

CARTERET POLICE DEPARTMENT		
STANDARD OPERATING PROCEDURES		
SUBJECT: DOMESTIC VIOLENCE INVESTIGATIONS		
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PURPOSE: The purpose of this policy is to maintain direction for personnel when enforcing the provisions of the *Prevention of Domestic Violence Act*, N.J.S.A. 2C: 25-17 et seq., and to provide aid, assistance, and comfort to the victims of domestic violence.

POLICY: It is the policy of the Carteret Police Department to uniformly enforce the provisions of the *Prevention of Domestic Violence Act* in a fair and impartial manner. It is also the policy of this agency to ensure that victims are notified of their domestic violence rights as required by statute. It is also the policy of the Carteret Police Department to investigate domestic violence-related matters in compliance with New Jersey Attorney General's guidelines and *Middlesex County Prosecutor's Office Directive #12*.

Due to the serious nature of domestic violence, responses should be delivered with the same degree of respect, professionalism and care accorded all other violent crimes.

PROCEDURE:

I. DEFINITIONS

- A. Criminal coercion – N.J.S.A. 2C: 13-5 A (1) - This section of the statute does not require as an element of the threat to inflict immediate harm (i.e., a threat to inflict bodily injury is a violation regardless of the immediacy of the threat).
- B. Dating relationship – Always require the victim indicate in his/her written statement why he/she feels that it was a date or a dating relationship. Upon review of the TRO complaint and supporting documentation, the court will determine whether a dating relationship exists. If the victim feels that it was a date or there is doubt, complete the required documentation and allow a judge to make the final determination. The law does not define dating relationship, so the following facts should be considered:
1. The type and nature of the dates/relationship (e.g., intimacy, sexual relations, etc.);
 2. The length of the relationship;
 3. The frequency of interactions between the parties and, if the relationship has been terminated, the length of time that has elapsed since the termination.
- C. Domestic violence is the occurrence of one or more of the following criminal offenses upon a person protected under the *Prevention of Domestic Violence Act of 1991*, N.J.S.A. 2C: 25-17 et seq.
1. Homicide N.J.S.A. 2C: 11-1, et seq.;
 2. Assault N.J.S.A. 2C: 12-1, et seq.;
 3. Strangulation N.J.S.A. 2C: 12-1b(13);
 4. Terroristic threats N.J.S.A. 2C: 12-3;
 5. Kidnapping N.J.S.A. 2C: 13-1;
 6. Criminal restraint N.J.S.A. 2C: 13-2;
 7. False imprisonment N.J.S.A. 2C: 13-3;
 8. Sexual assault N.J.S.A. 2C: 14-2;
 9. Criminal sexual contact N.J.S.A. 2C: 14-3;
 10. Lewdness N.J.S.A. 2C: 14-4;
 11. Criminal mischief N.J.S.A. 2C: 17-3;
 12. Burglary N.J.S.A. 2C: 18-2;
 13. Criminal trespass N.J.S.A. 2C: 18-3;

14. Harassment N.J.S.A. 2C: 33-4;
 15. Stalking N.J.S.A. 2C: 12-10;
 16. Criminal Coercion N.J.S.A. 2C: 13-5;
 17. Robbery N.J.S.A. 2C: 15-1;
 18. Cyber-harassment N.J.S.A. 2C: 33-4.1;
 19. Contempt of a domestic violence restraining order pursuant to subsection b. of N.J.S.A. 2C: 29-2, that constitutes a crime or disorderly persons offense;
 20. Any other crime involving a risk of death or serious bodily injury to a person protected under the *Prevention of Domestic Violence Act of 1991*, N.J.S.A. 2C: 25-17 et seq.
 21. NOTE: when one or more of these acts are inflicted by an un-emancipated minor upon a person protected under the *Prevention of Domestic Violence Act of 1991*, N.J.S.A. 2C: 25-17 et seq., the occurrence shall not constitute 'domestic violence', but may be the basis for the filing of a petition or complaint pursuant to N.J.S.A. 2A: 4A-30.
- D. Domestic violence investigation guidelines can be found on the NJDCJ Website - http://www.nj.gov/oag/dcj/agguide/directives/dv_manual.htm.
- E. A listing of all Attorney General Guidelines can be found on the NJDCJ Website at <http://www.nj.gov/oag/dcj/agguide.htm>.
- F. Domestic violence central registry (DVCR) is a computerized query system that allows authorized users to access information about domestic violence cases. DVCR permits direct access at any time to the DV information in the Family Automated Case Tracking System (FACTS). The DVCR displays information about cases in which a restraining order was requested.
- G. Emancipated minor is a person under the age of 18 who:
1. Marries; or
 2. Enters military service; or
 3. Is pregnant with or has a child in common with the defendant/victim; or
 4. Is declared emancipated by the court.
- H. e-TRO is an electronic temporary restraining order database maintained by the New Jersey Administrative Office of the Courts, Automated Trial Court Services Unit. To access this system, go to <http://njcourts.judiciary.state.nj.us/web14/sso>. Written TROs shall only be used in exceptional circumstances.
1. Personnel with access to the e-TRO system shall not share with, reveal to, or knowingly allow the use of their designated pin # by any other person. Such personnel must take reasonable steps to ensure that the pin # is kept

confidential. No agency personnel shall utilize the pin # that is not specifically assigned to him/her to access the system.

2. Anytime a TRO is served, the serving agency is responsible for updating the e-TRO system without delay to reflect the service of the TRO. Additionally, until the AOC implements an electronic alert system, a hard copy of proof of service of the TRO upon the defendant must be faxed to the court.
- I. Household members are persons who reside in the same house or premises. Officers should consider the following factors:
1. The length of time the parties have resided together.
 - a. An overnight or weekend guest would not be considered a household member because the person is not residing at that location but, is only visiting.
 - b. When necessary, the officer should inquire whether the parties ever lived together to see if they are former household members.
 - c. If in doubt, the officer should contact a supervisor or an assistant prosecutor to determine if a person is to be considered a household member for purposes of a domestic violence complaint.
 2. Does the person receive mail at that address, or have a driver's license or other official document listing that address?
 3. Personal effects, possessions present at the residence, indicating permanent residence.
 4. When an offense occurs in a boarding home or similar living arrangement, a determination must be made on a case-by-case basis if the offense occurs in an area generally considered common areas for all residents.
- NOTE:** a former household member does not apply if the parties have not resided in the same household for 20 years or more. If in doubt as to whether or not a person meets this criterion, contact the on-call judge.
- J. Mutual order of protection is a single court order entered against both parties and requiring both parties to abide by the conditions of the order. Under the *Violence Against Women Act* (VAWA), mutual orders of protection are discouraged. Under New Jersey law, mutual orders of protection are prohibited. However, each party may obtain a separate restraining order against the other party. This would not be considered a mutual order of protection.
- K. Ontario Domestic Assault Risk Assessment (ODARA) is a tool that predicts how likely an abusive partner is to assault again. No clinical expertise is required to administer an ODARA assessment. Officers can obtain the necessary information for scoring the ODARA's 13 items during an interview with a victim, a review of the defendant's criminal history, and related records (e.g., prior investigations, CAD records, etc.).
1. Related definitions include:

- a. Defendant: the person being assessed.
 - b. Index assault: the most recent incident in which the defendant assaulted his/her current or former partner. Assault is any act of violence that involved physical contact with the index victim or a credible threat of death made with a weapon displayed in the presence of the victim.
 - c. Partner: a person who currently is, or previously was, involved with the defendant in an intimate relationship. This includes current or former spouses, current or former intimate cohabitants, co-parents, and those currently or formerly in a dating relationship.
 - d. Victim: the person upon whom the index assault was committed.
2. Instances of domestic violence that do not involve physical violence or threat of death with a weapon should not be assessed under ODARA.
3. Officers shall complete the ODARA in those cases of domestic violence in which the following crimes/offenses are charges and the victim is a partner, as defined above:
- a. Homicide (N.J.S.A. 2C: 11-1);
 - b. Simple assault with contact or a weapon (N.J.S.A. 2C: 12-1a);
 - c. Aggravated assault (N.J.S.A. 2C: 12-1b);
 - d. Terroristic threats with contact or with a weapon (N.J.S.A. 2C: 12-3);
 - e. Kidnapping (N.J.S.A. 2C: 13-1);
 - f. False imprisonment with contact or with a weapon (N.J.S.A. 2C: 13-3);
 - g. Sexual assault (N.J.S.A. 2C: 14-2);
 - h. Criminal sexual contact (N.J.S.A. 2C: 14-3);
 - i. Robbery (N.J.S.A. 2C: 15-1);
 - j. Burglary, 2nd degree with contact or with a weapon (N.J.S.A. 2C: 18-2);
 - k. Any other crime involving risk of death or serious bodily injury (N.J.S.A. 2C: 25-19a(18)).
- L. Out-of-state domestic violence restraining orders (also known as foreign orders of protection, civil restraints, and mutual restraints) include any court order issued by any other state, Indian tribe, territory or possession of the United States, Puerto Rico or the District of Columbia, whether or not the order is similar to a restraining order issued in the State of New Jersey.

- M. Stalking – When evaluating the applicability of the stalking law, it should be liberally construed in favor of the victim. It is also important that you do not focus solely on a single episode but evaluate the totality of the conduct/behavior of the defendant in the application of the law.
- N. Temporary restraining order (TRO) – An order entered pursuant to a complaint under the *Prevention of Domestic Violence Act of 1991*, N.J.S.A. 2C: 25-17 et seq., that is temporary by function and requires that a full hearing be scheduled within 10 days. A TRO shall continue in effect until further order of the court.
- O. Victim of domestic violence means a person protected by the *Domestic Violence Act* and includes:
1. Any person, who is 18 years of age or older or an emancipated minor and has been subjected to domestic violence by:
 - a. Spouse;
 - b. Former spouse;
 - c. Any other person, who is a present household member or was at any time a household member, including a college roommate.
 2. Any person regardless of age, who has been subjected to domestic violence by:
 - a. A person with whom the victim has a child in common; or
 - b. A person with whom the victim anticipates having a child in common if one of the parties is pregnant; or
 - c. A person whom the victim has had a dating relationship.
 - 1) The victim may be below the age of 18.
 - 2) The domestic violence assailant must be age 18 or older or emancipated at the time of the offense.
 - 3) Officers shall liberally construe the term dating relationship.
 - 4) If one of the parties claims that there was a dating relationship, officers must conduct the investigation accordingly.
 - 5) A judge is the person responsible for determining whether in fact a dating relationship existed between two parties.
- P. Violence Against Women Act (VAWA) is a federal law that mandates full faith and credit for facially valid out of state restraining order acts. It also allows federal prosecution for crossing state lines with the intent to commit an act of domestic violence.

- Q. Middlesex County Prosecutor's Directive #12 includes the following matrix to assist officers and supervisors in determining whether to investigate an incident as domestic violence:

Relationship	Victim	Defendant
Spouse, former spouse, present household member or was at any time a household member	18 or emancipated	18 or emancipated
Child in common, or pregnant by a person alleged to be the father of the child	Any age	18 or emancipated
Has had a dating relationship	Any age	18 or emancipated

II. GENERAL

- A. A victim of domestic violence may file a domestic violence complaint:
1. Where the alleged act of domestic violence occurred; **or**
 2. Where the defendant resides; **or**
 3. Where the victim resides or is sheltered.
- B. A victim of domestic violence may file a criminal complaint in connection with filing a domestic violence complaint:
1. Where the alleged act of domestic violence occurred; **or**
 2. Where the defendant resides; **or**
 3. Where the victim resides or is sheltered.
- NOTE: A criminal complaint shall be investigated and prosecuted in the jurisdiction where the offense is alleged to have occurred.
- C. A victim of domestic violence may file a criminal complaint, but with no accompanying domestic violence complaint:
1. Where the alleged act of domestic violence occurred; **or**
 2. Where the defendant resides.
 3. Once the reporting officer completes the initial investigation, he/she shall immediately contact the law enforcement agency where the offense occurred and shall immediately transmit by facsimile or by hand delivery those documents to the law enforcement agency where the offense occurred. That law enforcement agency where the offense occurred shall prepare the appropriate criminal complaint and present the complaint to a judicial officer for appropriate action.
- D. Officers must respond promptly and investigate all calls involving domestic violence. The primary duty of the officer is to enforce the laws allegedly violated and to protect

the victim. The responding officer shall obtain as much information as possible from the communications officer (e.g., injuries, weapons, etc.) prior to entering the scene.

E. Upon entering the scene, the officer shall attempt to:

1. Restore order;
2. Render first aid when applicable;
3. Interview parties separately;
 - a. Victim interviews should be electronically recorded (audio and/or video) and conducted as soon as possible with consideration given to the victim's physical and emotional wellbeing.
 - 1) The recordings can be made on an agency system designed for recording interviews, agency body worn cameras, if available, agency MVRs, or agency audio tape recorders. All such recorded interviews shall be tagged/preserved in accordance with agency procedures for the preservation of evidence for possible use in prosecution and related actions.
 - 2) If the victim is unable to be interviewed at the time of the initial police response, reasonable efforts should be made to set up an interview with him/her for taking a formal statement no later than twenty-four (24) hours of said response. Additionally, the existence of any injuries shall be documented.
 - 3) Statements given by the victim during the initial investigation phase are more than likely to be the most accurate and candid account of what occurred, and less likely to be diminished by the victim that often occurs over a course of time. Therefore, the importance of conducting and documenting a thorough interview at this point in the investigation phase cannot be understated.
 - 4) In addition to describing what occurred pursuant to N.J.S.A. 2C: 25-21, the victim should be questioned specifically regarding the existence of any firearms to which the suspect could have access and their specific location. The victim should also be questioned if he/she knows of any *Permits to Purchase a Handgun* and/or *Firearms Identification Card* the suspect might have and their specific location, if known. Victim responses shall be documented in the investigation report.
 - 5) As a matter of standard operating procedure, and regardless of whether the victim is seeking a TRO or intends to sign criminal complaints, the interviewing officer shall supply the victim with an *Affidavit in Support of Domestic Violence Search Warrant* and take all reasonable steps to convince the victim complete this form, which shall be made part of the

case file. This *Affidavit in Support of Domestic Violence Search Warrant* becomes vital if the defendant pleads guilty or is convicted of a DV related offense. If the victim cannot or will not complete the *Affidavit in Support of Domestic Violence Search Warrant* but, does provide information regarding firearms, the officer should complete the *Affidavit in Support of Domestic Violence Search Warrant* with the information provided by the victim.

- b. Witness interviews, including all those present (including children), should be electronically recorded (audio and/or video).
 - 1) The recordings can be made on an agency system designed for recording interviews, agency body-worn cameras, agency MVRs, or agency audio recorders. All such recorded interviews shall be tagged/preserved in accordance with agency procedures for the preservation of evidence for possible use in prosecution and related actions. Per N.J.S.A. 2C: 25-21, officers shall ask witnesses about the presence of weapons in the suspect's home or ownership of weapons by the suspect.
 - 2) If officers are unable to interview witnesses at the scene, reasonable efforts should be made to interview witnesses within twenty-four (24) hours of the incident.
 - c. Defendant (suspect) interviews – document all statements and admissions made by the defendant/suspect at the scene. If the person is under arrest or in custody, ensure that Miranda warnings are given. Formal interviews/interrogations involving any indictable offense must be electronically recorded in accordance with *MCPO Directive #14* and this department's policy on *Interview, Interrogation, and Access to Counsel*.
4. Take appropriate enforcement action to protect the victim. The defendant's access to the victim and potential for further harm should also be considered.
- F. Regardless of where the offense occurred, if the victim requests a temporary restraining order:
- 1. Between 0830 – 1500 hours, Monday through Friday (excluding holidays), the victim can file the complaint with the clerk of the Family Court at the Middlesex County Courthouse, New Brunswick, N.J. (NOTE: For the victim to file a complaint directly with the clerk of the Family Court, the victim MUST be able to arrive at the Courthouse by 1530hrs. If this is not possible, follow the procedures listed in subsection F.2 below. If the victim has no means of transportation to the courthouse, arrange for transportation via:
 - a. Public transportation;
 - b. Community resources;
 - c. Police officer.

