



PATROL GUIDE

Section: Arrests		Procedure No: 208-36	
FAMILY OFFENSES/DOMESTIC VIOLENCE			
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PURPOSE

To process family offenses and other offenses that occur between family/household members as per the Family/Household - Expanded Definition.

DEFINITIONS

COMPLAINANT/VICTIM - For purposes of this procedure ONLY, is limited to a person described in subdivisions "a" through "h" below:

FAMILY/HOUSEHOLD (AS DEFINED IN FAMILY COURT ACT) - Includes persons who:

- a. Are legally married to one another
- b. Were formerly legally married to one another
- c. Are related by marriage (affinity)
- d. Are related by blood (consanguinity)
- e. Have a child in common regardless of whether such persons have been married or have lived together at any time
- f. Are not related by consanguinity (blood) or affinity (marriage) and who are, or have been, in an intimate relationship regardless of whether such persons have lived together at any time

NOTE

A common sense standard regarding the totality of the circumstances involving the relationship should be used to determine if an "intimate relationship" exists. Factors a member of the service may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship (the relationship between the involved parties does not have to be sexual in nature to be considered "intimate"); the frequency of interaction between persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals solely in a business, educational, or social context shall be deemed to constitute an "intimate relationship." If unable to determine if the relationship in question is an "intimate relationship," the member of the service concerned will request the response of the patrol supervisor.

Additional factors that may assist in determining the intimacy of a relationship include, but are not limited to: amount of time spent together in either a work or leisure related capacity, shared expenses and/or finances, extent of interaction with family members, etc.

All members of the service are reminded that their primary responsibility is to ensure the immediate and future safety of all parties involved in domestic violence incidents.

FAMILY/HOUSEHOLD (NYPD EXPANDED DEFINITION) - Includes subdivisions "a" through "f" above, AND persons who:

- g. Are currently living together in a family-type relationship
- h. Formerly lived together in a family-type relationship.

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DEFINITIONS (continued)

A family/household thus includes: “common-law” marriages, same sex couples, registered NYC domestic partners, different generations of the same family, siblings, in-laws, persons involved in “intimate relationships,” and persons who live or have lived together in a family-type relationship.

OFFENSE - Conduct for which a sentence to a term of imprisonment or to a fine is provided (felony, misdemeanor, or violation).

FAMILY OFFENSE - Any act which may constitute the following and is committed by one member of the same family/household, AS DEFINED IN THE FAMILY COURT ACT (subdivisions “a” through “f” above), against another:

- a. Harassment 1st or 2nd degree
- b. Assault 2nd degree or Attempt
- c. Disorderly Conduct (including acts amounting to Disorderly Conduct NOT committed in a public place)
- d. Aggravated Harassment 2nd degree
- e. Assault 3rd degree or Attempt
- f. Reckless Endangerment
- g. Menacing 2nd or 3rd degree
- h. Stalking (1st, 2nd, 3rd, and 4th degrees)

NOTE

The law also adds the crimes of Stalking in the first through fourth degrees to the list of criminal convictions which will subject an offender to automatic suspension or revocation of a pistol license by the Criminal or Family Court.

- i. Sexual Misconduct
- j. Forcible Touching
- k. Sexual Abuse 3rd degree
- l. Sexual Abuse 2nd degree when committed against a victim incapable of consent due to a factor other than being less than seventeen years old
- m. Criminal Mischief (all degrees)
- n. Strangulation 1st or 2nd degree
- o. Criminal Obstruction of Breathing or Blood Circulation
- p. Identity Theft (1st, 2nd, and 3rd degrees)
- q. Grand Larceny (3rd and 4th degrees)
- r. Coercion 2nd degree (subdivisions 1, 2, 3)
- s. Unlawful Dissemination or Publication of an Intimate Image (solely for Penal Law section 245.15 violations).

NOTE

A violation of Administrative Code 10-177 does not qualify as a family offense.

ORDER OF PROTECTION - An order issued by the New York City Criminal Court, New York State Family Court, or the New York State Supreme Court, requiring compliance with specific conditions of behavior, hours of visitation and any other condition deemed appropriate by the court of issuance. An Order of Protection may also be issued by the Supreme Court as part of a separation decree, divorce judgment, annulment, or as part of a court order in a pending separation, divorce, or annulment action.

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DEFINITIONS (continued)

PROBABLE CAUSE - A combination of facts, viewed through the eyes of a uniformed member of the service, which would lead a person of reasonable caution to believe that an offense is being or has been committed. The “probable cause” standard applied in family offense/domestic violence offenses IS NO DIFFERENT from the standard applied in other offenses and may be met by evidence other than the statement of the complainant/victim.

CONCURRENT JURISDICTION - Concurrent jurisdiction exists when different courts have jurisdiction over the same subject matter within the same territory. Both Criminal Court and Family Court have concurrent jurisdiction when:

- a. A family offense (as defined above) has been committed; AND
- b. A family/household relationship as defined in the Family Court Act “a” through “f” above (and NOT including the NYPD Expanded Definition) exists between the offender and the victim; AND
- c. The offender is 18 years of age or older.
 - (1) If the offender is 16 or 17 years of age, concurrent jurisdiction only exists if the offender is charged with a felony-level family offense.

