony, five years.
  - 2. For a class 3 felony, three and one-half years.
  - 3. For a class 4 felony, two and one-half years.
  - 4. For a class 5 felony, one and one-half years.
  - 5. For a class 6 felony, one year.

**§ 13-702 – Sentencing**

- A. Sentences provided in section 13-701 for a first conviction of a felony, except those felonies involving a discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another or if a specific sentence is otherwise provided, may be increased or reduced by the court within the ranges set by this subsection. Such reduction or increase shall be based on the aggravating and mitigating circumstances contained in subsections C and D of this section and shall be within the following ranges:

	<b>Mimumum</b>	<b>Maximum</b>
1. For a class 2 felony	4 years	10 years
2. For a class 3 felony	2.5 years	7 years
3. For a class 4 felony	1.5 years	3 years
4. For a class 5 felony	9 months	2 years
5. For a class 6 felony	6 months	1.5 years

- B. The upper or lower term imposed pursuant to section 13-604, 13-604.01, 13-604.02, 13-702.01 or 13-710 or subsection A of this section may be imposed only if the circumstances alleged to be in aggravation or mitigation of the crime are found to be true by the trial judge upon any evidence or information introduced or submitted to the court before sentencing or any evidence previously heard by the judge at the trial, and factual findings and

reasons in support of such findings are set forth on the record at the time of sentencing.

- C. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following aggravating circumstances:
1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.
  2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.
  3. If the offense involves the taking of or damage to property, the value of the property so taken or damaged.
  4. Presence of an accomplice.
  5. Especially heinous, cruel or depraved manner in which the offense was committed.
  6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.
  7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.
  8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to his office or employment.
  9. The physical, emotional and financial harm caused to the victim or, if the victim has died as a result of the conduct of the defendant, the emotional and financial harm caused to the victim's immediate family.
  10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.
  11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense which if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.

12. The defendant was wearing body armor as defined in section 13-3116.
  13. If the victim of the offense is sixty-five or more years of age or is a disabled person as defined by section 38-492.
  14. The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.
  15. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.
  16. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.
  17. Lying in wait for the victim or ambushing the victim during the commission of any felony.
  18. The offense was committed in the presence of a child and any of the circumstances exist that are set forth in section 13-3601, subsection A.
  19. Any other factors that the court deems appropriate to the ends of justice.
- D. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following mitigating circumstances:
1. The age of the defendant.
  2. The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.
  3. The defendant was under unusual or substantial duress, although not such as to constitute a defense to prosecution.
  4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.

5. Any other factor that the court deems appropriate to the ends of justice.

In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to call for the lesser term. If the court finds aggravating circumstances and does not find any mitigating circumstances, the court shall impose an aggravated sentence.

- E. The court in imposing sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.
- F. Nothing in this section affects any provision of law that imposes the death penalty, that expressly provides for imprisonment for life or that authorizes or restricts the granting of probation and suspending the execution of sentence.
- G. Notwithstanding any other provision of this title, if a person is convicted of any class 6 felony not involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument and if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that it would be unduly harsh to sentence the defendant for a felony, the court may enter judgment of conviction for a class 1 misdemeanor and make disposition accordingly or may place the defendant on probation in accordance with chapter 9 of this title and refrain from designating the offense as a felony or misdemeanor until the probation is terminated. The offense shall be treated as a felony for all purposes until such time as the court may actually enter an order designating the offense a misdemeanor. This subsection does not apply to any person who stands convicted of a class 6 felony and who has previously been convicted of two or more felonies. If a crime or public offense is punishable in the discretion of the court by a sentence as a class 6 felony or a class 1 misdemeanor, the offense shall be deemed a misdemeanor if the prosecuting attorney:
  1. Files an information in superior court designating the offense as a misdemeanor.
  2. Files a complaint in justice court or municipal court designating the offense as a misdemeanor within the jurisdiction of the respective court.
  3. Files a complaint, with the consent of the defendant, before or during the preliminary hearing amending the complaint to charge a

misdemeanor.

**§ 13-702.01 – Exceptional circumstances; aggravation; mitigation**

A. Notwithstanding section 13-702, subsection A, if a person is convicted of a felony without having previously been convicted of any felony and if the court finds that at least two substantial aggravating factors listed in section 13-702, subsection C apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense up to the following maximum terms:

- |                         |            |
|-------------------------|------------|
| 1. For a class 2 felony | 12.5 years |
| 2. For a class 3 felony | 8.75 years |
| 3. For a class 4 felony | 3.75 years |
| 4. For a class 5 felony | 2.5 years  |
| 5. For a class 6 felony | 2 years    |

B. Notwithstanding section 13-702, subsection A, if a person is convicted of a felony without having previously been convicted of any felony and if the court finds that at least two substantial mitigating factors listed in section 13-702, subsection D apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense down to the following minimum terms:

- |                         |          |
|-------------------------|----------|
| 1. For a class 2 felony | 3 years  |
| 2. For a class 3 felony | 2 years  |
| 3. For a class 4 felony | 1 year   |
| 4. For a class 5 felony | 6 months |
| 5. For a class 6 felony | 4 months |

