	NEW PALTZ POLICE DEPARTMENT Policy and Procedures	
	<i>Subject</i> 149.0 Domestic Incidents	
	ISSUED: February 7, 2011	EFFECTIVE: February 7, 2011
	REVISED: October 24, 2023	RESCINDED:
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DOMESTIC INCIDENTS

149.1 PURPOSE


The purpose of this policy is to provide guidance to member of the New Paltz Police Department officers on recognizing, responding to and assisting victims of domestic violence; when and how to complete domestic incident reports; and enforcement of orders of protection. Members shall be expected to do the following:

- Establish arrest and prosecution as a preferred means of police response to domestic violence
- Take appropriate action for any violation of permanent, temporary, or emergency orders of protection
- Afford protection and support to adult and child victims of domestic violence
- Promote the safety of law enforcement personnel responding to incidents of domestic violence
- Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment or both
- Complete thorough investigations and effect arrest of the primary physical aggressor upon the establishment of probable cause

149.2 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, officers 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. Officers shall respond to victims and their children through a survivor-centered, trauma-informed and culturally responsive approach.

It is the policy of the New Paltz Police Department to provide a proactive, pro-arrest approach in responding to domestic violence. The primary focus shall be on victim safety followed closely by perpetrator accountability. The officer shall attempt to determine the *primary physical aggressor* and arrest them. Officers should not arrest a person who acted in self-defense as defined by state statute.

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149.3 DEFINITIONS

1. Abuse: the intended act of causing or attempting to cause bodily injury or placing another person in reasonable apprehension of serious imminent bodily injury to self or other. Types of abuse include the following:
 - a. Physical abuse: a wide range of behaviors that include aggressive, offensive, and threatened actions by the offender toward the victim's body.
 - b. Sexual abuse: aggressive, offensive sexual behavior toward the victim's body. These are behaviors that the victim does not consent to engage in and that the offender commits without regard for the victim's desires or rights.
 - c. Psychological abuse: the employment of verbal, emotional, and psychological acts rather than, or in concert with, physical attacks, verbal threats, acts of intimidation, destruction of property, animal cruelty, economic abuse, and stalking.

2. Community stakeholders: entities in the community that are responsible for joining together to foster effective intervention in and prevention of domestic violence. Community stakeholders include, but are not limited to, law enforcement agencies, prosecutors, parole and probation officers, advocacy organizations, social service agencies, adult and child protective services, clergy, educators, government agencies, animal welfare organizations, businesses, and employers.

3. Domestic Violence: According to the New York State Office for the Prevention of Domestic Violence, domestic violence is a pattern of coercive tactics, which can include, physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim. Domestic violence is also called domestic abuse, intimate partner violence or dating violence. It may include sexual assault. People most often think of domestic violence as physical abuse, that that is only part of the picture. Many victims are never physically or sexually assaulted but are controlled and terrorized by their partners' use of non-physical tactics such as: verbal, emotional/psychological abuse; coercion and threats; isolation; minimizing, denying, blaming; using children; intimidation; and economic abuse.

4. Victim of Domestic Violence: According to NYS Social Services Law section 459-a-1, a victim of domestic violence is defined as; any person over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting; disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless

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endangerment, kidnapping, assault, attempted assault, attempted murder, criminal obstruction of breathing or blood circulation, or strangulation; and

- a. such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and
- b. such act or acts are or are alleged to have been committed by a family or household member.


5. Members of the same family or household: According to NYS Social Service Law section 459-2, members of the same family or household are defined as;
 - a. persons related by consanguinity or affinity;
 - b. persons legally married to one another;
 - c. persons formerly married to one another regardless of whether they still reside in the same household;
 - d. persons who have a child in common, regardless of whether such persons have been married or have lived together at any time; and
 - e. 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. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship".
 - f. any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.

6. Family offense proceeding; A family-offense proceeding is a court case in which a petitioner claims that a spouse or former spouse, family member, or someone with whom he or she has a child (even if they were never married to each other and never lived together) has committed an act against the petitioner or child involving disorderly conduct, reckless endangerment, harassment, stalking, menacing, or physical harm or the threat of harm (see #10). The person accused of committing these acts is the respondent. The person asking for protection is the petitioner.

