

DOMESTIC VIOLENCE

STANDARD NO(S)

NYSLEAP 44.1

DATE:

July 8, 2009

REVISED 01/21/2016

REVIEWED: 12/09/2019

REFER TO:

Michael Schell

John P Cleere

I. OBJECTIVE:

To establish a policy and enunciate procedures for the handling of situations under the general category of domestic violence. Domestic violence is defined by the New York State Office for the Prevention of Domestic Violence as "a pattern of controlling behavior which can involve physical, sexual, economic, emotional and psychological abuse. It affects people in all social, economic, racial, religious and ethnic groups, whether they are married, divorced, living together, dating, or in a gay or lesbian relationship." Anyone can be a victim of domestic violence. A police response is needed that will provide adequate protection to victims as well as other family or household members while ensuring the safety of the responding officers.

Recognizing that there has been a significant shift in the understanding of and the perspective on domestic violence, the policy of the Seneca County Sheriff's Office is intended to reflect the present understanding and to describe the appropriate police response in what may be referred to as a pro-arrest policy.

II. POLICY:

Both study and experience have shown that the traditional police response to calls for service in domestic violence situations, emphasizing mediation skills to effect a reconciliation between the parties is inappropriate and unhelpful, especially where there has been serious injury or repeated abuse. Not only is it ineffective in reducing the number of these cases, but in fact, it may aggravate the problem by suggesting to assailants that their violent behavior can be overlooked.

It is the policy of the SCSO to respond to every call involving a domestic dispute and to consider any violent conduct by the disputants as to be investigated as would **any other crime**. In cases of domestic violence, **arrests will be made** when there is reason to believe that an offense has been committed or that an order of protection has been violated.

The determination of probable cause shall be made in the same way as for all other crimes, and shall not be unduly influenced by the fact that the conduct occurred between those who were once on good terms.

It shall also be the policy of the SCSO to assist the victims of domestic violence to every extent possible within its resources or to refer the matter to one or more of the appropriate agencies.

III. DETAILS:

A. Responding officer procedures - A domestic incident call signifies people are in need of help, and shall be responded to as quickly and safely as circumstances permit.

1. Upon arrival at the scene, the officers should be alert to sounds coming from the location that may assist in determining the situation.
 2. If appropriate, officers should call for and await back-up.
 3. Upon entry the officers shall:
 - a. Restore order by gaining control of the situation and separating the involved parties in such a way that they cannot make contact with each other, but that they can be continually observed by the officers;
 - b. Ascertain the presence of any weapons and immediately insure that they are secured;
 - c. Locate and visually check all occupants at the location to verify their safety and well-being;
 - d. Assess the need for medical attention and request that assistance be dispatched, including that for a victim who claims to be injured, whether such injury is apparent or not;
 - e. Interview all available parties and witnesses, separately if practicable;
 - f. After all interviews have been conducted, determine whether an offense has been committed and whether an arrest should be made;
- NOTE: A victim's copy of an Order of Protection that appears valid provides the basis for a good faith action of police, whether or not the order has been placed in the registry or if the registry information seems to contradict the apparently valid paper order. It is not necessary to check the registry to confirm a victim's copy of the order, unless the order is missing or appears to have been altered.
- g. If an arrest is made, advise the victim that release of the suspect can occur at any time so that the victim can take appropriate precautions;
 - h. Advise the victim of the availability of shelter and other victim services, and provide the victim with a copy of the Victim Rights Notice, (reading it aloud if necessary) immediately upon its completion at the scene;
 - i. Collect and record potential evidence, including spontaneous utterances by parties or witnesses, identification and location of witnesses who may no longer be present, careful descriptions and/or photographs of injuries

and/or property damage, requesting the assistance of crime scene investigators, if appropriate;

j. Either at the scene or at the end of the member's tour of duty, complete the Standard Domestic Incident Report (DIR) Form, or the computer equivalent, and any other reports necessary to document fully the officers' response, whether or not an offense was committed or an arrest is made. The victim/complainant will be provided with a copy of the DIR along with a copy of the victims rights notice.

4. If the suspect offender has left the scene prior to police arrival, and there is probable cause to believe a crime has been committed, officers will attempt to locate and arrest the suspect without unnecessary delay by:

- a. Conducting a search of the immediate area;
- b. Obtaining information from the victim and witnesses that will aid in apprehension of the suspect, including the request to notify SCSO in the event suspect returns;
- c. Securing a signed Information from the victim; and,
- d. Referring the matter for appropriate follow-up investigation.