2. Between 1500 – 0830 hours, Monday through Friday, weekends and holidays when the family courts are closed:
 - a. Transport the victim to the police headquarters.
 - b. An officer shall have the victim complete a written statement, which may be placed on an *Affidavit in Support of Domestic Violence Search Warrant* and take an audio or video statement providing all the essential facts of the incident as well as DV history between the victim and the defendant and advise the victim of his/her rights under DV and have him/her sign the DV Victim Notification Form. The officer will assist the victim in completion of the affidavit if the victim is unable to do so due to injury or a language barrier. All DV history between the victim and the defendant should be included in the complaint.
 - c. Based on the results of the investigation, officers will complete the *New Jersey Domestic Violence Civil Complaint and Temporary Restraining Order* form in e-TRO. The victim will be given an opportunity to read and discuss all aspects of the *DV Civil Complaint* with the officer to ensure accuracy of the form and then both the victim and officer must sign it. If exigent circumstances exist and the victim is unable to sign the DV complaint (e.g., unconscious in the hospital from injuries received from the suspect), the investigating officer must sign the DV complaint and seek a TRO without the signature of the victim.
 - d. When completing a request for a TRO, the same complaint will act as the request for a FRO in superior court. If the defendant does not receive notice in the TRO that any item in Part 1 or Part 2 of the complaint is being requested, then it cannot be considered at the hearing for the FRO. To make the appropriate notice to the defendant, all 'F' boxes (Final) must be checked for any item that the victim may wish to have considered at the FRO hearing.
 - e. Victims and defendants should be asked for their postal town address and their actual address, as they are not always the same. Record this information in the investigation report and TRO.
 - f. Contact the appropriate court/judge on an agency recorded landline (preferred contact method). The court/judge has the option of responding to the station to process the complaint or processing it telephonically on the recorded phone line. If the judge considers the request for a TRO telephonically, the officer will read the victim's written statement and the complaint to the judge and advise the judge of the results of his/her investigation. The judge must then speak to the victim on the recorded line unless the victim is incapacitated. If a judge cannot be located, contact the Middlesex County Sheriff's Office Communication Center for the number of the on-call superior court judge. Any conversations that occur on the agency recorded line shall be preserved as evidence in accordance with this

department's evidence procedures. The judge will rule based on the information supplied and may issue a TRO.

- g. Officers shall record the judge's ruling on his/her investigation report. (NOTE: A TRO will remain in full force and effect until further action of the court.)
- h. If approved telephonically, the officer shall complete the TRO with all restrictions as directed by the issuing judge. A copy of the approved TRO must be immediately faxed or electronically filed immediately with the Family Court of Middlesex County.
- i. Filing a complaint pursuant to the DV Act shall not prevent the filing of a criminal complaint for the same act.
- j. Upon granting of a TRO, Officers should give the return date for the FRO hearing seven (7) to ten (10) days from the issuance of the TRO when family court is in session (on Mondays, Tuesdays or Wednesdays).
- k. Victims who are denied a TRO may request an immediate De Novo Hearing for the Municipal Court Denial of a Domestic Violence Temporary Restraining Order.
 - 1. If a victim of domestic violence requests a hearing for a denial of a TRO by a Municipal Court Judge, the New Jersey Administrative Office of the Courts, Directive #13-19 shall be followed: <https://njcourts.gov/notices/2019/n190711a.pdf?c=XvJ>

G. Evidence based investigations – At the scene or initial stages of the investigation, the victim may cooperate, as the victim and witnesses are seeking to have the violent situation stopped and will readily supply information and allow evidence to be gathered. However, when it comes time to prosecute, they may be totally uncooperative due to a multitude of factors. Therefore, officers must take the approach that they need to gather sufficient quality evidence that will allow for a successful prosecution of the defendant, even without the cooperation of the victim and/or witnesses. Evidence-based investigations should be initiated for any DV assaults involving serious bodily injury (see N.J.S.A. 2C: 11-1(b)) or assaults involving the use of weapons. Areas that are vital to evidence-based prosecutions include, but are not limited to:

- 1. 9-1-1 or telephone recordings – If such recordings contain any pertinent information/conversation related to the investigation, extraordinary efforts shall be made to preserve them in accordance with standard evidentiary procedures.
- 2. Victim photographs – Officers/detectives shall photograph any visible external injuries within 24 hours. If this entails photographing an injury on or near an intimate part of the body, the officer/detective taking the photographs shall be of the same sex as the victim. Any visible external injuries shall be described in detail in the incident reports and pointed out to medical personnel (if applicable) so that the injury may be noted on any medical diagram/examination report authored by the medical staff. Medical

personnel in most cases should also take photographs of the injury.

- a. Officers should advise any victim with signs of physical injury to re-contact this agency two to three days after the incident to allow for further photographing of the injuries, or a detective may initiate contact with the victim to make such arrangements.
 - b. When digital photographs of a victim's injuries are taken in connection with a criminal investigation, and the victim obtains a TRO, copies of those photographs should be sent directly to the family court via email for use in the final restraining order hearing.
 - c. Within 5 days of the application of the TRO, email the photographs to midfamilydv.mailbox@njcourts.gov. The subject line of the e-mail should only list the name of victim and the date of the incident (e.g., Jane Smith 2/8/11). The body of the e-mail should only list the name of the officer who took the photographs and this agency's name.
 - d. No discussion of reports or materials should be included in/attached to the e-mail.
 - e. All other requirements for sending the TRO to the family court and securing of evidence remain unchanged.
3. Scene photographs – Officers must document their observations of the scene in detail in their incident report and with photographs.
 4. Suspect photographs – Any visible external injuries shall be described in detail in the incident reports and pointed out to medical personnel (if applicable) so that the injury could be noted on any medical diagram/examination report authored by the medical staff. Photographs of external injuries must be taken. If it becomes necessary to photograph an injury on or near an intimate part of the body, it is best to obtain defendant's consent or a court order and the officer/detective taking the photograph shall be of the same sex as the suspect.
 5. Text message/photographs – When a victim alleges a domestic violence offense by the use of text messaging or photographs, officers must document any such text messages or photographs in detail within their incident report. If victim does not possess the text messages, officer(s) may consider applying for a communications data warrant (CDW) to further obtain/document the evidentiary phone data via forensic examination. NOTE: Officers are reminded of the need to retain contemporaneous crime scene notes as required.
 6. E-mails/social networking sites – When a victim alleges a domestic violence offense by the use of e-mail, or messages from social networking sites, officers must obtain printouts of the messages. If victim does not possess the communication, the officer(s) may consider applying for a CDW in order to obtain evidentiary data.
 7. Phone records – When a victim alleges an offense by the use of phone calls, the officer(s) must request a copy of the phone bill showing call data detail if

the victim has it in his/her possession. If the victim does not possess the call data detail record, the officer may consider applying for a CDW in order to obtain evidentiary phone data.

