



POLICE DEPARTMENT COUNTY OF SUFFOLK
 ACCREDITED LAW ENFORCEMENT AGENCY
DEPARTMENT DIRECTIVE
 PDCS-2008-1

ORDER NUMBER 20-23

TYPE DEPARTMENT GENERAL ORDER		AUTHORITY GERALDINE HART POLICE COMMISSIONER		SIGNATURE	
SUBJECT/TOPIC/TITLE FAMILY COMPLAINTS/DOMESTIC INCIDENTS OCCURRING WITHIN THE FAMILY UNIT					
DISTRIBUTION ALL MEMBERS OF THE DEPARTMENT		SECTION CREATED 06/01/92	DATE EFFECTIVE 05/20/20	DATE AMENDED 05/20/20	

RULES AND PROCEDURES

CHAPTER 16: TITLE: ARRESTS AND PRISONERS

**SECTION 6: TITLE: FAMILY COMPLAINTS/DOMESTIC INCIDENTS
 OCCURRING WITHIN THE FAMILY UNIT**

I. PURPOSE

To provide procedures for handling occurrences which fall within the categories of family complaints and domestic incidents.

II. POLICY

It is the policy of the Suffolk County Police Department to respond to every call involving a domestic dispute, and to consider domestic violence as criminal conduct which should be investigated as would any other crime. In cases of domestic violence, arrests shall be made in appropriate circumstances. Experience and research have demonstrated that in many cases, failure to make an arrest leaves one party in the altercation at the mercy of the other, and leaves the offender with the impression that he/she can continue to violate the law. Accordingly, it is the policy of this Department to prevent future abuse.

III. DEFINITIONS

A. Domestic Incident - Any offense, altercation, disturbance, conflict or disagreement between any persons who are from the same family or household, as defined by the New York State Division of Criminal Justice Services, that is brought to the attention of the Department.

1. Domestic Incident Involving Person(s) with Possible Mental / Emotional Issues - Any domestic incidents

involving person(s) with possible mental / emotional issues are to be resolved in accordance with procedures specified in Chapter 9, Section 6, Police Response to Incidents Involving Persons with Possible Mental / Emotional Issues_ (PMI) - and, if applicable, Chapter 16, Section 5, Transport and Special Processing Procedures for Arrestees Requiring a Mental Health Evaluation and/or Treatment.

NOTE: Although such incidents will be documented on a Mental Health Assistance Incident Report (PDCS-2090), the domestic incident must also be documented on the New York State Domestic Incident Report (DCJS-3221).

a. Arrest - Although mental illness does not preclude a lawful arrest, persons will generally not be arrested, absent extenuating circumstances, for unlawful behavioral manifestations of mental illness which are non-criminal in nature provided there is minimal or no victim impact, no physical violence, and no other person is endangered by the conduct. If a PMI is arrested, members of the Service shall be guided by Chapter 16 Section 5, of the Rules and Procedures.

B. Domestic Violence - Anytime an offense of a violent nature or a sex offense is attempted or committed against a family member (e.g., husband, wife, relative or common-law spouse) or persons who are not related by blood or marriage and who are or have been in an "intimate relationship" regardless of whether such persons have ever lived together at any time. Note: Though New York does not recognize common-law marriages arising from conduct within New York State, it does recognize as valid common-law marriages validly contracted in a sister state.

C. Family Offense - As defined in the Family Court Act and Criminal Procedure Law, is an act which would constitute criminal mischief, forcible touching, sexual misconduct, sexual abuse third degree, sexual abuse second degree subdivision (1), (where the victim is incapable of consent for some factor other than being less than seventeen years of age), disorderly conduct (including disorderly conduct not in a public place), harassment first degree and second degree, menacing second degree and third degree, reckless endangerment, assault in the second degree, assault in the third degree, aggravated harassment in the second degree, stalking in the first degree, stalking in the second degree,

stalking in the third degree, stalking in the fourth degree, criminal obstruction of breathing or blood circulation, strangulation first and second degree, identity theft first degree, identity theft second degree, identity theft third degree, grand larceny third degree, grand larceny fourth degree, coercion second degree (subdivisions 1. through 3. only - **compels or induces victim to engage in conduct which victim has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which victim has a legal right to engage, or compels or induces victim to join a group, organization or criminal enterprise which victim has a right to abstain from joining, by means of instilling in victim a fear that, if the demand is not complied with, the actor or another will:** 1. cause personal injury to a person; 2. cause damage to property; or, 3. engage in other conduct constituting a crime) or attempted assault between spouses or former spouses, or between parent and child or between members of the same family or household.

D. Members of the same family or household, as defined by the Family Court Act, are:

1. Persons related by blood relationship, or marital relationship.
2. Persons legally married to one another.
3. Persons formerly married to one another.
4. Persons having a child in common regardless of whether they have been married or lived together at any time.
5. Persons who are not related by blood or marriage and who are or have been in an "intimate relationship" regardless of whether such persons have lived together at any time.
 - a. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship."
 - b. Typical "intimate relationships" include dating relationships such as boyfriend/girlfriend, boyfriend/boyfriend or girlfriend/girlfriend.

c. The factors that may be considered in determining whether a relationship is an "intimate relationship" include but are not limited to the following:

(1) The nature or type of relationship, regardless of whether the relationship is sexual in nature.

(2) The frequency of interaction between the persons.

(3) The duration of the relationship.

NOTE: When the relationship is not clear, and probable cause exists that a crime involving violence or the threat of violence has occurred, a New York State Domestic Incident Report, (DCJS-3221), shall be completed and an arrest shall be made.

E. Other Law Enforcement Officers - sworn police officers or peace officers of any other local, state, or federal department or agency. These departments or agencies include, but are not limited to, the following: corrections, courts, parole, police, probation, and sheriffs.

F. Forensic Nurse Examiner (FNE) - An individual who has been trained as an examiner in strangulation by the International Association of Forensic Nurses or a similarly accredited program, successfully completed a Suffolk County Police Department background investigation, and maintains a personal malpractice insurance policy to cover his/her examinations.

G. Non-Fatal Strangulation Documentation Toolkit - An evidence toolkit provided by the International Association of Forensic Nurses which includes Non-Fatal Strangulation Clinical Evaluation, Documentation and Discharge forms.

IV. REFERENCES

- A. New York State Criminal Procedure Law
- B. New York State Family Court Act
- C. New York State Penal Law
- D. Rules and Procedures -

1. Chapter 2, Section 2, Rules of Conduct - Members of the Department
2. Chapter 2, Section 9, Firearms Transactions, Members of the Service
3. Chapter 4, Section 3, Department Property and Equipment
4. Chapter 9, Section 4, Field Appearance Ticket Procedures
5. Chapter 9, Section 6, Police Response to Incidents Involving Persons with Possible Mental / Emotional Issues
6. Chapter 11, Section 4, Federal Gun Control Act - Reporting Responsibilities for all Members
7. Chapter 16, Section 5, Transport and Special Processing Procedures for Arrestees Requiring a Mental Health Evaluation and/or Treatment
8. Chapter 16, Section 7, Orders of Protection
9. Chapter 23, Section 5, Administrative Notification Procedures
10. Chapter 24, Section 8, Weapons/Handgun Investigations

V. RULES AND REGULATIONS

A. New York State Executive Law § 646.3 permits a victim to report an incident of domestic violence occurring anywhere within New York State to any police jurisdiction within the State. The receiving agency is required to take the report, file a **NYS Domestic Incident Report (DIR), (DCJS-3221)**, provide the complainant with a copy, and forward, for further investigation, all police reports to the appropriate law enforcement agency with jurisdiction over the location where the incident is reported to have incurred.