NOTE

All three of the above elements must exist for both Family Court and Criminal Court to have jurisdiction at the same time. If either of the first two elements are not met, the complainant MUST go to Criminal Court. If the first two elements are met, but the offender is less than 18 years of age, the complainant must go to Family Court.

If the first two elements are met and offender is 16 or 17 years of age charged with a felony-level family offense, concurrent jurisdiction exists.

WHEN CONCURRENT JURISDICTION EXISTS:

Advise complainants/victim that:

- a. There is concurrent jurisdiction with respect to family offenses in both Family Court and the Criminal Courts;
- b. 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;
- c. 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;
- d. A proceeding or action subject to the provisions of Family Court Act, Section 812, is initiated at the time of filing of an accusatory instrument or Family Court petition, not at the time of arrest, or request for arrest, if any;
- e. 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; 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.



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PROCEDURE When members of the service respond to, or are notified of, any incident involving members of the same Family/Household (NYPD EXPANDED DEFINITION):

- UNIFORMED MEMBER OF THE SERVICE**
1. Obtain medical assistance if requested or the need is apparent.
 2. Ascertain all facts.
 - a. Interview persons involved SEPARATELY.
 - b. Interview and record names of any witnesses present at time of occurrence.
 - c. Collect evidence and record statements of persons present (e.g., admission by offender during dispute).
 - d. Take photographs using the Department issued smartphone via the Finest Online Records Management System (FORMS), in all cases where a victim has visible injuries and/or damaged property as a result of domestic violence. Photographs will be uploaded via FORMS as per P.G. 208-39, "Family Offenses/Domestic Violence (Digital Photography of Visible Injuries/Damaged Property)." Other domestic violence evidence (i.e., weapons, clothing, etc.) must be vouchered in accordance with P.G. 218-01, "Invoicing Property – General Procedure."

NOTE

If the complainant/victim appears to have difficulty understanding/communicating in English, the member of the service concerned should comply with P.G. 212-90, "Guidelines for Interaction with Limited English Proficient (LEP) Persons." If the complainant/victim appears to be hearing impaired, the member of the service concerned should comply with P.G. 212-104, "Interaction with Hearing Impaired Persons." During domestic violence incidents, members of the service should avoid using bystanders and family members to interpret in order to preserve privacy and minimize the risk of faulty interpretation due to fear of arrest of a family member or other personal biases. They may be temporarily used for interpretation to stabilize the scene and gather preliminary information. However, responding officers must use a certified member of the service or the Language Line Service to verify the details of the domestic violence incident before finalizing the job. As possible victims or witnesses to an incident, a child should be interviewed; however, whenever feasible, a child should not be used as an interpreter for any kind of police incident, including domestic violence. Some words and concepts are difficult for a child to understand and translate into another language. Interviewees are not likely to be forthcoming if a child is used to interpret and will be especially hesitant to reveal details of a sexual assault to a police officer through a child.

3. Determine whether:
 - a. Probable cause exists that any offense has been committed
 - b. An Order of Protection has been obtained by complainant/victim
 - c. The offense constitutes a FAMILY OFFENSE
 - d. There are children present in the home who may be victims of neglect, abuse, or maltreatment

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**UNIFORMED
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(continued)**

- (1) If a member REASONABLY SUSPECTS a child less than eighteen is abused, neglected or maltreated and continued presence in the household presents an imminent risk to the child's physical or mental health, request the patrol supervisor to respond, prepare **REPORT OF SUSPECTED CHILD ABUSE OR MALTREATMENT (PD377-154)**, and notify the State Central Registry as outlined in *P.G. 215-03, "Emergency Removals or Investigation and Reporting of Abused, Neglected, Or Maltreated Children"*

NOTE

Willful failure to make such notification is a Class "A" Misdemeanor. Further, civil liability may result for the damages caused by such failure.

- (2) If probable cause exists that a crime has been committed against a child, the perpetrator will be arrested, and no **DESK APPEARANCE TICKET (PD260-121)** will be issued.

WHEN OFFENDER HAS DEPARTED SCENE PRIOR TO ARRIVAL OF POLICE:

**UNIFORMED
MEMBER OF
THE SERVICE**

4. Conduct search of immediate vicinity for offender when:
 - a. Probable cause exists that a crime has been committed OR an Order of Protection has been violated, AND
 - b. Uniformed member of the service has reason to believe that such search might yield positive results.
5. Advise complainant/victim to call police when offender returns, if initial search produced negative results and follow "REPORTING PROCEDURE" as set forth below.

WHEN COMPLAINANT/VICTIM INDICATES THAT AN ORDER OF PROTECTION HAS BEEN OBTAINED:

**UNIFORMED
MEMBER OF
THE SERVICE**

6. Request complainant/victim to produce Order of Protection.
 - a. If Order of Protection cannot be produced, use the "ZFinest" application or "Order of Protection" application, to do a search for all Orders of Protection.
 - b. If the computer systems are down, request Communications Section dispatcher to conduct the inquiry.
 - c. If unable to obtain Order of Protection via Department intranet or Communication Section dispatchers, telephone Central Records Division, Identification Section to verify that an Order of Protection was issued, court of issuance, specific conduct prohibited and the expiration date.