8. Audio/video recordings – Officers must collect any and all audio recordings related to the domestic violence offense that are captured on cell phones, voicemail, body worn cameras, mobile video recorders, etc. Such recordings shall be preserved as evidence.
 9. Physical evidence – Officers must collect all items that document the domestic violence incident at the scene, including any weapons.
 10. Medical reports – Officers must document the name of the EMS, rescue squad, sexual assault nurse examiner (SART) reports, and/or medical facility that treated the victim and/or suspect so that records can be subpoenaed, if necessary.
- H. Domestic violence situations differ from others in that officers must disseminate and explain to the victim or victims their rights under the *Prevention of Domestic Violence Act* at the scene of domestic violence.
- I. When necessary, conduct an ODARA for qualifying domestic violence related crimes/offenses (see subsection I.K of this policy for qualifying domestic violence related crimes/offenses). See this department's policy on *Arrest and Transportation* for details.
- J. If the criminal complaint is filed in a jurisdiction other than where the offense occurred, the law enforcement agency in the jurisdiction in which the complaint was filed shall immediately contact the law enforcement agency where the offense occurred and immediately transmit by fax, hand delivery or e-mail such photographs and statement of the victim(s) to that agency.
- K. Whenever any law enforcement officer is involved in a domestic violence situation within Middlesex County or whenever a Carteret officer is involved in a domestic violence situation in another county, the station commander shall immediately notify the MCPO.
1. During normal business hours, make the notification directly to the MCPO domestic violence unit and the MCPO professional standards unit.
 2. During non-business hours, make the notification to the zone assistant prosecutor.
 3. If a Carteret officer is involved in a domestic violence situation in another county, the Chief of Police or his/her designee shall also reach out to the domestic violence unit the next business day as a follow-up to the notification to the zone assistant prosecutor.
- L. The investigating officer is responsible for completing a detailed *Incident Report*, as well as the *New Jersey State Police Domestic Violence Offense Report* (available on the e-TRO system). Include in the incident report a list of all persons present at the scene or who may have witnessed the act of domestic violence including their ages and dates of birth (if known). All criminal charges issued as a result of a

domestic violence investigation shall be listed on the incident report followed by the letters 'DV'.

- M. The investigating officer shall notify the New Jersey Department of Children & Families if he/she has reasonable cause to believe that child has been abused (N.J.S.A. 9: 6-8.10). Even if there is no physical abuse, an officer can consider an act of domestic violence in a child's home as potential abuse and he/she should contact DCF if he/she has reasonable cause.
1. Such reports, where possible, shall contain the names and addresses of the child and his/her parents, guardians or other persons having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.
 2. If there was a violent act and there are children who reside in the home either full time or part time, regardless if they were home or not officers shall immediately notify the New Jersey Department of Children & Families Child Abuse and Neglect Hotline at 1-877-652-2873 (1-877- NJABUSE). This contact (date, time and name of individual contacted) should be memorialized in the officer's initial incident report.
 3. In all other cases, officers may contact the Department of Children & Families Child Abuse and Neglect Hotline when they have reasonable concern for the child's safety or wellbeing.
 4. For purposes of this subsection, a violent act is any act of violence, threat of violence or any other behavior that could put another in jeopardy.
- N. Officers must review the information contained in the domestic violence central registry when investigating a domestic violence offense or a violation of a restraining order.
1. Officers must provide the information contained in the domestic violence central registry to the judge who is making a confinement determination on a domestic violence case.
 2. Officers must provide the information contained in the domestic violence central registry to the assistant prosecutor who is assisting the officer with making a confinement decision for a violation of a restraining order.
 3. When an officer is assisting a victim with applying for a temporary restraining order (TRO), the officer must provide the information contained in the domestic violence central registry to the judge who is hearing the application for the TRO, when applicable.
 4. All information in the domestic violence central registry is confidential. Only the court, law enforcement and public agencies authorized to investigate a report of domestic violence can access the information in the domestic violence central registry.

- O. If an officer believes that a no-contact order should be issued as a condition of release, the officer should inform the court of the circumstances justifying such request when the criminal complaint is being processed. The officer should include in the domestic violence offense report the reason for the request and the court's disposition of the request.
- P. In domestic violence situations, un-emancipated minor offenders shall be processed as juveniles. Their complaints shall be filed on juvenile petitions and they shall be detained in accordance with juvenile law.

III. MANDATORY ARREST

- A. When an officer responding to the incident finds probable cause to believe that domestic violence has occurred, the officer must arrest the domestic violence suspect and must sign the criminal complaint against that person (even if the victim does not wish to pursue a complaint) if:
 - 1. The victim exhibits signs of injury caused by an act of domestic violence (N.J.S.A. 2C: 25-21a(1))
 - a. The word 'exhibit' shall be liberally construed to mean any indication that a victim has suffered bodily injury, which shall include physical pain or any impairment of physical condition. Probable cause to arrest also may be established when the officer observes manifestations of an internal injury suffered by the victim.
 - b. When the victim exhibits no visible sign of injury but, states that an act of domestic violence has occurred, the officer should consider other relevant factors in determining whether there is probable cause to arrest and sign the complaint.
 - c. In determining which party in a domestic violence incident is the victim where both parties exhibit signs of injury, the officer should try to determine who the primary aggressor was and, if the other party was acting in self-defense, the officer should consider:
 - 1) The comparative extent of injuries suffered;
 - 2) The history of domestic violence between the parties, if any;
or
 - 3) Other relevant factors.
 - d. No victim shall be denied relief, arrested, or charged with an offense because the victim used reasonable force in self-defense against domestic violence by an attacker. (N.J.S.A. 2C: 25-21(c)(3))
 - e. Officers shall follow standard procedures in rendering or summoning emergency treatment for the victim, if required.
 - 2. There is probable cause to believe that the no contact term of a domestic violence restraining order or the emergent support term of the order has been violated and there is proof defendant was served with the order (or

knew of the existence of the order prior to the violation). If the victim does not have a copy of the court order, the officer may verify the existence of an order with the appropriate agency.

3. A warrant is in effect.
 4. There is probable cause to believe that a weapon as defined in N.J.S.A. 2C:39-1r has been involved in the commission of an act of domestic violence.
- B. If the incident involves a mandatory arrest, all charges shall be on a complaint-warrant (CDR-2).
- C. If the incident involves a mandatory arrest, the officer must fingerprint and photograph the defendant.
- D. The arresting officer must complete a *DV Referral Form* and fax it to the MCPO Domestic Violence Unit within 24 hours of arrest whenever an officer makes a domestic violence arrest for:
1. A contempt charge relative to a restraining order violation; and/or
 2. An indictable charge with or without an accompanying contempt charge.

IV. DISCRETIONARY ARREST AND SIGNING OF A COMPLAINT WARRANT BY AN OFFICER OR VICTIM

- a. An officer may arrest a person or may sign a criminal complaint against that person, or may do both, where there is probable cause to believe that an act of domestic violence has been committed, but none of the conditions as set forth for mandatory arrests applies.
- b. In cases where an officer determines there is insufficient probable cause to arrest, the officer should advise the victim of his/her right to make independent application to the county or municipal court in their jurisdiction, unless the county or municipal court judge has already determined that no probable cause exists for the filing of a criminal complaint.
- c. The arresting officer must complete a *DV Referral Form* and fax it to the MCPO Domestic Violence Unit within 24 hours of arrest whenever an officer makes a domestic violence arrest for:
 1. A contempt charge relative to a restraining order violation; and/or
 2. An indictable charge with or without an accompanying contempt charge.
- d. The victim may file a criminal complaint. If the criminal complaint is filed in a jurisdiction other than where the offense occurred, the law enforcement agency in the jurisdiction in which the complaint was filed shall immediately contact the law enforcement agency where the offense occurred and immediately transmit by fax, hand delivery or e-mail such photographs and statement of the victim(s) to that agency. That law enforcement agency shall prepare a criminal complaint and present the complaint to a judicial officer for appropriate action.

- e. When the victim exhibits signs of physical injury, the agency receiving the documentation shall arrest the suspect in accordance with existing procedures.
- f. If the officer believes that a no-contact order the officer should inform the court of the circumstances justifying such request when the criminal complaint is being processed and release is anticipated. The officer should include in the DV offense report the reasons for the request and the court's disposition of the request.
- g. If the officer believes that weapons should be seized, the officer should inform the court of the circumstances justifying that belief and request that the suspect be required to surrender all weapons for safe keeping as a condition of bail or release. All such weapons seized must be safely secured.