7. Family Offenses:
 - a. Harassment 1st or 2nd Degree
 - b. Aggravated Harassment 2nd
 - c. Assault 2nd and Assault 3rd
 - d. Attempted Assault


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- e. Criminal Mischief 1st, 2nd, 3rd and 4th
 - f. Disorderly Conduct
 - g. Forcible Touching
 - h. Menacing 2nd and 3rd
 - i. Reckless Endangerment 1st and 2nd
 - j. Sexual Abuse 2nd and 3rd
 - k. Sexual Misconduct
 - l. Stalking 1st, 2nd, 3rd and 4th
 - m. Criminal obstruction of breathing or blood circulation
 - n. Strangulation in the 1st and 2nd Degree
 - o. Identity Theft 1st, 2nd or 3rd Degree
 - p. Grand Larceny 3rd or 4th Degree
 - q. Coercion 2nd Degree
8. Domestic Incident Report (DIR): a law enforcement reporting form designed to thoroughly capture evidence crucial to the successful prosecution of domestic violence cases.
9. Full faith and credit: the requirement by the U.S. Code (U.S.C.) title 18 section 2265 that jurisdictions honor the terms and conditions of a protection order issued by another jurisdiction.
10. Petitioner: the person alleging abuse in a petition for an order of protection.
11. Primary Physical Aggressor; In accordance with NYS CPL 140.10-4(c), officers must look at the “totality of circumstances” in order to identify the “true abuser.” Officers must use all available evidence, including
- a. the comparative extent of any injuries inflicted 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 any such person has a prior history of domestic violence that the officer can reasonably ascertain
 - d. Whether any such person acted defensively to protect himself or herself from injury.
 - e. The officer shall evaluate each complaint separately to determine who is the primary physical aggressor and shall not base the decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding.

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12. Pro-arrest response: the expectation that officers shall arrest a person for committing domestic abuse unless there is a clear and compelling reason not to arrest (such as a self-defense determination or lack of probable cause).
13. Order of Protection: An order of protection is a court order that lists behavior and actions the respondent is forbidden to do, such as threatening or harming the petitioner or other family members; going near the petitioner’s home or place of employment or a child’s school; harassing the petitioner; or using alcohol or illegal drugs. Other conditions may be added to the order to keep family members and the petitioner safe. An order of protection must be served (delivered) on the respondent; otherwise, the court may not enforce it.
14. Respondent: the person alleged in a petition for order of protection to have abused another.
15. Self-defense: certain legal circumstances under which persons may use a reasonable amount of force to protect themselves or another based on their actual belief that they are, or another is, in imminent danger coupled with reasonable grounds. If force has been legally used in self-defense under the law, there is an absolution of guilt or culpability.
16. Victim: a person who is the subject of domestic abuse and who a law enforcement officer has determined is not a primary physical aggressor under the factors set out in the law.
17. Intimate Relationship: The term intimate relationship is not specifically defined within NYS CPL or The NYS Family Court Act. Exactly what constitutes an “intimate relationship” for the purposes of a civil or criminal order of protection will be decided by each individual judge, based on the facts of the case. In that regard, the law provides the following factors for judges to consider, but not be limited to;
 - a. The nature or type of relationship, regardless of whether the relationship is sexual in nature.
 - b. The frequency of interaction between the persons; and
 - c. The duration of the relationship.

****Note-** The law clearly states that neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an “intimate relationship.”

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149.4 NEW YORK STATE’S “EXPANDED ACCESS TO FAMILY COURT” LAW. (EFFECTIVE 7/21/08)

1. This law requires police to provide *persons who are or have been in an intimate relationship* with the same protections as all other “members of the same family or household” in CPL § 530.11-1 and FCA § 812-1. These protections include the police applying CPL sections 140.10-4 and 140.10-5 to *persons who are or have been in an intimate relationship*, specifically through:
 2. Completion of a Domestic Incident Report (DIR) at any report of a crime or offense between *members of the same family or household*, whether or not an arrest is made [CPL § 140.10-5];
 3. Mandatory arrest for any violation of a “stay-away” provision and/or commission of any family offense in violation of any applicable duly served order of protection or special order of conditions [CPL § 140.10-4(b)(i) and (ii)];
 4. Mandatory arrest for any felony (except subdivisions 3, 4, 9, or 10 of section 155.30 of the penal law) or any family offense misdemeanor committed by a person against a *member of the same family or household* [CPL § 140.10-4(a) and (c)]; and
 5. Primary physical aggressor identification and arrest when an officer has reasonable cause to believe that more than one *family or household member* has committed a family offense misdemeanor [CPL § 140.10-4(c)].2. *Simply stated, the expanded definition of ‘members of the same family or household’ extends to the DIR completion and mandatory arrest provisions of the CPL. Therefore, police officers must complete DIRs and apply mandatory arrest and primary aggressor provisions where legally required at calls involving or alleging “persons who are or have been in an intimate relationship,” as defined in CPL §530.11-1(e) and FCA § 812-1(e). Police should also refer all current or former “intimate partner” victims to appropriate domestic violence services.*
6. Equal access for all current or former intimate partners; This law expands access to Family Court and Integrated Domestic Violence Court civil orders of protection and provides other enhanced criminal and civil protective measures to all current or former “intimate partners,” regardless of whether such persons have lived together at any time, including:
 - a. Heterosexual dating couples, including adolescents/teens, and
 - b. Same-sex dating couples, including adolescents/teens.