5. Responding officers at the scene of a domestic incident shall provide the following assistance to victims and, where appropriate, the children or other family or household members:

- a. Advise all involved parties about the serious nature of domestic violence, its potential for escalation, and of legal and social assistance available;
- b. Take whatever action is necessary to assure the safety and welfare of the children;
- c. Remain at the scene until satisfied that the immediate threat of violence has passed or all appropriate options to protect and assist the victim have been exhausted;
- d. Provide the victim with referral information regarding domestic violence shelters and services;
- e. Assist in arranging for transportation to take the victim and family or household members to a place of safety.

6. Occasionally a person will appear in the SCSO lobby to report a domestic violence incident. Consistent with the pro-arrest policy described above, these persons must be given personal attention by a member of the Law Enforcement Bureau. As noted in "Road Patrol," this Manual, under paragraph A(3), the duty Sergeant, or designee, will respond.

B. Domestic violence arrest policy - All warrantless arrests shall be made in conformance with §140.10 of the NYS Criminal Procedure Law. It is the responsibility of all officers to be thoroughly familiar with this section. **See ¶ IV, "Definitions," below.**

1. In all domestic incidents in which a law is violated, in addition to enforcing the law, the objective is to protect the victim. The question, "Do you want him (or her) arrested?", should never be asked of a victim when there is reasonable cause to believe that a crime (or a violation in the officer's presence) has been committed and a custody arrest is justified. The intent of this policy is to remove the burden of an arrest decision from the victim, who may be ill-prepared to undertake it due to social, economic, psychological or other pressures or constraints. Even if the victim actively intercedes and requests that no arrest be made, a lawful warrantless arrest based on probable cause shall be made in accordance with CPL 140.10.

2. Officers are reminded that there is no requirement that a crime (felony or misdemeanor) must occur in the officer's presence to authorize an arrest. A lawful warrantless arrest may, and often is, founded upon factors other than the officer's direct observations. They include, but are not limited to factors such as visible physical injury, property damage, signs of disruption at the scene or statements made by the victim, children, or other witnesses.

3. **Felony** - When a member has reasonable cause to believe that an individual has committed a felony, such as an assault causing serious physical injury to the victim, the member shall not attempt to mediate or reconcile the parties, but shall arrest the suspect offender, even if the victim requests otherwise.

4. **Misdemeanor** - When a member has reasonable cause to believe that an individual has committed a misdemeanor against the victim the member shall not attempt to mediate or reconcile the parties, but shall arrest the suspect offender, with or without consent of the victim. As soon as possible after the arrest, a statement, preferably written, should be taken from the victim and any witnesses.

5. **Violation (committed in officer's presence)** - When a member has reasonable cause to believe that an individual has committed a violation against the victim, in the officer's presence, the member shall not attempt to mediate or reconcile the parties, but shall arrest the suspect offender, with or without consent of the victim. As soon as possible after the arrest, a statement, preferably written, should be taken from the victim and any witnesses.

6. **Violation (not committed in the officer's presence)** - CPL §140.10 does not authorize an officer to make a warrantless arrest for a violation committed outside the officer's presence; however, §140.30 provides for "any person," i.e. a civilian, to make such arrest for any offense committed in that person's presence. When the responding officer lacks the legal authority to make an arrest, the victim shall be afforded the opportunity to make a "turnover" arrest under §140.30.

7. **Violation of Order of Protection** - When a member has reasonable cause to believe that the terms of an Order of Protection have been violated, or receives a complaint from the victim alleging such violation the member shall not attempt to mediate or reconcile the parties, but shall arrest the suspect offender, with or without consent of the victim. As soon as possible after the arrest, a statement, preferably written, should be taken from the victim and any witnesses.

Violators will also be cited for any other offenses committed, such as assault, trespass, or harassment.

8. When an officer has probable cause to arrest, the officer is required to make an arrest, as specified above in paragraphs 3, 4, 5 and 7. When an arrest is being considered, but the issue of probable cause is questionable, the officer shall notify the shift supervisor. If collection of physical evidence, photographs or fingerprints, is indicated, the supervisor will be notified and arrangements will be made for collection and preservation. The member **may not rely solely** on any of the following reasons for **not** making an arrest:

- a. The suspect lives on the premises with the victim;
- b. The victim may suffer financially as a result of the arrest;
- c. The suspect and victim are legally married or engaged in prior or existing cohabitation;
- d. The victim has made prior calls of this nature or is a chronic caller;
- e. The suspect gives verbal assurances that there will be no recurrences;
- f. The injury sustained is minor, or not immediately visible, but there is other evidence in support of the arrest;
- g. The victim is assessed as an unwilling participant in any future criminal proceeding; and
- h. Prosecution will probably not occur in spite of the probable cause for the arrest.
- i. There is no Order of Protection in effect.