V. FINGERPRINTING AND PHOTOGRAPHING DOMESTIC VIOLENCE OFFENDERS

- A. Officers must fingerprint and photograph anyone arrested pursuant to the mandatory arrest provisions of N.J.S.A. 2C: 25-21. This includes anyone who is arrested for a disorderly person offense that constitutes a mandatory arrest. Officers must complete the *State Criminal Fingerprint Card* (SBI-15) and the *Federal Criminal Fingerprint Card* (FD-249) in Live Scan. These conditions include when:
 - 1. The victim exhibits signs of injury; or
 - 2. There is an outstanding warrant for the arrestee; or
 - 3. There is a violation of a pre-existing domestic violence restraining order; or
 - 4. Where a weapon is involved in the incident; or
 - 5. The defendant is charged with an indictable offense; or
 - 6. A final restraining order is served.
- B. In non-mandatory arrest cases, officers must fingerprint and photograph anyone who is convicted of assault or harassment, which constitutes an act of domestic violence as defined in N.J.S.A. 2C: 25-19.
 - 1. This provision of the statute only takes effect upon conviction for assault or harassment. Officers should not fingerprint the defendant at the time of arrest.
 - 2. Officers must complete the *State Criminal Fingerprint Card* (SBI-15) and the *Federal Criminal Fingerprint Card* (FD-249) in Live Scan
- C. Officers must fingerprint and photograph any person against whom a final restraining order has been entered in any domestic violence matter pursuant to the provisions of N.J.S.A. 2C: 25-29.
 - 1. Officers should only use the *State Applicant Fingerprint Card* (SBI-19 Rev. 5/97) for processing.
 - 2. Officers should not use the *Federal Criminal Fingerprint Card*. (FD-249).

3. In the 'Application For' block, officers should check the 'other' box and enter 'DV Final Order'.
- D. Any person who fails to submit to fingerprinting and photographing should be charged with N.J.S.A. 2C: 29-1, a disorderly persons' offense.
- E. The DV coordinator shall create and maintain a list of individuals who have been served with a TRO/FRO and failed to respond to be fingerprinted/photographed within the given time period. In those cases where a person fails to respond, the matter should be followed-up and a criminal complaint-summons drafted/signed and mailed out to the individual.

VI. EXPLANATION TO THE VICTIM OF LEGAL RIGHTS AND OPTIONS; VICTIM SERVICES; SIGNING OF VICTIM'S RIGHTS FORM; VICTIM COUNSELING

- A. When an officer responds to a domestic violence incident, the officer must:
 1. Give and explain to the victim the *Domestic Violence Notice of Rights Form*, which advises the victim of available court action and victim services (N.J.S.A. 2C: 25-23).
 2. Ensure that the victim has the opportunity to sign the victim rights form.
 3. Provide the victim with any available literature regarding victim's services and rights.
 4. Offer the services of a crisis intervention team or domestic violence response team.
- B. Victim counseling:
 1. Advise victims or disputants of the availability of community services/resources throughout the investigation, such as DVRT, and encourage counseling and assistance prior to the occurrence of violent behavior. Advise the victim of a method of getting in contact with DVRT and/or arrange for meeting with DVRT.
 2. Provide the victim with the Middlesex County Victim/Witness Unit telephone number.
 3. Obtain all available contact numbers/e-mail addresses of the victim, including relatives or friends who will have continuing contact with victim.
 4. Assist the victim in obtaining a temporary restraining order in accordance with this policy.
 5. Assist the victim in signing of criminal complaint in accordance with this policy.
 6. If photographs of victim injuries are taken, advise him/her that such photographs will be sent to the Family Court and that the victim may/should request them from the court at the final hearing for the FRO.

VII. DOMESTIC VIOLENCE RESPONSE TEAM

A. Staffing, qualifications, and functions:

1. The Domestic Violence Crisis Team will be staffed by volunteer members who have completed special training for the purpose of providing informed support to the victims of domestic violence.
2. Qualified team members will be placed on a rotating call-out list and will be subject to call twenty-four hours a day, seven days a week. Watch commanders are responsible for contacting volunteer team members.
3. Domestic Violence Crisis Team members assist in the form of supportive counseling to the victims of abuse and their children at the police station immediately following a domestic violence incident.
4. The Domestic Violence Crisis Team will furnish the victim with information on the legal process so that they may understand the various options available to them under the law.
5. The Domestic Violence Crisis Team will inform victims of the referral support services that are available to them.

B. Program Administration and Supervision

1. The Domestic Violence Crisis Team will operate under the administration of the patrol division commander. The station commander on duty at the time a team member is needed will serve as liaison between the police and the crisis team member.
2. All supervisors will familiarize themselves with all statutes, policies and procedures that govern the enforcement of domestic violence law. They will perform the following duties:
 - a. Oversee the Domestic Violence Crisis Team program to ensure compliance with this Standard Operating Procedure by all personnel.
 - b. Provide officers with guidance and instruction in the proper enforcement of domestic violence law, as needed.
 - c. Serve as contact persons for any complaints regarding the enforcement of domestic violence procedures. Will forward all complaints to the Internal Affairs officer for investigation.
 - d. Report to the patrol division commander any performance problems involving volunteer crisis team members.
 - e. The Chief of Police will designate a liaison to serve as the contact person with volunteer crisis team members. This officer will be responsible for coordinating the proper operation of the Domestic Violence Crisis Team and provide any necessary training to crisis team members.

C. Call-out and notification procedures:

1. All Domestic Violence Crisis Team activities will take place at the police station. Under no circumstances will a team member respond to the scene of a domestic violence dispute.
2. A Domestic Violence Crisis Team Notification card has been designed to inform victims of the service that is available. This card will be handed to every victim of domestic violence. If a notification card is not available, notification may be made verbally. Proper documentation of the notification and response is still required.
3. Officers responding to the scene of domestic violence incidents will comply with all requirements under the law. After securing the scene, the victim will be handed a Domestic Violence Team Notification card. If the incident is reported as a 'walk-in', the station commander will hand the victim the notification card. If a notification card is not available, notification may be made verbally. Proper documentation of the notification and response is still required.
4. The investigating officer will document the outcome of the Domestic Violence Crisis Team notification to the victim on the *Supplementary Domestic Violence Offense Report*. This will be documented in Box 33 of the *Supplementary Domestic Violence Offense Report*.
5. At the request of the victim, team members will be called out when any of the following circumstances exist:
 - a. A victim of domestic violence responds to the station for assistance after a patrolman has responded to his/her residence and arrested the offender.
 - b. A victim of domestic violence responds to the station seeking protection and/or shelter from an offender.
 - c. A victim of domestic violence responds to the station wishing to report a domestic violence incident and is seeking assistance in processing a complaint and/or restraining order against an offender.
 - d. If a victim of domestic violence responds to headquarters to request an emergency temporary restraining order.
6. A *Domestic Violence Crisis Team Call-Out Log* will be maintained in the station commander's office. When the victim requests the involvement of the Domestic Violence Crisis Team, the station commander will contact the next team member on the call-out list. The station commander will note the date, time, and case number of the incident. A check mark will be placed in the 'Response Results' column to indicate if the team member was available. If a team member is not available, the next listed member will be called until an available member responds.
7. The team member will be permitted to use a private area to privately assist the victim in the process.

8. The station commander and investigating officer will work with the victim and team member in handling the incident in a proper manner in the best interest of the victim of domestic violence.