C. Notwithstanding section 13-604, subsection A or B, if a person is convicted of a felony offense and has one historical prior felony conviction and if the court finds that at least two substantial aggravating factors listed in section 13-702, subsection C apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense up to the following maximum terms:

- |                   |             |
|-------------------|-------------|
| 1. Class 2 felony | 23.25 years |
| 2. Class 3 felony | 16.25 years |
| 3. Class 4 felony | 7.5 years   |
| 4. Class 5 felony | 3.75 years  |



only if the circumstances alleged to be in aggravation or mitigation of the crime are found to be true by the trial judge on any evidence or information introduced or submitted to the court before sentencing or any evidence previously heard by the judge at the trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

- H. The court in imposing sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.
- I. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence pursuant to this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

**§ 13-702.02 – Multiple offenses not committed on the same occasion; sentencing**

- A. A person who is convicted of two or more felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions as defined in section 13-604 shall be sentenced, for the second or subsequent offense, pursuant to this section.
- B. A person sentenced pursuant to this section shall not be eligible for suspension of sentence, probation, pardon, or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term for paragraphs 1 through 4 of this subsection may be aggravated within the range under this section pursuant to section 13-702, subsections B, C and D. The presumptive term for paragraph 3 or 4 of this subsection may be mitigated within the range under this section pursuant to section 13-702, subsections B, C and D. The terms are as follows:
  - 1. For the second dangerous felony offense:

<b>Felony</b>	<b>Minimum</b>	<b>Maximum</b>
Class 2	10.5 years	21 years
Class 3	7.5 years	15 years
Class 4	6 years	8 years
Class 5	3 years	4 years

Class 6                    2.25 years                    3 years

2. For any dangerous felony offense subsequent to the second dangerous felony offense:

<b>Felony</b>	<b>Minimum</b>	<b>Maximum</b>
Class 2	15.75 years	28 years
Class 3	11.25 years	20 years
Class 4	10 years	12 years
Class 5	5 years	6 years
Class 6	3.75 years	4.5 years

3. For the second nondangerous felony offense:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 2	4 years	5 years	10 years
Class 3	2.5 years	3.5 years	7 years
Class 4	1.5 years	2.5 years	3 years
Class 5	75 years	1.5 years	2 years
Class 6	5 years	1 year	1.5 years

4. For any nondangerous felony offense subsequent to the second felony offense:

<b>Felony</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
Class 2	6 years	9.25 years	18.5 years
Class 3	4.5 years	6.5 years	13 years
Class 4	3 years	4.5 years	6 years
Class 5	1.5 years	2.25 years	3 years
Class 6	1 year	1.75 years	2.25 years

- C. For a person sentenced pursuant to subsection B, paragraph 1 or 2 of this section, the minimum term prescribed shall be the presumptive term.
- D. For a person sentenced pursuant to subsection B, paragraph 1, 2, 3 or 4 of this section, the court may increase the maximum sentence otherwise authorized by up to twenty-five per cent.
- E. For a person sentenced pursuant to subsection B, paragraph 3 or 4 of this section the court may decrease the minimum sentence otherwise authorized by up to twenty-five per cent.

- F. If the court increases or decreases a sentence pursuant to this section, the court shall state on the record the reasons for the increase or decrease.
- G. The court shall inform all of the parties before the sentencing occurs of its intent to increase or decrease a sentence pursuant to this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

**§ 13-707 – Sentence of imprisonment for misdemeanor**

- A. A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment within the following maximum limitations:
  - 1. For a class 1 misdemeanor, six months.
  - 2. For a class 2 misdemeanor, four months.
  - 3. For a class 3 misdemeanor, thirty days.
- B. The court may, pursuant to this section, direct that the person sentenced shall not be released on any basis until the sentence imposed by the court has been served.

**§ 13-801 – Fines for felonies**

- A. A sentence to pay a fine for a felony shall be a sentence to pay an amount fixed by the court not more than one hundred fifty thousand dollars.
- B. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.
- C. This section does not apply to an enterprise.

**§ 13-802 – Fines for misdemeanors**

- A. A sentence to pay a fine for a class 1 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than two thousand five hundred dollars.
- B. A sentence to pay a fine for a class 2 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than seven hundred fifty dollars.
- C. A sentence to pay a fine for a class 3 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than five hundred dollars.

- D. A sentence to pay a fine for a petty offense shall be a sentence to pay an amount, fixed by the court, of not more than three hundred dollars.
- E. A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.
- F. This section does not apply to an enterprise.

**§ 13-902 – Periods of probation**

- A. Unless terminated sooner, probation may continue for the following periods:
  - 1. For a class 2 felony, seven years.
  - 2. For a class 3 felony, five years.
  - 3. For a class 4 felony, four years.
  - 4. For a class 5 or 6 felony, three years.
  - 5. For a class 1 misdemeanor, three years.
  - 6. For a class 2 misdemeanor, two years.
  - 7. For a class 3 misdemeanor, one year.
- B. Notwithstanding subsection A of this section, unless terminated sooner, probation may continue for the following periods:
  - 1. For a violation of section 28-1381 or 28-1382, five years.
  - 2. For a violation of section 28-1383, ten years.
- C. When the court has required, as a condition of probation, that the defendant make restitution for any economic loss related to the defendant's offense and that condition has not been satisfied, the court at any time prior to the termination or expiration of probation may extend the period within the following limits:
  - 1. For a felony, not more than three years.
  - 2. For a misdemeanor, not more than one year.
- D. Notwithstanding any other provision of law, justice courts and municipal courts may impose the probation periods specified in subsection A, paragraphs 5, 6 and 7 and subsection B, paragraph 1 of this section.