B. Incoming Reports - The Receiving/Dispatching/Teletype Unit (Teletype) shall become the point of contact for DIR's to be forwarded to this Department for further investigation. Upon receipt of a DIR from an associated agency, Teletype will immediately forward the DIR to the appropriate Precinct OIC for investigation by Precinct Crime Section and to the Domestic Violence and Elder Abuse Bureau (DV/EA) for any follow-up or outreach deemed necessary. (DV/EA may also receive these reports via email at DVREPORTS@suffolkcountyny.gov.).

1. Precinct Crime Section officers shall promptly contact the victim and respond to the incident scene, investigating the complaint per current domestic

violence procedures utilizing a new Central Complaint number. All investigative measures set forth below shall be performed and a new DIR will be completed. A copy of the DIR shall be provided to the victim. A supervisor will be contacted to resolve issues of probable cause to arrest. Felony allegations will be referred to the appropriate Detective Squad.

a. Full contact information to include email address and alternative telephone numbers for the complainant shall be annotated in the bottom of the narrative portion of the DIR.

b. A copy of the DIR received from an associated agency shall be retained in all Department records pertaining to the incident. Precinct administrative personnel shall enter the new DIR data into IRS as appropriate.

c. The new supervisor-approved DIR shall be distributed in accordance with current practice. This includes mailing both pages (Pages A and B) to DCJS and facsimile/email to DV/EA before 1200 hours of the next business day

C. Outgoing Reports - Members of the Service responding to a victim seeking to report family offenses occurring outside of the Police District, yet still within New York State, shall investigate the incident per current domestic violence procedures. Members shall not take reports for incidents occurring outside of New York State.

1. All investigative measures set forth below shall be performed. If the offender is present, a supervisor will be contacted to resolve issues of probable cause to arrest.

2. Responding members will advise the complainant that the Department cannot investigate offenses that occurred outside of the Police District, but we will forward the report to the appropriate jurisdiction. The complainant should be informed to contact that jurisdiction for necessary follow-up.

a. Full contact information to include email address and alternative telephone numbers for the complainant shall be annotated in the bottom of the narrative portion of the DIR.

3. Members shall ensure that photographs are taken of visible injuries, damaged property or other evidence of domestic violence. Photographs will be forwarded via Department report to the appropriate jurisdiction.

4. The incident shall be fully documented on a **Field Report** entitled "Police Information" and the same Central Complaint number shall be utilized on the completed DIR and any other police reports or documentation.

a. A copy of the DIR is provided to the complainant.

b. The reporting officer may utilize the Communications Section supervisor to obtain the contact information for the law enforcement agency having jurisdiction over the incident.

c. The reporting officer shall contact the appropriate agency for forwarding instructions and note the contact information on the Field Report and DIR to include: agency name and contact, date, time and method of transmission, e.g., facsimile, email, etc. Teletype may be utilized to assist in ensuring the notification is promptly made.

5. After approving all submitted reports, Supervisors shall ensure that the appropriate agency has been notified and the DIR with any other police reports or photographs has been forwarded to that agency.

a. As the incident did not occur within the Police District, Precinct administrative personnel **shall not** enter this DIR data into IRS. Administrative personnel shall affix a photocopy of the "Police Information" Field Report to each remaining copy of the DIR and then distribute in accordance with current practice.

This includes mailing both pages (Pages A and B) to DCJS and facsimile/email to DV/EA before 1200 hours of the next business day.

6. As required, DV/EA shall provide liaison and follow-up with the associated agency.

D. New York State Law requires that a member of the Service provide to the victim or complainant of a family offense, a written notice that offenses may be pursued in Family and/or Criminal Court (except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the Penal Law, then the Family Court shall have exclusive jurisdiction over such proceeding); an explanation of these court procedures; legal rights and remedies available; and a list of agencies, shelters and services where the victim may secure help. **The "Family Offense Assistance and Court Procedures" (PDCS-7109)** notice complies with this mandate and is written in English and Spanish. This notice will be given to all victims of domestic incidents and documented by the reporting officer on the New York State Domestic Incident Report (DCJS-3221). Issuance of this notice does not relieve a member of the Service from the responsibility of verbally informing the victim or complainant of the court options and the purpose of each court. A proceeding brought in Family Court will be for the purpose of attempting to stop the violence, end family disruption and obtain protection, while an action commenced in Criminal Court will be for the purpose of prosecution of the offender. The choices, if any, are made by the victim, not the member of the Service. The choices made will not bar simultaneous or subsequent proceeding in the alternate forum.

E. **The Mental Health Assistance Notification, PDCS-7146,** form shall be distributed at all Domestic Incidents.

F. It is mandatory in all domestic incidents that the responding member(s) of the Service perform an Order of Protection registry check on both parties involved in the domestic incident.

NOTE: Any time an objection is raised to the validity of an Order of Protection, verification shall be made through the Suffolk County Sheriff's Domestic Violence Unit (631-853-7590, during regular court hours) or the Suffolk County Sheriff's Radio Room (after regular court hours).

G. It is mandatory in all domestic incidents that the responding member(s) of the Service perform a pistol license name search on both parties involved in the domestic incident as well as perform a residential incident location pistol license search.

1. Reporting officers shall annotate the results of said license checks, both name and incident location, in the narrative "Details" portion of the Domestic Incident Report.

2. If the searches reveal that the subject or a household member possesses a valid Suffolk County Pistol License, a supervisor shall be notified if, due to the nature of the call, one is not already on scene.

3. The responding supervisor shall then evaluate the totality of the circumstances, e.g., the use of violence and/or threat of violence by the subject(s) or licensee, access to the handgun(s) by a household member and any relevant prior call history. Weekdays, during the hours of 0900-1700, Pistol Licensing Bureau shall be contacted at 631-852-6311 for consultation.

4. As follow-up, the Pistol Licensing Bureau shall be notified via facsimile at 631-852-6670. Copies of all appropriate paperwork shall then be forwarded to Pistol Licensing Bureau within three days.

NOTE: Responding supervisors should consult additional procedures regarding the voluntary surrender of handguns, pistol licenses and/or other firearms contained below in Subdivisions **VI. A. 5.** and **A. 6.** Similar procedures regarding a member of the Department or other law enforcement officer involved in a domestic incident are contained below in Subdivision **VI. N.**

H. Members of the Service responding to a domestic incident call shall provide language assistance services to involved individuals with Limited English Proficiency (LEP). Whenever a member of the Service provides any type of language assistance during a domestic incident call, a patrol supervisor shall be notified and an entry shall be made by the reporting officer within the details section of the Domestic Incident Report, DCJS-3221, indicating the type of language assistance provided and the method of assistance utilized. Whenever a member

of the Service provides any type of language assistance, the reporting (requesting) officer shall also complete all pertinent Language Assistance fields within the Online Reporting System (ORS). When ORS is not required, a paper version of **the Language Assistance Tracking Form (PDCS-7042)** shall be completed by the reporting (requesting) officer. The Language Assistance Tracking Form is available via the Department Intranet under the Online Forms category.

I. The reviewing supervisor shall ensure that, when appropriate, language assistance details are included by the reporting officer within the Domestic Incident Report and that a Language Assistance Tracking form is also completed within ORS or via the paper version.

J. Whenever a person, (victim or suspect), involved in a domestic incident that is categorized as an offense obtains medical treatment - (to include circumstances involving voluntary or involuntary committals) - or, indicates an intention to seek medical attention in the near future, (i.e., on the date of incident or on the following date) - the officer documenting the domestic incident shall request that such person(s) obtaining or intending to seek medical treatment complete and sign **an Authorization to Release Medical Records form, (PDCS-2013)**.

1. EXCEPTION: If the domestic incident requires an investigation by a Precinct Detective Squad or other command within the Detective Division, only a member of the assigned investigative command shall request such release from a SUSPECT.

2. The Authorization to Release Medical Records form must be properly completed to depict the name and pedigree of the involved person, the medical provider, (i.e., hospital that provided treatment or name of treating physician), and the date of the treatment.

