COUNTY OF MONROE
OFFICE OF THE SHERIFF
ROCHESTER, NEW YORK

GENERAL ORDER POLICE BUREAU	DATE OF ISSUE November 20, 2026	EFFECTIVE DATE November 20, 2026	NO. 027-26
SUBJECT: GENERAL ORDER Domestic Disputes/Violence Reporting		DISTRIBUTION Police Bureau Personnel	AMENDS
REFERENCE: NYSLEAP 29.4, 44.1, CPL 530.11(1), FCA 812(1), MPTC DOMESTIC INCIDENTS MODEL POLICY			RESCINDS 27-24 PBSO 01-26 & 03-26

Purpose: To familiarize members regarding procedures relating to the resolution of domestic disputes and/or domestic violence complaints and to provide guidance on recognizing, responding to and assisting victims of domestic violence; when and how to complete domestic incident reports; and enforcement of orders of protection.

Policy: Domestic violence is a pattern of behavior used by someone to control their intimate partner and other family and household members. The behaviors may include physical, emotional, psychological, financial, technological, and sexual abuse. A key component of domestic violence is coercive control: controlling someone else's behavior by using force, threats, or causing fear. These behaviors may or may not be criminal. Law enforcement is the system that often has initial contact with domestic violence victims, therefore, deputies should respond to every domestic incident as a serious call for service, and an opportunity to provide life-saving engagement with victims and connection to domestic violence service providers. Deputies shall respond to victims and their children through a survivor-centered, trauma-informed and culturally responsive approach.

I. Definitions

A. **Court Order:** All orders, judgments, and decrees, excluding Orders of Protection, issued by a Federal Court or a New York State Court.

B. **Concurrent Jurisdiction**: Where two (2) or more courts from different systems simultaneously have jurisdiction over a specific case. A victim of a Family Offense may elect to proceed in either a civil or criminal court or in both. Criminal courts and the Family Court have concurrent jurisdiction when:

1. A Designated Family Offense is alleged to have been committed; ***and***
2. A family/household relationship exists; ***and***
3. The alleged offender is of age of criminal responsibility.

* C. **Danger Assessment for Law Enforcement (DA-LE):** A research-based risk assessment instrument that measures risk of lethal or near-lethal assault between adult intimate partners.

D. **Domestic Incident**: Any dispute, act of violence, or report of an alleged offense between members of the same family or household where police intervention occurs. A domestic incident is not necessarily a violation of law.

E. **Domestic Incident Report (DIR)**: The state issued form described in NY Executive Law §837(15) and mandated by NY Criminal Procedure Law (CPL) §140.10(5) for officers to complete for all calls for service where police intervention is requested for a domestic incident.

F. **Domestic Violence:** The term "domestic violence" shall include all Designated Family Offenses as defined **in CPL §530.11(1) and NY Family Court Act §812(1)**, acts that violate any Family, Supreme, or Criminal Court or other jurisdiction order of protection, or any other offense or criminal act committed or threatened against a member of the same family or household. (See Appendix A for list of NYS Penal Law offenses).

G. **Members of the same family or household include:**

1. Persons related by consanguinity (related by blood) or affinity (familial relation resulting from a marriage).

2. Persons who are legally married to one another.

3. Persons formally married to one another regardless of whether they still reside in the same household.

4. Persons who have a child in common regardless of whether such persons have been married or have lived together at any time.

5. Persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

* H. **Intimate Partners:** Two people (regardless of sexual orientation) who are married, separated, or divorced; live or have lived together; have children in common; are dating or have dated but do not live or have never lived together. This would also include two individuals whose relationship is or has been sexual in nature regardless of frequency.

* I. **Intimate Partner Violence (IPV):** Domestic incidents involving Intimate Partners including violence, threats of violence, violations of a restraining order, and/or actions or statements between intimate partners where one party causes the other party to fear for their safety. This includes all verbal domestic incidents.

J. **Order of Protection:** A civil or criminal order that provides protections to a person from another person. An Order of Protection may only be issued by a court, and can only be modified or terminated by that same court or a court of competent jurisdiction, and is not enforceable against the protected party, and shall be considered valid under the following conditions:

1. Any order of protection, including an order on consent, from the Family, Criminal, or Supreme Courts of New York State, and/or

2. Any foreign order of protection, defined as a court order that is issued by a court other than a court located within New York State, including:

   a. Any state, county, or local court of other states;

   b. Any Indian tribal court located within the United States;

c. Any court within the District of Columbia; and

d. Any court of a commonwealth, territory, or possession or the United States (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the US Virgin Islands).

K. **Victim's Rights Notice:** As used in this policy shall mean the notice or form described in CPL §530.11(6).

II. Communications Procedures

A. Call Priority: All Domestic Incident calls shall be handled as high priority.

B. At least two deputies should respond to Domestic Incidents.

C. A domestic incident call shall not be cancelled reclassified or recorded without a supervisor's review and approval.

* D. If a request is made to cancel the law enforcement response to a Domestic Incident call, the dispatcher may advise the responding deputy(s) of the request, but the deputies will still respond to the call.

NOTE: Deputies should be aware that calls that appear to be a wrong number (i.e., asking for a taxicab pickup or food delivery) may be a covert call to a Domestic incident.