9. In all arrests, other than civilian arrests, the member shall emphasize to the victim and the offender that the action is being initiated by New York State and not by the victim.

C. Civilian arrest policy -

1. Although Section 140.30 of the Criminal Procedure Law allows for an arrest to be made by any person, it is the policy of the SCSO that, where the offense charged is either a felony or misdemeanor, the officer execute the accusatory instrument, relying on a signed statement made by the complainant/victim for the requisite information and belief.

2. In the case where the only criminal offense is harassment or disorderly conduct, both violations that require conduct in the officer's presence, and such conduct has not occurred, it will be necessary for the officer to obtain a signed Information making the accusation and relating the facts supporting it. Thereafter, the procedure is in accordance with CPL Section 140.40 with the arrested person, if present at the scene, being deemed to have been "delivered" to the custody of the officer.

a. In such cases the victim should be informed out of the presence of the offender, where feasible, of the right to a civilian arrest, and assisted by the officer in such arrest.

b. In cases of a civilian arrest, the complainant shall swear to and sign the information as soon as possible.

c. Civilian arrests shall not be used in place of an authorized arrest by a police officer having the requisite reasonable cause as stated in this directive.

d. If the member has reason to believe that the victim has been threatened, coerced, or is in immediate danger, the member shall arrest without the victim's complaint providing there is probable cause to support the arrest. As soon as possible after the arrest, a statement is to be taken from the victim and any witnesses.

3. In the case where the **accused is not present** at the scene, the officer will have no recourse but to **seek an arrest warrant** from the appropriate court. In this regard, members should be aware of CPL Section 120.20(2) providing that the court may refuse to issue a warrant "until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged."

This suggests that one course of action would be to invite the complainant to accompany the officer to the magistrate who could issue a warrant of arrest and, if necessary, an order of protection at the same time. Obviously, such an arrangement would require the agreement of the local court; however, it could be effective, especially if there has been a history of domestic dispute between the victim and offender.

4. Notwithstanding all of the above, members should be familiar with CPL Section 140.40(4) regarding police duties in civilian arrests. "...a police officer is not required to take an arrested person into custody or to take any other action prescribed in this section on behalf of the arresting person if he has reasonable cause to believe that the arrested person did not commit the alleged offense or that the arrest was otherwise unauthorized."

D. Cross complaints - Members are not required to arrest both (or all) parties when physical force was used against each other. In cases where there are cross complaints, member should attempt to identify the primary physical aggressor, bearing in mind that the purpose of this policy is to protect victims of domestic violence. Members are reminded that an aggressor may attempt to use a cross complaint to discourage the victim from proceeding with an arrest.

1. The "primary physical aggressor" is not necessarily the first person to use physical force during an incident. In determining who is primary, consider the following:

a. The comparative nature of the parties' injuries or serious threats creating the fear of physical injury; and,

b. History of violence between those involved, when that information can be reasonably ascertained.

2. No arrest shall be made for acts that were committed in self-defense in accordance with Article 35.00 of the NYS Penal Law. In such cases, prior to a final determination, the case should be reviewed by a supervisor and/or the District Attorney's Office.

3. Identification and arrest of the primary physical aggressor does not foreclose the arrest of the other party at a later time, should subsequent facts be developed indicating culpability for an offense. Also, if the situation justifies, both parties may be arrested. In this regard, the member shall not discourage requests for law enforcement intervention by threatening, suggesting or otherwise indicating that all parties may be arrested.

E. Family offense arrest procedures -

1. Members will provide the victim(s) of a Family Offense (See ¶ IV, "Definitions," below) with the following information:

a. That there is concurrent jurisdiction with respect to Family Offenses in both Family Court and the criminal courts. Victims of Family Offenses may proceed in either or both the Family or criminal court;

b. That a Family Court proceeding is a civil proceeding for purposes of attempting to stop the violence, end the family disruption and obtain protection;

- c. That a proceeding in the criminal court is for the purpose of prosecuting the offender and can result in criminal conviction of the offender;
- d. That a proceeding or action subject to the provisions of §812 of the Family Court Act 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; and,
- e. 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 circumstances described in §140.10(4) of the Criminal Procedure Law.