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IF OFFENDER IS PRESENT OR THE SEARCH FOR THE OFFENDER WAS SUCCESSFUL AND THERE IS PROBABLE CAUSE THAT ANY FELONY HAS BEEN COMMITTED OR AN ORDER OF PROTECTION HAS BEEN VIOLATED:

UNIFORMED MEMBER OF THE SERVICE

7. Arrest offender even if complainant/victim requests that offender not be arrested.
 - a. When an Order of Protection is violated and the act that violates the Order is an offense, offender must be charged with that offense in addition to the appropriate charge for the violation of the Order of Protection.
 - b. In all cases, whether the Order of Protection was issued by Family Court, Supreme Court, or Criminal Court, and whether the violation of the Order of Protection also constitutes an offense or not (e.g., offender in proximity to complainant's residence or place of employment is not an offense in and of itself but does violate an Order of Protection), the violation of the Order of Protection shall be charged as the Penal Law crime of Criminal Contempt, or Aggravated Criminal Contempt, as appropriate, and the offender brought to Criminal Court.
 - c. Confer with Legal Bureau and effect arrest, if appropriate, for family offense(s) in which there is a family/household relationship as defined in the Family Court Act (NOT the NYPD Expanded Definition) and family offense(s) occurred within New York State, but outside of New York City.
 - (1) In cases where an arrest is effected within New York City, for a family offense, occurring outside of New York City, but within New York State, process as "For Other Authority (FOA)" case, and comply with the provisions of P.G. 208-03, "Arrest Processing – General," as well as, all other relevant Department procedures.

NOTE

Under the federal 1994 Violence Against Women Act, Orders of Protection issued by courts of other jurisdictions (other states, U.S. territories, tribal jurisdictions), in cases of domestic violence covered by this procedure, may be enforced in New York State. If the particular out-of-state Order of Protection is available, and otherwise appears to be valid on its face (i.e., not expired, signed by a judge or justice of a court), and there is probable cause to believe that the Order of Protection has been violated, and that the offender had notice of the Order and an opportunity to be heard, uniformed members of the service will arrest the offender and charge him or her with either Criminal Contempt in the second degree (Penal Law Section 215.50 [3], Criminal Contempt in the first degree (Penal Law section 215.51 [b], [c], or [d]), or Aggravated Criminal Contempt (Penal Law section 215.52), as appropriate.

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NOTE
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In order to charge any of the criminal contempt charges above, for a violation of either an in-state or out-of-state Order of Protection, there must be a showing that the offender had “notice” of the issuance of the Order of Protection, either because he or she was present in court when the Order was issued or because he or she was duly served with the Order.

In order to establish probable cause that the offender had notice, uniformed members of the service should ask the offender if he or she knew of the Order and if necessary ask the complainant/victim to verify that the offender had knowledge of the Order. Additionally, if such is deemed necessary, uniformed members of the service may call the court that issued the order during normal business hours to seek further information.

In the case of out-of-state Orders of Protection, there is an additional requirement that the offender has had or will shortly have an opportunity to be heard. This essentially means that the offender was notified of a date to appear in the particular court in order to respond to the issuance of the Order. In order to take enforcement action, probable cause as to any of the following must exist:

- a. The offender appeared in court in response to issuance of the Order of Protection,*
- b. The offender was served with notice to appear, in response to the issuance of the Order of Protection and failed to appear, or*
- c. The offender was served with an Order of Protection with a notice to appear before the court within thirty days of the issuance of the Order of Protection.*

The inquiries set forth in the preceding paragraph may be used to establish the existence of this element of probable cause.

In cases in which the Order of Protection is not produced by the complainant/victim, in addition to the procedure set forth in step “6,” above, uniformed members of the service shall inquire whether a record of the Order exists on the statewide registry of Orders of Protection or the protection order file maintained by the National Crime Information Center (NCIC). However, the presence of the Order on any file shall not be required for enforcement of the Order, provided that the uniformed member of the service has probable cause to believe that the Order is in existence through credible information supplied by the complainant/victim or other reliable source.

When an offender is arrested within New York City for violating any Order of Protection, his or her arrest will, in ALL cases, be processed in New York City Criminal Court, regardless of the court that issued the Order. The offender will be charged with the appropriate criminal contempt charge. The offender will also be charged with any pertinent criminal offense for which probable cause exists. When an arrest is made for violation of a Family Court Order of Protection, the complainant/victim will be advised that he or she has a right to proceed independently in Family Court by filing a petition. However, uniformed members of the service are required to bring the offender before the local criminal court.

