

4.1.10[a] Domestic Violence

I. POLICY

It is the policy of the Johnstown Police Department to recognize domestic violence and take proper action to prevent its recurrence. The department will thoroughly investigate any abuse complying with the Probable Cause Arrests in Domestic Violence cases [18 Pa. C.S. 2711, et seq.] pertaining to any household or family member.

II. PURPOSE

To reduce the incidents of domestic abuse by utilizing the resources of both the criminal justice system and the social agencies in an effort to identify, prosecute and rehabilitate abusers under the justice system.

III. DEFINITIONS

1. Family or Household Member: Spouses or persons, who have been spouses, persons living as spouses or who have lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.
2. Domestic Violence: Incidents of a family or household member with physical, emotional, psychological, sexual or financial abuse perpetrated by one of the family or household members.
3. Stalking: Following or observing a person persistently and surreptitiously, sometimes done out of obsession or derangement.
4. Communicates: To convey a message without intent of legitimate communication or address by oral, nonverbal, written or electronic means, including telephone, electronic mail, internet, facsimile, telex, wireless communication or similar transmission.
5. Course of Conduct: A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures or actions, either in person or anonymously. Acts indicating a course of conduct that occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or course of conduct.
6. Emotional Distress: A temporary or permanent state of mental anguish.

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IV. RESPONSIBILITIES OF LOCAL LAW ENFORCEMENT

A. General Rule

1. The Johnstown Police Department shall insure that all officers and personnel are familiar with the provisions of the Probable Cause Arrests in Domestic Violence Cases [18 Pa. C.S. 2711, et seq.] and the provisions of this general order.

B. Notice of Services and Rights

1. The Johnstown Police Department shall provide all abused persons with oral and written notice of availability of a safe shelter and of domestic violence services in the community, including the number for domestic violence services.
2. It shall include the following statement: If you are a victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the Protection from Abuse Act [23 Pa. C.S. Ch. 61], which could include the following:
 - a. An order restraining the abuser from further acts of abuse.
 - b. An order directing the abuser to leave the household.
 - c. An order preventing the abuser from entering your residence, school, business or place of employment.
 - d. An order awarding you or the other parent temporary custody of, or temporary visitation with, your child or children.
 - e. An order directing the abuser to pay support to you and the minor children, if the abuser has a legal obligation to do so.
 - f. Relinquishment of weapons.

C. Notice of Arrest

1. The Johnstown Police Department shall make reasonable efforts to notify any adult or emancipated minor protected by an order, or the arrest of a defendant for violation of that order, as soon as possible. Unless the person cannot be located, notice of the arrest shall be provided not more than 24 hours after the preliminary arraignment.

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V. PROCEDURES – DOMESTIC VIOLENCE

A. Standards

1. When an officer responds to a domestic abuse call, a report will be prepared regardless of whether a crime has occurred or not and regardless of any victim's intentions regarding prosecution.
2. An arrest shall be made when the officer witnesses an assault, or when the evidence indicates that a crime has occurred.
 - a. If the victim opposes the arrest it should be noted in the police report, however, the victim does not decide if an arrest will be made.
3. Document injuries and take photographs whenever possible.
4. Seize all weapons used by the abuser in the commission of the alleged offense. Also the officer should seize all weapons when threats have been made that physical violence will occur.
5. Officers will take whatever immediate action is necessary to relieve victims of immediate danger in all incidents. Females may be referred to the Women's Help Center. Officers shall provide transportation to the shelter or any other place the victim may seem fit, within reason. Males will not be admitted to the shelter, but the shelter will make the appropriate arrangements for them if needed.
6. When an offender of a domestic abuse call is a police officer, the Shift Supervisor will be called to the scene and he/she shall follow the procedures in this general order. The supervisor will also make contact with the Chief of Police or his/her designee.

B. Victims of Abuse

1. Officers investigating any form of abuse and/or domestic violence shall provide the victim with oral and written notice of services and rights available to the victim. This shall be accomplished by using the notification provided by the Pennsylvania Commission on Crime and Delinquency. This pamphlet will meet the criteria for both notifications. The form will direct victims to the centers, who in turn, will provide free assistance in filing victim compensation claim forms and provide information on available services.
2. Officers shall give the victim one copy of the pamphlet and return the back page, signed by the victim. If the victim wants the police department to make the notification to the Woman's Help Center, the representative

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from that center takes the signed forms along with the appropriate police reports in order to follow up on that incident.

3. Incident reports shall document the fact that the victim was provided with the proper notification paperwork, along with other pertinent information.

C. Arrest Decision

1. Responding officer shall arrest the abuser whenever an arrest is authorized whether or not the victim agrees.
2. Probable cause arrest charges will not be dropped due to the victim unwillingness to pursue charges. The District Judge at the preliminary hearing will determine dismissal.
3. If the officer determines that an arrest is not warranted, he/she shall include in the report an explanation of the reasons why an arrest was not effectuated.

VI. PROCEDURES – STALKING

A. Standards

1. Document the course of conduct to indicate the abusers intent i.e. telephone records, any sent objects, kept logs, etc.
2. Establish the existence of prior incidents of violence for purposes of proving that the stalking demonstrated the abusers intent to frighten or distress the victim.
3. Establish the existence of prior convictions for purposes of upgrading the “stalking” offense to a felony.
4. Interview witnesses to the impact of stalking on the victim and their family.
 - a. Interview the witnesses to the stalking itself.

B. Arrest Decision

1. Elements of the offense must constitute a course of conduct that shows a pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct met by:
 - a. The occurrence of at least two separate incident of intimidating behavior.

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- b. One intimidating activity that continued over a period of time, such as following someone for several hours.
- 2. Another element required is that the abuser intended to place the victim in a substantial emotional distress or in reasonable fear of serious bodily injury.
 - a. Prior bad acts create an inference that the abuser caused the victim to fear for their safety or to cause them substantial emotional distress.
 - b. Clear statements by the victim that no contact or communication with the actor is desired or invited.
 - c. Actors conduct was intended to cause substantial emotional distress, not that the victim did in fact suffer it.

Effective Date:

Date: October 1, 2010

By Order Of:

Craig Foust
Chief Of Police