

Police Responsibilities and Legal Challenges under Personal Safety Protection Orders

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Abstract: *With the implementation of the Anti-Domestic Violence Law, issues concerning the responsibilities and challenges faced by the police in the execution of personal safety protection orders have sparked a series of discussions in academia. This paper first combines the basic concepts of personal safety protection orders to further elaborate on the primary responsibilities of the police in the execution process. Based on the legal challenges present in the current execution of personal safety protection orders, corresponding solutions are proposed.*

Keywords: *Anti-Domestic Violence Law; Personal Safety Protection Orders; Execution System; Police Responsibilities; Legal Challenges*

1. Introduction

The formal implementation of *the Anti-Domestic Violence Law* (hereinafter referred to as the “Anti-Domestic Violence Law”) in 2016 marked a clear legal endorsement of the collective efforts by the state, society, and families to oppose domestic violence. This law comprehensively outlines the specific responsibilities and obligations of government agencies, relevant departments, and social service organizations in preventing and curbing domestic violence, with explicit provisions for the personal safety protection order system. Among many discussions, the role, scope of responsibility, and authority of the police in the execution of personal protection orders, as well as the principles they should follow during the execution, have inevitably become hot topics. Therefore, the following will provide a detailed discussion on these issues.

2. Overview of Personal Safety Protection Orders

The personal safety protection order, as a mandatory civil measure, aims to protect the personal safety of individuals suffering from domestic violence, their immediate family members, and specific relatives, while ensuring the smooth progression of marriage-related litigation processes ^[1]. This protection order is adjudicated by the People’s Court based on specific circumstances and is mainly divided into two types: one is the regular personal protection order, where the court must make a clear decision on whether to issue or reject the protection order within 72 hours of receiving the victim’s application; the other is an emergency protection order, where the court must issue the emergency protection order within 24 hours of receiving the application if the victim faces an imminent risk of further domestic violence, thereby ensuring the victim’s personal safety.

3. Main Responsibilities of Police in the Execution of Personal Safety Protection Orders

3.1 Notification Obligation

In the process of handling domestic violence, the police have the obligation to notify both the applicant and the respondent. They need to explain the details of the ruling documents and the legal responsibilities involved through one-on-one dialogue. For the applicant, the police need to clearly explain their rights, the assistance they can seek, and the support that law enforcement and other organizations can provide. Local law enforcement agencies emphasize the importance of fulfilling the notification obligation when delivering personal safety protection rulings in their domestic violence response protocols.

3.2 Obligation to Assist Victims in Applying for Protection Orders

The application process for protection orders is usually initiated by the victim personally to the court. However, in specific situations, public security agencies are also authorized to apply on behalf of the victim, as detailed in Article 23 of *the Anti-Domestic Violence Law*. In emergencies, if law enforcement officers request temporary protective measures, judicial authorities often issue protective measures orders within four hours based on the officers' reports (unless there are reasonable grounds for non-issuance). This emergency (temporary) protection order is based on a real-time assessment of the domestic violence risk, providing timely protection for the victim and imposing necessary restrictions on the perpetrator.

3.3 Obligation to Collect Information and Preserve Evidence for Victims

In handling domestic violence cases, the police immediately collect information and properly preserve relevant evidence, forming detailed written records. According to Article 20 of *the Anti-Domestic Violence Law*, the People's Court can use police on-site attendance records, admonition documents, and injury assessment reports as evidence to determine the actual occurrence of domestic violence when adjudicating related cases. These documents issued by law enforcement provide strong support for victims in their subsequent applications for personal protection orders and are the main basis for the court to confirm the facts of domestic violence.

3.4 Specific Obligation to Execute Protection Orders

Although *the Anti-Domestic Violence Law* clarifies the auxiliary role of public security agencies in the execution of protection orders, localities generally regard public security agencies as the primary execution body^[2]. The core responsibilities of the police in executing protection orders include informing the victims of their rights, taking practical measures to ensure the personal safety of the victims and their relatives, providing emergency medical assistance to the victims and their young children, assisting the victims in carrying necessary living materials, and helping the victims settle in temporary shelters or social aid organizations. The entire process needs to be executed rigorously and efficiently.

3.5 Obligation to Timely Warn, Educate, and Sanction the Perpetrator

As a temporary relief measure, the delivery, implementation, and supervision of personal safety protection orders aim not only to punish the perpetrator but more importantly to use educational and guiding methods to correct behavior and harmonize family relationships. The effectiveness of the entire process largely depends on the authority and enforcement power of the executor. In practice, it is generally required that the police uphold the principle of combining punishment and education when executing protection orders and handling domestic violence incidents, educating the perpetrator in a timely manner, clearly informing them of the prohibited actions and legal consequences, thereby strengthening the control over the perpetrator.