D. Restrictions:

1. No crisis team member will be requested or allowed to participate in any police investigation in connection with their response to a domestic violence call.
2. No crisis team member will be permitted to be present in any situation where the member will be exposed to a risk of bodily injury.
3. Crisis team members will not be called to respond for minor verbal disputes where no history of domestic violence exists.
4. Crisis team members will not be called to respond for neighbor disputes not involving domestic violence as defined in N.J.S.A. 2C: 25-19.
5. Crisis team members will not be called to respond when a victim indicates that they do not want a team member contacted.
6. Crisis team members will not maintain detailed notes on reports of conversations with victims except for statistical reports if required by the department or crisis team.
7. Crisis team members will not disclose the content of conversations with victims of domestic violence or abuse except with consent of the victim or as required by law or with the approval of the Chief of Police or his/her designee.
8. Crisis team members will not meet with victims of domestic violence or abuse at a location not approved by the station commander or the crisis team member.
9. Crisis team members will not divulge their home telephone number or home address to victims. Members will utilize only their first name to victims and not disclose their last name.
10. At no time will the last name or personal information of any team member be released to anyone outside the Carteret Police Department.

E. Crisis team confidentiality:

1. A crisis team member shall advise a victim of domestic violence that all statements made by the victim to the crisis team member will be treated as confidential. The information will not be disclosed to the police or prosecutor or any other source without permission of the victim or by court order except as required by law where there is an allegation involving child abuse.
2. A crisis team member who improperly and without authority reveals any information received from a victim shall be dismissed from the crisis team program at the order of the Chief of Police or his/her designee.

3. A team member will immediately notify the patrol division commander if:
 - a. He/she is contacted by an attorney or any individual who is not a member of the crisis team for information regarding any case in which the member has responded.
 - b. He/she is served with a subpoena in connection with any case in which the member has responded.
 - c. He/she is injured or there is damage to property by the member while performing service for the crisis team.

VIII. SEARCH AND SEIZURE OF WEAPONS

- A. Upon arrest of a defendant for a domestic violence related crime/offense, officers shall conduct a firearms search within forty-eight (48) hours of the arrest. At a minimum, the firearms search shall consist of a NJCJIS Master Name Index inquiry.
 1. It is important to note that this search will only reveal if the defendant legally owns handguns (not rifles or shotguns, *Firearms Identification Card*, or outstanding *Permits to Purchase*).
 2. Additional investigative actions might be warranted/needed to determine if the defendant has been forthcoming with the items in his/her possession that must be surrendered pursuant to an *Order to Surrender*.
 3. Any such investigative actions shall be documented in the appropriate case file.
- B. An officer who has probable cause to believe that an act of domestic violence has been committed involving a weapon is empowered to seize any weapon that is considered to be contraband, evidence or an instrumentality of the crime. There is no change in this procedure, even in a domestic violence incident. Officers shall follow the protocols in the *Attorney General Weapons Seizure Directives*.
 1. If the weapon is in plain view, the officer should seize the weapon.
 2. The weapon may be seized incidental to arrest.
 3. If the weapon is not in plain view or seized incidental to an arrest but, is located within the premises jointly possessed by both the domestic violence assailant and the domestic violence victim, the officer should obtain written consent from the domestic violence victim to search for and to seize the weapon. In situations where the victim can give valid consent, the officer should also seek consent to search for and seize all possessory documentation:
 - a. Firearms I.D. cards;
 - b. Handgun purchasers' permits;
 - c. Any related firearms documentation;

4. If the weapon(s) or possessory documents are located elsewhere upon other premises, the officer should attempt to obtain possession of the weapon and possessory documents from the possessor of said weapon, or the defendant, by a voluntary surrender of the weapon.
 5. The domestic violence TRO is an administrative warrant to remove weapons for safekeeping purposes. This administrative warrant is not a criminal search warrant and should not be used as a pretext to conduct a criminal search of the premises. If the officer wants to search for evidence of a crime and is unable to obtain the weapons by any of the methods described above, then the officer must apply for a standard criminal search warrant. Weapons seized as evidence to the underlying crime are to be listed on a property/evidence report and retained.
- C. Where an officer has probable cause to believe that an act of domestic violence has been committed, whether or not a weapon was used in the incident, the officer must question all persons present to determine whether there are any weapons, as defined in N.J.S.A. 2C: 39-1(r) on the premise or to which the suspect might have access. Responses shall be documented in the investigation report and, when possible, electronically recorded.
- D. In the event that criminal charges will result from the incident either by officer arrest/ complaint or civilian complaint, the interviewing officer shall supply the victim with an *Affidavit in Support of Domestic Violence Search Warrant* and take all reasonable steps to convince the victim complete this form, which shall be made part of the case file. This *Affidavit in Support of Domestic Violence Search Warrant* becomes vital if the defendant pleads guilty or is convicted of a DV related offense. If the victim cannot or will not complete the *Affidavit in Support of Domestic Violence Search Warrant* but, does provide information regarding firearms, the officer should complete the *Affidavit in Support of Domestic Violence Search Warrant* with the information provided by the victim.
- E. If an officer sees or learns that a weapon is present within the premises of a domestic violence incident and reasonably believes that the weapon would expose the victim to a risk of serious bodily injury, the officer shall attempt to seize the weapon. If the officer seizes any firearm, the officer shall also seize any firearm purchaser identification card or permit to purchase a handgun issued to the person accused of the act of domestic violence (N.J.S.A. 2C: 25-21d(1)(b)).
1. In situations where a party can give valid consent, the officer should obtain the consent in writing and also seek consent to search for and seize all possessory documentation, (i.e. firearms, ID cards and pistol purchase permits).
 2. The possessor of said weapon, or the defendant, may voluntarily surrender the weapon.
 3. The weapon may be seized as a condition of defendant's release.
- F. In the event an officer is unable to obtain a weapon(s) as described above, and the victim obtains a temporary restraining order, the officer should request that the judge issuing the TRO order in the TRO the seizure of document or documents, seizure

or surrender of the weapon(s) and possessory documents at any location. Upon the issuance of such an order, if the defendant refuses to surrender said weapon and/or documents, then the officer should:

1. Inform the person that the court order authorizes a search and seizure, of the premises or mandates surrender of the named weapon/documents; and
 2. Arrest the person, if the person refuses to surrender the named weapon/documents, for failing to comply with the court order, N.J.S.A. 2C: 29-9(b); and
 3. If ordered under the restraining order, conduct a search of the named premises for the named weapon/documents; and
 4. Append an inventory of seized weapons and documents to the domestic violence offense report and provide a copy to the defendant, the issuing court and the prosecutor's office.
- G. In the event the victim declines a TRO, the officer still has the obligation to apply the protection of the statute and should seek seizure of the weapons/documents through a domestic violence administrative search warrant. These forms are distributed by the attorney general's office.
- H. The mere fact that a victim declines a TRO does not mitigate the victim's concern for his/her safety. The officer completing the *Affidavit in Support of a Domestic Violence Administrative Search Warrant for the Search & Seizure of Weapons* should describe these concerns where appropriate on the aforementioned Affidavit.
1. This agency shall hold all weapons seized from a defendant for safekeeping by court order or by warrantless search.
 2. All reports and a completed inventory of all items seized shall be submitted to DVgunseizure@co.middlesex.nj.us within five (5) business days of the seizure so that forfeiture proceedings regarding those weapons can be initiated.
 3. Officers shall also complete and submit all forfeiture related documentation, as required in MCPO Directive #19, *Forfeiture Procedures*. If a weapon seized was used in a criminal event or is the subject to an indictable charge, the weapon shall be retained as evidence until requested by the MCPO.
- I. Weapons seized or received by law enforcement agencies in jurisdictions outside the municipality issuing the TRO, should be retrieved as soon as possible and maintained by the police department in the municipality from which the TRO was issued.
- J. If a defendant is required to surrender his weapon(s) pursuant to a TRO and surrenders his weapon(s) to a law enforcement agency other than the issuing authority, the weapon(s) should be retrieved and stored by the law enforcement agency from which the TRO was issued.
- K. An inventory of all weapons seized for safekeeping must be listed in the investigation report and forwarded to the prosecutor's office. The following items will accompany

the seized weapons when such weapons are forwarded to the MCPO via DVgunseizure@co.middlesex.nj.us:

1. Any firearm permits/ID cards/related documentation;
 2. A copy of the incident report (including property description portion);
 3. An inventory of seized items;
 4. A copy of the TRO/FRO;
 5. A copy of the *New Jersey State Police Domestic Violence Offense Report*;
 6. A copy of the criminal complaint;
 7. A copy of the victim notification form;
 8. The search warrant documentation (if applicable);
 9. The consent to search form (if applicable);
 10. CJIS check for firearms related documentation.
- L. If the MCPO determines that a weapon should not be returned to the owner, the prosecutor shall, within 45 days of seizure:
1. File a petition, with notice to the owner of the weapon(s), with the Family Part of the Superior Court, Chancery Division, to obtain title to the seized weapons, and
 2. File a petition, with notice to the owner of the weapon, with the Family Part of the Superior Court, Chancery Division, to revoke any and all permits, licenses and other authorizations for the use, possession, or ownership of such weapons.
 3. If the MCPO determines that a weapon may be returned to the owner, the prosecutor shall promptly inform the victim if necessary, and the court that the state will not object to the return of the weapon.
- M. Where the defendant is a law enforcement officer, the decision whether to seize the defendant's firearm shall be made without regard to the defendant's status as a law enforcement officer. Responding officers will follow standard law enforcement response procedures as set forth in the Attorney General's Guidelines on Police Response Procedures in Domestic Violence Cases, Middlesex County Prosecutor's Office Directive #12, and this policy. Whenever an act of domestic violence has been alleged to have been committed by a law enforcement officer all weapons, department issued and/or personal, possessed by that officer shall immediately be:
1. Seized by the investigating officer; or
 2. Surrendered by the subject officer involved when served with a TRO/FRO, search warrant, or release condition, which requires the surrender of such weapons.

3. NOTE: If the subject officer is required by its agency regulations to personally purchase his/her official duty handgun, that handgun shall be considered the same as if it had been departmentally issued.
 4. Investigating officers shall demand that the subject officer surrender any and all weapons named in an order (FRO/TRO). The investigating officer shall document the seizure of any weapon consistent with the seizure of evidence protocols.
 5. NOTE: If a weapon is seized from a retired law enforcement officer, it is important to make reasonable inquiries if he/she has a permit to carry a weapon, pursuant to H.R. 218. If so, this permit shall be included in the category of 'related firearms documentation' to be seized.
- N. Whenever an act of domestic violence has been alleged to be committed by an Carteret police officer resulting in the seizure of his/her weapons or the subject officer has been served with a domestic violence restraining order or a domestic violence warrant for the seizure of weapons, or there is a release condition that requires the surrender of weapons, the subject officer must:
1. Immediately report that fact to the duty station commander, who must promptly notify the Middlesex County Prosecutor's Office;
 2. Voluntarily surrender all weapons to the investigating officer or in response to a requirement in a TRO/FRO, domestic violence search warrant or as a release condition.
 3. The following documents will accompany all other requisite reports that are to be forwarded to the MCPO via DVgunseizure@co.middlesex.nj.us:
 - a. Copies of any firearm permits/ID cards/related documents;
 - b. A copy of the investigation report (including the property description portion);
 - c. An inventory of seized items;
 - d. A copy of the DV TRO/FRO;
 - e. A copy of the *DV Offense Report*;
 - f. A copy of the criminal complaint;
 - g. A copy of the *Victim Notification Form*;
 - h. Search warrant documentation (if applicable);
 - i. Consent to search form (if applicable).
- O. When weapons have been seized from a law enforcement officer from another jurisdiction, the duty station commander shall immediately report the investigation

to the Middlesex County Prosecutor's Office and to the prosecutor's office in the county where the incident occurred.

IX. WEAPONS SURRENDER PROTOCOL

- A. If an assistant prosecutor determines that a weapon should not be returned to the owner, the assistant prosecutor shall within 45 days of seizure, file a petition, with notice to the owner of the weapon(s), with the superior court family division to obtain title to and/or revoke any and all firearms purchaser identification cards and/or permit(s) to purchase a handgun.
- B. If the assistant prosecutor determines that a weapon may be returned to the owner, the assistant prosecutor shall promptly inform the victim if necessary, and the court, that the state will not object to the return of the weapon.
- C. In accordance with N.J.S.A. 2C: 25-27(c), when a defendant is convicted of a crime or an offense involving domestic violence the court shall issue an order requiring immediate surrender of the defendant's:
 - 1. Firearm(s);
 - 2. Firearms purchaser identification card;
 - 3. Permit(s) to purchase a handgun;
 - 4. Such items must be surrendered to the police department where the defendant resides within **48 hours** of the date of the sentencing order.
- D. The officer receiving any of the above items will complete:
 - 1. Incident report with property module;
 - 2. *Domestic Violence Weapons Surrender Receipt* listing the date of surrender and the item(s) that have been surrendered, including the serial number, manufacturer, and model of the surrendered firearm(s).
 - 3. The *Domestic Violence Weapons Surrender Receipt* shall only be used in cases in which a defendant is surrendering weapons after a conviction for a domestic violence crime or offense.
 - 4. The officer shall scan and email a copy of the receipt, firearms identification cards and permits to purchase to the Middlesex County Prosecutor's Office Domestic Violence Unit.
 - 5. The officer will provide the defendant a copy of the *Domestic Violence Weapons Surrender Receipt* and place a copy in the case file. Also provide the above email address to the defendant
 - 6. Defendants are required to provide a copy of that receipt to the prosecutor's office **within 48 hours** of service of the order.
- E. The property/evidence custodian will return surrendered firearms purchaser

identification cards and/ or permit(s) to purchase a handgun to the New Jersey State Police Firearms Identification Unit, P.O. Box 7068 West Trenton, New Jersey 08328-0068.

F. Disposal of firearms:

1. The defendant has 5 days to arrange for a licensed retail firearms dealer to purchase the firearms.
2. The firearms dealer has 10 days from date of the sentencing order to take possession of firearms from this department.
3. If a surrendered firearm is not purchased and taken possession of by a licensed firearms dealer within 10 days of the sentencing order, the property/evidence custodian may dispose of the surrendered firearm(s) in accordance with N.J.S.A. 2C: 64-6 (*Disposal of Forfeited Property*).

G. If the defendant fails to comply and upon motion of an assistant prosecutor, a judge may order:

1. A search for and removal of firearm(s), firearms purchaser identification card and permit(s) to purchase a handgun.
2. That the defendant be arrested and charged with:
 - a. Unlawful possession of a firearm, N.J.S.A. 2C: 39-5;
 - b. Certain person not to have weapons, N.J.S.A. 2C: 39-7(b)(2); and
 - c. Criminal contempt of court, N.J.S.A. 2C: 29-9a.

X. CUSTODY AND CONTROL OF SEIZED OR SURRENDERED WEAPONS

- A. Except for weapons being held as physical evidence, any law enforcement issued weapon, which is seized or surrendered in connection with a domestic violence incident, shall be returned to the custody and control of the law enforcement agency's internal affairs officer or his/her representative.
- B. All other weapons owned, possessed, or controlled by the subject law enforcement, which are seized or surrendered, shall be forwarded to the prosecutor's office in the county where the seizure of weapons took place in accordance with applicable Attorney General Directives as well as MCPO Directive #12.
- C. If the subject officer is employed in Middlesex County, forward such weapons to the MCPO Evidence Unit within one business day of the seizure by the agency's evidence custodian or his/her designee.
- D. Upon being notified of a domestic violence incident involving a law enforcement officer as a suspect, the MCPO shall forward a letter to the officer's chief/director advising him/her that the subject officer is to be immediately disarmed pending further review and investigation.
- E. Where weapons have been seized pursuant to a court order, domestic violence

search warrant, domestic violence incident or condition of release, the prosecutor's office where the incident occurred shall conduct an immediate investigation and determine whether the subject officer should be permitted to carry a weapon and what conditions, if any, should be recommended to the court for the return of the weapons to the subject officer pending the disposition of the DV proceedings.