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WHEN THERE IS PROBABLE CAUSE THAT ANY MISDEMEANOR HAS BEEN COMMITTED, IN OR OUT OF THE UNIFORMED MEMBER'S PRESENCE, OR A VIOLATION HAS BEEN COMMITTED IN THE UNIFORMED MEMBER'S PRESENCE:

UNIFORMED MEMBER OF THE SERVICE

8. Arrest offender.
 - a. Under the Criminal Procedure Law, a uniformed member of the service must arrest the offender, unless the victim specifically states, on his or her own initiative, that he or she does not want the offender arrested. The uniformed member of the service shall not ask the victim if he or she wants to have the offender arrested. The uniformed member of the service retains the discretion to make an arrest in a misdemeanor case, despite the victim's decision not to seek an arrest.
 - b. Confer with Legal Bureau and effect arrest, if appropriate, for family offense(s) in which there is a family/household relationship as defined in the Family Court Act (NOT the NYPD Expanded Definition) and family offense(s) occurred within New York State, but outside of New York City.
 - (1) In cases where an arrest is effected within New York City, for a family offense, occurring outside of New York City, but within New York State, process as "For Other Authority (FOA)" Case, and comply with the provisions of P.G. 208-03, 'Arrest Processing – General,' as well as, all other relevant Department procedures.

NOTE

The primary considerations when the complainant/victim does not want an arrest are the prevention of further violence and the safety of ALL household members. Factors to be taken into consideration include, BUT ARE NOT LIMITED TO:

- a. *The past history of the offender and victim (prior arrests, incidents, injuries sustained etc.). If possible, conduct an inquiry through Department databases,*
- b. *The uniformed member of the service's observations of the scene and victim,*
- c. *Statements of witnesses,*
- d. *Statements made by the offender (especially threats of suicide, homicide or other future violence),*
- e. *Threatened use of weapons, or the presence of or access to weapons by the offender,*
- f. *Mental and physical state of the offender (drug or alcohol intoxication, etc.), and*
- g. *Presence of other household members who may be at risk, including the elderly.*

If an officer has any doubts about the continued safety of any household member, AN ARREST SHOULD BE EFFECTED.

9. Make an **ACTIVITY LOG (PD112-145)** entry if complainant/victim does not want an arrest for a misdemeanor or any violation committed in the uniformed member of the service's presence by family/household member.
 - a. Request complainant/victim to sign log entry.
 - b. Enter "Refused Signature" if complainant/victim will NOT sign entry.

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IN CROSS COMPLAINT SITUATIONS, WHERE THERE IS PROBABLE CAUSE TO BELIEVE THAT MORE THAN ONE FAMILY OR HOUSEHOLD MEMBER HAS COMMITTED A *FAMILY OFFENSE* MISDEMEANOR, IN OR OUT OF THE UNIFORMED MEMBER OF THE SERVICE'S PRESENCE IN A SINGLE DOMESTIC INCIDENT:

UNIFORMED MEMBER OF THE SERVICE

10. Attempt to identify the primary physical aggressor after considering the following criteria:
 - a. The comparative extent of any injuries inflicted by and between the parties,
 - b. Whether any of the parties are threatening or have threatened future harm against another party, family, or household member,
 - c. Whether any of the parties has a prior history of domestic violence that the uniformed member of the service can reasonably ascertain, and
 - d. Whether any such person acted defensively to protect himself or herself from injury.

NOTE

Where one party has committed a family offense misdemeanor against a family/household member in response to or in retribution for a crime committed against him or her in the past, the responding uniformed members of the service shall not determine who is the "Primary Physical Aggressor" and proceed as required by step "8," above.

11. Confer with the patrol supervisor.
12. Arrest the offender identified as the primary physical aggressor.
 - a. If complainant/victim requests that offender not be arrested, the uniformed member of the service may still effect the arrest.

NOTE

*Where there is reasonable cause to believe that both parties to a particular domestic violence dispute have committed family offense misdemeanors and the responding uniformed members of the service are unable to determine who, if anyone, was the primary physical aggressor, it would be lawful to arrest both parties. Further, even where the responding uniformed members of the service are able to determine who was the primary physical aggressor, both parties may, if appropriate, be arrested. The primary consideration when deciding whether to arrest other persons, in addition to the primary aggressor, is the prevention of further violence and the safety to **ALL** household members. Evaluate each complaint separately. Do not base a decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding. If a complainant/offender/victim requests that the offender not be arrested, the uniformed member of the service may still effect an arrest. The primary considerations when the complainant/offender/victim does not want an arrest to be made are the prevention of future violence and the safety of **ALL** household members. (See "NOTE" following step "8").*

13. Make an **ACTIVITY LOG** entry of:
 - a. Factors that resulted in determination or inability to determine that a particular offender was the primary physical aggressor
 - b. Fact that the complainant/victim does not want an arrest to be made
 - (1) Request complainant/victim to sign **ACTIVITY LOG** entry
 - (2) Enter "Refused Signature" if complainant/victim will not sign entry.

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WHEN THERE IS PROBABLE CAUSE THAT ANY VIOLATION HAS BEEN COMMITTED, NOT IN THE UNIFORMED MEMBER OF THE SERVICE'S PRESENCE:

UNIFORMED MEMBER OF THE SERVICE

14. Refer complainant/victim as follows:
 - a. Family/Household members, as defined in Family Court Act, AND family offense violation, to:
 - (1) Family Court
 - (2) Summons Part - Criminal Court (if concurrent jurisdiction exists, complainant may go to either court or both)
 - b. Family/Household – Expanded Definition subdivisions “g” and “h” above and/or non-family offense violations – to Summons Part – Criminal Court.