III. Responding Deputy on-Scene Procedures:

* A. Deputies should attempt to obtain information on a location and persons involved including checks for prior DIRS or orders of protection by accessing available technology or resources (i.e., department issued cellphones, computers in patrol car), or information available through dispatch. When practical, this should be done prior to arrival on scene.

* B. Arrival on scene is part of the investigation, therefore, deputies should be alert to the sights and sounds coming from the location, and that anything or anyone present may serve as evidence. Deputies should wait for backup to arrive, when appropriate, and should always put officer safety and scene safety as the top two initial priorities.

C. The responding on-scene deputy shall:

1. Take control of the situation by first separating the involved parties.

2. For the safety of the parties and all first responders, take control of all weapons used or threatened to be used in the incident.

3. Identify the presence of any firearms in the household. Deputies should immediately take possession of firearms in plain sight or discovered pursuant to a consensual or lawful search.

4. Assess the immediate safety and welfare of all occupants of the location, including children, to verify their safety and well-being. (Refer to MBGO-106 Safeguarding Children)

* 5. Assess for physical injuries, signs of strangulation, or possible internal, nonvisible injuries, and sexual violence; administer first aid and request medical services as necessary. If sexual violence is suspected or alleged, advise victim about the availability of receiving a sexual assault forensic exam and the ability of law enforcement to assist victim in obtaining an exam.

* 6. Deputies will utilize the MCSO contracted interpreter service for any victim who does not communicate spoken English. At no time, will a deputy utilize a family member or involved party for completing a domestic violence investigation, but can still utilize a law enforcement officer or other suitable professional with foreign language skills.

7. Determine the relationship of the victim to the suspect.

* 8. Assess for signs of animal abuse and document any observations if appropriate.

9. Body Worn Cameras (BWC):

a. Deputies shall consider requests from victims not to be recorded in non-confrontational situations and recognize that the use of BWC may impact a victim's willingness to provide information. If the request cannot be fulfilled, deputies shall explain reasoning to the victim.

b. Any requests to deactivate or end recordings by victims should be documented on camera prior to deactivation for the record.

* Note: If CIS will be responding and coordinating the investigation, BWC should not be utilized when conducting interviews or taking statements from witnesses and victims. BWC will still be utilized for the initial response and gathering of information from all parties during a preliminary investigation.

* 10. In domestic violence cases, that do not require the completion of a DA-LE, offer to contact a MCSO Crime Victim Specialist to provide support to the victim and provide a list of current contact information for local domestic violence victim advocacy organizations.

* 11. Respond to and conduct a physical welfare check on a child when requested by a parent, legal guardian, or any reporting party with a legitimate interest in the child's well-being. This applies equally to all situations, whether the child is with a co-parent, an extended family member, a babysitter, a neighbor, or any non-domestic third-party caregiver.

* a. If the welfare check occurs in a jurisdiction within Monroe County covered by a different law enforcement agency, and that agency is unable to complete the check, the responding member will perform the check upon coordination with their supervisor.

* b. If a physical welfare check cannot be completed due to exigent circumstances, lack of jurisdiction, a verified chronic/nuisance caller, or an inability to locate the child, the responding deputy shall notify their supervisor and document the incident on either a Domestic Incident Report, or an MSO Case Report. The report must state:

i. The specific, articulable reasons why physical contact was not made.

ii. All investigative steps taken to attempt to locate the child and caregiver.

iii. Any referrals made to external agencies (e.g., CPS, neighboring jurisdictions).

IV. On-Scene Investigations:

A. Domestic violence victims have often experienced trauma, may be unfamiliar with legal system processes, fear authority figures, and/or fear that the suspect will cause future harm to the victim. As a result, a victim may be confused, hesitant or list events in illogical order. Below are some examples of how deputies may prepare for, and conduct interviews with domestic violence victims.

1. Be aware of the victims' fears, embarrassment and confusion.

   a. Many factors affect a victim's ability and/or willingness to cooperate and provide information in an interview. Deputies should be aware of these factors and conduct the interview in ways that reassure the victim that their concerns are legitimate and are being addressed.

   b. After an episode of domestic violence, the victim will often experience feelings that might hinder a police investigation. This is especially true in cases where there is a history of domestic violence. Feelings that may inhibit the victim's willingness to cooperate include: fear for self and children, guilt, shame, feelings of self-blame, feelings of isolation, feelings of helplessness and hopelessness etc.

   c. Deputies may encounter victims who appear extremely reluctant to cooperate with investigation. In addition to issues mentioned above, there are additional elements influencing domestic violence victim's response to law enforcement personnel and to the criminal justice system. These elements can include, lack of faith in the criminal justice system, genuine confusion, fear of retaliation, economic hardship, social stigma etc.

2. A deputy should expect reluctance and not become impatient, frustrated or hostile when confronted with the victim's confusion or hesitation. In other areas of crime where the suspect knows the victim, the victim's whereabouts and the victim's family, victim/witness reluctance is expected and taken into account in the investigation and handling of the case. The same understanding should be afforded to the victims of domestic violence, who not only know the suspect, but also may have a very long complicated relationship with the suspect.

3. A thorough investigation at the scene is critical to both the current and any future criminal case filed against the suspect. In addition, detailed knowledge of the present incident and past incidents will increase the deputy's ability to make an appropriate decision about their arrest options, to correctly advise victims on follow-up procedures and to assist the prosecutor who will be prosecuting the case.