4. Legal Challenges in the Execution of Personal Safety Protection Orders

4.1 Weak Execution Authority

In the execution of personal safety protection orders, public security agencies, as auxiliary execution bodies, have not fully demonstrated their unique functional advantages. As government institutions responsible for social security, law enforcement departments have greater advantages and prerequisites in criminal investigation, crime prevention and control, community order stability, resident basic information management, and deterrence of illegal behavior compared to judicial authorities^[3]. However, the current *Anti-Domestic Violence Law* does not clearly specify the specific responsibilities and authorities of public security agencies in the execution of personal safety protection orders, nor does it clearly define the division of labor and cooperation between them and the courts. This ambiguity in responsibilities often puts public security agencies in a dilemma during actual execution: excessive intervention may lead to the overstepping or misplacement of public authority in civil disputes, while insufficient intervention may constitute a dereliction of duty. Must public security agencies wait until the court encounters difficulties in executing personal safety protection orders

before they can step in to assist? This clearly undermines the authority of judicial authorities. Therefore, how to effectively utilize the power of public security agencies focuses on accurately positioning their roles and clearly defining their responsibilities.

4.2 Ambiguity in Execution Methods

In China, personal safety protection orders are not categorized in detail but are rather generally prescribed. Essentially, such protection orders are civil rulings issued by the court to protect domestic violence victims. Compared to being termed as civil compulsory measures, they tend to be judicial relief measures. They are distinct from regular civil compulsory measures and are not equivalent to the civil responsibilities that the perpetrator should bear. In civil litigation, to ensure the smooth progression of the process, appropriate compulsory measures such as compulsory summoning, admonition, detention, or economic penalties are taken against those who hinder the normal proceedings. However, the personal protection directive, as a unique legal tool, particularly safeguards the victim's personal safety, effectively curbing or preventing the escalation of violent incidents. It operates independently of civil litigation procedures and does not require reliance on other legal procedures. Additionally, the personal safety protection order is issued by the court to the domestic violence perpetrator, requiring them to perform specific actions (such as moving out of residence) or prohibiting certain behaviors (such as harassment, stalking, or contact). It does not possess punitive nature and is purely to protect the domestic violence victim. If the perpetrator's behavior has caused serious harm to the victim or even violated the law, corresponding legal sanctions will be imposed according to relevant civil, criminal, and administrative laws in China, which the personal safety protection order clearly does not have the function of doing.

4.3 Lack of Supervisory Mechanism

“Law is not self-executing”, meaning that laws cannot be effective on their own and must be supplemented by a complete supervisory system. In the process of enforcing laws, the existence of a supervisory mechanism is mainly to monitor whether the relevant parties strictly comply with legal prohibitions such as personal safety protection orders. Such supervision not only effectively protects the rights of victims but also upholds the authority of legal orders and the solemnity of the judiciary. However, a practical problem arises: after the court issues and executes a personal safety protection order, can it achieve 24-hour uninterrupted supervision of the respondent's compliance? Perhaps, the relevant parties can strengthen supervision through external forces such as public security agencies, residents, and village committees. But when illegal acts occur, the victim still needs to seek help from public security agencies, which seems to return to the “post-event relief” mode, contrary to the legal goal of “pre-event prevention”^[4]. Although Chapter 5 “Legal Responsibility” of *the Anti-Domestic Violence Law* explicitly stipulates the punitive measures for violating protection orders, these provisions lean more towards punishment rather than supervision and are too principled and lack operability, making it difficult to be a strong tool to ensure the effective execution of protection orders. When the cost of violation is too low, its deterrent effect naturally diminishes.

5. Suggestions for Police Execution of Personal Safety Protection Orders

5.1 Prioritize the Safety of Victims, Children, and Law Enforcement Officers

When law enforcement agencies and police officers intervene and handle cases involving domestic violence, whether it is the initial report or subsequent cooperation requests from judicial departments for the implementation of protective directives, their primary duty is to ensure the personal safety of victims, children, and law enforcement officers. If the police lack necessary vigilance and fail to accurately assess potential dangers, the safety of victims might be threatened, and even the police officers themselves could be at risk. For the police, timely and accurate risk assessment is the primary step in preventing and stopping domestic violence.