NOTE

A uniformed member of the service cannot effect an arrest for VIOLATIONS NOT COMMITTED IN HIS/HER PRESENCE, UNLESS such violation is specifically prohibited in a current Order of Protection issued to the complainant/victim. The proper charge is Criminal Contempt in the Second Degree, Penal Law Section 215.50(3), or Criminal Contempt in the First Degree, Penal Law Section 215.51(b [v]) or (c) (see step “7,” subdivision “b,” above).

WHEN CONCURRENT JURISDICTION EXISTS:

UNIFORMED MEMBER OF THE SERVICE

15. Advise complainant/victim of the courts available to them and the purpose of each court as outlined in the “Definitions - Concurrent Jurisdiction” section.

IN ALL CASES:

UNIFORMED MEMBER OF THE SERVICE

16. Advise complainant/victim of availability of shelter and other services by providing the 24 hour Domestic Violence Hotline number, (800) 621-HOPE (4673), as per the New York State Family Court Act.
17. Prepare **New York State Domestic Incident Report (DCJS-3221)** in ALL instances in which response to OR becoming apprised of an incident (e.g., altercation, disturbance, conflict, or dispute) that involves members of the same Family/Household-Expanded Definition, or is an allegation of child abuse.
 - a. If prepared in response to a radio run, include ICAD Incident number on form.
 - b. List in the “Incident Narrative” section all factors that resulted in determination or inability to determine that a particular offender was the primary physical aggressor, when applicable.
 - c. Ask the following investigatory questions and record responses in the “Incident Narrative” section of the **New York State Domestic Incident Report**, and the “Details” section of the **COMPLAINT REPORT (PD313-152)**, if applicable.
 - (1) Where is the offender employed (include normal work hours, if known)?

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- (2) Does the offender drive a vehicle and if so, what type (include state and license plate number, if known)?
- (3) What location, other than home, is the offender most likely to be found at (obtain as much detail as possible)?
- (4) Does the offender have an email address and/or social media profile (include all account names, as applicable)?
- d. List any arrest or investigatory evidence invoiced, including photographs uploaded via FORMS, in appropriate caption of the **New York State Domestic Incident Report** for incidents occurring within New York City.
- e. Take photographs of visible injuries, damaged property, or other evidence that is a result of domestic violence for incidents occurring outside of New York City, but within New York State using Department smartphone, when appropriate.
 - (1) Do not upload photographs for incidents that occurred outside of New York City to Finest Online Management System (FORMS).
 - (2) Print out photographs and attach them to **COMPLAINT REPORT WORKSHEET (PD313-152A)**, if prepared, for incidents that occurred outside of New York City.
 - (3) Print out photographs and prepare **PROPERTY CLERK INVOICE WORKSHEET (PD521-141A)**.
- f. Ensure that the name and phone number of the precinct/PSA domestic violence prevention officer is printed in the “Prior History” section on page “2” of the **New York State Domestic Incident Report** for incidents occurring within New York City.
 - (1) Inform complainants/victims of domestic violence incidents occurring outside of New York City, but within New York State, that the Department cannot conduct an investigation, but will forward the New York State Domestic Incident Report to the appropriate jurisdiction.
- g. Insert tax registry number of reporting member of the service in caption entitled, “Reporting Officer.”
- h. Give complainant/victim copy of both pages of the **New York State Domestic Incident Report** (pink copies) and the “Victim Rights Notice” (pink copy) to complainant/victim, if present.
 - (1) Instruct complainants/victims of domestic violence incidents occurring outside of New York City to contact the appropriate jurisdiction for necessary follow-up action.
- i. Inform all parties that they may be contacted by the precinct/PSA domestic violence prevention officer concerning this incident.
- j. Uniformed members of the service **MUST** ask persons present if there is access to guns (i.e., handgun, rifle, shotgun, etc.) in the residence, another location (i.e., business, car, other residence, etc.), and/or, if the offender is known to possess or carry a firearm.



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- k. If **New York State Domestic Incident Report** is prepared in response to an incident that occurred in New York State, but outside of New York City, do not enter into FORMS system.
- (1) Forward to desk officer for review.

NOTE

*In cross complaint situations, a **New York State Domestic Incident Report** shall be prepared for each complainant/victim. Every attempt should be made to have the complainant complete the "Statement of Allegations/Supporting Deposition" caption, regardless of what language he/she speaks or writes. DO NOT enter in "Statement of Allegations/Supporting Deposition" caption "Refused" or "Same as page 1" if the victim is unable to speak or write in English, unless the victim refuses. Always allow the victim to write in his/her primary speaking language if unable to write in English. If the need for an interpreter/translator arises, members of the service will comply with P.G. 212-90, "Guidelines for Interaction with Limited English Proficient (LEP) Persons" or P.G. 212-104, "Interaction with Hearing Impaired Persons," as appropriate. The member of the service preparing the **New York State Domestic Incident Report** should note the victim's primary language in the appropriate box in the "Victim (P1)" section of the **New York State Domestic Incident Report**. In addition, the member of the service should note the identity of any interpreter used in the "Interpreter Service Provider Name" section of the **New York State Domestic Incident Report**.*