4. Conduct victim interviews in a location away from others at the scene.

5. Allow the victim a chance to tell the story in their own words, and then ask for details with open-ended questions.

6. Follow up with specific and direct questions asked in a supportive and neutral tone of voice.

7. Ask specific questions about a victim's injuries.

8. Ask the victim if the suspect has access to guns or other weapons.

9. Ask about other forms of violence or abuse they may be experiencing.

10. Document the complete history of the abuser's tactics and/or course of conduct of control against the victim. Be specific and detailed.

    a. Ask the victim about the most recent incident, the first incident and worst incident to gain a full understanding of the abuse.

    b. Assess for and document all actual and suspected incidents of violence, including physical and sexual abuse, elder or child abuse, property damage, and animal cruelty.

11. Provide victim with information on:

    a. How to obtain a family court order of protection and advise the victim that the local domestic violence service provider may be able to assist with the preparation of a family court petition for an Order of Protection, regardless of whether an arrest was made.

    b. The local Willow Domestic Violence Hotline number (585)222-SAFE (7233), or email Hotline@WillowCenterNY.org, or the NYS Domestic and Sexual Violence Hotline number, 1-800-942-6906.

    c. Release dates and notification services that provide this information are available, such as Victim Information and Notification Everyday (VINE) and advise the victim that release of the suspect can occur at any time.

    d. The availability of victim assistance and possible compensation resources.

        i. Provide the victim with contact information for the appropriate MCSO Crime Victims Specialist for that Zone.

        ii. The NYS Crime Victims Legal Help website – crimevictimshelpny.org, can assist victims with finding an attorney to help them with any civil legal needs, including obtaining an order of protection in Family Court.

        * Note: Provide information and read notice required by NY CPL 530.00 (6) and NY FCA 812 (5).

B. Process for interviewing Additional Witnesses

Make every effort to locate all potential witnesses, including the 911 caller. Interview all available witnesses separately, including the victim, suspect and children. Be sure to document ALL statements made by all parties and witnesses to ensure you capture excited utterances and spontaneous admissions.

C. Additional Evidence Collection:

1. Digital, Video, and Photographic Evidence:

   a. Inquire about any potential recording devices that may have captured any portion of the described event either on audio or video.

   b. BWC footage should note any statements by any parties present to document as potential evidence and for purposes of any potential CPL 710.30 notices.

   c. Take photographs of all visible or alleged injuries, especially when there is an allegation of Criminal Obstruction of Breath or Strangulation and/or property damage.

   d. Collect all digital evidence, including but not limited to surveillance footage, audio recordings, voicemails, screen shots of social media pages and relevant text message communications.

2. Determine past history of domestic violence by reviewing agency records, Orders of Protection Registry, criminal history, and prior DIR's, including a search of the Domestic Incident Report Repository.

3. Request the response of crime scene investigators when appropriate.

* D. Danger Assessment for Law Enforcement (DA-LE) High Risk Intervention Screening

1. The DA-LE shall be administered whenever the Domestic Incident involves Intimate Partners.

2. The DA-LE shall not be administered when the call for service is between individuals who are not Intimate Partners such as child and parent/guardian, siblings, roommates etc.

   Note: The DA-LE should not be administered to anyone under the age of eighteen.

3. The responding deputy will ascertain information regarding the history of threats of violence, or actual violence in the relationship, if any, and document the information in the Domestic Incident Report (DIR).

4. Higher scores on the DA-LE correspond with greater risk. A case is considered high risk when seven or more questions on the DA-LE are answered affirmatively.

5. The outcome of the DA-LE is not a replacement for professional judgment. Deputies must use their professional judgment and consider the totality of the circumstances

including but not limited to the severity of the assault, previous domestic violence calls between the parties, and/or level of fear of harm expressed by the victim.

6. When deputies believe a victim is at elevated risk of lethal or near-lethal assault even when the DA-LE indicates a low-score or the victim has declined to complete the DA-LE, deputies can override the outcome of the DA-LE by checking the "Further Review" box and documenting the justification on the DA-LE form. Examples of justification include, but are not limited to, prior domestic history for the victim and suspect, and criminal history of the suspect.

   Note: When completing the DA-LE, deputies will document the victim's responses, and will not change the victim responses. If the deputy is aware due to prior knowledge, or further investigation, that the responses are not factually accurate, the deputy can utilize the "Further Review" box and override the outcome of the assessment. In these situations, the justification to override should be included in the DIR narrative.

7. Deputies shall complete the High-Risk Intervention Protocol below, when the score on the DA-LE is 7 or higher, or the deputy overrides the score.

   a. The deputy will inform the victim that their situation is extremely dangerous. The deputy will inform the victim that law enforcement prosecutors, and domestic violence services work together in a coordinated fashion to protect them.

   b. The deputy will contact the MCSO Crime Victims Specialist assigned to the Zone in which the incident is occurring, from the scene.

   c. In the event that the MCSO Crime Victim Specialist is not available, the deputy will contact the Willow Hotline (585-222-7233), from the scene.

   d. The deputy will provide the following information to the MCSO Crime Victim Specialist or Willow Hotline Advocate:

      i. Verification that the DA-LE was completed.

      ii. DA-LE score and whether the deputy used the override mechanism, including the justification for the override.

      iii. Provide a summary of the incident including whether charges will be filed, an arrest made, suspect present, and whether any orders of protection are in place.

      iv. The level of immediate risk to the victim including when suspect will be released if arrest was made, whether the victim has a safe place to stay.

      v. If any known court appearances are required of the victim the following day.

      vi. Provide any other relevant facts (injuries, children present, etc.).

e. BWC should not be utilized to record the conversation between the victim and the Crime Victim Specialist or Hotline Advocate.

f. The DA-LE will be submitted in Police Forms at the conclusion of the call with the Crime Victim Specialist or Hotline Advocate. The deputy will attach the DA-LE to the DIR in Tyler prior to the end of their tour of duty.

g. The deputy will document that the DA-LE was completed, or declined in the narrative of the DIR. The deputy will also document which Crime Victim Specialist (or Willow Hotline Advocate) they spoke to in the narrative of the DIR.

h. If no primary aggressor can be determined, a DA-LE will not be completed.

