

New York State Coalition Against Domestic Violence  
2004 Domestic Violence Handbook

What The Police Can Do For You

What the police can do for you depends in part on what you tell them or give them, and on what other people are willing or able to tell them. Officers investigating your case should talk to you **privately**, and they should also interview children, other family members, and neighbors who might have seen or heard what happened. Among other things, officers will be looking for:

- evidence of harm or injury to you or your children (for example, cuts, bruises, swelling or torn clothing);
- damage to furniture, walls, windows, your car or other personal property;
- signs of a break-in; and
- threatening messages on your answering machine, or letters or written messages containing threats.

If you call the police, they **must** come to investigate your complaint. The police should talk to you and the abuser separately and, if possible, should talk with you out of your abuser's sight and hearing. In order for the police to make a decision to arrest, they need to have what is called *probable cause* that a crime was committed. That means that they must have enough evidence to believe that the person committed a crime by harming or threatening you. This evidence can be a combination of things - any injuries you may have, your statement of what happened, taped 911 calls or emergency calls to police, damaged property, torn clothes or any statements of neighbors, children or other family members.

Police officers are required to complete a *Domestic Incident Report (DIR)* form whenever they respond to a domestic disturbance call. This form is to be completed regardless of whether or not the police make an arrest. The report will contain your statement about what happened before the police arrived. **What you say counts as evidence**, so the statement you give to the police is very important. Read your statement carefully and if there is anything in it that is incorrect, don't sign it. Ask the officers to change the written statement so that it matches what actually happened. Sign it only when it says what you want it to say.

The police are required to give you a copy of this report before leaving the scene, so be sure to get one. You can ask to add to it later if you remember something you forgot to tell them, and you can add photographs of bruises and copies of medical reports, if you get them. The police should also give you a *Victim Notification Form* that tells you what your legal rights are and includes information on domestic violence services in your community. They should have copies of the form in both English and Spanish.

If, for some reason, the police officer does not complete a Domestic Incident Report, politely ask the officer for his or her name and write it down. Tell them that you are asking so that you will be able to contact them again if you have questions. It is a good idea to contact a domestic violence advocate and tell them that you did not receive a Domestic Incident Report from the police, and identify the officer who did not complete the report.

If the police find that your abuser committed a *felony* against you, they **must** make an arrest. Felonies are the most serious crimes that can be charged. An example of a felony in a domestic violence case would be Assault in the Second Degree, a charge that could be made if the assault resulted in serious physical injury, like a broken bone or a wound from a weapon, and created substantial pain that lasted over a period of time. Usually, the injuries from a felony level assault require medical attention and/or hospital care.

If the police find that a *Family Offense misdemeanor* has been committed against you, they are required to make an arrest, **unless** you ask them not to arrest. State law prohibits the police from asking you whether you want them to make an arrest. Even if you ask that an arrest **not** be made, many police departments will still make an arrest if they have evidence of a crime. An example of a Family Offense misdemeanor is Assault in the Third Degree, a charge that could be made if the assault resulted in an injury (more than a bruise) that impairs your physical condition (this does not have to be a permanent impairment; for example, a cut by the eye that requires an eye patch or causes extreme swelling around the eye impairs your ability to see) **or** causes substantial pain. The law can be vague about many definitions; it is important to be very specific about the nature of your injuries and the pain you are experiencing. Another example of a Family Offense misdemeanor is Aggravated Harassment, which is when you are threatened or harassed over the telephone or by mail.

Many domestic violence cases involve *violations* (also called “petty offenses”), such as Harassment in the Second Degree. Harassment is when your abuser verbally threatens you with harm, slaps you or pushes you, but doesn't cause an injury. The police must see this happen in order to make an arrest unless you decide to make the complaint yourself, which is called making a *civilian arrest*. In many areas, the police will help you with this and will actually take your abuser to the police station. In some areas, in violation cases, the police will give you information on how to get the court to take some action against him, but will not take your abuser into custody.

The following is a complete list of Family Offense crimes:

- disorderly conduct
- harassment in the 2<sup>nd</sup> degree
- aggravated harassment in the 2<sup>nd</sup> degree
- harassment in the 1<sup>st</sup> degree
- menacing in the 2<sup>nd</sup> degree
- menacing in the 3<sup>rd</sup> degree
- reckless endangerment
- stalking in the 4<sup>th</sup> degree
- stalking in the 3<sup>rd</sup> degree
- stalking in the 2<sup>nd</sup> degree
- stalking in the 1<sup>st</sup> degree
- attempted assault
- assault in the 3<sup>rd</sup> degree
- assault in the 2<sup>nd</sup> degree

If this is not the first time your abuser has threatened you with harm or pushed or shoved you, or if you are afraid of future harm, **be sure to tell the police**. If your abuser has harassed or threatened you more than once, this may give the police the evidence they need to charge Harassment in the First Degree or Menacing, which are misdemeanors. This allows them to make the arrest and take your abuser into custody without you having to make a civilian arrest. If the police have reason to believe an abuser violated a “stay away” provision of an Order of Protection, they must arrest him.

If you are not satisfied with the way an officer is handling the situation or treating you, try to stay calm and ask to talk to a supervisor. If you've asked the police to make an arrest and they decide not to make one, make sure they've provided their reasons in the Domestic Incident Report. If you get stuck, call a domestic violence program and ask them for help in trying to get the police to respond differently. Even if the police say they can't help you, it may be possible to bring criminal charges by going directly to the District Attorney or to the judge. If you need to do this, it's a good idea to get a domestic violence program advocate or an attorney to help you. (See *Getting Help From An Advocate* and *How To Find An Attorney*.)

If the police do not make an immediate arrest **and** if you are afraid for your immediate safety and the safety of your children, tell the police that you need them to take you to a safe place. At a minimum, the police should transport you and your children to the police station where you can call a domestic violence program or a family member or friend to help you find a safe place to go.