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149.5 DOMESTIC VIOLENCE PREVENTION

1. The department shall adhere to a pro-arrest policy towards domestic violence perpetrators.
2. Prevention through Collaboration
 - a. The New Paltz Police Department is a member of the Ulster County Intimate Partner Violence Intervention Task Force. A group comprised of law enforcement, the Ulster County District Attorney’s Office, Ulster County Crime Victims Assistance, Family of Woodstock, Ulster County Probation, New York State Parole and other community stakeholders to develop domestic violence curricula and train officers and call takers to enhance their abilities. The department shall provide local community stakeholders and victim advocacy organizations with copies of all domestic violence curricula, protocols, and policies for review and feedback.
3. Training
 - a. All departmental personnel, both sworn and non-sworn, 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; identification of the primary physical aggressor; 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.

149.6 INCIDENT RESPONSE PROTOCOLS

1. Communications officers or call takers shall do the following;
 - a. Dispatch a minimum of two officers to a domestic violence call whenever possible.
 - b. Immediately notify and dispatch a supervisor to any domestic violence call for service that involves or appears to involve a police officer, regardless of the involved officer's jurisdiction.
 - c. Preserve documentation of the facts and circumstances of each call, including 911 tapes, for use in potential administrative and criminal investigations, as requested by the investigating officers or supervisors.
 - d. Maintain current contact information of local domestic violence victim advocacy organizations for responding officers to provide to victims.
 - e. Attempt to elicit any and all information from the caller that may help the responding and investigating officers assess the situation, including the following:

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- i. Immediate safety of the caller and others at the scene
 - ii. Nature of the incident (verbal or physical), nature of injuries, and whether violence is ongoing.
 - iii. Weapons that are involved, or present, if applicable, and the type of weapon when appropriate
 - iv. Hazards to responders if any, including animals
 - v. Whether the suspect is under the influence of alcohol and drugs or both
 - vi. Suspect's description and presence or absence, and, if absent, direction of travel and mode of travel;
 - vii. Other people involved or witnesses at the scene, including children
 - viii. Number of times the department has been called to this scene because of this suspect
 - ix. Existence of a protection order currently on file against the suspect
 - x. Outstanding warrants against the suspect if any exist
 - xi. Suspect's date of birth or social security number and any previous history of domestic violence
- f. Inform the caller of an approximate time of the officers' arrival.
 - g. Not cancel the original call for service even if a subsequent request to cancel the original call is received. Advise the responding officers of the second call and instruct them to continue to respond, investigate, and assess the situation to ensure that all parties are safe.
 - h. Keep the caller on the telephone if the caller is a victim or witness to a domestic violence incident in progress in order to relay ongoing information provided by the caller to the responding officers and remain aware of victim's safety.
 - i. Have ready access to police department records that indicate whether the parties involved in the incident have been involved previously in domestic violence incidents, whether previous incidents involved a weapon, and whether there is in effect a protection order involving the parties, and relay any relevant information to the responding officers.
 - j. Make the safety of domestic violence victims a primary concern. Address threats of violence, whether immediate or remote, by working with the victim to focus on ways to enhance safety, such as waiting for officers at another location or leaving the location if the suspect returns.

149.7 INITIAL LAW ENFORCEMENT OFFICER RESPONSE

1. When dispatched to a domestic violence call, responding officers should do the following:
 - a. Approach the scene of a domestic dispute with a high degree of caution
 - b. Obtain all available information from the dispatcher and notify the dispatcher upon arrival