*When preparing a **New York State Domestic Incident Report** and the victim completes the "Statement of Allegations/Supporting Deposition" (page 2) in a foreign language, the content of the **New York State Domestic Incident Report** must be transcribed and translated as accurately as possible to ensure the appropriate police services are provided. Desk officers must review all **New York State Domestic Incident Reports** to determine if the "Statement of Allegations/Supporting Deposition" (page 2) has been written in a language other than English. If the **New York State Domestic Incident Report** is written in a language other than English, the desk officer must comply with P.G. 212-90, "Guidelines for Interaction with Limited English Proficient (LEP) Persons."*

*It is incumbent upon all members of the service to ensure that the statements of domestic violence victims, whether at the scene of an incident or in writing on a **New York State Domestic Incident Report**, are translated as soon as possible to determine if further police action is necessary.*

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18. Use radio code dispositions to finalize assignment:
- a. 10-90F(1) **New York State Domestic Incident Report Prepared/No Offense Alleged;**
Only to be used in those instances where the uniformed member of the service responded to a dispute which did not rise to the level of an offense; OR
- b. 10-90F(2) **New York State Domestic Incident Report Prepared/Unfounded**
- c. 10-92F **Arrest Effected/New York State Domestic Incident Report Prepared**
- d. 10-93F **COMPLAINT REPORT/New York State Domestic Incident Report Prepared**

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(continued)**

- e. 10-90J1 **New York State Domestic Incident Report** Prepared – No offense of child abuse is alleged
- f. 10-90J2 **New York State Domestic Incident Report** Prepared – Offense of reported child abuse is unfounded
- g. 10-92J Child Abuse Arrest Effectuated
- h. 10-93J **COMPLAINT REPORT/New York State Domestic Incident Report** is prepared for Child Abuse.

NOTE

These dispositions MUST be used to finalize any incident involving a Family/Household-Expanded Definition or allegations of child abuse. The Communications Section will NOT accept any other disposition code. If the assignment was initially categorized as other than a family dispute or offense, notify Communications Section dispatcher and use above codes to finalize the assignment.

*A hard copy of the **New York State Domestic Incident Report** must be prepared for all founded domestic incidents and is to be entered into **FORMS** if founded domestic incident occurred within New York City.*

*A hard copy of the **New York State Domestic Incident Report** WILL NOT be prepared for unfounded domestic incident occurring within New York City, and the required information will be directly entered into **FORMS**.*

*A hard copy of the **New York State Domestic Incident Report** WILL BE prepared for unfounded domestic incidents occurring outside of New York City, but within New York State.*

REPORTING PROCEDURE:

**MEMBER OF
THE SERVICE**

- 19. Prepare **COMPLAINT REPORT** for each complainant/victim in addition to the **New York State Domestic Incident Report** when domestic violence incident occurred within New York City and complainant/victim alleges an **OFFENSE** has been committed between members of the same Family/Household-Expanded Definition, including the violation of an Order of Protection. Include in the “Details” section:
 - a. Whether an Order of Protection is in effect
 - b. Issuing court, and
 - c. If offender not present, the possible location(s) of offender
 - d. In cross-complaint situations, where an attempt to determine which offender was the “primary physical aggressor” is required, include a statement that the offender was the “primary physical aggressor.” The **COMPLAINT REPORT** pertaining to the offender determined not to be the “primary physical aggressor” shall be **CLOSED** to “Patrol” and the “Details” section shall include a statement that the offender was determined not to be the “primary physical aggressor.”



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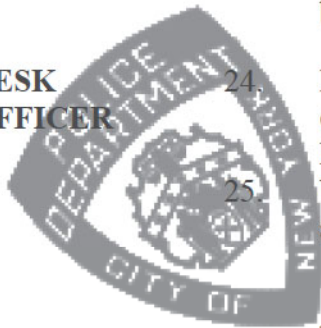
NOTE *In cross-complaint situations requiring the preparation of two or more **COMPLAINT REPORTS** and where the responding uniformed members of the service are unable to determine which offender was the primary physical aggressor, the factors that resulted in the inability to make that determination must be included in the “Details” section of each **COMPLAINT REPORT**.*

- MEMBER OF THE SERVICE (continued)**
20. Enter in caption entitled “Unit Referred to”:
 - a. Precinct Detective Squad - when **COMPLAINT REPORT** is prepared for:
 - (1) Felony(s)
 - (2) Violation(s) of an Order of Protection
 - (3) Misdemeanor(s).

NOTE *The **COMPLAINT REPORT** MUST be classified as “open” in the above three circumstances, if an arrest is not made by patrol. However, in misdemeanor cases, close **COMPLAINT REPORT** only if complainant/victim does not want offender arrested and officer does not believe an arrest is warranted after considering criteria above.*

- b. Court(s) victim was referred to in closed complaints.
21. Advise the victim of the following when concurrent jurisdiction applies, as per the Family Court Act:
 - a. Difference between proceedings in each court
 - b. Importance in selection of the appropriate court to process charge(s) and option to change from one court to the other, or proceed in both.
22. Make entry in **ACTIVITY LOG** regarding such advisement.
23. Prepare **COMPLAINT REPORT WORKSHEET** for family offenses occurring outside of New York City, but within New York State, as appropriate.
 - a. Do not enter **COMPLAINT REPORT WORKSHEET** into OMNIFORM System.
 - b. Forward to desk officer for review.