8. When a victim scores lower than seven and no overriding circumstances exist, the deputy will complete the DA-LE in Police Forms and attach it to the DIR in Tyler prior to the end of their tour of duty.

9. When an arrest is made for an offense or incident related to Intimate Partner Violence, the deputy will document the DA-LE score on the Adult Arrest Report (AAR).

E. Documentation of Investigation

1. The **New York State Domestic Incident Report (DIR)** allows for additional information to be documented and includes an additional page for the victim's statement/deposition. The following items are also included in the report form.

a. A safe contact follow-up for the victim (name and phone number).

b. Additional suspect actions in a Yes / No format.

c. Additional evidence and Order of Protection information.

d. Recommended questions to be asked of the victim as well as space for notes on what the victim and the offender said to the responding Deputy.

e. Write what words the victim used.

f. Record your observations of the physical and emotional condition of the victim.

* g. Lethality Assessment Questions: There are several questions within the NYS DIR that are designed to assess potential lethality of domestic violence victims. These include the questions in the victim interview and prior history sections of the DIR. Deputies will follow all protocols related to the administration of the DA-LE in cases of Intimate Partners If lethality assessment questions are answered in the affirmative for cases that do not involve Intimate Partners, the deputy shall:

i. Offer to immediately connect the victim with access to an advocate by calling **the Crime Victim Specialist** or Willow Domestic Violence Hotline number (585) 222-SAFE (7233) to conduct

immediate safety planning for the victim or arranging for an advocate to arrive on scene.

* ii. When appropriate, consult with the District Attorney's Office prior to arraignment to ensure all of the facts and circumstances are known.

* iii. Continue gathering corroborating evidence rather than relying exclusively on the victim's willingness to participate.

2. The **DIR** will be filled out according to the guidelines delineated in the **New York State Domestic Incident Report Reference Manual**.

a. **Agency** –Select Monroe County Sheriff's Office.

b. **Incident Report No.** - Import from Call for Service Inquiry.

c. A hard copy page 2 titled "Statement of Allegations / Supporting Deposition" will continue to be used. You must have the victim or reporting person sign the statement.

d. Dispositions

i. Incident: Case Status – Closed, Case Disposition – Incident.

ii. Arrest: Case Status – Cleared by Arrest Adult or Cleared by Arrest Juvenile, Case Disposition – Arrest.

iii. No Prosecution: Case Status – Closed, Case Disposition – Exceptional Clearance, Exceptional Clearance – Prosecution Declined.

* 3. Deputies should complete the DIR with as much detail as possible to assist with any follow up investigation. When completing the Victim (P1) section of the first page of the DIR, deputies should pay special attention to the box "How can we safely contact you?" and include phone numbers for the victim, or contact information for friends and family. Additionally, information about injuries, conditions of the home, and presence of children should be included in the narrative. Deputies should continue to follow PBGO 43-22 Child Abuse Investigations when appropriate.

Note: Contact information for the victim should not be included in the narrative.

4. Distribution of copies:

a. A copy will be sent to the Central Records Unit. The Central Records Unit will be responsible for mailing a copy to the **Division of Criminal Justice Services (DCJS)**.

b. One (1) copy is given to the complainant/victim(s). This copy must contain the addresses and phone numbers of local assistance agencies, including Family and Criminal Courts and the District Attorney's Office. Deputies are

to indicate the local criminal court in the space provided on the **Victim's Rights Notice.**

V. Role of the Supervisor:

Supervisors shall do the following:

A. Respond to assist deputy's investigating incidents of domestic violence when requested by a deputy or victim or whenever the incident appears to involve a law enforcement officer, prominent community member, or public official, or involves a violent crime.

* B. Monitor calls for service involving requests for welfare checks of children and ensure that the proper investigative steps have been followed.

C. Supervise the on-scene investigation, if not already completed, to ensure that appropriate action is taken.

* D. When it is determined that there is an immediate concern for the victim's safety as indicated above, the supervisor will follow current CIS notification procedures.

* E. During incidents that would require the response from a MCSO Crime Victim Specialist to the scene, the supervisor should attempt to contact the Crime Victim Specialist from the Zone of occurrence. If that Crime Victim Specialist is not available or unable to respond, the supervisor will contact a Crime Victim Specialist from another Zone.

* F. Review all DIRs and for accuracy and consistency and conduct after action review or case audits to ensure deputies and investigators are conducting comprehensive, victim-centered, perpetrator-focused investigations. Special attention should be paid to ensuring that all investigative steps are taken with the victim while they are present on scene.

* G. Supervisors will ensure that the DA-LE has been attached to the Domestic Incident Report in Tyler prior to approving the report.