- E. After conviction of a felony offense or an attempt to commit any offense that is included in chapter 14 or 35.1 of this title or section 13-2923 or 13-3623, if probation is available, probation may continue for a term not less than the term that is specified in subsection A of this section up to and including life and that the court believes is appropriate for the ends of justice.

Maricopa Association of Governments  
2015 STOP Grant Strategy

Problem/Need:

- Domestic violence is one of the most expensive and dangerous cases in the criminal justice system.
- Limited coordination and communication limits the ability of the criminal justice system to respond as effectively as possible.
- Limited funding reduces the available staffing and resources needed to make improvements to the criminal justice system's response to domestic violence.

Focus of 2015 STOP grant:

- Increase public safety by improving the coordination and communication to address to domestic violence through a multidisciplinary, regional response working with the county and municipalities.

Ongoing Strategies and Approaches:

- Continue sharing best practices and strategies to improve communication/coordination through the MAG Regional Domestic Violence Council, Management Committee and Regional Council.
- Convene interdisciplinary affinity groups on cross cutting issues to build communication and coordination among law enforcement, prosecutors, and victim advocates.
- Continue the annual domestic violence press conference to highlight successes in enhancing the criminal justice system's response to DV.
- Develop a training video for practitioners about the latest advances in arresting and prosecuting DV cases.
- Continue to refine the DV protocols to reflect the latest advances in the arrest and prosecution of DV, such as adding lethality assessments in 2014 and possibly fingerprinting for all cases in the future.

New Strategy and Approach:

- Improve case transfers among the county and municipalities through enhanced coordination of cases and defendants. Identify how transfers are currently processed, identify any challenges or gaps, and develop mitigating strategies.

Deliverables

- One updated misdemeanor protocol
- Two interdisciplinary affinity group meetings with corresponding strategies to enhance communication and coordination
- One press conference
- One training video
- One or more strategies implemented to improve case transfers

## Protocol Evaluation Project *Solutions for Safety* Training

### Evaluation Analysis

**Topic (s):** Solutions for Safety: Orders or Protection, Lethality Assessment Programs, Link between the Misdemeanor and Felony Protocols, Continuity of Care for Victims and enhancing the Criminal Justice System.

**Speakers (s):** The Honorable Clint Hickman, Maricopa County Supervisor, District Four; The Honorable Bill Montgomery, Maricopa County Attorney, Chief Steven Campbell of the El Mirage Police Department, The Honorable Vice Mayor Robin Barker of Apache Junction and Maureen Schat, Coordinated Community Response Team Coordinator of Northland Family Help Center.

**Panelists (s):** Sergeant Patrick Beumler of Glendale Police Department, Sergeant Marc Rivers of Phoenix Police Department, Wendy Duggan, Assistant City Prosecutor for the City of Mesa, Chief Steven Campbell of the El Mirage Police Department, Patricia George, City Prosecutor's Office for the City of Phoenix and Jon Eliason, Division Chief of Major Crimes at the Maricopa County Attorney's Office.