3. If the form is prepared pursuant to an expressed intention by an involved person to seek medical attention in the near future, the medical provider and the estimated date(s) of treatment will be indicated on the release as per the expressed intention.

4. If a person involved in a domestic incident that obtains or intends to seek medical treatment refuses to sign the form or is unable to do so, the officer will note such refusal or inability to sign in the

"signature of patient" portion on the Authorization to Release Medical Records form.

5. After review by the appropriate supervisor, copies of the Authorization to Release Medical Records form(s), along with all other documentation, shall be promptly forwarded to the appropriate follow-up investigative command, (i.e., Precinct Crime Section, Detective Squad, Special Victims Section, etc.), as required.

K. Members of the Service investigating a domestic incident where any offense is alleged or committed shall distribute the following three (3) forms to the victim - (This is in addition to the forms and rules referenced above.):

- ***Danger Assessment Cover Page***
- ***Danger Assessment Questionnaire***
- ***Danger Assessment Calendar Page***

1. These forms are available in both English and Spanish on the Department Intranet, under the Online Forms category.

2. Members distributing these forms should briefly explain to the victim that these tools will help them evaluate the risk of being subjected to future domestic violence in their relationship.

3. For further information or assistance with the form, victims should be directed to contact one of the agencies listed on the *Danger Assessment Cover Page*.

VI. PROCEDURES

A. All members of the Service handling domestic incidents shall be guided by the following mandates: (See Chapter 16, Section 7, for "Orders of Protection")

1. Whenever facts which may constitute a domestic incident are brought to the attention of a member of the Service, the member, in all instances, shall perform an Order of Protection registry check on both parties involved in the domestic incident. The member shall promptly complete and file a Domestic Incident Report and provide the complainant with a copy of this form and the Family Offense Assistance and Court Procedures form.

The Domestic Incident Report must be faxed or forwarded to the Domestic Violence and Elder Abuse Bureau as soon as possible by the supervisor who reviews the report. This will be done before 1200 hours of the next business day at the latest.

a. Whenever a member of the Service is handling a domestic incident which is a non-confrontational, civil matter (i.e., child custody/visitation complaint), a Domestic Incident Report shall also be promptly completed by the responding officer assigned to that incident.

b. A copy of the Domestic Incident Report must also be faxed to the Internal Affairs Bureau any time a member of the Department (sworn or civilian) is involved, and any time a sworn member of another law enforcement agency is involved, (additional reporting requirements for law enforcement-related domestic incidents are specified in subdivision N. below).

c. All Domestic Incident Reports are to be reviewed by Precinct Crime Section (PCS) for completeness. Any report found to have missing information shall be returned to the reporting officer for correction. PCS will maintain a log of any returned report to ensure that the required corrections are made and reports are promptly returned for review.

d. Precinct commanding officers will be held accountable to ensure compliance with the complete and accurate preparation of these reports by their subordinates. Members of the Service who frequently fail to properly complete Domestic Incident Reports, as well as supervisors who sign off on such reports will be monitored and necessary corrective action, including discipline, initiated.

2. Complainant/Victim Interview - At the scene of a domestic incident, the complainant shall be interviewed privately, out of the presence of the suspect, when possible, to determine if there exists probable cause to believe that an offense or a Violation of an Order of Protection issued by any court has been committed.

a. The member of the Service responsible for completion of the Domestic Incident Report shall capture the following information, if applicable, in the narrative section of the Domestic Incident Report:

(1) List the name(s) of the member(s) who witnessed and/or heard initial remarks made by the complainant and/or suspect.

(2) If medical treatment was given to the victim and/or defendant, indicate the ambulance company and names of the Emergency Medical Services personnel.

(3) If the complainant called anyone, other than the police, within thirty (30) minutes of the incident, indicate the name, relationship and phone number of said person.

(4) If there was audio, video or electronic evidence of the incident, indicate the name of the member(s) who secured/preserved such evidence.

b. If supporting/un-supporting evidence exists of prior unreported incidents members shall:

(1) Notify their supervisor

(2) Take immediate appropriate action, including arrest, for any current or prior domestic offenses if probable cause exists. These incidents shall be investigated in accordance with the guidelines set forth in this chapter.

(3) If there are prior non-criminal unreported incidents where no supporting evidence exists, members shall:

(a) Notify their supervisor

(b) Follow-up referrals to the Precinct Crime Section shall be made in the narrative portion of the DIR, with the

date, time location and explanation of the prior incident.

(c) The Precinct Crime Section shall evaluate the reports current and prior allegations and conduct the appropriate secondary investigation according to current Domestic Incident policies.

c. If there is probable cause to believe that an Order of Protection has been violated, the suspect must be arrested even if the complainant requests otherwise.

d. If there is probable cause to believe that a felony has been committed, the suspect must be arrested even if the complainant requests otherwise. The investigating officer shall notify his/her supervisor of the circumstances surrounding the felony incident. The investigating officer, unless otherwise directed by his/her supervisor, then notifies the appropriate Precinct Squad Section within the Precinct Detective Bureau of the felony domestic incident. (Note: During the hours when the Precinct Squad Section is not staffed, the investigating officer's supervisor, when appropriate, will initiate the detective notification process explained under subdivision VI. D. 2. below. If the detective receiving the call from the investigating officer determines that the incident does not constitute a felony, the investigating officer shall notify his/her supervisor of the detective's determination. The investigating officer's supervisor shall then contact the appropriate Precinct Squad Section supervisor to discuss the issue. If the Precinct Squad Section supervisor determines the incident constitutes a felony, the Precinct Squad Section will handle the case accordingly. If the Precinct Squad Section supervisor determines that the incident does not constitute a felony, he/she shall inform the investigating officer's supervisor that detective involvement is inappropriate and the detective supervisor shall document his/her determination and the reasons thereof on a Supplementary Report. The Domestic Incident Report

narrative shall also contain documentation of the above notifications.

NOTE: Strangulation second and first degrees are each felonies.

(1) Forensic Nurse Examiner (FNE) Procedure

- A member of the Service who is investigating a domestic incident in which a strangulation felony and/or any other felony coupled with a Criminal Obstruction of Breathing incident is alleged, shall promptly notify his/her supervisor. The supervisor shall in turn, notify the appropriate Detective Squad. The investigating detective shall determine if a Forensic Nurse Examiner (FNE) is necessary or required. If the FNE examination is to take place, the following procedures shall be followed:

(a) The investigating detective shall request that the Communications Section supervisor notify a Forensic Nurse Examiner (FNE) to respond to the appropriate hospital, precinct/command, or LI Against Domestic Violence (LIADV) administrative office. The location of the exam will be dependent on where the examination can be properly facilitated for the victim.

(b) Forensic Nurse Examiners (FNE's) are only authorized to respond to a hospital, precinct/appropriate police command and/or LIADV administrative office to conduct a FNE examination.

(c) The investigating detective will arrange for the victim's transportation to a hospital, precinct/command or LIADV administrative office for the FNE examination, and shall remain at said appropriate location until the examination is completed. The investigating detective shall ensure the chain of custody is not broken for any evidence collected.

(d) LI Against Domestic Violence (LIADV) advocates are assigned to the precincts to assist and offer outreach services to victims of domestic violence. The advocates may be utilized to help the reluctant/uncooperative victim in these cases. They can also be reached through the 24 hour hotline (631-666-8833).

(e) The investigating detective shall meet with the Forensic Nurse Examiner (FNE) and provide him/her with adequate information to properly conduct an examination of the victim.

(f) Once the Forensic Nurse Examiner (FNE) has begun the examination, the investigating detective is not to interrupt the examination, except for serious emergencies.