H. Assess for co-occurring and interconnected crimes when responding to domestic violence, to include but not be limited to stalking, sexual violence, strangulation, firearms prohibitions, protection order violations, intimidation and threats, and abuse of children, elders, and animals.

* I. Supervisors will continue to follow current notification protocols in regards to significant incidents.

* VI. Role of Crime Victim Specialist

A. The Crime Victim Specialist will triage Intimate Partner Violence cases deemed high risk over the phone to assess the need and provide for immediate victim support and/or respond to the scene if appropriate, when contacted by a deputy, supervisor, or an investigator.

Note: Supervisors and deputies may still refer victims to the Crime Victim Specialist whenever they feel that the victim would benefit from such referral regardless of whether the DA-LE score was seven or higher or when the incident does not involve Intimate Partner Violence. Additionally, victims who are not necessarily victims of crimes, but rather a traumatic event can be referred to the Crime Victim Specialist for assistance with services.

B. Crime Victim Specialists will review Domestic Incident Reports as well as DA-LE assessments for opportunities to assist victims. This review will also include a review of any DA-LE not deemed high risk.

C. Crime Victim Specialists will coordinate with the Willow Domestic Violence Center to ensure victims are offered services and additional support.

D. Crime Victim Specialists will be part of the Domestic Violence High Risk Team (DVHRT) to ensure that victims are provided the necessary services, safety, and opportunity for successful prosecution in cases resulting in arrest.

E. Crime Victim Specialists will continue to adhere to MBGO 052-23 Victim/Witness Assistance Program and current protocols regarding the assistance provided to victims of domestic incidents.

F. The Crime Victim Specialist will track hours worked and provide the Police Planning Specialist with documentation for grant reporting.

VII. Role of Investigator Assigned to the DVHRT

A. The DVHRT Investigator will respond, as needed, to incidents involving Domestic Violence to coordinate investigative efforts. The investigator will ensure that the appropriate Crime Victim Specialist is notified.

Note: Investigations that required the DVHRT Investigator to respond to the scene or are of a significant nature will require updates to MCSO Command.

B. The DVHRT Investigator will assist in implementing the STRIVE protocols, and will represent MCSO on the DVHRT, which may be used to provide support for victims, and target offenders who have demonstrated a high propensity for violence.

C. The DVHRT Investigator will serve as a liaison with the partner agencies, sharing intelligence, and coordinating multi-agency investigations.

D. The DVHRT Investigator will participate in the case review process for each domestic violence case presented by Willow's Family Justice Center in which MCSO is the investigating agency. The DVHRT may refer the investigation to the zone of occurrence.

E. The DVHRT Investigator will assist, when able, other local law enforcement agencies who do not have a presence at Willow's Family Justice Center. The DVHRT Investigator will refer the investigation to the agency with jurisdiction.

Note: Local law enforcement agencies will be the primary investigating agency and be responsible for the investigations and documentation. MCSO will assist only when needed.

F. The DVHRT Investigator will work collaboratively with partners to provide comprehensive support and services to victims of domestic abuse and will ensure offenders are held accountable.

G. The DVHRT Investigator will coordinate and/or participate in details with law enforcement partners and stakeholders to conduct focused deterrence details, offender call in, and

Probation details targeting offenders. Details should also be used to assist in MCSO investigations related to Intimate Partner Violence, and details targeting repeat offenders of domestic violence.

H. The DVHRT Investigator will conduct quality control reviews of MCSO domestic incidents, with a focus on incidents designated as Intimate Partner Violence. This review is meant to ensure that victims are receiving services consistent with current standards, and to ensure the documentation is sufficient to build prosecutable cases.

I. The DVHRT Investigator will coordinate, or assist in the planning of all training related to domestic violence including the training required under the STRIVE project.

J. The DVHRT Investigator will maintain a record of MCSO cases under the STRIVE initiative in order to track trends, and provide data to partners and stakeholders.

K. The DVHRT Investigator will track hours worked and provide the Police Planning Specialist with documentation for grant reporting.

VIII. Arrest Policy:

A. After a thorough investigation is conducted, consider ALL appropriate offenses that may apply.

B. Felony offenses or violations of Orders of Protections against family or household members: If it is determined that a felony offense or a violation of an order of protection has occurred, pursue a mandatory arrest, other than subdivision three, four, nine or ten of section 155.30 of the Penal Law. [CPL 140.10(4)(a)]

C. Misdemeanor Offenses:

1. When a deputy has reasonable cause to believe that more than one family or household member has committed a misdemeanor family offense the deputy must conduct a Primary Physical Aggressor determination and attempt to identify and arrest the primary physical aggressor after considering:

    a. The comparative extent of any injuries inflected by and between the parties.

    b. Whether any such person is threatening or has threatened future harm against another party or another family or household member.

    c. Whether such person has a prior history of domestic violence that the deputy can reasonably ascertain.

    d. Whether any such person acted defensively to protect himself or herself or a third party from injury.

    e. The arrest of both parties shall require supervisory approval.

2. If a misdemeanor family offense was committed an arrest shall be made unless the victim declines prosecution. The ultimate arrest decision will rest with the deputy based on the totality of the circumstances. If the victim of a misdemeanor offense requests that no arrest be made, a deputy shall strongly consider the victim's

request in making an arrest determination. Document the victim's request and include any expressed concerns from victim(s). Explain to the victim the arrest determination.

