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(as of September 2012)

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24/7

“PARA MAGAMPANAN NG TAMA ANG TUNGKULING PULIS, MAGTANONG!!”

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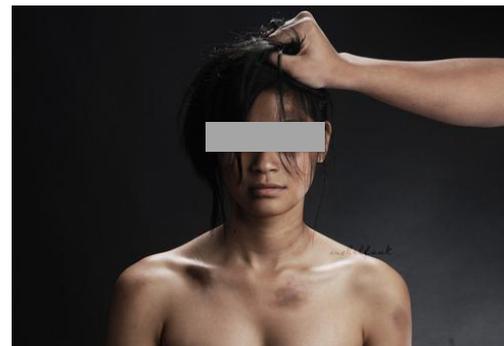
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VIOLENCE AGAINST WOMEN AND CHILDREN (RA 9262)

This Legal Advisory focuses on the salient features and provisions of Republic Act No. 9262, otherwise known as the Anti-Violence Against Women and their Children. Considering the high mortality rate of cases being filed in regular courts in violation of this Act, our law enforcers are once again reminded of a comprehensive and clearer understanding of such law, which is helpful in assisting the victims during investigation, filing of complaints and during prosecution as well.

R.A. No. 9262 addresses the violence committed against women and their children in keeping with the fundamental liberties guaranteed under the Constitution and the provisions of the Universal Declaration of Human Rights, the Convention on the Elimination of all Forms of Discrimination against Women, Convention on the Rights of the Child and other Human Rights instrument.



Q. What acts are punishable under this Law?

A. Physical violence, Sexual violence, Psychological violence and Economic abuse.

Q. What constitutes physical violence?

A. Any bodily or physical harm.

Q. Are homosexuals like lesbians liable under this Act? How about gays?

A. Lesbians are liable. The law says that the violence is committed by any person against a woman who is his wife, former wife, or has common child, or against her child whether legitimate or illegitimate, or who had sexual or dating relationship. It presupposes that the offender could either be a man or a woman. Gays are likewise liable under this Act if the violence is committed under any of the above circumstances.

Q. Wife A married to B, a gay. In the course of heated argument, B physically injured A. Is B liable under this Act?

A. Yes. B is liable for physical violence.

Q. In the above example, B abandoned A and failed to give support, is B liable under this Act?

A. Yes. B is liable for economic abuse specifically for withdrawal of financial support.

Q. What constitutes sexual violence?



A. Refers to any act which is sexual in nature committed against a woman or her child such as rape, sexual harassment, acts of lasciviousness, sex object, sexual suggestive remarks, physically attacking

the sexual parts, forcing to watch obscene publications or indecent shows or to do indecent acts, or forcing to engage in prostitution.

Q. What constitutes psychological violence?

A. Any act/omission causing mental or emotional suffering of the victim, such as: intimidation, harassment, stalking, damage to property, public humiliation, repeated verbal abuse. It includes allowing the victim to witness pornography, or to witness abusive injury to pets, or unlawful deprivation of custody or visitation of common children.



Q. What constitutes economic abuse?

A. Refers to acts that make or attempt to make a woman financially dependent, such as:

- Withdrawal of financial support.
- Prevent the victim from engaging in any legitimate profession, occupation, business or activity, except on valid grounds.
- Deprivation of financial resources.
- Deprivation of the right to use and enjoyment of the conjugal, community or property owned in common.
- Destroying household property.
- Controlling victims own money/properties
- Controlling conjugal money/properties.

Q. The title of this Act provides "Violence Against Women and their Children". Does this mean that the offense be committed against both the woman and her child?

A. No. As read in its definition, the offense can be committed against a woman or her child, provided the woman is the wife, former wife, or had sexual or dating relationship with the offender.

Q. If the victim is a child, who files the complaint?

A. It could be filed by the mother or by the child alone to be assisted by the police officer. The complaint should be accompanied by a proof that the woman is the mother of the child victim (ie. birth certificate); and affidavit of the mother stating the fact of relationship/status with the offender.

Q. Where should VAWC cases be filed?

A. In the Regional Trial Court (RTC) designated as Family Court. In the absence of family court, it shall be filed in the RTC where the crime or any of its elements was committed, at the option of the complainant.

Q. What is Protection Order under this Act?

A. It is an Order issued to prevent further acts of violence against a woman or her child and granting other reliefs.

Q. What are the Protection Orders referred to under this Act?

BPO – Barangay Protection Order –issued by the barangay.