(g) Upon completion of the examination, the Forensic Nurse Examiner (FNE) and the investigating detective shall confer as to the forensic value of the FNE examination results. The FNE will provide the detective with the following:

(1.) Non-Fatal Strangulation Documentation Form

(2.) Photographic memory card, if photographs were taken by the FNE

(3.) Victim's clothing (if applicable)

(4.) An itemized receipt shall be completed by the FNE upon receipt of the aforesaid evidence

(5.) Completed Suffolk County Finance Voucher for services rendered, to be forwarded to the Domestic Violence and Elder Abuse Bureau

(6.) If applicable, the Forensic Evidence Kit

(h) The investigating detective shall prepare the necessary reports for invoicing any evidence received from the Forensic Nurse Examiner (FNE) as a result of the examination. The investigating detective shall ensure that the Evidence Analysis Request (PDCS-3220-9) and the Property Section Invoice-Receipt (PDCS-4201), if applicable, are properly completed.

(i) The investigating detective shall consider that it is preferable for the examination to be conducted within 24 hours of the incident and subsequent report to the police. The examination can, however, be conducted no more than 7 days after the strangulation felony or Criminal Obstruction of Breathing incident occurred. Every effort shall be made to have the victim examined as quickly as circumstances allow, to prevent the loss of evidence.

(j) Upon completion of the examination, the investigating detective shall ensure the victim's safe transportation back to the squad and/or residence.

e. Arrests for family offenses which are misdemeanor offenses involving physical violence or the threat of physical violence will be made regardless of whether or not the complainant seeks an arrest when probable cause exists that a misdemeanor involving physical violence or the threat of physical violence has occurred. Members of the Service are further advised that any choking/strangling incident shall be classified as, at minimum, Criminal Obstruction of Breathing or Blood Circulation, New York State Penal Law (NYSPL) Section 121.11, a Class A Misdemeanor. As such, this would be a mandatory arrest situation based upon the information contained within this

subdivision. However, this does not preclude the member of the Service from charging additional or more serious crimes when appropriate. (See Strangulation 1st or Strangulation 2nd degree NOTE above.)

(1) Conditions resulting from choking/strangling incidents may include voice change/loss; difficult or painful swallowing; difficulty breathing; bruising in the area of contact; mental status changes; involuntary defecation/urination; and capillary rupture in the eye area. These conditions are not a necessity in determining probable cause, but extra care should be taken to document them when present.

(2) It should also be noted that some injuries consistent with choking/strangling incidents might not be evident until 24-48 hours after the incident. For this reason, Precinct Crime Section Officers shall devote special attention to those domestic incident follow-ups where a choking/strangling act was indicated on the Domestic Incident Report.

(3) Supervisors reviewing the Domestic Incident Reports shall ensure that choking/strangling incidents have been addressed appropriately.

f. Arrests for family offenses which are misdemeanor offenses not involving physical violence or the threat of physical violence shall be made unless the complainant/victim requests otherwise. The arresting officer shall not inquire as to whether the victim seeks an arrest.

NOTE: Criminal Mischief in the Fourth Degree, NYSPL 145.00 (4) is a Family Offense, Class A Misdemeanor. If the offense involves physical violence or the threat of physical violence, then the mandatory misdemeanor arrest procedures contained above, (subdivision A. 2. c.), shall

apply. If not, then the misdemeanor arrest procedures in subdivision A. 2. d. shall apply.

g. Arrests for family offenses which are violations shall be made if the complainant wishes to pursue charges and signs a civilian arrest form, or the offense is committed in the officer's presence and the complainant does not request otherwise.

h. Nothing contained in this procedure shall be deemed to require the arrest of any person when the officer reasonably believes the person's conduct is justifiable under article thirty-five of title C of the penal law.

NOTE: The decision for non-arrest based on article thirty-five of title C of the penal law must be based on demonstrable supporting evidence of such article 35 justification.

3. If an arrest is made or if a Court Information has been filed, the complainant shall be advised to appear at the appropriate court for arraignment (as requested by the Administrative Judges for the District and Family Courts). If the complainant is unable to appear at arraignment, the arresting officer shall ensure that the court is notified accordingly. If a Family Court Order of Protection is requested, the complainant shall be advised to respond to the Family Court Clerk's Office - 400 Carleton Avenue, Central Islip or 889 East Main Street, Suite 308, Riverhead. A Family Court Temporary Order of Protection may be obtained by a petitioner without initiating a criminal prosecution, provided that the complainant/petitioner and the respondent are "members of the same family or household", as defined in the New York State Family Court Act and in subdivision III. "Definitions" of this section. If a Criminal Court Order of Protection is requested and an arrest has been made or a Court Information has been filed, the complainant shall be directed to Room 220 of First District Court to petition the court. Prior to responding to Room 220, complainants can receive additional assistance in the petition process from the Domestic Violence Unit of the District Attorney's Office, which is located in the First District Court complex. Complainants, however, will not be issued a

Criminal Court Temporary Order of Protection by First District Court unless prosecution of a criminal incident has been initiated and an accusatory instrument has been filed with First District Court.

Complainants requesting a Criminal Court Order of Protection for domestic incidents involving an offense where a summary arrest has not occurred and no accusatory instrument has been filed, shall be advised to respond to the Precinct Crime Section to have a criminal charge drawn. Complainants should then be directed to respond to Room 220 of First District Court to petition the court. Prior to responding to Room 220, complainants can receive additional assistance in the petition process from the Domestic Violence Unit of the District Attorney's Office, which is located in the First District Court complex. Victims should bring their copy of the Domestic Incident Report to court.

4. If an arrest cannot be immediately effected, such protective actions as may be warranted shall be implemented including, but not limited to, aiding the victim with transportation to a safe place and/or a medical facility and the complainant/victim shall also be advised to recontact the Department immediately if the suspect returns or his/her location becomes known.

5. In those cases where a pistol licensee is involved in a domestic incident complaint, the officer at the scene shall attempt to obtain the license and handgun(s) by voluntary surrender for safekeeping purposes under the following circumstances:

- The licensee is intoxicated and could be a threat to himself or another person, or
- The licensee caused or threatened bodily harm to the complainant or another person, or
- The licensee is behaving irrationally and in a manner that causes a reasonable person to be fearful or threatened by the licensee having access to handguns.

The above justifications for obtaining voluntary surrender of a pistol license and handgun(s) are not intended to limit the circumstances under which a member

of the Service may deem it necessary, for public safety purposes, to obtain such voluntary surrender. In any Domestic Incident involving a licensee, who meets the criteria outlined above, a fax of the New York State Domestic Incident Report (DCJS-3221) must be sent to the Pistol Licensing Bureau.

In those cases where a licensee refuses to surrender the pistol license and handgun(s), the licensee will be advised that Department policy is to suspend or revoke the license under circumstances of non-cooperation, per Penal Law Section 400. If the licensee still refuses to surrender the pistol license and handgun(s), a copy of the New York State Domestic Incident Report (DCJS-3221) and a Supplementary Report (PDCS-1084) explaining the circumstances of the refusal must be promptly faxed to the Pistol Licensing Bureau. The refusal of a licensee to surrender the pistol license and handgun(s) will also result in the immediate suspension and may result in the revocation of the pistol license. If, after pistol license suspension or revocation, the licensee continues to refuse to surrender the license and handgun(s), the Department may contact the District Attorney's Office for a search and/or arrest warrant and the licensee may be subject to arrest.

When a pistol license and handgun(s) are voluntarily surrendered, the pistol license must be forwarded to the Pistol Licensing Bureau and the handgun(s) invoiced to the Property Section with the Property Section Invoice-Receipt box "Safeguard" checked off. A Supplementary Report, (PDCS-1084), must be completed, indicating the reason for the surrender and a copy forwarded to the Pistol Licensing Bureau.