D. Family Court:

1. Inform victims of a family offense that there is concurrent jurisdiction with respect to family offenses in both Family Court and the Criminal Courts. Victims of family offenses may proceed in either Family and/or Criminal Court or both, however, mandatory arrest applies to felony cases regardless. A Family Court proceeding is a civil proceeding with a lesser burden of proof than the criminal justice system. Family Court also has concurrent jurisdiction of violation of Family Court Orders of Protection to enforce these orders when it issues them.

2. Offenses that are not designated Family Offenses, but which occur in domestic incident situations, cannot be handled in Family Court. Criminal Courts have exclusive jurisdiction over these acts (e.g., murder or attempted murder, criminal possession of a weapon, rape, unlawful imprisonment).

E. Ask victim if an Order of Protection is desired and explain the Order of Protection process and the various types of orders (stay away/refrain from/no contact) and conditions available. Ensure that court or district attorney's office is provided with this information. Inform the victim of the opportunity to register for Order of Protection notification information through NY-ALERT Order of Protection Notification System.

F. Following an on-scene arrest for a crime arising from a domestic incident, an appearance ticket shall not be issued without prior approval from a supervisor.

G. Arrested persons in all incidents involving domestic violence shall be arraigned in a local criminal court having jurisdiction over such arraignment.

H. Persons of "special status" (i.e. police officers, judges, politicians, television/movie personalities, professional athletes, etc.) are not exempt from the provisions of this Order. No one is absolved from arrest where there is probable cause to believe that a crime has been committed.

Note: Any allegation of domestic violence on the part of an agency employee will be referred directly to the Internal Affairs Unit in accordance with **MBGO 21 – Internal Affairs Unit**

I. When there is a **Penal Law** violation, regardless of whether prosecution is requested, a **Domestic Incident Report Form** shall be completed. In some instances, a Case Report and a Domestic Incident Report shall be completed (when victim is in NYS).

IX. Orders of Protection

A. Law Enforcement is obligated to serve court issued Orders of Protection.

1. When an Order of Protection has been served by the department, the department shall provide the court with proof of service and update the statewide Order of Protection computer registry through Sheriff's Records.

2. When all due diligence to serve an Order of Protection has been exhausted, deputies must notify their supervisor and the issuing court of the results.

B. Enforcement Procedures:

1. Upon the report of a violation, or suspicion that an order of protection may be in effect, the deputy shall attempt to verify the existence and terms of the order through department records or the eJustice portal, by contacting the issuing court (if during business hours), or through all means possible, including contact with other local law enforcement agencies if the order is from another jurisdiction.

2. Where a deputy has reasonable cause to believe that the terms of an order of protection have been violated, an arrest shall be made for the appropriate degree of criminal contempt regardless of whether the prohibited conduct occurred in the deputy's presence or if a victim is able to produce a copy of the order of protection.

3. If the conduct prohibited by the Order of Protection is also conduct constituting another offense, the offender shall be charged with violation of the Order of Protection (e.g., Criminal Contempt) and the additional offense (e.g., Criminal Mischief, Aggravated Harassment, etc.).

C. Out-of-State Orders: Orders of Protection issued in another State shall be given full-faith and credit in New York State.

D. Family Court will instruct petitioners of Orders of Protection requiring immediate service, to present the Order to their local police agency. Deputies will assist with the serving of Orders of Protection when requested to do so by any court or petitioner. When the service of an Order of Protection is completed, Deputies are required to complete the **Affirmation of Personal Service Form** which is attached to the Order. The Affirmation will then be sent to the court of issuance. Additional Affirmation forms will be kept at each zone in the event that the original copy is misplaced. Unsuccessful attempts to serve the Order will be recorded on the **Affirmation of Personal Service Form** on the line(s) provided. If not served, the entire package will be returned to the petitioner for further attempts of service. After a successful service of an Order of Protection, you must contact MCSO Records to have the Order of Protection entered into eJustice.

E. Family Court may fax Orders of Protections directly to a Zone to be served. If one is received, it will first be logged into the Order of Protection log book. Attempts will be made to serve the Order of Protection. The Affirmation of Personal Service Form will be completed. If the Deputy is unable to serve the Order of Protection after a reasonable number of attempts, the Order of Protection will be returned to Family Court. After a successful service of an Order of Protection, you must contact MCSO Records to have the Order of Protection entered into eJustice.

F. When an Order of Protection is accompanied by a Gun Removal order, all attempts must be made to get permission to take custody of all firearms owned by the respondent. If permission is not granted, a search warrant will need to be obtained in order to take custody of all of the firearms owned by the respondent. When taking custody of firearms, follow **MBGO 16 – Property Recovery, Custody and Security.** All current directives related to TERPO and ERPO will apply.

G. Orders of Protection are issued by Family Court, local Criminal Courts, County Court, and State Supreme Court. Deputies responding to a complaint of a violation of an Order of Protection will ensure that the Order is signed and still in effect. The prohibited behavior as described in the Order will be noted.

H. If the complainant does not have their copy of the Order of Protection, Deputies will contact the court clerk, issuing Judge, local law enforcement agencies, or the Records Unit to verify the Order.