In this regard, the advanced practice experience from West Yorkshire, UK, can be referred to. The city has implemented a progressively enhanced three-stage intervention strategy that effectively prevents victims from being harmed again, protecting them while weakening the perpetrator's ability to reoffend. They developed a three-stage risk assessment process that follows general law enforcement procedures and is conducted in three steps: The first step involves an initial risk assessment by on-site police officers. Upon receiving a report, the police quickly arrive at the scene, determining whether

there are illegal activities, observing the scene environment, and inquiring if the victim is at high risk. Based on this, the police collect relevant information on-site and analyze the degree of danger posed by the perpetrator to the victim, categorizing it as low, medium, or high risk, and making corresponding records. The second step involves further risk assessment by domestic violence specialists, who review the initial assessment by the police and arrange a more in-depth risk assessment for the victim as soon as possible. Different measures are taken according to the risk levels and relevant policies. The third step is a risk assessment conducted before prosecution or release, jointly completed by detention center assessors and domestic violence specialists. When the perpetrator is arrested for domestic violence crimes, the detention center assessors interview them and submit the assessment results to the domestic violence specialists for further judgment. Practical results have shown that this interconnected assessment approach can effectively reduce the likelihood of re-occurrence.

5.2 Accurate Legislative Authorization for Police Execution Powers

Articles 43 and 45 of the Marriage Law define the police's duty to prevent domestic violence and stipulate that public security agencies should promptly intervene in ongoing domestic violence, delineating the police's responsibilities in different illegal activities. However, the content prescribed by these articles is relatively broad. Although Chapter Three of the Anti-Domestic Violence Law further details the emergency response mechanism of public security agencies, particularly emphasizing the police's specific responsibilities in collecting evidence and stopping domestic violence incidents, including assistance obligations such as medical aid, injury assessment, and victim placement. Even though the law introduces a police admonition system for minor domestic violence cases that do not meet the threshold for public security management punishment, the provisions are still somewhat general. Without clear legislative authorization and detailed law enforcement guidelines, including specific measures, operational procedures, and enforcement responsibilities, the police might encounter negligence in handling domestic violence cases or delays in evidence collection and record-making, which can cause significant issues in the subsequent determination of behavior and evidence collection.

To optimize the current situation, we can appropriately refer to advanced international practices. For example, the Model Domestic Violence Prevention Act in the United States comprehensively outlines the specific responsibilities of law enforcement personnel in preventing and controlling domestic violence, including on-site arrests of suspects involved in domestic violence, individuals violating protection orders, the authority to confiscate dangerous weapons, and mandatory arrest of those violating release conditions^[5]. These clearly defined enforcement responsibilities ensure that US law enforcement personnel can rigorously enforce the law, collect and review evidence, handle suspects seriously, enforce protection orders, and provide support to victims. In view of this, China can also explore the formulation of corresponding policies and regulations to provide precise legislative authorization for law enforcement officers, clarifying their powers and procedural scope when executing protection orders. We can begin drafting detailed judicial interpretations, relevant regulations, and implementation rules for the Anti-Domestic Violence Law, particularly specifying the individual safety protection order system. This includes but is not limited to clarifying the format of protection order application documents, specific measures for executing protection orders, the burden of proof for protection orders, and their trial procedures. Comprehensive and detailed regulations on the specific execution process, especially how public security agencies and grassroots autonomous organizations cooperate in execution, are necessary to ensure that individual safety protection orders are effectively implemented.

5.3 Establish a Social Linkage Mechanism and Strengthen Multi-agency Cooperation

According to the interpretation of Article 32 of *the Anti-Domestic Violence Law*, once the People's Court issues a personal protection directive, it must formally communicate it to the relevant parties and organizations, such as the applicant, the respondent, law enforcement agencies, and community management agencies. The implementation of the directive is led by the People's Court, with law enforcement departments and community management agencies providing necessary support. This process ensures the effective execution of the protection directive, demonstrating the law's zero-tolerance attitude towards domestic violence. The main purpose of such cross-departmental collaboration is to effectively intervene and curb domestic violence incidents, further reducing the occurrence of domestic violence crimes and protecting the legitimate rights of victims. If government agencies and civil organizations can actively engage in the prevention and management of domestic

violence, the pressure on the police will be significantly alleviated, and domestic violence incidents will be effectively controlled, thereby improving the overall effectiveness of domestic violence intervention. As emphasized in Articles 8 and 11 of the 1999 EU meeting document, the police cannot fight against violence against women alone but need to strengthen cooperation with entities such as family crime courts, child and youth protection agencies, women's groups, and organizations for the prevention of violent crime. To significantly reduce violence against women, the police should collaborate efficiently with local, regional, and national government and non-governmental organizations to create a powerful network for combating family crimes. During this process, "all government departments must jointly bear the responsibility of addressing domestic violence and form close cooperative relationships."