Nothing contained in this section should preclude an officer from securing the scene and obtaining a search warrant to retrieve weapons and/or the pistol license when the subject refuses to surrender them voluntarily and the officer deems surrender of the handgun(s) necessary.

6. In domestic incident complaint cases where the officer at the scene has reason to believe firearms other than those requiring a pistol license may be on site, the officer shall attempt to obtain the firearms

by voluntary surrender for safekeeping purposes in the following cases:

- The subject is intoxicated and could be a threat to himself or another person, or
- The subject caused or threatened bodily harm to the complainant or another person, or
- The subject is behaving irrationally and in a manner that causes a reasonable person to be fearful or threatened by the subject having access to firearms.

The above justifications for obtaining a voluntary surrender of firearms are not intended to limit the circumstances under which a member of the Service may deem it necessary, for public safety purposes, to obtain such voluntary surrender.

When a firearm is voluntarily surrendered, the firearm shall be invoiced to the Property Section with the Property Section Invoice-Receipt box "Safeguard" checked off.

Nothing contained in this section should preclude an officer from securing the scene and obtaining a search warrant to retrieve weapons and/or the pistol license when the subject refuses to surrender them voluntarily and the officer deems surrender of the weapons necessary.

7. Arrest In Suspect's Residence - Absent exigent circumstances or consent to enter given by a person having the authority to allow access, or a warrant of arrest, no attempt to arrest the suspect shall be made that would require forcible entry into the suspect's residence if said residence is separate and apart from the complainant's (Payton v. New York).

8. Field Appearance Ticket - A member of the Service shall not issue a Field Appearance Ticket in lieu of an arrest when handling a domestic incident offense, unless no other alternative exists (i.e., defendant is admitted to hospital). In such instances, a Field Appearance Ticket can be issued only upon authorization of a supervisor who will then prepare a Supplementary Report

describing the circumstances as to why the Field Appearance Ticket had to be issued. A copy of this report will be forwarded along with the Domestic Incident Report to the Domestic Violence and Elder Abuse Bureau while the original shall be sent to the Central Records Section. Rules and Procedures Chapter 9, Section 4, Field Appearance Ticket Procedures, shall be adhered to when issuing a Field Appearance Ticket.

9. Precinct Bail - In these matters, precinct bail shall be permitted or denied in accordance with the Criminal Procedure Law and existing Rules and Procedures. Due to the volatile nature of domestic violence, the inherent opportunity for repeated and escalated violence and the overpowering need to protect the victim, bail shall be denied in all domestic incident cases which involve any act of violence or the threat thereof. Bail shall also be denied for all suspects who violated an Order of Protection. A copy of the Order of Protection shall be forwarded to the appropriate court.

10. Domestic Incidents Involving Allegations of Physical Contact between the Complainant/Victim and the Offender

a. A supervisor will discuss the facts and circumstances of the incident with the responsible investigating officer. The reporting officer shall document this discussion on the Domestic Incident Report. However, a supervisor is required to respond in non-arrest situations when:

(1) A physical injury is sustained by any party;

(2) There is any impediment to breathing or circulation of blood or attempt thereof to any party by another;

(3) The incident involves the use of, or threatened use of, a deadly weapon or dangerous instrument; or

(4) A computer search reveals that the subject or household member possesses a Suffolk County Pistol License.

11. Utilization of Digital Cameras in Domestic Incidents
- Precinct Patrol Sections, Precinct Crime Sections, Precinct C.O.P.E. Sections, and the Marine Patrol Section have been supplied with digital cameras for the purpose of enhancing the ability to document conditions at the scene of a domestic incident. Photographs should not be taken in situations where the supervisor at the scene believes that photographs by the Crime Scene Section would be more appropriate. Procedures detailing the usage of the digital cameras are contained below.

a. When an officer at the scene of a domestic incident determines that photographic evidence may be beneficial to case preparation, the officer shall request a supervisory response to the scene. If a supervisor agrees with the officer's assessment, the supervisor will take the appropriate photograph(s). The following are examples of conditions that may warrant photographs:

(1) visible signs of injury or abuse such as cuts, bruises, lacerations, abrasions, torn clothing, etc.

(2) damaged property or premises in disarray

(3) weapons or dangerous instruments

b. After the digital images have been captured, the memory card shall be printed by the supervisor who took the photographs. Printers have been furnished to commands for the purposes of printing domestic violence photographs.

c. The supervisor taking the photograph(s) will ensure that the Central Complaint Number is placed on the photograph(s) as well as the number of each, (i.e., 1 of 2, 2 of 2, etc.)

d. The supervisor will complete the Supplementary Report-Incident Photographs form, (PDCS-1084-13), indicating the number of photographs taken, a brief description of each photograph, the time and date printed and the number of prints made.

e. If an arrest is made, ALL photograph(s) and a copy of the Supplementary Report will be attached to the arrest package and sent to court along with the arrest package.

f. If no arrest is made, the photograph(s) and a copy of the Supplementary Report will be attached to the Domestic Incident Report and forwarded to the Precinct Crime Section where they will be stored with the related paperwork.

g. Due to the adverse effects of temperature extremes on the cameras and memory cards, cameras should not be stored in the supervisor's vehicle.

h. These digital cameras, while intended for domestic incidents, may be used for other purposes under circumstances where evidence, if not photographed immediately, will be lost. As these cameras are used to capture evidence, the internal camera memory shall not be used.

i. Memory cards contain photographic evidence. After the digital images have been printed, the memory card should be placed within a SCPD ID Photo Envelope, (PDCS-7120a), and forwarded or transported to the Identification Section for downloading into the Image Management System as soon as possible. The Central Complaint number for each event captured on the card shall be annotated on the film envelope.

j. Once the images are downloaded, the memory card will be reformatted and returned to the assigned command/supervisor.

12. Precinct Crime Section's Follow-Up with Uncooperative Complainants/Victims in Misdemeanor Offenses - Precinct Crime Section Personnel will perform a follow-up visit for domestic incidents wherein probable cause to believe a misdemeanor involving physical violence or the threat of physical violence has occurred and the complainant/victim is uncooperative. The follow-up will be performed regardless of whether the offender has been arrested at the scene based on probable cause or the offender has left the scene and reasonable efforts to locate the offender have been exhausted.

As soon as possible after the Precinct Crime Section receives the Domestic Incident Report, a Precinct Crime Section officer will attempt to contact the complainant/victim to schedule a visit in an effort to obtain a supporting deposition. When deemed appropriate, this visit may be made with the precinct advocate and should be made at the convenience of the complainant. The visit or a description of attempts made to schedule a visit will be documented on a Supplementary Report. If the precinct advocate is unavailable, members are directed to contact L.I. Against Domestic Violence (telephone # 631- 666-7181) between 0830-1630 hours, Monday through Friday. If members should require the assistance of an advocate outside of these hours, members should contact the L.I. Against Domestic Violence 24 hour hotline number at 631-666-8833. In the event an arrest has been made, the District Attorney's Office is to be notified by the Precinct Crime Section officer of any additional statements or information obtained from the visit.

13. Safe Pets and Families Program - Suffolk County Local Law 550-13 establishes a "Safe Pets and Families" program to provide temporary shelter for pets of domestic violence victims in Suffolk County. The administration of the "Safe Pets and Families" program will be performed by the Suffolk County Society for the Prevention of Cruelty to Animals (SCSPCA). Members of the Department are advised that they may contact the SCSPCA 24 hours a day at 631-382-7722 when a domestic violence victim, who has been or will be transported to a domestic violence shelter, requests that pets be removed from the residence for safety concerns by the SCSPCA. The SCSPCA can arrange suitable temporary shelter within Suffolk County for a period of up to ninety (90) days for pets of those domestic violence victims transported to a domestic violence shelter.