I. When Deputies have probable cause to believe that an Order of Protection has been violated, the violator will be arrested and charged in accordance with the most appropriate section of the **Penal Law** pertaining to the crimes of Criminal Contempt in the First or Second Degree or Aggravated Criminal Contempt, as applicable. A copy of the Order of Protection will be included in the arrest package. Deputies will not take the complainant's copy of an Order of Protection.

J. Deputies will not violate, or assist anyone in violating, a court order or an Order of Protection.

K. If a Deputy is advised of the existence of an Order of Protection pertaining to members of the same family, household, or parties to a domestic relationship, the Deputy will review the contents of the Order of Protection to ensure that he/she is in compliance with the issuing Court's directive. If a member of the same family, household, or party to the domestic relationship does not have their copy of the Order of Protection, the Deputy will contact the court clerk, issuing Judge, local law enforcement agencies, or the Central Records Unit to verify the Order of Protection and its contents.

* **X. Firearms**

When responding to a report of a family offense as defined in section 530.11 of the Criminal Procedure Law (CPL) and section 812 of the Family Court Act (FCA) deputies:

A. MAY take temporary custody of any firearm, rifle, electronic dart gun, electronic stun gun, disguised gun, imitation weapon, shotgun, antique firearm, black powder rifle, black powder shotgun, or muzzle-loading firearm that is in plain sight or is discovered pursuant to a consensual or other lawful search;

B. SHALL take temporary custody of any firearm, rifle, electronic dart gun, electronic stun gun, disguised gun, imitation weapon, shotgun, antique firearm, black powder rifle, black powder shotgun, or muzzle-loading firearm that is in the possession of any person arrested for the commission of a family offense or suspected of its commission; and

C. SHALL take temporary custody of any firearm, rifle, electronic dart gun, electronic stun gun, disguised gun, imitation weapon, shotgun, antique firearm, black powder rifle, black powder shotgun, or muzzle-loading firearm that is in plain sight or is discovered pursuant to a consensual or other lawful search if any one of the following circumstances is present:

1. The victim responds in the affirmative to the suspect threats questions in the victim interview section in the prior history section of the New York state standardized domestic incident report (DIR) form; or

2. The victim responds in the affirmative to any of the lethality assessment questions in the prior history section of the New York state standardized domestic incident report (DIR) form; or

3. The responding deputy has a reasonable belief that it is necessary to remove such weapon to protect the victim or other persons present, or to prevent risk of further violence or threat.

D. A deputy who takes custody of any weapon pursuant to this section SHALL also take custody of any license to carry, possess, repair, and dispose of such weapon issued to the person arrested or suspected of such family offense. The deputy shall deliver such weapon and/or license to MCSO Property as provided in Penal Law section 265.20 (1)(f).

D. SHALL provide the owner or person in possession of such weapons or license a receipt in the form of a Property Custody Report (PB-199) or a Weapons Surender Report (PB-345) indicating the weapon characteristics and serial number.

E. Not less than one hundred twenty hours after effecting such seizure, and in the absence of the two conditions listed below, the court or, if no court is involved, licensing authority or custodian of the weapon SHALL direct return of a weapon not otherwise disposed of in accordance with subdivision one of section 400.05 of the Penal Law and/or such license taken into custody pursuant to this section:

1. An order of protection, an extreme risk protection order, or other court order prohibiting the owner from possessing such a weapon and/or license, or

2. A pending criminal charge or conviction which prohibits such owner from possessing such a weapon and/or license, and upon a written finding that there is no legal impediment to the owner's possession of such a weapon and/or license.

F. If any other person demonstrates that such person is the lawful owner of any weapon taken into custody pursuant to this section, and provided that the court or, if no court is involved, licensing authority or custodian of the weapon has made a written finding that there is no legal impediment to the person's possession of such a weapon, such court, licensing authority or custodian of the weapon, as the case may be, shall direct that such weapon be returned to such lawful owner.

G. All weapons in the possession of a law enforcement official pursuant to this section shall be subject to the provisions of applicable law, including but not limited to subdivision six of section 400.05 of the penal law; provided, however, that any such weapon shall be retained and not disposed of by the law enforcement agency for at least two years unless legally transferred by the owner to an individual permitted by law to own and possess such weapon.

XI. Domestic Incidents Involving Members of the MCSO

Investigations involving all members of the Monroe County Sheriff's Office, sworn and civilian, involved in domestic incidents will be handled in accordance with all MCSO policies. All current New York State laws and protocols involving domestic violence reporting and procedures will be adhered to by MCSO.

The Monroe County Sheriff's Office will be the primary agency involved in any domestic incident occurring in MCSO jurisdiction, including when a member of the agency is involved. All investigations will be conducted in accordance with MCSO policy and impartially. During domestic investigations, measures should be taken to avoid conflicts of interest between the investigating personnel and the involved member; the Zone Captain in which the incident is occurring should be consulted to mitigate such conflicts.

A. Responding Deputy Procedures

1. Upon discovery that a Domestic Incident involves a member of the Monroe County Sheriff's Office, deputies will immediately notify their supervisor.

2. The responding deputy shall follow the procedures included in this policy, including taking control of the situation, separating the involved parties, assess for physical injures, administer first aid, secure evidence, ensure the safety of responding personnel and the involved parties, and request additional resources if appropriate.

3. Deputies will continue to utilize BWC's according to **MBGO-103-25 Body Worn Cameras (BWC) and In Car Cameras (ICC).**

   Note: If CIS will be responding and coordinating the investigation, BWC should not be utilized when conducting interviews or taking statements from witnesses and victims. BWC will still be utilized for the initial response and gathering of information from all parties during a preliminary investigation.