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- c. Avoid the use of emergency lights and sirens when it is not essential so as not to alert the perpetrator to the officers' approach
- d. Be alert for persons leaving the scene and for the deployment of weapons from doors, windows, or nearby vehicles.
2. Upon arrival at the scene, responding officers should do the following:
 - a. Avoid parking the police vehicle in front of the residence or other site of the disturbance when possible.
 - b. Identify themselves as law enforcement officers, explain their presence, and request entry in the event the incident is at a private residence, as necessary, and when exigent circumstances do not exist.
 - c. Contact all residents of the house, all potential witnesses, victims, and perpetrators. A forced entry is permissible if there is probable cause to believe that the safety of a victim may be in jeopardy. In making this decision, officers may consider everything they personally observe, all physical evidence, and all things learned from witnesses or other persons supplying information. In evaluating the information, officers should consider the credibility of the persons supplying the information and whether there is a reasonable basis for believing the information.
3. Upon gaining entry, responding officers should do the following:
 - a. Identify and secure potential weapons in the surroundings
 - b. Separate the parties
 - c. Restrain or remove the suspect, if necessary
 - d. Assess for injuries, make an inquiry about strangulation or internal injuries, administer first aid, and request medical services as necessary
 - e. Identify all people or witnesses on the premises
 - f. Separate occupants and witnesses from the victim and the accused, keeping them out of sight and hearing range of one another (as safety permits)
 - g. Obtain a comprehensive account of the events from all parties
4. During the on-scene investigation, using a coordinated approach, responding officers should do the following:
 - a. Ask the parties about injuries, including those that may be concealed by clothing or otherwise not readily apparent including strangulation. An officer of the same sex as the victim may be needed as further visual investigation continues and color photographs of these areas are taken.
 - b. After speaking with the victim and making a proactive assessment of the victim's physical condition, determine whether emergency medical services (EMS) should be summoned to the scene. Officers should always summon EMS if (1) the victim requests medical attention (whether the officer believes EMS should be summoned or not) or (2) if it appears that strangulation has occurred.
 - c. Members should obtain a HIPPA release from the victim prior to transport to the hospital. This will assist in obtaining copies of medical records during the subsequent investigation and/or prosecution.



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- d. Inform the victim in advance of actions to be taken and obtain consent to search the scene or obtain a search warrant as necessary.
- e. If the suspect has been arrested prior to the interview, give Miranda warnings before questioning the suspect. If the suspect has fled the scene, solicit information about his or her possible whereabouts.
- f. Address the victim's safety and privacy by interviewing the victim in an area apart from the suspect and witnesses. Obtain information about previous incidents, including frequency and severity.
- g. Ask the victim about the existence of a protection order and, if one is said to exist, ask whether the victim possesses a copy. Check for the existence of a protection order through dispatch or by whatever means available.
- h. Collect, preserve, and document all physical evidence to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, phone cords, and so on) and evidence recording the crime scene, in accordance with departmental policy on evidence collection. Ensure that color photographs are taken of visible injuries on the victim as well as visible injuries on the suspect. Make arrangements to take follow-up photographs of the victim's injuries 24, 48, or 72 hours later in the event the injuries become more visible and pronounced.
- i. Interview all witnesses fully and as soon as circumstances allow. If witnesses provide information about prior incidents, document the information to establish a pattern.
- j. Interview children at the scene in a manner appropriate to their age. Document any signs of trauma and any apparent wounds or healing of wounds on the children and take appropriate action, in accordance with state law, to prevent imminent harm to the children.
- k. Elicit information and document all actual and suspected incidents of abuse including physical and sexual abuse, elder or child abuse, animal cruelty, and so on.
- l. Provide the victim with the NYS Domestic and Sexual Violence Hotline phone number: English: 1-800-942-6906 (TTY: 1-800-818-0656) /Spanish: 1-800-942-6908
- m. (TTY: 1-800-780-7660).
5. Highlight and provide the victim with a copy of the Victim Rights Notice and if necessary or requested, read the Victim Rights Notice to the victim.
6. When applicable, complete a New York State Domestic Incident Report (DIR). In situations whereby members believe that a subject named within a DIR is under parole or probation supervision, the member will make notification to such parole or probation department as soon as reasonably practicable.
7. The responding or investigating officers shall not do the following:
 - a. Make any statement that would discourage a victim from reporting an act of domestic violence
 - b. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel

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149.8 SUPERVISOR INVOLVEMENT