In the implementation of personal protection measures against domestic violence, the exercise of police powers should be embedded within a framework of multi-agency collaboration. The prevention and control of domestic violence and assistance to victims is a comprehensive project that requires the linkage of various social forces. Through overall social mobilization, prevention and governance can be organically integrated. To this end, the first priority is to gradually build a social consensus against domestic violence through extensive publicity among the public; secondly, by effectively preventing and curbing domestic violence behavior, we can dissolve the social instability factors induced by family disputes. Given the complexity of domestic violence phenomena, the intervention entities and methods must exhibit diversified characteristics. The social linkage strategy of multi-agency collaboration not only demonstrates strategic thinking but also integrates concept innovation with practical operations. To maximize the potential of cross-departmental collaboration, a comprehensive cooperation framework needs to be established, ensuring that each department can clearly define and fulfill its respective responsibilities when preventing and responding to domestic violence incidents, thereby creating a working environment of mutual complementarity, shared responsibility, and no blame-shifting. Meanwhile, it is also necessary to emphasize a comprehensive shift from ideology to practical action, conducting systematic training and education for relevant institutions, establishing common values and working norms within each institution, specifically the zero-tolerance attitude towards domestic violence and its serious handling principles.

5.4 Conduct Timely Training and Implement Professional Interventions

Currently, many provinces and cities in China have actively introduced relevant policies to explore effective domestic violence prevention strategies. For example, the "Zero Domestic Violence Community" plan in Furong District, Changsha, Hunan Province, has established "domestic violence complaint reception points" to fully improve response speed and event handling efficiency. Liaoning Province has initiated gender equality awareness and domestic violence prevention training courses for police officers to enhance their alertness and coping ability with domestic violence issues. In Qianxi County, Hebei Province, the "White Ribbon Campaign" has brought together multiple forces including public security, judiciary, and women's federations to establish domestic violence complaint reception points and special working groups, achieving efficient cross-departmental collaboration. Internationally, Taiwan and the Hong Kong Special Administrative Region of China have also formulated specialized regulations on domestic violence issues, guiding police officers in related intervention measures and process formulation. Taiwan has meticulously constructed "operational procedures for executing protection directives and responding to domestic violence incidents" and created corresponding on-site report and survey record forms. The response process particularly highlights protective measures and placement strategies for victims, such as immediate ambulance calls, providing shelters or medical places, and emphasizes close cooperation with domestic violence prevention centers to provide psychological intervention and legal support.

The police in West Yorkshire, UK, have also adopted similar measures. They have assigned officers specifically trained to handle domestic violence cases to each police department. These specially trained officers conduct risk assessments, work with victims to develop safety plans, and educate perpetrators through "warning letters". Additionally, they provide rescue information and a list of agencies to assist victims and their families in seeking help. The West Yorkshire Police Department has set clear requirements for each officer, including recognizing the importance of addressing domestic violence, providing support to victims, educating and controlling perpetrators, conducting risk assessments, and emphasizing the importance of evidence collection. They stress that once evidence is conclusive, prosecution should be initiated.

6. Conclusion

Since the implementation of the personal safety protection order system, although it is based on the current legal framework, there are still many inadequacies in its practical application. The Anti-Domestic Violence Law has promoted the protection of the rights of domestic violence victims, but it still faces many challenges in actual execution. As a core manifestation of the Anti-Domestic Violence Law, personal safety protection orders bear the heavy responsibility of defending the rights of domestic violence victims. To fully realize its role, it is necessary to increase publicity efforts to raise public awareness and clearly define the protection targets. Additionally, legislative improvements are needed to establish specific implementation rules for police authority. Only in this way can personal safety protection orders be prevented from becoming empty promises.

References

- [1] Li Jiatang. *Discussion on the Deficiencies and Improvements of the Personal Safety Protection Order System in China* [D]. China University of Mining and Technology, 2022.
- [2] Zhang Jilun. *Analysis of the Application of the Personal Safety Protection Order System in Judicial Practice* [J]. *Police Line*, 2022(2): 16-18.
- [3] Chen Yike. *Discussion on the Realistic Dilemmas and Solutions of the Executing Subjects of Personal Safety Protection Orders* [J]. *Journal of Shenyang University: Social Science Edition*, 2022, 24(5): 455-461.
- [4] Wang Dan. *Analysis of Several Practical Issues of the Personal Safety Protection Order System* [J]. *Application of Law*, 2022(7): 11.
- [5] Si Rui. *Implementation Dilemmas and Optimization Methods of the Personal Safety Protection Order System* [J]. *Legal Expo*, 2022(6): 121-123.