B. Investigative Procedures

1. Upon discovery that a domestic incident involves a member of MCSO, the supervisor will respond to the scene to ensure the scene is managed appropriately. The supervisor will maintain control over the scene for the duration of the investigation.

2. The supervisor will conduct a thorough preliminary investigation, to include:

   a. Establishing the primary aggressor

   b. Obtaining an account of what occurred from the involved parties, and witnesses in accordance with any preliminary investigation.

   c. Document findings of investigation on a New York State Domestic Incident Report (DIR), to include statements given by anyone interviewed. This will include the deposition included in the DIR.

3. Incidents that are criminal in nature and involve any of the following circumstances will be investigated by the Criminal Investigation Section (CIS), and the Major Crimes Supervisor will be immediately notified:

   a. The victim requests prosecution.

b. The preliminary investigation indicates that felonies are believed or alleged to have occurred.

c. The details of the incident are unknown and would require significant investigative resources to determine what occurred, in this case the CIS Captain should be notified and consulted also.

Note: All current patrol and CIS notifies shall remain in effect for incidents and crimes.

4. If the scene requires extensive management or a conflict of interest exists (personal or professional), another supervisor will respond to handle the preliminary investigation.

5. If the member involved is a Lieutenant or higher, another Lieutenant or higher will respond to conduct the preliminary investigation.

6. The Watch Commander working during the incident will also respond and assist with scene management and the investigation.

7. The Watch Commander will notify Internal Affairs.

C. Administrative

1. Any circumstances not covered in this policy will be discussed with the Zone Captain in which the incident is occurring, the members Captain, or higher for guidance.

2. Any decision to assist deputies involved in a domestic incident with the exchange of property shall be referred to Internal Affairs and the Chief Deputy.

XII. Law Enforcement Training

Deputies and communications personnel should complete training on: recognizing, responding to and assisting victims of domestic violence in a trauma-informed, survivor-centered, and culturally responsive manner; the applicable statutes concerning domestic violence; and the roles responsibilities, and limitations of law enforcement in responding to and intervening in domestic violence cases. Where practicable, a dual instruction method including law enforcement and victim advocates is preferred.

By Order of the Sheriff,

Todd K. Baxter

* Indicates changes from the previous General Order.

APPENDIX A

Family Court and Criminal Court have Concurrent Jurisdiction of Designated Family Offenses in CPL 530.11(1) and FCA 812(1).
The following offenses, when they occur between spouses or former spouses, or between parent and child, or between members of the same family or household as defined in Criminal Procedure Law 530.11(1) and Family Court Act 812 (1) are designated family offenses:

Aggravated Harassment 2nd (PL 240.30 - A MISD)
Assault 2nd (PL 120.05 - D FEL)
Assault 3rd (PL 120.00 - A MISD)
Attempted Assault 2nd (PL 110.10/120.05 – E FEL)
Attempted Assault 3rd (PL 110.00/120.00 – B MISD)
Coercion 2nd (PL 135.61 – E FEL)
Coercion 3rd; subs. 1, 2 and 3 (PL 135.60 – A MISD)
Criminal Mischief 1st (PL 145.12 – B FEL)
Criminal Mischief 2nd (PL 145.10 – D FEL)
Criminal Mischief 3rd (PL 145.05 – E FEL)
Criminal Mischief 4th (PL 145.00 – A MISD)

> Note: The statutory definition of "property of another" for the purposes of the crime of criminal mischief and related offenses includes property jointly or co-owned by another person. It further provides that there will be no defense to a charged criminal mischief offense that a person believes he or she has a reasonable ground or right to destroy property because he or she owns such property with one (1) or more persons, unless all such persons have given their consent to destroy such property

Criminal Obstruction of Breathing or Blood Circulation (PL 121.11 – A MISD)
Disorderly Conduct (need not occur in a public place) (PL 240.20 – Violation)
Forcible Touching (PL 130.52 – A MISD)
Grand Larceny 3rd (PL 155.35 – D FEL)
Grand Larceny 4th (PL 155.30 – E FEL)
Harassment 1st (PL 240.25 – B MISD)
Harassment 2nd (PL 240.26 – Violation)
Identity Theft 1st (PL 190.80 – D FEL)
Identity Theft 2nd (PL 190.79 – E FEL)
Identity Theft 3rd (PL 190.78 – A MISD)
Menacing 2nd (PL 120.14 – A MISD)
Menacing 3rd (PL 120.15 – B MISD)
Reckless Endangerment 1st (PL 120.25 – D FEL)
Reckless Endangerment 2nd (PL 120.20 – A MISD)
Sexual Abuse 2nd (PL 130.60(1) – A MISD)
Sexual Abuse 3rd (PL 130.55 – B MISD)
Sexual Misconduct (PL 130.20 – A MISD)
Stalking 1st (PL 120.60 – D FEL)
Stalking 2nd (PL 120.55 – E FEL)
Stalking 3rd (PL 120.50 – A MISD)
Stalking 4th (PL 120.45 – B MISD)
Strangulation 1st (PL 121.13 – C FEL)
Strangulation 2nd (PL 121.12 – D FEL)
Unlawful Dissemination or Publication of an Intimate Image (PL 245.15 – A MISD)