NOTE: The above statute provides: "...a police officer shall arrest a person, and shall not attempt to reconcile the parties or mediate, where such officer has reasonable cause to believe that..." a felony (except for certain larcenies) has been committed or an order of protection has been violated and that it is a family offense. Although the section also provides for an arrest for a misdemeanor that is a family offense, "unless the victim requests otherwise," it should be quite clear that, as authorized further, police agencies may elect to require an arrest in other circumstances where domestic violence has allegedly occurred. As stated at the outset, it shall be policy of the SCSO to effect an arrest in domestic violence cases wherein there is reasonable cause to believe an offense has been committed, regardless of the victim's request to the contrary.

- 1. When a victim wishes to proceed in Family Court on an offense, advise the victim that it will be necessary to appear in Family Court to file a petition. If the court is in session, the petition should be filed immediately. If it is not is session, the petition may be filed in a local criminal court, with the city, town or village justice acting in the capacity of the Family Court Judge.
- 2. When a victim chooses to proceed in a criminal court, the victim is not required to be present at the arraignment of the alleged offender. If a temporary Order of Protection is desired, the court should be advised of such request.
- 3. Booking, fingerprinting and photographing shall conform to current SCSO procedures and §160.10 of the Criminal Procedure Law.

F. Non-family offense procedures -

- 1. Offenses that are not designated Family Offenses, but which occur in domestic relationships, cannot be handled in Family Court. Criminal courts have exclusive jurisdiction over these acts (e.g. murder or attempted murder, criminal possession of a weapon, kidnapping, rape, unlawful imprisonment).
- 2. Orders of Protection and warrants issued in non- family offense cases are not required to be included in the Statewide Registry.

3. Although the violation of an Order of Protection is not a designated family offense, Family Court does have concurrent jurisdiction over the matter if the order was issued by the Family Court.

G. Orders of Protection -

1. Issuance - Orders of protection and temporary orders of protection may be issued by a local criminal court, Supreme Court or the Family Court. When advising the public which forum may be of assistance, the following distinctions should be noted:

- a. **Local criminal courts** require that before a temporary order of protection can be issued to a victim, a criminal action must be pending. Upon conviction of the accused, the court may enter a final order of protection, the duration of which will be determined by the court. (CPL §530.12)

- b. **Supreme Court** may issue an order of protection upon commencement of an action for divorce, separation or annulment. (DRL §240 and 252) Supreme Court orders are enforceable statewide.

- c. **Family Court** may issue an order of protection upon application of either party with no requirement that an action has been previously commenced. (FCA §430). The parties must be subject to the jurisdiction of the Family Court, as defined by the Family Court Act and the Criminal Procedure Law. Any victim wishing a Family Court order of protection shall be referred to the Seneca County Probation Department which acts as the intake agency for such orders as well as for PINS petitions.

- d. Consistent with 18 United States Code 110A §2265, orders of protection issued by another state or Indian tribe shall be given full faith and credit and enforced as if they were the orders of a New York court. Unless clearly invalid, an out-of-state order will be presumed to be valid and shall be enforced in the criminal court having jurisdiction over the acts constituting the offense. If the validity of the out-of-state order is in question, the officer should arrest for a substantive charge if warranted, rather than for violation of the order.

2. Enforcement - The following procedures shall govern the enforcement of an order of protection:

- a. The responding officer shall make an objective evaluation of the facts and circumstances surrounding the incident.

- b. A lawful arrest may be made even though the protected party is unable to produce a valid copy of the order. When such circumstances exist, the officer shall attempt to verify the existence and terms of the order through SCSO records and the Statewide Registry. eJusticeNY should be checked in all cases for warrant information. If the order can be neither produced nor its

existence verified, the officer should proceed as though there is no valid order of protection.

c. Where an officer receives a complaint from a protected person that the terms of an order have been violated, or has independent probable cause to believe such terms have been violated, an arrest shall be made for Criminal Contempt 2nd (PL §215.50(3) or Criminal Contempt 1st (PL §215.51) regardless of whether the prohibited behavior occurred in the officer's presence. A copy of the order of protection shall be attached to the court information.

