



Issue: Pro-Arrest as a Response to Domestic Violence

Position Statement:

The Virginia Sexual and Domestic Violence Action Alliance affirms that pro-arrest policies and statutes are one component in carrying out a comprehensive response to domestic violence through which an abuser is arrested, charged, convicted, and sentenced and victims are provided access to safety and support services. In combination with a strong community coordinated response, pro-arrest can be an effective tool in holding offenders accountable and supporting access to safety and services for victims of domestic violence.

Effective policies that support pro-arrest should include:

- Mandatory education and training for all professionals involved in the criminal justice system; including magistrates;
- Laws which clearly classify, as domestic violence, the various crimes that constitute domestic or family violence, such as assault, strangulation, sexual assault, rape, stalking, maiming, coercion, trespass, theft, burglary, arson, property damage, reckless endangerment, or threats of any of these crimes;
- Laws which prohibit mutual protective orders except in cases where each party has filed for protection, proved that the other party has perpetrated domestic violence, the judge has made a finding to this effect, and the judge has fashioned the order so that each party and law enforcement officers know how it is to be carried out;
- Policies and procedures which strengthen the enforcement and prosecution of domestic or family violence. Such policies should include, but are not limited to, commitments from the courts and prosecutors to handle domestic violence quickly, requirements for Commonwealth Attorneys to be present in every case and pursue proactive prosecution policies; and authorizations for law enforcement officers to seize firearms or other weapons used in the commission of a crime.

- A commitment to provide sufficient resources so that any increased demand for services for victims of domestic violence and their children can be realistically met, and a commitment to provide victim advocates in all cases where an arrest is made;

Rationale:

In 1995, The Commission on Family Violence Prevention recommended Virginia implement mandatory arrest policies to improve the effectiveness of the law enforcement response to domestic violence, to increase safety for individual victims and to send a message to the public that domestic violence is a crime to be taken seriously. The proposal that Virginia consider mandatory arrest policies created the opportunity for a meaningful dialogue throughout the Commonwealth about mandatory arrest. After careful deliberation of the benefits and challenges of a mandatory arrest policy, a decision was made to move to a pro-arrest policy. A pro-arrest policy directs law enforcement to make an arrest, but allows space for discretion when special circumstances dictate that another course of action is appropriate.

In order to effectively implement arrest policies, such as a pro-arrest policy, communities must work together to ensure that the resources are available to adequately respond. With assurances that prosecution practice will be vigorous, law enforcement officers can make arrests with confidence. With the backup of effective crisis intervention services and shelters, law enforcement professionals can combine arrest practice with brief but effective safety intervention for victims of domestic violence. Creating a foundation of an effective community coordinate response to support arrest policies is the only effective method with which to implement such policies well.

The consequences of moving quickly to uniform arrest policies in all cases of domestic violence could be very costly to victims and the community. Careful and deliberate planning must accompany the implementation of any arrest policy in order to achieve desired results.

For these reasons, the Virginia Sexual and Domestic Violence Action Alliance affirms that pro-arrest can be an effective tool in holding offenders accountable and supporting access to safety and services for victims of domestic violence when combined with a strong community coordinated response.