TPO – Temporary Protection Order - Issued by the family court or RTC, MTC, MCTC which has territorial jurisdiction over the place of residence of the petitioner

PPO – Permanent Protection Order - Issued by the family court or RTC, MTC, MCTC which has territorial jurisdiction over the place of residence of the petitioner

Q. For what reliefs may Protection Orders be issued?

- A.**
- Prohibit respondent from employing any form of violence under this act;
 - Prohibit respondent from harassing, annoying, telephoning contacting or communicating with the petitioner;
 - Removal/exclusion of respondent from petitioner's residence;
 - Directing respondent to stay away from petitioner or household member;
 - Directing lawful possession and use by petitioner of automobile and other personal effects;
 - Granting custody of child/children to the petitioner;
 - Directing respondent to provide support to the woman and/or her child if entitled to legal support;
 - Prohibit respondent from any use or possession of any firearm or deadly weapon. If offender is a law enforcement agent, require him to surrender his firearm and direct the appropriate authority to investigate and take appropriate action on the matter; and
 - Recovery of actual damages caused by violence.

Q. What is the effectivity of Protection Orders?

A. BPO – Effective for Fifteen (15) days from issuance.

TPO – Effective for Thirty (30) days from issuance, unless the court continuously extend or renew for a period of Thirty (30) days at each particular time until final judgment is issued.

PPO – Shall be effective until revoked by the court upon application of the person in whose favor the order was issued.

Q. What may be done in case the Protection Order is violated?

A. A complaint for violation of BPO maybe filed with the MTC, or MCTC which has jurisdiction over the barangay that issued the order. Violator shall be punished with Thirty (30) days imprisonment without prejudice to the filing of criminal and/or civil case against him.

Violator of TPO/PPO shall be punished with contempt of court, without prejudice to the filing of criminal and/or civil case against the offender.

Q. What is the nature of VAWC?

A. It is a public crime.

Q. Could it be filed by anybody other than the victim woman or her child?

A. Yes. It can be prosecuted upon the filing of complaint by any citizen having personal knowledge of the circumstances involving the commission of the crime.

Q. What is the so-called "*Battered Woman Syndrome*" under this Act?

A. Refers to a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationship as a result of cumulative abuse.

Q. A wife X is repeatedly being maltreated by her husband Y. In one occasion, Y once again inflicted physical abuse to X, and in the course of such incident, X killed Y. Is X criminally and/or civilly liable?

A. No. apparently, X is suffering from battered woman syndrome. She does not incur any criminal and civil liability under this Act.

Q. What proof needed to show that the victim woman is suffering from "*Battered Woman Syndrome*"?

A. To determine the state of mind of the victim, the court shall be assisted by expert psychiatrist/psychologist.

Q. What are the duties of police officers and other law enforcers under this Act?

- Respond immediately to call for help or request for assistance or protection of the victim;
- Confiscate any deadly weapon in the possession of the perpetrator or within plain view;
- Transport or escort the victim/s to safe place of their choice, or to clinic or hospital;
- Assist the victim in removing personal belongings from the house;
- Assist the barangay officials and other government officers and employees who respond to a call for help;
- Ensure the enforcement of the Protection Orders issued by the Punong Barangay or the Courts;
- Arrest the suspected perpetrator without a warrant when any of the violence under this Act is occurring, or when she/he has personal knowledge that any act of abuse has just been committed, and there is imminent danger to the life or lives of the victim(s);
- Immediately report the call for assessment or assistance to the DSWD, SWD of LGUs or accredited NGOs.

Q. What is the liability of the police officer or law enforcer who fails to report the incident for assistance?

A. He shall be liable for a fine not exceeding P10,000.00, or whenever applicable criminal, civil, or administrative liability.