**Facilitators (s):** Colleen Conley, Raquel Gutierrez, Courtney Lonergan, Amy St. Peter and Brande Mead.

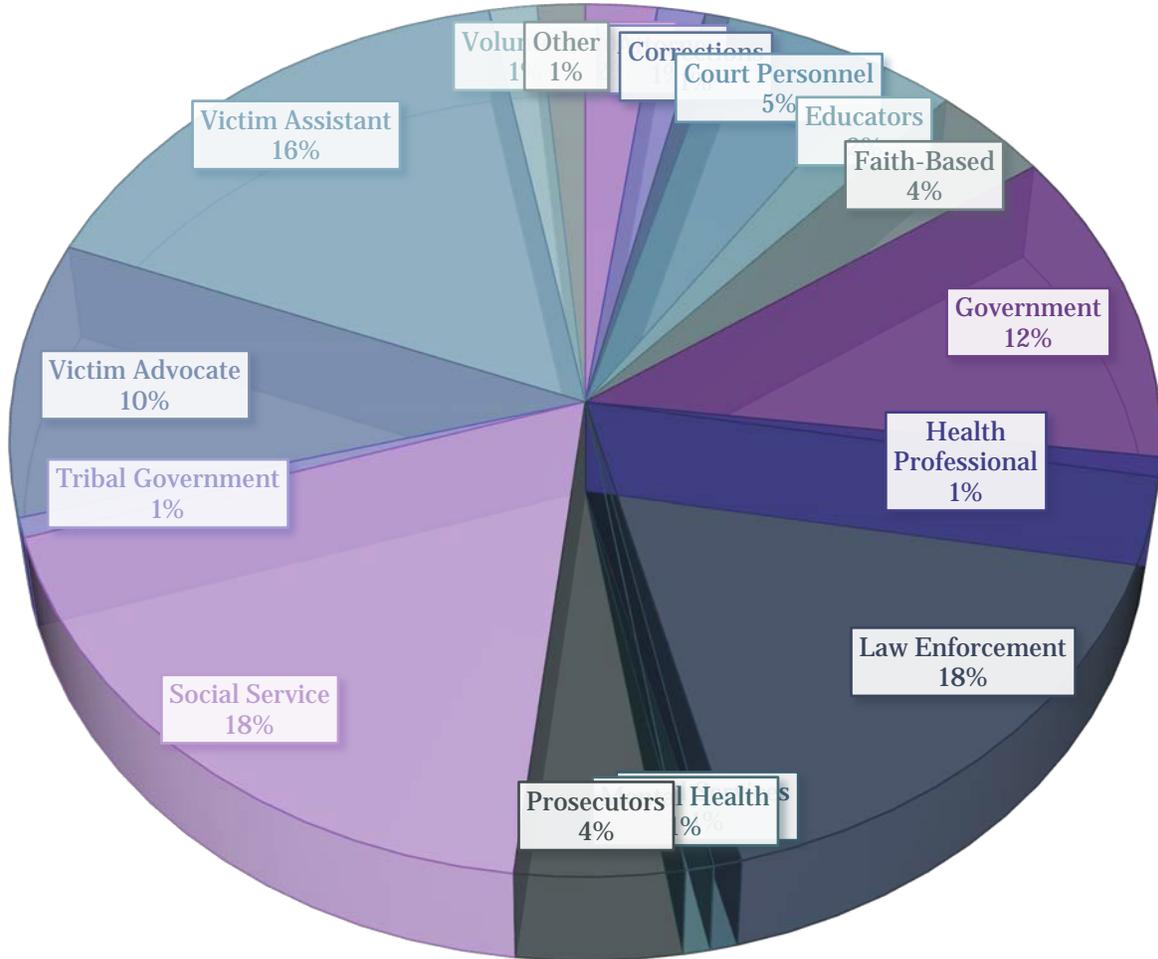
**Description:** The Protocol Evaluation Project coordinates a multi-disciplinary effort for assessing current protocols and practices used by law enforcement and prosecutors when responding to domestic violence offenders at the misdemeanor level. However, Maricopa County is working to update the felony level protocol model as well. The project includes evaluating current protocols, building a framework of promising practices, and developing public awareness tools. A part of the Protocol Evaluation Project was the Solutions for Safety Training Event where local experts presented on a "Challenges and Solutions Panels" about orders of protections & lethality assessment programs. After the "Challenges and Solutions Panels" were presented to the large group as a whole, attendees broke out into five classrooms for facilitated small group discussions. These discussions were aimed at improving the link between the Misdemeanor and Felony Protocol Models, building stronger relationships between disciplines, and creating greater continuity of care for victims. This event allowed community professional to explore challenges and develop solutions for enhancing the Misdemeanor and

Felony Protocol Models, as well as explore how changing policy can change the way we address domestic violence.

## Executive Summary

There were a total of 137 people who attended this training out of 150 people who registered giving this event a 91 percent attendance rate. Of those 137 people, 56 (41 percent) completed and returned an evaluation. All percentages are based on the number of people who completed an evaluation, not the number of people who attended or registered. The Muskie report data includes all attendees who registered and signed in at the event, not just those who returned an evaluation. This training had a high turnout of attendees and the small group discussions that ensued from the event were very productive. As a result of the day's training, 84 percent of attendees stated they had a better understanding of local best practices for addressing domestic violence. When asked whether attending the event was a valuable use of their time, 91 percent of attendees indicated that it was a valuable use of their time. When asked about their small group discussion topic, 87 percent of attendees found the discussion topic to be useful and relevant to their work. Also, 89 percent of attendees indicated the he information discussed in the small group discussions helped generate ideas they could share with their organization.