1. Supervisors shall be responsible for monitoring any domestic violence calls dispatched to Officers under their direct supervision or within their area of responsibility.
2. Whenever possible, the supervisor should respond to the scene for the purpose of providing additional safety, monitoring the situation, and being available to offer advice.
3. In situations where the supervisor is unable to respond, they should perform follow-up to ensure departmental policy has been followed.
4. Incidents involving a police officer as the suspect
 - a. Upon arrival on the scene of a domestic violence call or an incident involving a law enforcement officer, the primary patrol unit shall immediately notify dispatch and request a supervisor of higher rank than the involved officer report to the scene, regardless of the involved officer's jurisdiction
 - b. Responding officers shall be aware of the heightened risk that a suspect who is a police officer will likely possess firearms, other weapons, physical combat training, or all three.
5. Incident Documentation
 - a. Officers shall complete a domestic incident report following response to or investigation of an allegation of domestic violence, whether an arrest is made.
 - b. If responding officer determines the domestic incident is Intimate Partner Violence (IPV) as defined as any offense or crime between members of the same family or household as such terms are defined in CPL 530.11 (1)(b), (1)(c), (1)(d) & (1)(e) they shall complete a written report of the incident and the requisite paperwork and procedures outlined in the New Paltz Police Intimate Partner Violence Intervention Law Enforcement Classification and Notification Protocol.
 - c. The officer shall evaluate each complaint separately to determine who is the primary physical aggressor. The Primary Physical Aggressor (PPA) is identified after considering the factors enumerated in CPL 140.10 (4)(c). Officers shall not base the decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding.
 - i. CPL 140.10 (4)(c) enumerates the following factors:
 1. the comparative extent of any injuries inflicted by and between the parties;
 2. Whether any such person is threatening or has threatened future harm against another party or another family or household member;
 3. whether any such person has a prior history of domestic violence that the officer can reasonably ascertain; (and)
 4. whether any such person acted defensively to protect himself or herself from injury.
6. The Arrest Decision
 - a. New Paltz Police Officers *shall* arrest a person, and *shall not* attempt to reconcile the parties or mediate, where such officer has reasonable cause to believe that;



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- i. **A felony**, other than subdivision three, four, nine or ten of section 155.30 of the penal law, has been committed by such person against a member of the same family or household, as member of the same family or household is defined in this policy **or**;
- ii. **A duly served order of protection** or special order of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of The NYS CPL is in effect, or an order of which the respondent or defendant has actual knowledge because he or she was present in court when such order was issued, where the order appears to have been issued by a court of competent jurisdiction of this or another state, territorial or tribal jurisdiction; **and**
- iii. Such order directs that the respondent or defendant stay away from persons on whose behalf the order of protection or special order of conditions has been issued and the respondent or defendant committed an act or acts in violation of such "stay away" provision of such order; or The respondent or defendant commits a family offense as defined in subdivision one of section eight hundred twelve of the family court act or subdivision one of section 530.11 of this chapter in violation of such order of protection or special order of conditions.
- iv. The provisions of this subdivision shall apply only to orders of protection issued pursuant to sections two hundred forty and two hundred fifty-two of the domestic relations law, articles four, five, six and eight of the family court act and section 530.12 of this chapter, special orders of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of section 330.20 of this chapter insofar as they involve a victim or victims of domestic violence as defined by subdivision one of section four hundred fifty-nine-a of the social services law or a designated witness or witnesses to such domestic violence, and to orders of protection issued by courts of competent jurisdiction in another state, territorial or tribal jurisdiction. In determining whether reasonable cause exists to make an arrest for a violation of an order issued by a court of another state, territorial or tribal jurisdiction, the officer shall consider, among other factors, whether the order, if available, appears to be valid on its face or whether a record of the order exists on the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law or the protection order file maintained by the national crime information center; provided, however, that entry of the order of protection or special order of conditions into the statewide registry or the national protection order file shall not be required for enforcement of the order. When a special order of conditions is in effect and a defendant or respondent has been taken into custody pursuant to this paragraph, nothing contained in this paragraph shall restrict or impair a police officer from acting pursuant to section 9.41 of the mental hygiene law; or
- v. A misdemeanor constituting a family offense, as described in this policy, has been committed by such person against such family or household member. The officer shall neither inquire as to whether the victim seeks an arrest of such person nor threaten the


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arrest of any person for the purpose of discouraging requests for police intervention. Notwithstanding the foregoing, when an officer has reasonable cause to believe that more than one family or household member has committed such a misdemeanor, the officer is not required to arrest each such person. In such circumstances, the officer shall attempt to identify and arrest the primary physical aggressor after considering: (i) the comparative extent of any injuries inflicted by and between the parties; (ii) whether any such person is threatening or has threatened future harm against another party or another family or household member; (iii) whether any such person has a prior history of domestic violence that the officer can reasonably ascertain; and (iv) whether any such person acted defensively to protect himself or herself from injury. The officer shall evaluate each complaint separately to determine who is the primary physical aggressor and shall not base the decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding.