d. Whenever possible, a sworn statement shall be taken from the protected person if an arrest is made for violating an order of protection. Such affidavit shall include a statement that the terms of the order were violated and a factual description of the behavior constituting the alleged offense.

e. In instances where the offensive conduct prohibited by the order of protection is also conduct that is independently unlawful, the offender shall be charged with both violation of the order (Criminal Contempt) and the underlying offense.

f. In any case where an arrest has been made for violation of a criminal court order of protection, it is advisable for the protected person to be present at arraignment. (Note that victim's presence is not required when arrest is for other than violation of an order, ¶ E (3) above.) If the order violated is a Family Court order of protection, the protected person is required to appear in Family Court to file a petition and shall be so advised by the responding officer.

g. Occasionally a respondent who has been named in a valid order of protection forbidding that person to visit named premises, will seek an officer's assistance in order to recover personal or other property. Any such assistance, voluntarily given, amounts to helping the respondent violate the order and shall not be done, unless the order specifically states that police assistance is to be provided.

If asked, the respondent should be advised to contact the issuing court for a modification of the order to allow the retrieval of personal property or property not in civil litigation.

H. Firearms - When a perpetrator in a domestic incident uses or threatens the imminent use of a firearm or other weapon, even if legally in possession, confiscation is permitted. In other domestic incidents, where they are present but no threat is involved, consider effecting the voluntary surrender of any and all firearms and weapons.

1. Confiscate legally possessed weapons as evidence when the domestic incident involves violence or the threat of violence with the weapon.
2. Seize and confiscate any illegally possessed weapons as contraband. Arrest for the appropriate weapons violations.

3. Accept legally possessed weapons, not involved in the incident, which are voluntarily surrendered.
4. Upon arresting an individual who is licensed to carry, possess, repair and dispose of firearms pursuant to Article 400 of the New York State Penal Law, the arresting officer should, whenever practicable, notify the court at arraignment of the fact that the defendant is licensed, the licensing authority and the county of issuance.

I. Appearance tickets and bail -

1. Appearance tickets shall not be issued for any domestic violence related offense.
2. Any deviation from the procedures set out must be approved by the shift supervisor and reasons for such deviation must be documented in writing in the case file.
3. Officers must not assure victims that the arrested offender will remain in custody overnight because of the provisions of this policy. Such assurances could influence decisions the victim might make regarding safety precautions to be taken.

J. Additional Services -

1. The SCSO maintains a current listing of agencies that provide aid to victims of domestic violence. Officers will refer victims to these agencies, as appropriate. The agencies are as follows:

Seneca County Domestic Abuse Hotline	(315) 539-1607
Community Counseling Service of Seneca County	(315) 539-1980
Safe Harbors of the Finger Lakes Hotline	(800) 247-7273
Alcohol and Substance Abuse Counseling	
	/Community Counseling (315) 539-1985
2. Where victims of domestic violence are incapacitated by physical, mental or emotional impairments, officers will consult with Adult Protective Services and assist, where appropriate, in supportive interventions.

K. Training requirements -

1. All law enforcement members of the SCSO shall receive domestic violence training, including but not limited to:
 - a. Identifying and understanding the problem of domestic violence.
 - b. Response to and intervention in domestic incidents.
 - c. Criminalization trends in domestic violence.

- d. Liability rulings involving police.
- e. Interpretation of SCSO policy regarding incidents of domestic violence.
- f. Conducting investigations into and appropriately documenting incidents of domestic violence.
- g. Procedures for the arrest and detention of alleged offenders.
- h. Enforcement of orders of protection.
- i. Victim assistance and locally available community services.

2. All officers shall receive ongoing training and legal updates concerning the area of domestic violence, including interpretation and enforcement of state and federal laws relating to domestic violence.

L. Responsibility -

- 1. All members shall follow the procedures set forth in this directive, except under extraordinary circumstances where it can be clearly demonstrated that to do so was unsuitable for a particular situation. Any such circumstances must be fully documented by officer on the incident report with the approval of the shift supervisor.
- 2. The shift supervisors are ultimately responsible to see that officers under their command comply with SCSO's policy and procedure when dealing incidents of domestic violence.
- 3. The Sheriff will designate a command level officer to coordinate SCSO's domestic violence programs. Responsibilities of this person will include:
 - a. Coordination of SCSO training in domestic violence;
 - b. Policy review, suggestions for revisions, and policy implementation;
 - c. Routine analysis of SCSO data gathered from reports of domestic violence, offense dispositions, and arrest statistics as a measurement for program success; and,
 - d. SCSO liaison with state and local domestic violence agencies, community service organizations and the public in matters relating to domestic violence.