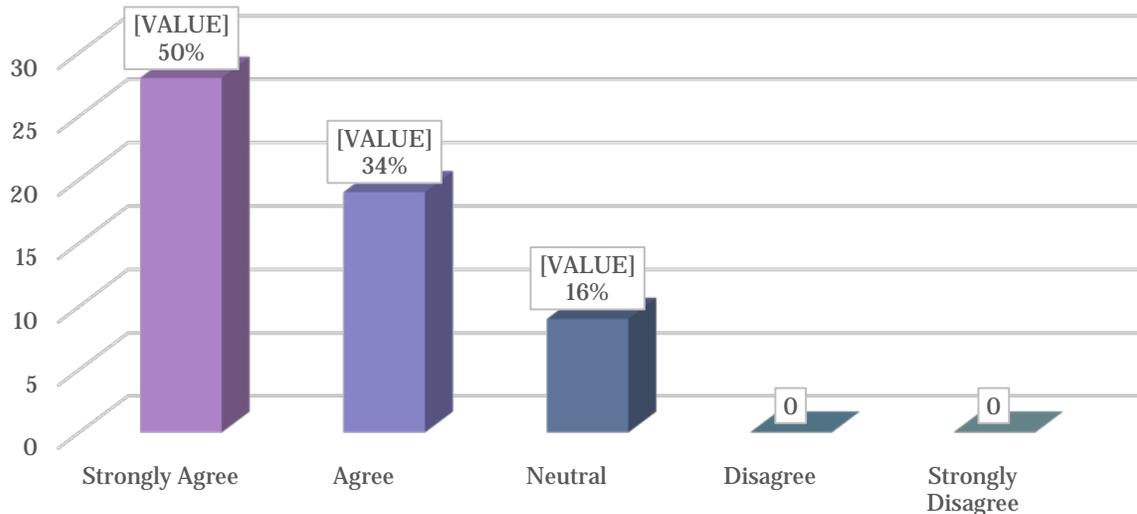
## Muskie Report: People Trained



People Trained	Number	Percent
Advocacy	3	2%
Attorney	2	1%
Corrections	1	1%
Court Personnel	7	5%
Educators	3	2%
Faith-Based	5	4%
Government	16	12%
Health Professional	1	1%
Law Enforcement	25	18%

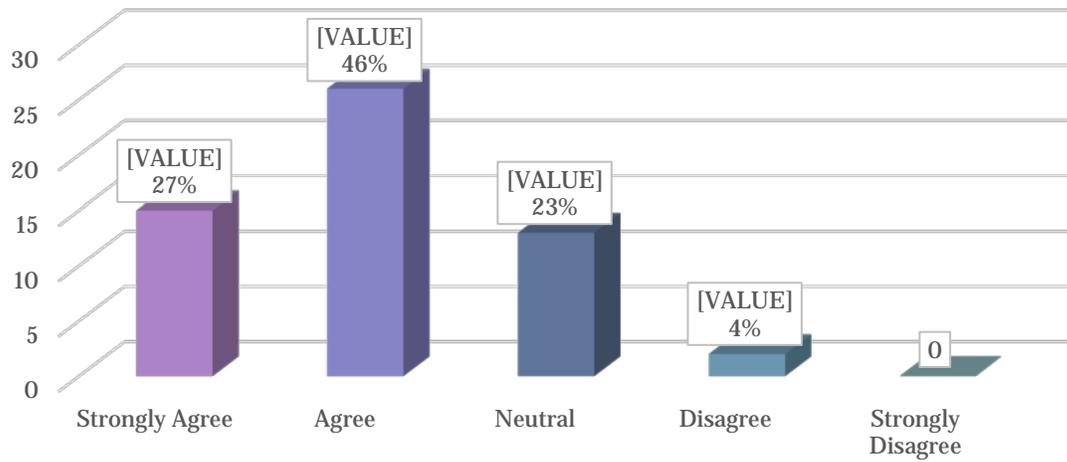
Legal Services	1	1%
Mental Health	1	1%
Prosecutors	6	4%
Social Service	25	18%
Tribal Government	1	1%
Victim Advocate	14	10%
Victim Assistant	22	16%
Volunteers	2	1%
Other	2	1%
<b>Total</b>	<b>137</b>	<b>100%</b>

As a result of attending today's training event, I have a better understanding of local best practices (lethality assessment programs and orders of protection) for addressing domestic violence.



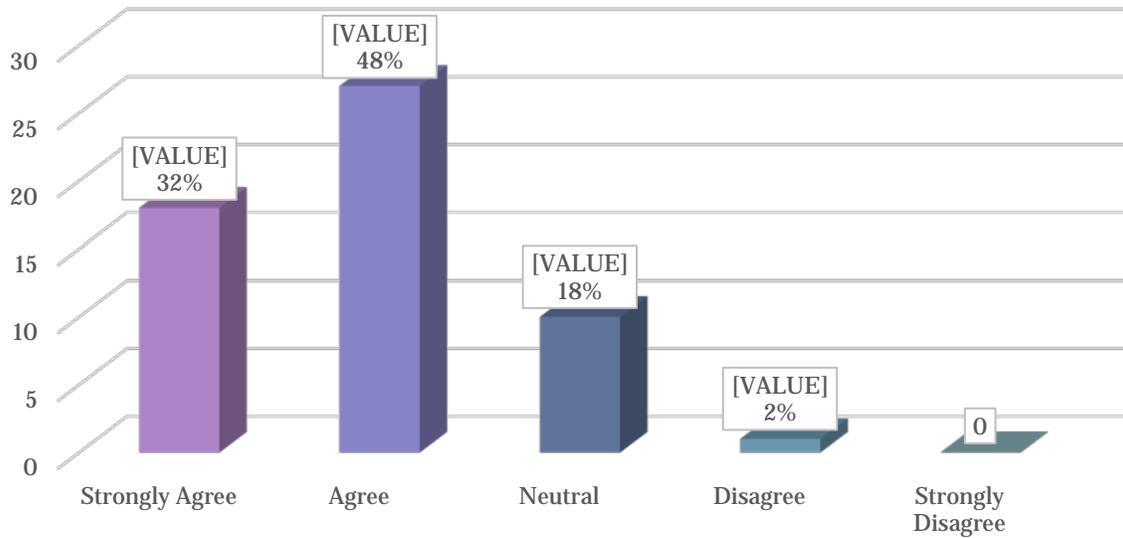
There were a total of 56 attendees who answered this evaluation question. When attendees were asked to rate how much they agree with the follow statement, “As a result of attending today’s training event, I have a better understanding of local best practices (lethality assessment programs and orders of protection) for addressing domestic violence” 84 percent either strongly agree or agreed, while 16 percent remained neutral and zero percent of attendees disagreed or strongly disagreed.