- vi. Nothing contained in this subdivision 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;
- vii. Officers shall provide a detailed explanation, if an arrest is not made, in their DIR report as to why an arrest was not made.
- viii. When an arrest cannot be made due to lack of probable cause that a crime has been committed, or if an arrest is authorized but not made (explanation to be found in the DIR), then the officer shall do the following:
 - 1. Explain to the victim why an arrest is not being made
 - 2. Encourage the victim to contact the local domestic violence service provider for information regarding counseling and other services. Our local provider is the Ulster County Crime Victim's Assistance Program at 845.331.9300.
- ix. If an officer has probable cause to believe that two or more persons committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall attempt to determine whether one party acted in self-defense and whether one party was the primary physical aggressor.
- x. An arrest should be made once the primary physical aggressor had been determined.
- xi. Dual arrests apply only where officers find that there is no primary physical aggressor and self-defense has not been used under the law.
- xii. If the officer determines that probable cause exists to arrest both parties, the arresting officer shall write and file a separate report for each arrest and include a detailed explanation of the probable cause for each arrest.


7. Arrest Procedures

- a. The arresting officers should take the accused into custody as soon as it is determined that a warrantless arrest is appropriate. If the suspect has fled the scene, the officers should attempt to locate and apprehend the suspect as well as consider advising dispatch of the suspect's

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description so a lookout can be placed for the suspect. Should the suspect not be located, the officers should initiate procedures to obtain a warrant for the suspect as soon as practical.


- b. Domestic disturbances involving prominent citizens, public officials, or police officers may present difficulties for the responding officers. In such circumstances, the responding officers should request that a supervisor respond to the scene and shall ensure that this incident be handled the same as any other domestic violence incident.
 - c. Members shall not put a victim in the position of deciding whether they want the suspect arrested unless it is for a violation which did not occur in the member's presence.
8. Victim Safety and Protection
- a. Police officers shall make victim safety and protection a priority, recognizing the important role they play in supporting the safety of victims and enabling them to make informed decisions.
9. Information provided to the victim
- a. All New Paltz Police Officers must advise victims of family/domestic violence of the following:
 - i. That there is concurrent jurisdiction with respect to family offenses in both family court and the criminal courts;
 - ii. That a family court proceeding is a civil proceeding and is for the purpose of attempting to stop the violence, end the family disruption and obtain protection. Referrals for counseling, or counseling services, are available through probation for this purpose;
 - iii. That a proceeding in the criminal courts is for the purpose of prosecution of the offender and can result in a criminal conviction of the offender;
 - iv. That a proceeding or action subject to the provisions of this section is initiated at the time of the filing of an accusatory instrument or family court petition, not at the time of arrest, or request for arrest, if any;
 - v. That an arrest may precede the commencement of a family court or a criminal court proceeding, but an arrest is not a requirement for commencing either proceeding; provided, however, that the arrest of an alleged offender shall be made under the circumstances described in subdivision four of section 140.10 of the criminal procedure law;
 - vi. That notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section.
 - vii. Notice. Every police officer, peace officer or district attorney investigating a family offense under this article shall advise the victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal rights and remedies available to a victim of a family offense under the relevant provisions of the criminal procedure law, the family court act and the domestic relations law. Such notice shall be available in English and Spanish and, if necessary, shall be delivered orally and shall include but not be limited to the following statement:

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"If you are the victim of domestic violence, you may request that the officer assist in providing for your safety and that of your children, including providing information on how to obtain a temporary order of protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you, or assist in making arrangement to take you, and your children to a safe place within such officer's jurisdiction, including but not limited to a domestic violence program, a family member's or a friend's residence, or a similar place of safety. When the officer's jurisdiction is more than a single county, you may ask the officer to take you or make arrangements to take you and your children to a place of safety in the county where the incident occurred. If you or your children are in need of medical treatment, you have the right to request that the officer assist you in obtaining such medical treatment. You may request a copy of any incident reports at no cost from the law enforcement agency. You have the right to seek legal counsel of your own choosing and if you proceed in family court and if it is determined that you cannot afford an attorney, one must be appointed to represent you without cost to you. You may ask the district attorney or a law enforcement officer to file a criminal complaint. You also have the right to file a petition in the family court when a family offense has been committed against you. You have the right to have your petition and request for an order of protection filed on the same day you appear in court, and such request must be heard that same day or the next day court is in session. Either court may issue an order of protection from conduct constituting a family offense which could include, among other provisions, an order for the respondent or defendant to stay away from you and your children. The family court may also order the payment of temporary child support and award temporary custody of your children. If the family court is not in session, you may seek immediate assistance from the criminal court in obtaining an order of protection. The forms you need to obtain an order of protection are available from the family court and the local criminal court (the addresses and telephone numbers shall be listed). The resources available in this community for information relating to domestic violence, treatment of injuries, and places of safety and shelters can be accessed by calling the following 800 numbers (the statewide English and Spanish language 800 numbers shall be listed and space shall be provided for local domestic violence hotline telephone numbers). Filing a criminal complaint or a family court petition containing allegations that are knowingly false is a crime."

