

Domestic Violence

311.1 PURPOSE AND SCOPE

Best Practice NYSLEAP- 8.7 - 44.1

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of the Syracuse Police Department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

When a domestic violence incident may also include an indication of child abuse, members should refer to the Child Abuse Policy.

311.1.1 DEFINITIONS

State MODIFIED NYSLEAP- 8.7 - 44.1

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

Domestic violence or domestic incident - Includes, but is not limited to, physical, psychological, sexual or emotional abuse by one member of a family or household against another member of the family or household. The term includes criminal offenses and family offenses but it may also include a dispute or incident between family or household members that does not rise to the level of a criminal offense. For the purposes of this policy, domestic violence includes all designated family offenses identified in Family Court Act § 812 and CPL § 530.11(1).

Family offense - An offense between persons in an intimate relationship or family/household members in which one or more of the following has occurred as specified in Family Court Act § 812 and CPL § 530.11 (see domestic violence definition):

- Aggravated Harassment 1st degree.
- Aggravated Harassment 2nd degree.
- Assault 2nd degree.
- Assault 3rd degree.
- Attempted Assault 2nd degree between family members.
- Attempted Assault 3rd degree between family members.
- Criminal Mischief.
- Criminal Obstruction of Breathing or Blood Circulation.
- Disorderly Conduct per Family Court Act, Article 8, Section 812.
- Forcible Touching

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- Harassment 1st degree.
- Harassment 2nd degree.
- Menacing 2nd degree.
- Menacing 3rd degree.
- Reckless Endangerment.
- Sex Abuse 2nd degree.
- Sex Abuse 3rd degree.
- Sexual Misconduct.
- Stalking 1st degree.
- Stalking 2nd degree.
- Stalking 3rd degree.
- Stalking 4th degree.
- Strangulation 1st degree.
- Strangulation 2nd degree.

Member of the same family or household - Includes (Family Court Act § 812; CPL § 530.11):

- (a) Persons related by blood or marriage.
- (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.
- (e) Persons who are or who have been in an intimate relationship, regardless of whether they have lived together at any time. Factors to consider in determining whether a relationship is an "intimate" relationship include, but are not limited to:
 1. The nature or type of relationship, regardless of whether the relationship is sexual in nature.
 2. The frequency of interaction between the persons.
 3. The duration of the relationship.
 4. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an intimate relationship.

311.2 POLICY

Best Practice NYSLEAP- 8.7 - 44.1

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The Syracuse Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

311.3 OFFICER SAFETY

Best Practice NYSLEAP- 8.7 - 44.1

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

311.4 INVESTIGATIONS

State MODIFIED NYSLEAP- 8.7 - 44.1

The following guidelines should be followed by officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
 1. If two officers have not been dispatched, responding officers should request an additional unit to respond to the location.
- (b) When appropriate, officers should obtain and document statements from the relevant parties.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was involved in the case, or all children if Child Protective Services will be notified.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigation Bureau in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.

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1. Officers shall seize any firearms or weapons specified in CPL § 140.10 that are in the possession of any person arrested for or suspected of the commission of a family offense (as defined by Family Court Act § 812 and CPL § 530.11). Officers may seize all such weapons in plain sight or discovered in a lawful search (CPL § 140.10).
 2. Officers shall take custody of any license to carry, possess, repair, or dispose of any weapons seized (CPL § 140.10).
 3. Officers shall provide a receipt for any weapon or license seized as provided in CPL § 140.10.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers shall take appropriate enforcement action when there is probable cause to believe an offense has occurred (CPL § 140.10). Factors that should not be used as sole justification for declining to take enforcement action include:
1. Whether the suspect lives on the premises with the victim.
 2. Claims by the suspect that the victim provoked or perpetuated the violence.
 3. The potential financial or child custody consequences of arrest.
 4. The physical or emotional state of either party.
 5. Use of drugs or alcohol by either party.
 6. Denial that the violence occurred where evidence indicates otherwise.
 7. A request by the victim not to arrest the suspect.
 8. Location of the incident (public/private).
 9. Speculation that the complainant may not follow through with the prosecution.
 10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
 11. The social status, community status, or professional position of the victim or suspect.
- (k) Officers shall not ask the victim if he/she wants the suspect arrested and shall not threaten the arrest of any person for the purpose of discouraging requests for police intervention (CPL § 140.10).

[See procedure for DOMESTIC DISPUTE CALLS – GENERAL](#)

[See procedure for INVESTIGATION OF DOMESTIC VIOLENCE COMPLAINTS](#)

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311.4.1 IF A SUSPECT IS ARRESTED

Best Practice MODIFIED NYSLEAP- 8.7 - 44.1

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Document the resolution in a DIR report.

311.4.2 IF NO ARREST IS MADE

Best Practice NYSLEAP- 8.7 - 44.1

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
 1. Voluntary separation of the parties.
 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness assistance).
- (b) Document the resolution in a report.