IV. DEFINITIONS:

A. A Domestic Incident is any dispute, violence or report of an offense between individuals within a domestic relationship where police intervention is requested. A domestic incident is not necessarily a violation of law.

B. For purposes of this policy, a **Domestic Relationship** shall include persons who:

1. Are members of the same family or household defined as such by the Family Court Act and the Criminal Procedure Law in that they:
 - a. Are legally married to each other;
 - b. Were formerly married to each other;
 - c. Are related by blood;
 - d. Are related by marriage;
 - e. Have a child in common regardless of whether they were ever married or lived together at any time; **or are**
2. Defined as such by Social Services Law and Regulations in that they:
 - a. Are unrelated persons who are continually or at regular intervals living in the same household or who have in the past continuously or at regular intervals lived in the same household;
 - b. Are unrelated persons who have had intimate or continuous social contact with one another and who have access to one another's household; **and/or who**
3. Assert that they are intimate partners, in that they have had a dating relationship, including same sex couples.

Note: Domestic Incidents, as defined in ¶ A, includes assaultive and non-violent conduct that injures, attempts injury, or is coercive in its intent. The definition of Domestic Relationship in ¶ B, recognizes that these relationships take many forms and that members must ensure equal protection under law for all victims of domestic offenses, not only victims of Family Offenses. Domestic incidents may continue after the formal or informal relationship has ended, and may include "stalking" behaviors such as harassment and menacing.

C. Domestic Violence occurs when an intimate partner, family or household member commits or attempts to commit:

1. Any of the following designated Family Offenses (F=Felony, M=Misdemeanor, V=Violation):
 - a. Harassment in the 1st (M) and 2nd (V) degrees
 - b. Aggravated harassment in the 2nd (M) degree
 - c. Disorderly conduct (V), including not in a public place

- d. Assault in the 2nd (F) and 3rd (M) degrees
- e. Attempted assault 2nd (F) and 3rd (M) degrees
- f. Reckless endangerment in the 1st (F) and 2nd (M) degrees
- g. Menacing in the 2nd (M) and 3rd (M) degrees
- h. Stalking in the 1st (F), 2nd (F), 3rd (M) and 4th (M) degrees
(Ref: CPL §530.11 and FCA §812)
- i. Criminal Obstruction of Breathing or Blood Circulation
- j. Forcible Touching
- k. Sexual Abuse 3rd degree
- l. Sexual Abuse 2nd degree (subdivision (1))
- m. Sexual Misconduct
- n. Strangulation 1st and 2nd degree
- o. Criminal Mischief any degree
 - *NOTE* This includes damage to property of another which a person
Has some type of joint ownership (e.g. marital property).

2. Offenses such as Attempted Murder, Kidnapping, Rape, Unlawful Imprisonment, Coercion, Arson or Criminal Mischief against an intimate partner or another household/family member. Threats or acts of violence against the victim or others, or damaged property or harm to pets may, in some circumstances, form the basis of the charges of Tampering With a Witness (PL §215.10-13) or Intimidating a Witness (PL §215.15-17). The criminal court has exclusive jurisdiction over these types of offenses.

3. Repeated coercive acts or petty offenses which, taken singly, may be non-criminal in nature, but which instill fear of physical injury or harm and therefore may warrant a charge of Harassment 1 or Menacing 2 & 3. Such a pattern may involve abusive language, physical or verbal threats or damage to jointly held property. The purpose of these acts is to manipulate and control an intimate partner or another member of the family/household.

4. Acts that violate the terms of a Order of Protection issued by the Family, Supreme, or criminal courts.

D. Concurrent Jurisdiction exists when different courts have jurisdiction over the same incident. A victim of a Family Offense may elect to proceed in either a civil or criminal court, or in both. Criminal court and Family court have concurrent jurisdiction when:

1. A designated Family Offense (listed above) is alleged to have been committed;
and,
2. A family/household relationship as defined in the Family Court Act (see ¶ B (1) above) exists; **and,**
3. The offender is 16 years of age or older.

Note: In cases where either of the first two elements are not met, the victim does not have the option of going to Family Court but must go to criminal court for legal relief. If the first two elements are met, but the alleged offender is less than 16 years of age, the case must be heard in Family Court.