Suffolk County Local Law 550-13 also directs the Suffolk County Police Department to forward a copy of all reports of domestic violence when there are pets in the home to Domestic Violence Service Providers (e.g., L.I. Against Domestic Violence) via U.S. mail or by fax transmission. This provision will require officers to indicate on the Domestic Incident Report whether or not

there are pets at the location that may be in contact with the offender. This information shall be written at the end of the narrative portion of the Domestic Incident Report. The Domestic Violence and Elder Abuse Bureau shall review Domestic Incident Reports and make appropriate notifications to the Domestic Violence Service Providers as required by Suffolk County Local Law 550-13.

14. Third Party Complaints Concerning Domestic Incidents

- When a third party complainant requests assistance with a domestic incident that involves "physical violence or a threat of physical violence", the complainant shall not be told that the alleged victim must contact the police. An Officer will attempt to make contact with the alleged victim to determine the alleged victim's condition and to document the incident. When an allegation involves physical violence against an alleged victim, all reasonable efforts shall be undertaken by the Officer to locate and personally interview the alleged victim to assess the situation. If the alleged victim cannot be located, all efforts made to find the alleged victim shall be documented and faxed to the Domestic Violence & Elder Abuse Bureau, where it shall be determined whether or not to conduct a continuing investigation. This threshold of "physical violence or threat of physical violence" is not intended to prevent an Officer from responding to a domestic related third party complaint that does not meet this threshold. An Officer shall use discretion in those instances when this threshold is not met and respond as deemed reasonable and appropriate.

B. At the scene of a domestic incident where an offense has occurred, before proceeding with any action concerning a family offense, the complainant/victim must be advised of the court options available. In all cases where a physical arrest is made, the defendant will be taken to District Court.

C. Felony Offenses Mandatory Arrest, Suspect at Scene - A member of the Service who responds to a domestic incident and determines that there is probable cause to believe that a felony has occurred shall not attempt to reconcile the parties or mediate but shall arrest the offender, even if the victim requests otherwise. A supervisory notification shall be made concerning the felony offense.

D. Felony Offense, Suspect No Longer at Scene - The officer shall contact a supervisor without unnecessary delay and conduct a reasonable and appropriate search for the suspect. The responding supervisor shall assure that a timely notification is made to the appropriate Precinct Detective Squad.

1. If the suspect is located, the officer shall promptly affect a lawful arrest and notify the complainant/victim and the appropriate Precinct Squad Section detective.

2. The responsible supervisor shall verify that the investigating officer has taken all reasonable efforts to locate and arrest the suspect and shall then direct that appropriate and reasonable steps be taken to arrest the suspect if the suspect's exact location is known. If a detective is not on duty, the supervising officer shall notify the desk supervisor who shall be responsible for calling out the standby detective.

3. The detective shall respond without unnecessary delay, take a statement from the complainant/victim, and undertake a search for the suspect and other evidence as may be appropriate for the investigation. If the suspect is not located, the detective shall ensure that an application for an arrest warrant is made, and that the complainant is notified regarding the warrant application.

E. Misdemeanor Offenses, Suspect at Scene

1. Misdemeanors Involving Physical Violence or Threats of Physical Violence - A member of the Service who responds to a domestic incident and determines that there is probable cause to believe that a misdemeanor family offense involving physical violence or the threat of physical violence has occurred, shall not attempt to reconcile the parties or mediate but will arrest the offender. The arrest will be made regardless of whether or not the complainant seeks an arrest.

a. The complainant/victim shall not be requested to make a civilian arrest if the responding officer can lawfully arrest as a police officer. The member shall take a supporting deposition from the complainant whenever possible.

2. Other Misdemeanors (Those Not Involving Physical Violence or Threats of Physical Violence) - A member of the Service who responds to a domestic incident and determines that there is probable cause to believe that a misdemeanor family offense has occurred, but did not involve physical violence or the threat of physical violence, shall not attempt to reconcile the parties or mediate but shall arrest the offender, unless the victim requests otherwise. The arresting officer shall not inquire as to whether the complainant/victim seeks an arrest.

a. The complainant/victim shall not be requested to make a civilian arrest if the responding officer can lawfully arrest as a police officer. The member shall take a supporting deposition from the complainant whenever possible.

b. The officer shall not be required to arrest the suspect if the complainant/victim states, without solicitation from the reporting officer, that he/she does not wish the suspect arrested. If an arrest is not made, the officer shall complete the non-arrest section of the Domestic Incident Report and ask the complainant/victim to sign in the appropriate space. If the complainant refuses to sign, the officer shall write, "refused", in the signature space. This section shall not prohibit the officer from making an arrest of the suspect when probable cause exists and the officer believes an arrest is necessary and prudent based on the circumstances of the incident.

F. Misdemeanor Offense, Suspect No Longer at Scene - When the suspect is wanted for arrest because probable cause exists to believe that the suspect committed a misdemeanor involving physical violence, a misdemeanor involving threats of physical violence, or the offense is for another misdemeanor (unless the victim, without solicitation, has indicated that an arrest is not requested for this other misdemeanor), the officer shall take a supporting deposition from the complainant whenever possible. The officer will conduct a reasonable and appropriate search for the suspect. If the suspect is located, the officer shall affect the arrest. The civilian shall not be requested to make a civilian arrest if the responding officer can lawfully arrest as a police officer.

1. The investigating officer should keep his or her supervisor advised as to the status of any search.
2. The supervisor shall verify that the officer has taken all reasonable efforts to locate and arrest the suspect and shall then direct that appropriate and reasonable steps be taken to arrest the suspect within the precinct or within the Police District if the suspect's exact location is known. If all reasonable efforts to locate the suspect are exhausted, the supervising officer shall notify the desk supervisor. The desk supervisor shall notify the Precinct Crime Section (PCS) of the circumstances. If PCS personnel are not on duty, the desk supervisor or his/her designee shall be responsible for making the appropriate entry in the Precinct Crime Section Night Log.
3. After reviewing all available facts, the PCS officer(s) shall undertake an appropriate search for the suspect. If unable to locate the suspect after exhausting all investigative leads, the PCS officer shall ensure that an application for an arrest warrant is made, and that the complainant is advised of the application.

G. Violation Family Offense Pro Arrest (No Order of Protection Involved), Suspect at Scene - A member of the Service who responds to a domestic incident and determines that there is probable cause to believe that a violation family offense, (e.g., disorderly conduct, harassment), has been committed, shall not attempt to reconcile the parties or mediate but shall arrest the offender, unless the complainant requests otherwise.

1. If the violation is committed in the officer's presence and an arrest is requested, the member, not the complainant, shall make the arrest.
2. If the violation is committed in the officer's presence and the victim/complainant does not wish to have the defendant arrested, the officer shall complete the non-arrest portion of the Domestic Incident Report. This section shall not prohibit the officer from making an arrest of the suspect when, based upon the circumstances of the incident, he/she believes an arrest to be necessary and prudent.

3. If the violation has been committed not in the officer's presence, he/she shall inform the victim, out of the presence of the suspect whenever possible, of the victim's right to make a civilian arrest pursuant to section 140.30 of the Criminal Procedure Law. If the victim requests a civilian arrest, the officer shall effect and process the arrest.

a. As soon as possible after the arrest, the complainant shall sign the Information before the precinct's desk supervisor. If the complainant does not have the means to respond to the precinct, the desk supervisor shall arrange to have the complainant transported to the precinct or have the Information brought to the complainant for signature. When the Information is not signed at the precinct in the presence of a desk supervisor, the Penal Law warning, "False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law, State of New York", must be stamped on each page directly over where the complainant's signature is indicated. The complainant must sign each page of the Information. The officer witnessing shall also sign each page.

In those cases where the complainant does not sign the Information, the reporting officer will prepare a brief Supplementary Report detailing the reason for the absence of a signature. A copy of the Supplementary Report will be attached to the arrest paperwork, including the unsigned complaint, and sent to court.