- DESK OFFICER**
24. DO NOT issue a **DESK APPEARANCE TICKET** when any offense is committed and an arrest is effected involving members of the same Family/Household-Expanded Definition.
 25. Verify completeness and accuracy of all required forms.
 - a. Ensure that **COMPLAINT REPORT WORKSHEETS** for New York State domestic violence incidents occurring outside of New York City are not entered into OMNIFORM system.
 - b. Ensure that **New York State Domestic Incident Reports** for New York State domestic violence incidents occurring outside of New York City are not entered into FORMS system.
 - c. Ensure that **COMPLAINT REPORTS** are not generated for New York State domestic violence incidents occurring outside of New York City.



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DESK OFFICER (continued)

26. Scan and email completed **COMPLAINT REPORT WORKSHEETS**, photographs, and **New York State Domestic Incident Reports** for New York State domestic violence incidents occurring outside of New York City to the Inter-City Correspondence Unit (ICCU).
 - a. Forward physical copies of documents to ICCU via Department mail.
27. Have prisoner removed to borough Court Section facility to complete arrest process.
28. Ensure that digital photographs depicting domestic violence related evidence are taken for required cases on a Department smartphone via FORMS, and uploaded accordingly for New York City domestic violence incidents.

DOMESTIC VIOLENCE PREVENTION OFFICER

29. Perform duties and process all **New York State Domestic Incident Reports** as per *P.G. 202-29, "Domestic Violence Prevention Officer."*

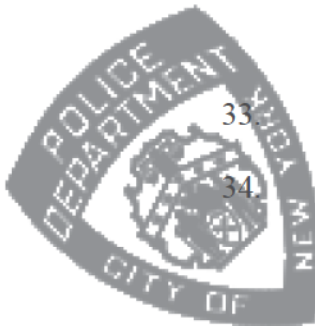
WHEN COMPLAINT REPORT IS CLASSIFIED AS OPEN AND REFERRED TO PRECINCT DETECTIVE SQUAD:

DESK OFFICER

30. Forward all open complaints of domestic violence to the detective squad, together with completed and signed photocopy of **New York State Domestic Incident Report**.
31. Ensure original **New York State Domestic Incident Report** is promptly entered into FORMS.

ASSIGNED DETECTIVE

32. Immediately attempt to interview the complainant and obtain the facts of the case, confirm the name of the perpetrator and obtain all other necessary information (e.g., all involved addresses, nickname, date of birth, cellular and landline telephone numbers, e-mail addresses, information regarding relatives and associates, etc.).
33. Conduct necessary computer checks regarding all involved persons and locations.
34. Activate an **INVESTIGATION CARD (PD373-163)** for a named perpetrator no later than the end of assigned tour regardless of whether the complainant was interviewed or whether a **New York State Domestic Incident Report** was forwarded to the detective squad.
 - a. Information regarding activated **INVESTIGATION CARDS** will be communicated/forwarded to the precinct/police service area (PSA) domestic violence unit daily.
 - (1) The date, time and name of the person notified will be documented in the Enterprise Case Management System (ECMS).
 - (2) Ensure **INVESTIGATION CARD** includes NYSID number, if available.



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**ASSIGNED
DETECTIVE
(continued)**

- b. When an **INVESTIGATION CARD** is cancelled, the involved domestic violence unit will be notified.
 - (1) The date, time and name of the person notified will be documented in the ECMS.
- 35. Confer with precinct/PSA domestic violence unit sergeant if named perpetrator cannot be immediately apprehended.
 - a. Domestic violence prevention officer(s) will assist in the apprehension efforts within the confines of the precinct/PSA, if assigned.

NOTE

*The **INVESTIGATION CARD** will also be forwarded to the domestic violence unit of the precinct/PSA of offender's residence.*

**DETECTIVE
SQUAD
COMMANDER**

- 36. Confer bi-weekly with the precinct/PSA commanding officer and domestic violence sergeant regarding active and canceled domestic violence **INVESTIGATION CARDS**.

**DOMESTIC
VIOLENCE
PREVENTION
OFFICER**

- 37. Open and manage a case in the Domestic Violence Information Management System (DVIMS).
- 38. Document all interactions with detective squad and Special Victims Squad members assigned to the case.
- 39. Confer with the assigned detective prior to making a home visit involving a named perpetrator.
- 40. Effect arrest if named perpetrator is present during home visit.
 - a. If the arrest involves a serious felony or a complex investigation, the assigned detective will assist the arresting domestic violence prevention officer concerned.
- 41. Notify the involved precinct detective squad to cancel the **INVESTIGATION CARD** when named perpetrator is arrested.
- 42. Inform assigned detective of all attempts to locate named perpetrators.

**ASSIGNED
DETECTIVE**

- 43. Document all attempts made by the domestic violence prevention officer to locate named perpetrator in the ECMS.