### After today's training event, I have a better understanding of the Misdemeanor and Felony Protocol Models.



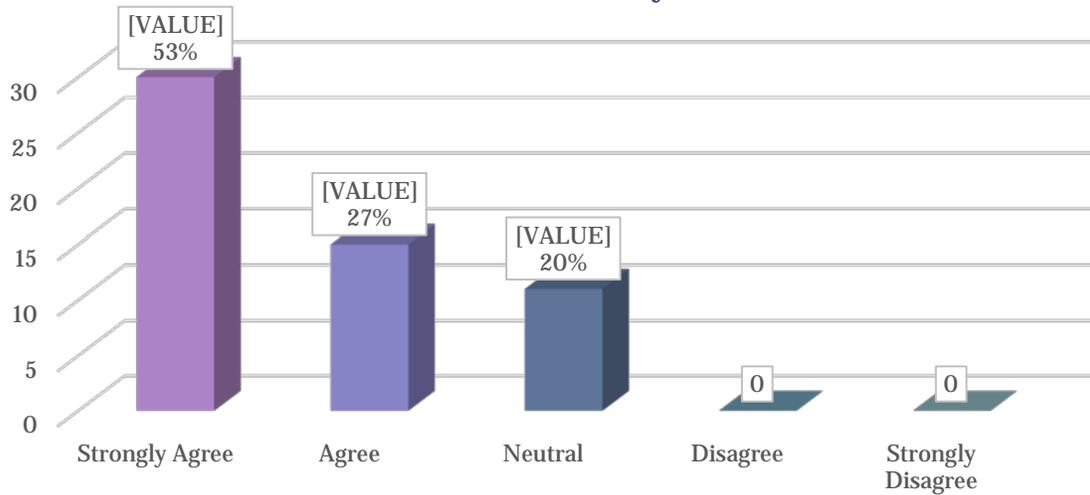
There were a total of 56 attendees who answered this evaluation question. When attendees were asked to rate how much they agree with the follow statement, “After today’s training event, I have a better understanding of the Misdemeanor and Felony Protocol Models” 73 percent either strongly agree or agreed, while 23 percent remained neutral and four percent of attendees disagreed. Zero attendees strongly disagreed with the statement.

**I have a clear understanding of the ways I can help improve the coordination, communication and/or implementation of domestic violence protocols.**



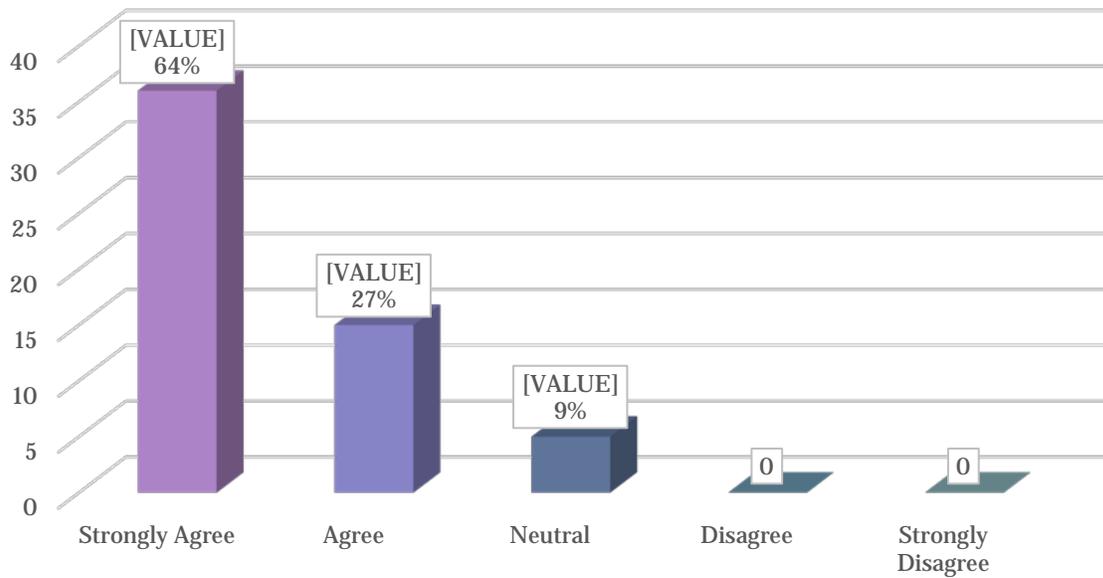
There were a total of 56 attendees who answered this evaluation question. When attendees were asked to rate how much they agree with the follow statement, “I have a clear understanding of the ways I can help improve the coordination, communication and/or implementation of domestic violence protocols” 80 percent either strongly agree or agreed, while 18 percent remained neutral and two percent of attendees disagreed. Zero attendees strongly disagreed with the statement.