149.9 FIREARMS


1. Upon arresting an individual who is licensed to carry, possess, repair, or dispose of firearms, pursuant to Article 400 of the Penal Law, the arresting officer should, whenever practicable, notify the arraignment court that the alleged offender is so licensed and also advise the court of the licensing authority and county of issuance.

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2. The arresting officer shall confiscate the pistol permit and all firearms, including long gun, when the domestic incident results in an arrest. The arresting officer shall indicate, on the accusatory instrument, that the defendant is so licensed
3. Upon determining that an arrest and permit seizure are not applicable, the responding arresting officer shall run a NICS check to verify that the suspect has not been disqualified from receiving firearms. Should the suspect be found to possess a firearm permit and/or firearm in violation of P.L 107-347, the officer shall respond according to departmental policy regarding such violation.
4. The arresting officer shall provide the offender's name to any/all local agency/agencies issuing firearm permits, with notification of the arrest and firearms confiscation.
5. This will also be done on the accusatory instrument when the following conditions are met:
 - a. The arrest is for a willful failure to obey an Order of Protection issued under Article 8 of the FCA that involves violent behavior constituting the crime of menacing, reckless endangerment, assault or attempted assault.
 - b. The arrest if a willful failure to obey a lawful Order of Protection issued under Article 8 of the FCA or Section 530.12 of the Criminal Procedure Law where such willful failure involves the infliction of serious physical injury or the use or threatened use of a deadly weapon or dangerous instrument.
6. Determine whether it is necessary to obtain an Extreme Risk Protection Order (ERPO) to remove any firearms from the home if the alleged abuser has a history of mental health with a risk of suicide OR is a danger to themselves or others, including the victim in compliance with New Paltz Police Department Policy and Procedure 142.0, Extreme Risk Protection Order.

149.10 APPEARANCE TICKETS, BAIL AND ARRAIGNMENTS

1. Following an on-scene arrest for a crime arising from a domestic incident, where possible, the officer shall remove the alleged offender from the scene and complete pre-arraignment booking procedures in accordance with New Paltz Police Department Policy and Procedure 64.2 and §160.10 of the Criminal Procedure Law.
2. An officer *must* contact a judge for an arraignment if the defendant is charged with a qualifying offense. CPL 510.10 (4)
3. An officer *must* contact a judge for an arraignment if the defendant is charged with a family offense in which the victim requests an order of protection. An officer *may* issue an appearance ticket if the defendant is charged with a family offense in which the victim does not request an order of protection.
4. Any deviation from this procedure must be approved by the officer-in-charge, and the reasons for such deviation must be documented in the case file.

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5. Members shall not assure victims that an arrested individual will remain in custody for any period because of the provisions of this policy. Such assurances to the victim might influence decisions regarding safety precautions that the victim may take.
6. Members shall not make any representations to victims as to whether they will have to testify or the potential outcome of a criminal prosecution.

149.11 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.
2. Enforcement Procedures:
 - a. Upon the report of a violation, or suspicion that an order of protection may be in effect, the officer shall attempt to verify the existence and terms of the order through department records or the E-Justice 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.
 - b. Where an officer 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 officer's presence or if a victim is able to produce a copy of the order of protection.
 - c. 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.)
3. Out-of-State Orders: **Orders of Protection issued in another State shall be given full-faith and credit in New York State.**

149.12 OFFICER INVOLVED INCIDENTS


1. Purpose: To acknowledge the special nature of officer-involved domestic incidents and to establish departmental policy and procedure in handling such calls.