The individual arrested must be brought, on behalf of the arresting person, to court and the Court Liaison Section must be advised of the lack of a complainant's signature on the Information. The subject shall not be bailed or unarrested at the precinct.

b. If the complainant refuses to make a civilian arrest, the officer shall not take the suspect into custody. The officer will complete the non-arrest section of the Domestic Incident Report and ask the complainant to sign in the appropriate space. If

the complainant refuses to sign, the officer shall write, "refused", in the signature space.

c. If there is probable cause to believe that a violation was committed involving an allegation of physical contact, and the complainant does not wish the offender arrested, the reporting officer will note such on the Domestic Incident Report and ask the complainant to sign in the appropriate space. The Precinct Crime Section will contact the complainant on the following day and determine whether she/he was in fact interviewed outside the presence of the offender, and whether she/he has changed her/his decision about non-arrest. If the complainant now wishes to prosecute, the Precinct Crime Section shall ensure the offender is prosecuted for the offense (i.e., arrest, criminal summons, or warrant).

H. Violation Offense, Suspect No Longer at Scene - If the complainant wishes to have the suspect arrested, the member of the Service shall aid in effecting a civilian arrest by accompanying the complainant in a reasonable search for the suspect and rendering necessary assistance. A Civilian Arrest Form should not be signed by the complainant until the suspect is actually located. If the subject is located, in addition to signing the Civilian Arrest Form, the complainant must inform the defendant that he/she is under arrest.

1. If no arrest is made, the officer shall advise the complainant to contact the Precinct Crime Section (PCS) without unnecessary delay for the purpose of obtaining an arrest warrant or criminal summons, whichever is applicable. The officer shall also notify PCS of the incident by telephone or in person, and in a case where a PCS member is not available, notification will be made via Night Log.

I. In any case, after ascertaining the location of the suspect and determining that an immediate arrest is necessary and cannot be lawfully effectuated in the absence of an arrest warrant as required by the Supreme Court in Payton v. New York (i.e., the suspect is in his domicile which is separate and apart from complainant's), the PCS officer assigned shall promptly notify the Assistant District Attorney on call and request the issuance of an arrest and/or search warrant.

1. Before applying for a warrant, any one of the following factors must be established:

- a. Reasonable belief that the defendant will not respond to a criminal summons (CPL Sec. 120.20(3); or
- b. Reasonable belief that the defendant poses a threat to the victim or the community; or
- c. Reasonable belief that an Order of Protection has been violated.

2. If the suspect is to be arrested for a violation of an Order of Protection, the warrant application should be based upon the charge of Criminal Contempt (Penal Law Section 215.50 or 215.51 or 215.52), as well as any underlying offense(s). If the suspect is to be arrested for the commission of an offense, the warrant application should be based upon the appropriate Penal Law Offense.

J. Defendant Charged Criminally in Criminal Court on all Arrests - When an arrest is made, regardless of the forum chosen by the victim (Criminal and/or Family Court), the defendant will be charged criminally in Criminal Court.

K. Incidents Resulting in No Arrest - When an officer makes no arrest in response to a complaint of a family offense, the officer shall complete the non-arrest reason section of the Domestic Incident Report setting forth the reasons why no arrest was made, prior to completion of his or her tour of duty. This report shall be filed with and reviewed by the officer's supervisor. The officer may not use any of the following reasons for failing to make an arrest:

- That the suspect lives on the premises with the victim.
- That there may be a financial consequence caused by the arrest.
- That the suspect and victim are married or had a prior or existing co-habiting relationship.
- That the victim has made prior calls or is a chronic caller.

- That the suspect gives verbal assurance that no harm shall occur to the victim.
- That the alleged injury is minor or not visible.
- That the officer feels that the victim may not cooperate in subsequent proceedings.
- That prosecution or conviction may not occur even though there exists reasonable cause to arrest.

Incidents of noncompliance with this order shall be reported to the Police Commissioner by the member's commanding officer for any appropriate disciplinary action.

L. When the Precinct Crime Section Officer prepares a Criminal Court Information concerning a family offense at the request of a complainant, he or she will advise the complainant of the court options available.

1. District Attorney's Domestic Violence Unit - Any member of the Service preparing a criminal court information based on an offense occurring within the family unit or household, as specified in this section of the Rules and Procedures, shall inform the victim that when a Criminal Court Order of Protection is wanted they must respond to Room 220 of First District Court to petition the court. The Domestic Violence Unit of the District Attorney's Office, also located within First District Court, can provide additional assistance to victims regarding the petition process. Victims should bring their copy of the New York State Domestic Incident Report (DCJS-3221) to court.

The location and contact information for the District Attorney's Domestic Violence Unit can be found on the Family Offense Assistance and Court Procedures form, PDCS 7109.

M. The Chief Administrative Judge of the courts in this state has mandated that accusatory instruments filed for any domestic offense committed by a defendant against one of the below listed persons shall be marked as indicated in subdivision 1. of this section (see below), or under certain circumstances, notification can be made at the time the accusatory instrument is submitted, as dictated in subdivision 2 of this section. Such persons are:

- A person related to defendant by blood relationship or marital relationship whether or not such person resides with defendant;
- A person to whom defendant was or is married, whether or not such person resides with defendant;
- A person with whom defendant has a child in common, whether or not such person was or is married to defendant or resides with defendant;
- A person who is not related to the defendant by blood or marriage and who is or has been in an "intimate relationship" regardless of whether such persons have ever lived together at any time.

1. An accusatory instrument that charges a defendant in a criminal proceeding with any offense where the relationship between the defendant and victim is as listed above will have a description of the relationship between the defendant and the victim indicated on the upper right hand corner of the accusatory instrument in the following form (Note: "FO" signifies a Family Offense):

FO

Defendant: _____
 relationship to alleged victim

Alleged victim: _____
 relationship to defendant

2. Where protection of the identity of a victim of an offense is required by law or otherwise is deemed appropriate, and where placement of the designation or relationship on the accusatory instrument would tend to identify the victim, the criminal justice agency may file instead a separate statement annexed to the accusatory instrument, alerting the court of the defendant's relationship to the victim. Such statement shall not be made available to the public.

N. Domestic Incidents involving members of the Department or other law enforcement officers, (see subdivision III., "Definitions", shall be addressed in the following manner:

1. Any member of the Department who is involved in a domestic incident, as the "Complainant/Victim" or the "Suspect/Other Party", in which a Domestic Incident Report is filed, must notify their commanding officer as soon as possible, via an Internal Correspondence, PDCS-2042. Commanding officers shall notify the Internal Affairs Bureau. Additionally, members of the Department should also be familiar with the following Chapters/Sections of the Rules and Procedures:

a. Chapter 23, Section 5, "Procedures", provides administrative notification guidelines when any member of the Department is arrested by any means or is involved in a serious incident.

b. Chapter 2, Section 2, "Rules and Regulations", includes the following information: "A member of the Department shall immediately notify their commanding officer of the existence of any temporary or permanent order of protection in which they are the Respondent / Defendant via an Internal Correspondence, PDCS-2042. Members of the Department must make this notification regardless of whether or not this temporary or permanent order of protection is related to a domestic incident. A copy of the order must be attached to this initial notification. Members of the Department must also immediately notify their commanding officer via an Internal Correspondence whenever they become aware of any change to the order, (e.g., order vacated, order expired, order modified, etc.)."