**The best practices highlighted in today’s panel discussions will result in greater levels of victim safety and abuser accountability.**



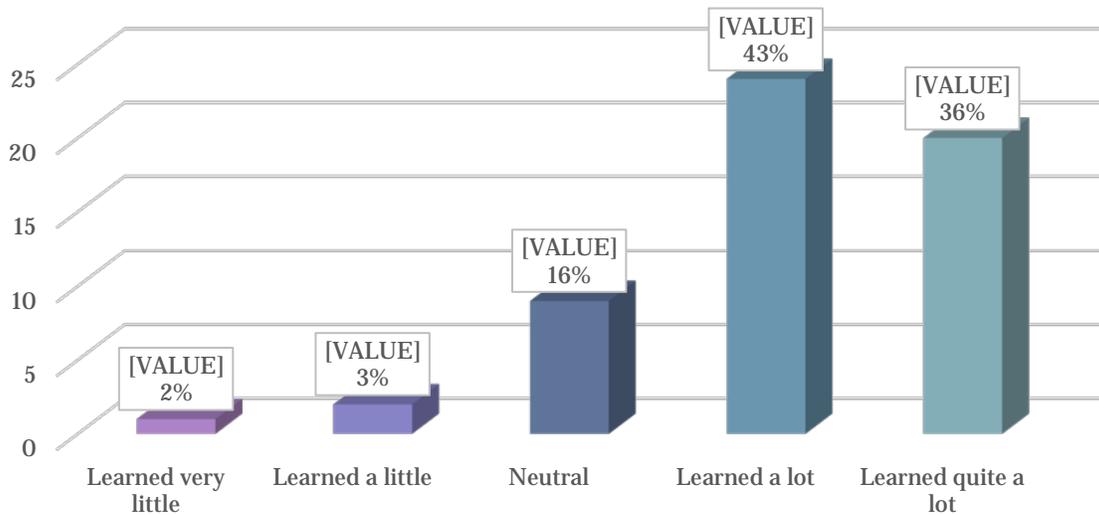
There were a total of 56 attendees who answered this evaluation question. When attendees were asked to rate how much they agree with the follow statement, “The best practices highlighted in today’s panel discussions will result in greater levels of victim safety and abuser accountability” 80 percent either strongly agree or agreed, while 20 percent remained neutral. Zero attendees disagreed or strongly disagreed with the statement.

### Attendance at the training event was a valuable use of my time.



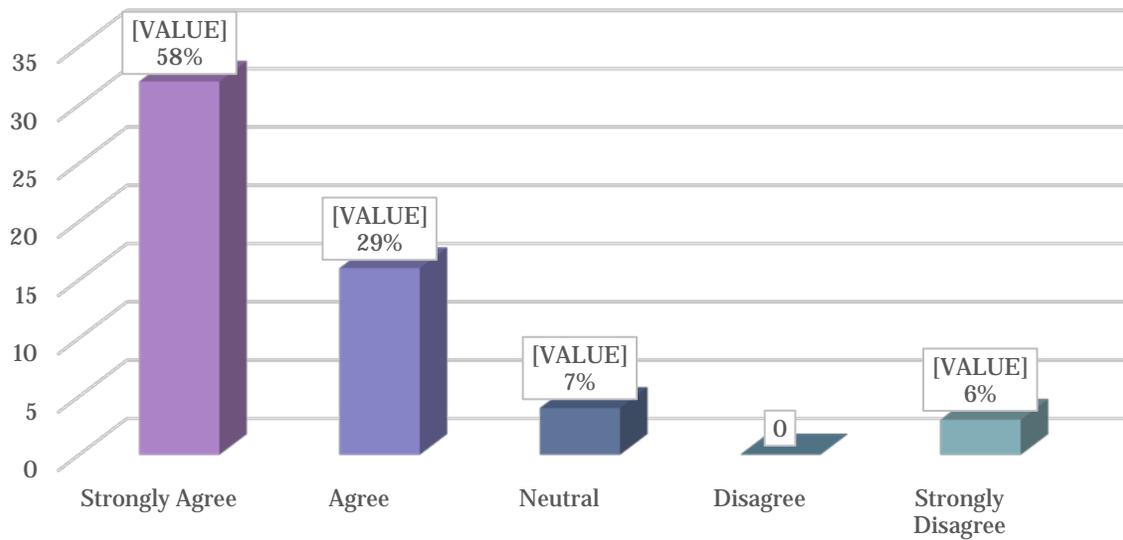
There were a total of 56 attendees who answered this evaluation question. When attendees were asked to rate how much they agree with the follow statement, “Attendance at the training event was a valuable use of my time” 91 percent either strongly agree or agreed, while nine percent remained neutral. Zero attendees disagreed or strongly disagreed with the statement.