311.4.3 WEAPON SEIZURE OR SAFEKEEPING PROCEDURE

State NYSLEAP- 8.7 - 44.1

Members seizing firearms or weapons at a domestic violence incident should:

- (a) Process any firearms and weapons collected as required by the Property Division Policy.
- (b) Notify any agency issuing firearm permits of the arrestee's name and firearms confiscation.
- (c) Ensure that the court is notified of any licensed firearm.
- (d) Ensure that the court is notified that the arrestee was licensed and whether an arrest was made for a willful failure to obey an order of protection involving any behavior constituting menacing, reckless endangerment, stalking or any other violent behavior, or threatened violent behavior, against a person (Family Court Act § 842-a; Family Court Act § 846-a; CPL § 530.14).

311.4.4 SUPERVISOR REVIEW AND RESPONSIBILITIES

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The supervisor is responsible for ensuring that the Department's domestic dispute policies are followed and all members adhere to procedures set forth. Additionally, the supervisor shall:

- (a) Monitor police response to dispatched "DOMS" calls to ensure that policies and procedures regarding domestic violence are applied consistently by all officers.

311.5 VICTIM ASSISTANCE

State MODIFIED NY_CALEA6.13 - 55.2.1 (a), 55.2.1 (b), 55.2.2, 55.2.3 (a) NYSLEAP- 8.7 - 44.1

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Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected.

- (a) Victims shall be provided with the department domestic violence information handout, even if the incident may not rise to the level of a crime (Family Court Act § 812; CPL § 530.11).
- (b) Victims shall also be alerted to any available victim advocates, shelters and community resources (Family Court Act § 812; CPL § 530.11).
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complains of pain, officers should seek medical assistance for the victim as soon as practicable.
- (e) Officers should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (f) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, officers should seek or assist the victim in obtaining an emergency order.

[See procedure for DOMESTIC VIOLENCE SERVICES](#)

311.6 DISPATCH ASSISTANCE

Best Practice **MODIFIED** **NYSLEAP- 8.7 - 44.1**

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

911 Center Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that 911 center dispatchers check whether any of the involved persons are subject to the terms of a court order.

311.6.1 RECLASSIFICATION OR CANCELLATION

State **NYSLEAP- 8.7 - 44.1**

A domestic incident should not be reclassified or recoded without a supervisor's review. Responses to domestic incidents should not be cancelled regardless of whether such a request is made by someone at the scene during the initial call or a follow-up call. However, officers should be informed of any request to cancel a response.

311.7 FOREIGN COURT ORDERS

Federal **NYSLEAP- 8.7 - 44.1**

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Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

311.8 VERIFICATION OF COURT ORDERS

Best Practice MODIFIED NYSLEAP- 8.7 - 44.1

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
 1. This includes checking the statewide order of protection registry.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

[See procedure for ENFORCING ORDERS OF PROTECTION](#)

311.9 STANDARDS FOR ARRESTS

State MODIFIED NYSLEAP- 8.7 - 44.1

Officers investigating a domestic violence report should consider the following:

- (a) Officers who are police officers shall arrest a person when there is probable cause to believe that the person has committed one of the following against a family or household member:
 - (a) Any felony offense
 - (b) Any misdemeanor family offense
 - (c) Any crime committed (domestic related or not) where there is probable cause to make an arrest
- (b) Citizen arrests:

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- (a) When a petty offense was committed out of the officer's presence the victim shall be afforded the opportunity to make a citizen's arrest pursuant to the provisions of the Criminal Procedure Law. This is a useful alternative for those situations in which officers are not authorized to make a summary arrest. When citizen arrests are appropriate officers shall:
 - (a) Inform the victim, out of the presence of the suspect whenever possible, of the victim's right to make a citizens arrest.
 - (b) Assist the victim in effecting and processing such an arrest.
 - (c) In cases involving a citizen's arrest, the complainant shall sign the complaint or information and the arrest report.
- (b) Officers do not have to make an affirmative finding of probable cause in order to assist in an arrest. Officers shall not take an arrested person into custody or take any other action on behalf of the arresting person if the officer has reasonable cause to believe that the arrested person did not commit the alleged offense or that the arrest is otherwise unauthorized.

[See procedure for APPLICATION FOR WARRANT](#)

311.10 REPORTS AND RECORDS

State **MODIFIED** NYSLEAP- 8.7 - 44.1

Officers shall complete a written report on the form provided by the New York State Division of Criminal Justice Services and any other reports necessary to fully document the officer's response, whether or not an offense was committed or an arrest is made. Officers shall also provide the victim with the victim's copy of the Victim Rights Notice Form immediately upon its completion at the scene.

- (a) If it is determined that the suspect or arrestee is on probation or parole, the Records Division shall ensure that a copy of the written report is sent to the supervising probation or parole officer.
- (b) If an offense is committed against a person who is 65 years of age or older, the Records Division shall ensure that a copy of the report is sent to the Committee for the Coordination of Police Services to Elderly Persons.
- (c) If the complaint stems from a victim of a family offense that occurred outside of the jurisdiction of the Syracuse Police Department, the Records Division shall ensure that a copy of the written report is provided to the complainant and also promptly sent to the appropriate law enforcement agency (Executive Law § 646).

[See procedure for CENTRAL RECORDS DIVISION](#)

311.11 ORDER OF PROTECTION REGISTRY

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When an officer receives a copy of an order of protection, special order of conditions, or warrant that pertains to an order of protection or special order of conditions, the required information shall be immediately entered into the order of protection registry (Executive Law § 221-a).