**DETECTIVE
ZONE
COMMANDING
OFFICER**

- 44. Review all domestic violence **INVESTIGATION CARDS** and periodically confer with the precinct/PSA commanding officers to ensure that the proper notifications have been made.

**ADDITIONAL
DATA**

The immediate apprehension of domestic violence offenders is of paramount importance. Joint efforts involving the precinct detective squad and the precinct/PSA domestic violence unit is the most effective way to expeditiously apprehend named perpetrators. Therefore, it is incumbent upon Detective Zone commanding officers and precinct detective squad commanders to coordinate frequent joint operations/sweeps with the precinct/PSA commanding officer, special operations lieutenant and domestic violence unit sergeant to apprehend multiple named perpetrators.

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**ADDITIONAL
DATA
(continued)**

A uniformed member of the service will, when requested by a petitioner, assist in the service of an Order of Protection, summons, or petition (Orders of Protection issued by the Family Court and delivered directly to the Department will be served according to P.G. 212-57, "Service of Family Court/Supreme Court Orders of Protection by Uniformed Members of the Service").

*To avoid unnecessary court appearances by uniformed members of the service who are requested by a petitioner to serve a respondent with an Order of Protection, summons, or petition, uniformed members of the service will prepare **STATEMENT OF PERSONAL SERVICE (PD260-152)**. The uniformed member concerned will sign the **STATEMENT OF PERSONAL SERVICE** after completing all captions on the form. It is no longer sworn to before a supervisory officer. The original copy (white) will be given to the petitioner and the duplicate copy (blue) will be filed in the precinct of service.*

*New York State Domestic Incident Reports, are potential Rosario material, and must be maintained at the precinct of occurrence. If an arrest is effected, the arresting officer must ensure that the Assistant District Attorney is provided with a copy of the **New York State Domestic Incident Report** prepared in regard to the incident. When requested, the domestic violence prevention officer will make all **New York State Domestic Incident Reports** prepared regarding the person arrested available to an Assistant District Attorney.*

*In violation cases referred to the Criminal Court - Summons Part, the complainant/victim must have the offender's address available for service of the summons. Misdemeanor cases should **NOT** be referred to the Criminal Court - Summons Part. The preferred course of action is to advise the complainant/victim to contact the police on the next contact with the offender and request an arrest, presenting the **New York State Domestic Incident Report** as proof of the previous complaint.*

Uniformed members of the service responding to a report of a domestic violence incident will question persons present about the existence of firearms in the household. Seize ANY firearms (including rifles and shotguns), and licenses/permits, if:

- (1) License holder is arrested, regardless of the charge; or*
- (2) An Order of Protection exists against the licensee; or*
- (3) When the incident involves physical force or the threat of physical force.*

When a uniformed member of the service reasonably believes that the presence of firearms at a location creates imminent risk of physical injury or serious physical injury, the following actions should be taken to remove the weapon from the location:

- (1) Seize illegally possessed firearm(s) and make an arrest*
- (2) Seize legally possessed firearm(s) when such weapons create imminent risk of physical injury or serious physical injury*
- (3) Voucher legally possessed firearms which are voluntarily surrendered by participants in domestic incidents.*

In all incidents involving pistol or permit holders, notify the License Division, Incident Section and comply with P.G. 212-118, "Incidents Involving Holders of Handgun Licenses or Rifle/Shotgun Permits." License/permit holders must immediately notify the License Division, Incident Section, of any police incident in which they are involved.

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RELATED PROCEDURES

- Domestic Violence Prevention Officer (P.G. 202-29)*
- Arrests – General Processing (P.G. 208-03)*
- Computerized Investigation Card System (P.G. 208-23)*
- Arrest Processing – “Livescan” Fingerprinting and Palmprinting (PG. 208-11)*
- Desk Appearance Ticket - General Procedure (P.G. 208-27)*
- Family Offenses and Domestic Violence Involving Uniformed or Civilian Members of the Service (P.G. 208-37)*
- Processing of New York State Domestic Incident Reports (P.G. 208-70)*
- City Policy Concerning Identifying Information and Access to City Services (P.G. 212-66)*
- Service of Family Court/Supreme Court Orders of Protection by Uniformed Members of the Service (P.G. 212-57)*
- Requests for U Visa Certifications and/or T Visa Declarations (P.G. 212-111)*
- Incidents Involving Holders of Handgun Licenses or Rifle/Shotgun Permits (P.G. 212-118)*
- Unlawful Evictions (P.G. 214-12)*
- Emergency Removals or Investigation and Reporting of Abused, Neglected, or Maltreated Children (P.G. 215-03)*
- Invoicing Property – General Procedure (P.G. 218-01)*
- Review of Requests for U Visa Declarations (A.G. 308-07)*

FORMS AND REPORTS

- ACTIVITY LOG (PD112-145)**
- COMPLAINT REPORT (PD313-152)**
- DESK APPEARANCE TICKET (PD260-121)**
- STATEMENT OF PERSONAL SERVICE (PD260-152)**
- INVESTIGATION CARD (PD373-163)**
- REPORT OF SUSPECTED CHILD ABUSE OR MALTREATMENT (PD377-154)**
- New York State Domestic Incident Report (DCJS-3221)**