Q. Does the PNP have special unit to accommodate and assist VAWC victims?

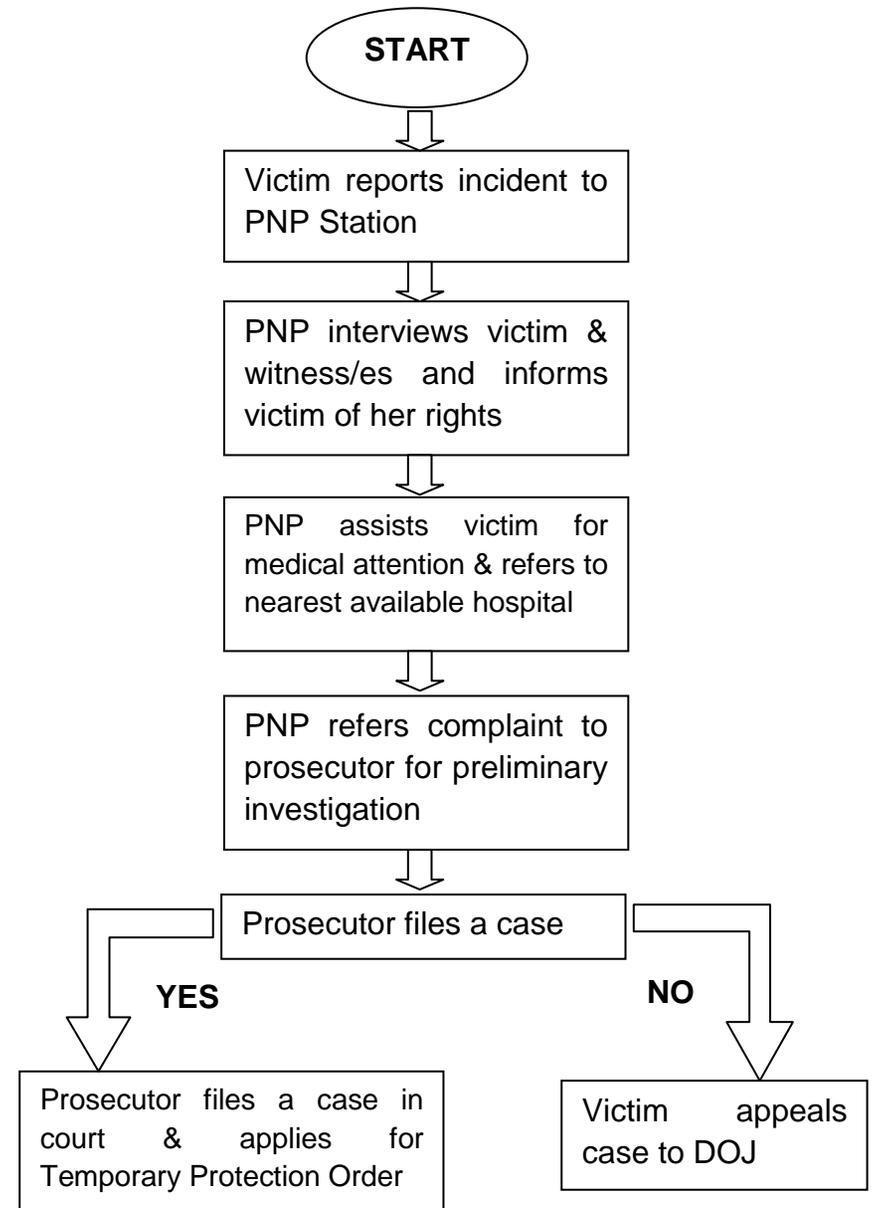
A. Yes. The PNP has the Women and Children Protection Desk (PNP-WCPD) which is existing in the different police stations nationwide.

Q. What should the police officer do when the victim seeks assistance for VAWC incident?

1. Interview the victim/complainant and her witness/es, if any. State this fact in the Police Blotter;
2. Assist the victim/complainant and her witness/es in the preparation of complaint affidavit/s;
3. Refer the complaint to the prosecutor for preliminary investigation;
4. Prosecutor files a case in court and applies for Temporary Protection Order; and
5. If the prosecutor dismisses the case, the police officer may assist the victim to appeal the case to the DOJ.

In handling VAWC cases, a flowchart is heretofore incorporated for your guidance and reference.

FLOWCHART IN HANDLING VAWC CASES



**Established Women and Children's Protection Desk
As of October, November and December 2011**

NOTE: Please visit our website: "www.legalservice.org.ph"
for more informative articles about police works.

REGION	TELEPHONE NO.
PRO1	242-7398
PRO 2	844-1830
PRO 3	860-02939
PRO 4A	(049) 834-3878
PRO 4B	(049) 834-6008
PRO 5	(052) 820-1146
PRO 6	336-0054/336-9896
PRO 7	(032)2557903/2539911
PRO 8	053-3239037
PRO 9	(062)992-4385
PRO 10	088-8565084
PRO 11	082-233-0185
PRO 12	(083) 304-0704
PRO 13	085-8156054
PRO COR	074-4221612
PRO ARMM	(064) 4250080
NCRPO	(02) 838-4032