Reflecting back on what you understood about domestic violence protocols before today's training event, and after today's training event, please rate how much you learned today:



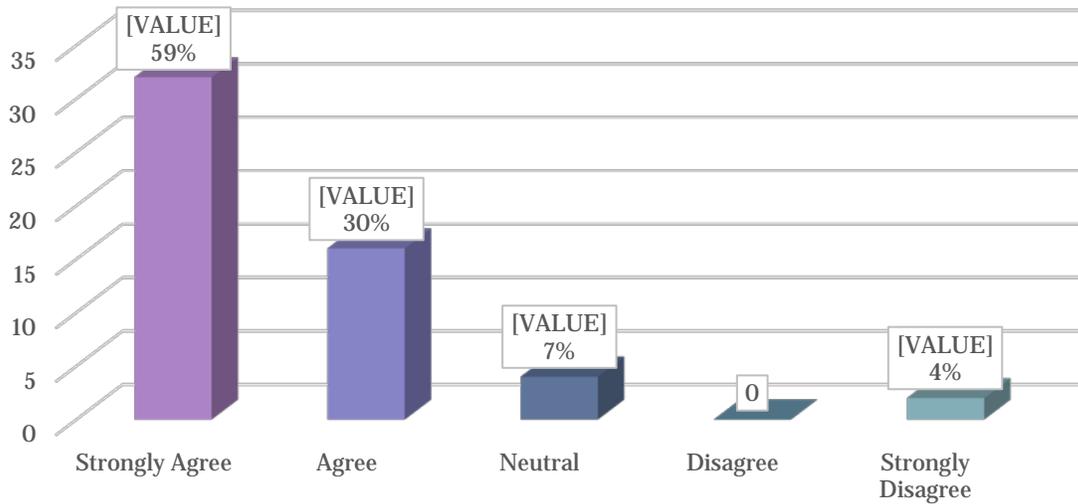
There were a total of 56 attendees who answered this evaluation question. When attendees were asked to rate how much they agree with the follow statement, “Reflecting back on what you understood about domestic violence protocols before today’s training event, and after today’s training event, please rate how much you learned today:” 79 percent stated they had either learned a lot or quite a lot as a result of the training, while 16 percent of respondents remained neutral and five percent said they learned either a little or very little as a result of the day’s training.

### I found the discussion topic to be useful and relevant to my work.



There were a total of 55 attendees who answered this evaluation question. This chart depicts all the topic responses combined as an overall figure. When attendees were asked to rate how much they agree with the follow statement, “I found the discussion topic to be useful and relevant to my work” 87 percent either strongly agree or agreed, while seven percent remained neutral. Six percent disagreed or strongly disagreed with the statement.

### The information I discussed helped generate ideas I can share with my organization.



There were a total of 54 attendees who answered this evaluation question. This chart depicts all the topic responses combined as an overall figure. When attendees were asked to rate how much they agree with the following statement, “The information I discussed helped generate ideas I can share with my organization” 89 percent either strongly agree or agreed, while seven percent remained neutral. Four percent disagreed or strongly disagreed with the statement.

When	Where	
<p><b>Thursday, August 21<sup>st</sup></b>  11:30am-1pm  Brown Bag Training  “P.O.W. Partners of Warriors”</p>	<p>Mesa Public Safety  Training Facility  3260 N 40th St  Mesa, AZ 85215</p>	 
<p><b>Thursday, September 4<sup>th</sup></b>  2pm-3:30pm  DV Council</p>	<p>Maricopa Association of  Governments  Saguaro Room  302. N. 1<sup>st</sup> Ave. Ste. 200,  Phoenix, AZ 85003</p>	
<p><b>Tuesday, September 9<sup>th</sup></b>  10am-12pm  Felony Protocol Community  Meeting</p>	<p>A New Leaf Training &amp;  Conference Center  3420 E University Drive  Mesa AZ, 85203</p>	
<p><b>Wednesday, September 10<sup>th</sup></b>  11:30am-1pm  Brown Bag Training  “Evidence-Based Prosecution”</p>	<p>Maricopa Association of  Governments  Ironwood Room  302. N. 1<sup>st</sup> Ave. Ste. 200,  Phoenix, AZ 85003</p>	 <p>Maricopa County  Attorney's Office</p> 
<p><b>Tuesday, September 23<sup>rd</sup></b>  10am-12pm  Felony Protocol Community  Meeting</p>	<p>Maricopa Association of  Governments  Saguaro Room  302. N. 1<sup>st</sup> Ave. Ste. 200,  Phoenix, AZ 85003</p>	
<p><b>Thursday, September 25<sup>th</sup></b>  9am-11am  Press Conference  Voices for Justice</p>	<p>Sandra Day O'Connor College of  Law,  Arizona State University  1100 S McAllister Ave,  Tempe, AZ 85281</p>	
<p><b>Tuesday, September 30<sup>th</sup></b>  10am-12pm  Felony Protocol Community  Meeting</p>	<p>Southwest Family Advocacy  Center  2333 N. Pebble Creek Pkwy,  Goodyear, AZ 85395</p>	
<p><b>Thursday, October 16<sup>th</sup></b>  11:30am-1pm  Brown Bag Training  “Housing for Pregnant &amp;  Parenting Victims of DV”</p>	<p>Phoenix Family Advocacy Center  2120 N Central Ave, Phoenix,  AZ 85004</p>	 