(1) Additionally, Chapter 2, Section 2, "Rules and Regulations", includes the following information: "The commanding officer shall immediately cause a copy of the Internal Correspondence related to the existence or change to a temporary or permanent order of protection to be sent to the Internal Affairs Bureau via facsimile. Commanding officers must make these notifications regardless of whether or not the order is related to a domestic incident."

c. Chapter 11, Section 4, "Procedures", includes the following information: "Whenever a member of the Department has been convicted of a misdemeanor crime of domestic violence, the member must immediately notify his/her Commanding Officer via an Internal Correspondence. A copy of the conviction must be attached to this initial notification and the affected member is required to provide the docket number and Court, date of conviction and statute or law violated."

d. Chapter 4, Section 3, "Rules and Regulations", contains information on how commands are to address those situations where a member of the Service, pursuant to a court order, is only permitted to possess firearms when on duty.

2. Any member of the Service who investigates a domestic incident involving a member of the Service or other law enforcement officer, whether as the "Complainant/Victim" or "Suspect/Other Party", shall notify a supervisor, and a supervisor shall respond to such domestic incident unless:

a. A discussion with the responsible investigating officer reveals that the incident involves only the documentation of a child custody or visitation issue AND only one party is present.

b. The reporting officer will note the supervisor consulted on the Domestic Incident Report (DIR).

c. The supervisor must ensure all relevant reports and entries are properly completed and all required notifications are made.

d. A responding supervisor shall evaluate the circumstances of the domestic incident when considering firearm(s) removal.

(1) A firearm which has been used in connection with or as element of an offense shall be considered evidentiary material and shall be treated accordingly.

(2) The existing provisions utilized to substantiate the removal of a firearm(s) from

a pistol license holder at a domestic incident (see "Pistol Licensee Procedures" above) shall be applied to domestic incidents involving law enforcement officers. Therefore, the responding supervisor shall seek removal of the firearm(s) for safekeeping purposes in the following cases:

- The law enforcement officer is intoxicated and could be a threat to himself or another person, or
- The law enforcement officer caused or threatened bodily harm to the complainant or another person, or
- The law enforcement officer is behaving irrationally and in a manner that causes a reasonable person to be fearful or threatened by the law enforcement officer having access to handguns.

NOTE: The above justifications for firearm(s) removal are not intended to limit such action for any other reason that a supervisor determines is necessary to protect the safety of those involved.

e. If the domestic incident involves a member of the Service of the rank of Captain or above, the precinct commander within the precinct of occurrence shall be notified. If the precinct commander is not available, the Chief of Patrol, or the designee of the Chief of Patrol shall be notified.

f. The investigating officer shall include the name and rank of the supervisor who responded on the Domestic Incident Report prepared for the domestic incident.

g. The supervisor who responded to the domestic incident involving a member of the Service or other law enforcement officer shall ensure that a copy of the Domestic Incident Report is faxed forthwith to

the Internal Affairs Bureau. Such supervisor shall also ensure that a notification shall be made to Internal Affairs Bureau regarding the fax transmission to ensure receipt. The Domestic Incident Report shall be faxed to the Internal Affairs Bureau even in the event that corrections may need to be subsequently made to the report and the report has not been signed by a supervisor. A confirmation of the facsimile transmission shall be attached to the Domestic Incident Report, and a notation shall be made on the Domestic Incident Report identifying the member that faxed the report to Internal Affairs Bureau and also affected a follow-up contact to ensure receipt of the report. The following information shall be indicated in the narrative section of the Domestic Incident Report: 1) which individual is the law enforcement officer (Complainant/Victim or Suspect/Other Party); 2) the occupational title of the individual; and 3) the agency with which the law enforcement officer is employed.

h. The supervisor who responded to the domestic incident involving a member of the Service or other law enforcement officer shall ensure that the incident is documented in the Tour Report. Actions taken and notifications made shall also be documented in the Tour Report.

(1) The supervisor shall also ensure that a copy of the Domestic Incident Report has been forwarded to his/her commanding officer. Commanding officers shall confirm that the Internal Affairs Bureau has been notified.

(2) Upon receiving a notification regarding any domestic incident involving a member of the Service, whether as the "Complainant/Victim" or "Suspect/Other Party," the Internal Affairs Bureau shall effect notifications to the Office of the Chief of Department, the Office of the Chief of Division to which the involved member is assigned, the Domestic Violence and Elder Abuse Bureau, and the Commanding Officer of the involved member.

(3) Upon receiving a notification regarding any domestic incident involving a law enforcement officer other than a member of the Service, whether as the "Complainant/Victim" or "Suspect/Other Party," the Internal Affairs Bureau shall effect notifications to Domestic Violence and Elder Abuse Bureau and also to the agency of the involved law enforcement officer.

i. A member of the Service, who is in doubt as to whether or not these notifications should be made, shall make the notifications. Additionally, any other applicable administrative notifications as detailed in Chapter 23, Section 5, "Procedures", shall be made if the circumstances require notifications.

3. Procured Firearms Protocol

a. Evidence Procedure

(1) The responding supervisor shall adhere to procedures enumerated in Rules and Procedures Chapter 24, Section 8, concerning the invoicing of firearms used in the commission of an offense.

b. Safekeeping Procedures

(1) Member of the Service Involved - The responding supervisor who has removed for safekeeping purposes a firearm(s) from the member of the Service involved in a domestic incident shall proceed as directed under Chapter 4, Section 3, "Rules and Regulations", subdivisions 'Incapacity to Safeguard' and 'Return of Safeguarded Weapons/Property'. Rules and Procedures Chapter 2, Section 9, "Procedures", also contains information on notifications to the Pistol Licensing Bureau "when any command takes possession of a sworn member's Department weapon and/or personal handguns for any reason."

(2) Other Law Enforcement Officer Involved

(a) The Internal Affairs Bureau shall be the primary liaison with supervisory representatives from the associated agency employing the law enforcement officer who has had his/her firearm(s) removed for safekeeping due to a domestic incident.

(b) The firearm(s) shall be invoiced by the arresting officer for safekeeping purposes on the appropriate Property Section paperwork and forwarded through existing transport procedures to the Property Section. The assigned Internal Affairs Bureau representative shall advise the associated agency supervisory representative(s) that a signed letter on the associated agency's letterhead granting permission to release the firearm(s) to their member must be submitted via fax or mail to the Internal Affairs Bureau. Once this correspondence is received, the Internal Affairs Bureau shall forward a copy of the letter along with a PDCS-2042 to the Commanding Officer of the Property Section granting the Property Section permission to release the firearm(s) to the law enforcement officer involved in the domestic incident.

(c) Department members shall make reasonable attempts to cooperate with any associated law enforcement agencies requesting permission for their supervisory representatives to respond to the Property Section in order to retain possession of a firearm (i.e., agency issued service weapon) removed for safekeeping. The Internal Affairs Bureau will coordinate the transaction through discussions with the associated agency representatives and the Property Section.

(d) In the event that supervisory representatives from the associated agency respond to the Department command

addressing the incident (i.e., precinct of occurrence) prior to the invoicing of the weapon for safekeeping and at a time when Internal Affairs Bureau representatives are not available, the officer in charge (OIC) at the respective command shall meet with the representatives. If the associated agency supervisory representatives desire to retain possession of the firearm(s) (i.e., agency issued firearm) at this time, a General Receipt (PDCS-0094) shall be prepared describing the agency representative(s) taking possession of the firearm(s) (name, title, command, agency name, contact number). The firearm information (make, model, serial number) shall also be entered on the General Receipt. The associated agency supervisory representative shall be asked to sign his/her name on the General Receipt and provide his/her agency credentials (i.e., shield and identification card) prior to the release of the firearm.

(e) The officer in charge who released the firearm(s) shall complete a Supplementary Report explaining the circumstances of the release. Copies of this report shall be forwarded to the commanding officer of the officer in charge, the Internal Affairs Bureau, and the Domestic Violence and Elder Abuse Bureau. A copy shall also be retained in the applicable Precinct Crime Section's domestic incident file folder.

VII. ACCREDITATION

A. NYSLEAP 44.1

VIII. INDEX

Language Assistance Tracking form - 16/6

END