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2. Definition: An Officer-involved domestic incident, under this policy, shall include:
 - a. Any domestic incident, in which a police officer is identified as a suspect on a DIR or otherwise;
 - b. Domestic violence perpetrated by a police officer upon a member or members of his/her family or household; and/or
 - c. Any domestic incident or domestic violence in which the identified victim, witness, or suspect are police officers.
3. Communications procedures should be followed according to this policy, along with the following additional commands:
4. Notify the responding officer of an officer-involved domestic incident, regardless of jurisdiction.
5. Notify the patrol supervisor on duty of the officer Involved domestic
6. Responding Officer
 - a. Upon arrival on the scene of a domestic incident involving an alleged offender who is a police officer, the primary responding officer shall immediately notify dispatch and request a supervisor of higher rank than the alleged offender report to the scene, regardless of the alleged offending officer's jurisdiction;
 - b. In responding to a domestic incident where the victim is a police officer, standard domestic violence response and investigation procedures should be followed. In addition to being provided with the local DV service provider's contact information, the victim should be referred to the department's domestic violence officer/EAP or other appropriate personnel and given the choice to make contact at any point. Where there is no departmental policy, the victim officer's supervisor shall not be notified by anyone other than the victim, should the victim decide that such notification is in her/his best interest;
 - c. If a reported domestic incident involves the chief of police as the perpetrator, the supervisor shall immediately notify the district attorney and the Town Supervisor.
7. Notifications: All of the following notifications will be made without unnecessary delay. The particulars of the notification attempts shall be recorded and noted in the case folder or dispatch logs.
8. When the officer involved is employed by the responding agency the supervisor on duty shall be notified by the responding officer. The supervisor shall respond to the scene without unnecessary delay.
9. When the officer involved is employed by another jurisdiction, an attempt to notify the highest-ranking supervisor on duty in that agency shall be made by the responding officer.
10. If the officer involved is the Chief of the New Paltz Police Department, the highest-ranking supervisor, or if none, member, on duty shall be notified by the responding officer.
11. If the officer involved is an executive level officer such as Chief or Sheriff of another jurisdiction, the highest-ranking supervisor of that agency, on duty, shall be notified by the responding officer.

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12. Notification to the District Attorney’s office shall be made as soon as practicable by the responding officer or other agency member pursuant to that agency’s arrest and prosecution notification procedures.
13. Whenever notification to any official in another agency is required, notification efforts will be recorded by the responding officer and anyone else who provides notification.
14. Records of all notifications and contacts will be maintained.
15. If the other agency requests any efforts of your agency beyond notification, advise the on-duty supervisor of your agency and document your subsequent actions.
16. If an arrest is made, applicable departmental policies related to duty status/assignment, suspension, etc. will be followed.
17. If a criminal investigation is required, applicable departmental policy shall be followed. In the absence of departmental policy, this investigation should be completed before the subject officer can be interviewed by departmental personnel for any administrative investigation associated with the event.
18. Any deviation from such Arrest Procedures of this policy shall be made only in exigent circumstances and may only be approved by the highest-ranking person available, staff duty officer or higher. Any such deviation and its justification shall be documented. If no supervisor is available, there shall be no deviation from these procedures.
19. An agency which makes a domestic incident/domestic violence-related arrest of a law enforcement officer from another agency shall notify the employing agency of the arrest, the specific charge and the time of the arrest, prior to the end of the working shift during which the arrest was made.
20. A domestic incident which involves a police officer as an offender must comply with the notification procedures cited in this policy regardless of arrest status, and the on-scene supervisor shall submit a written report explaining any and all reasons why an arrest was not made or a warrant was not sought.
21. Victim Assistance
 - a. When the victim is a police officer, she/he shall be informed of and provided access to all the services and protections set forth for all domestic violence victims covered under this policy, and her/his name and pedigree information shall remain confidential within the department.
22. Criminal Investigations
 - a. A criminal investigation shall be set in motion by the police chief or sheriff with jurisdiction over the case. This may include assistance from an outside agency.
 - b. The criminal investigation shall be handled the same as any domestic incident investigation not involving a police officer.
 - c. Internal investigation processes shall be followed the same as other internal investigations of officers unless a conflict in procedures with domestic incidents is evident.
 - d. When both parties in an alleged domestic incident are officers, the department shall proceed with the investigation and prosecution whether the victim chooses to participate
23. Administrative Investigation

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- a. An administrative investigation shall take place regardless of whether an arrest has been made and shall apply to all officer involved domestic incidents.
- b. Administrative Order of Protection: The Department may issue an Order directing the officer offender to stay away from or refrain from engaging in behavior directed at a specific person. This Order shall include provisions stating that violation shall be cause for disciplinary action.
- c. Based upon the evidence found in the investigation, administrative actions and discipline of the offending officer shall be enforced.
- d. Administrative discipline shall be handled according to agency policy and labor agreement.
- e. Officers who are victims in an officer involved domestic incident will be provided with information during and after the Administrative Investigation, with as much advance notice of outcomes as possible, given that they may have to adjust their own personal safety plan and make other arrangements for themselves in response to the potential for escalating violence that typically accompanies the enforcement of domestic violence offender accountability.