1. If the subject officer involved in the domestic violence incident is a state employee (e.g., NJSP, NJDOC, Rutgers University PD, NJ Transit, DCJ Investigator, etc.), the Division of Criminal Justice will conduct the investigation (as well as disarming and rearming decisions) will be made by the Division of Criminal Justice.
 2. If the involved officer is a federal law enforcement officer, the U.S. Attorney's Office will conduct such investigations (as well as disarming and rearming decisions).
- F. If the subject officer is a county or municipal law enforcement officer, the county prosecutor must make the recommendation or determination as to whether seized weapons can be returned, regardless of whether the DV charges were dismissed criminally or civilly. (NOTE: If the subject officer is employed by a state or federal agency, see exception noted above in subsection VIII.D.2 above.)
- G. If the subject officer is a Carteret officer, the Chief of Police or his/her designee is required to:
1. Investigate the subject officer's background and shall recommend to the appropriate county prosecutor's office whether the officer should be permitted to carry weapons and what conditions, if any, should be imposed for the return of the weapons, consistent with any family or criminal or court orders entered against the him/her in the jurisdiction in which the incident occurred;
 2. Contact the victim(s) and ascertain whether they have any concerns regarding the return of any weapons;
 3. If necessary, re-assign the subject officer charged with committing an act of domestic violence or served with a TRO/FRO so that he/she will not have contact with the domestic violence complainant/victim.
- H. The prosecutor shall make the final determination of weapons dispositions. No decision to re-arm the subject officer will be made by the MCPO without the following documents being submitted to the Prosecutor for review:
1. A complete internal affairs investigation report;
 2. A fitness for duty evaluation;
 3. The disposition of all pending domestic violence charges;
 4. A summary of all past internal affairs investigations involving the subject officer, including demeanor complaints; and
 5. A written recommendation from the chief/director as to whether the subject

officer should be re-armed, as well as any conditions or restrictions that the chief/director determines to be appropriate to this situation.

- I. While a subject officer is awaiting a determination of the return of his/her weapon(s), the Chief of police has the discretion to suspend him/her or, upon notification to the MCPO Professional Standards Unit, allow him/her to return to work while unarmed in an administrative capacity that does not require any law enforcement authority (e.g., records or communications).
- J. Pursuant to the provisions of the 18 U.S.C.A. 922(g), if a final domestic violence restraining order is issued, and for the duration of that order:
 - 1. The subject officer may be authorized by a court to possess a department issued firearm under conditions as determined by the Prosecutor; and
 - 2. The subject officer may not possess any personally owned firearms.
- K. When a court had specifically directed that a subject officer's weapons be seized either pursuant to a domestic violence TRO/FRO or a domestic violence search warrant, or as a condition of release, his/her weapons have been seized because of a domestic violence incident may request an expedited court hearing to determine his/her status regarding the possession of weapons.
- L. When a criminal or civil court order, which prohibits a subject officer from possessing any weapons, is in effect no weapons are to be returned to him/her without a court order. If the charges or complaint are withdrawn or dismissed prior to a court hearing, the Prosecutor may authorize the return of the seized weapons subject to any conditions the Prosecutor determines necessary.
- M. If it is determined by the Prosecutor that the subject officer may carry weapons in accordance with his/her duty assignments while the criminal or civil domestic violence proceedings are pending court action, the Prosecutor may recommend to the appropriate court that:
 - 1. The subject officer be permitted to carry agency issued weapons during on-duty hours (i.e., daily active duty shift), but not be permitted to carry said weapons off-duty. If so, said weapons will be issued by the agency at the beginning of his/her daily active duty shift and returned to the custody of the agency at the conclusion of his/her daily active duty shift.
 - 2. The subject officer be directed not to enter his/her residence that is shared with the victim while on-duty and armed or meet the victim or any other person covered by the restraining order while armed.
- N. When a weapon has been seized from an officer involved in a domestic violence incident, but no criminal charges, court order or warrant have been issued or is pending regarding possession of weapons, the Prosecutor may authorize the return of the seized weapons subject to any conditions he/she determines necessary.
- O. When a situation arises where an officer is a victim of domestic violence, this agency will offer safe storage of all off-duty weapons owned or possessed by that officer until the conclusion of all domestic violence proceedings.

XI. SERVICE OF IN AND OUT-OF-COUNTY RESTRAINING ORDERS

- A. When a request for a TRO/FRO is denied or a TRO/FRO is dismissed:
1. Any New Jersey domestic violence civil complaint and temporary restraining order form denied by a judge may be appealed to the superior court. Therefore, it is imperative that the entire documentation process be completed. If denied, submit the appropriate paperwork to the respective court administrator for forwarding to the county in case of appeal.
 2. If denied, indicate on the New Jersey domestic violence civil complaint and temporary restraining order form that it was in fact denied.
 3. Never seek out the defendant and advise him/her that the New Jersey domestic violence civil complaint and temporary restraining order form was denied or that a TRO/FRO has been dismissed.
- B. When a written and/or faxed notice of dismissal for a TRO/FRO is received or it is posted on e-TRO, a hard copy shall immediately be forwarded to station commander for filing in the station commander's office. The notice of dismissal shall be stapled to the hard copy of the TRO/FRO and placed in the dismissed file. If the TRO/FRO cannot be located, DV liaison officer shall immediately be notified and investigate in an attempt to locate the missing TRO/FRO.
- C. Restraining order service:
1. **Never ask a victim to serve a TRO/FRO.**
 2. In the event the defendant resides in Carteret, this agency is responsible for the service of the restraining order upon the defendant and, the forwarding of all related documents to the family court and to the prosecutor's office.
 3. Where the defendant has not been arrested by police and is present at the scene, officers should:
 - a. Escort the victim to his/her home.
 - b. Read the conditions of the restraining order to the defendant if the defendant is present.
 - c. Order the defendant to vacate the premises, if the restraining order so provides.
 - d. Give the defendant a reasonable period of time to gather personal belongings, unless the court order includes specific limits on time or duration.
 - e. Arrest the defendant if defendant refuses to comply (contempt) with the order.
 4. Officers shall follow the above steps in cases where a restraining order had been issued but, had not been served upon the defendant because the defendant could not then be located, but the defendant is now at the scene.

5. Where the defendant cannot be located for the immediate service of the TRO, officers shall make every effort to locate the defendant for purposes of service of the order.
 6. In the event the defendant resides outside Carteret, then the restraining order, along with the complaint and any relevant documents (e.g. search warrant, etc.) must immediately be brought or faxed to the local police department where the defendant resides, works, or both, so it can execute service accordingly. It remains the responsibility of the police department of the issuing locality to confirm service of the order on the defendant.
 7. Likewise, other agencies may request service of a restraining order and related documents. All such service shall be consistent with the above procedures.
 8. Each attempt to serve a TRO or FRO must be noted in CAD/RMS and on the 'return of service' of the TRO/FRO.
- D. The judge issuing to TRO/FRO may permit the defendant to return to the scene, with a police escort, in order to secure certain personal property. The judge may specify in the order the specific number of visits, the time of day as to when the defendant is allowed to return, a maximum length of time for each visit and the exact items to be removed. All such escort services must be documented in CAD/RMS. Also, responding officers should also make a notation (date, time, initials) of each visit on the defendants' copy of the order, and have this information recorded on the copy retained at headquarters.

XII. GUIDELINES FOR ENFORCEMENT OF OUT OF STATE DOMESTIC VIOLENCE RESTRAINING ORDERS

- A. The full faith and credit provision of the *Violence Against Women Act* (VAWA), 18 U.S.C.A 2265, requires that out-of-state domestic violence restraining orders or orders of protection be recognized and enforced as if they were orders of a New Jersey court. The out-of-state order is to be enforced in this state even if:
1. The victim would not be eligible for a restraining order or an order of protection in this State.
 2. The order grants the named applicant more relief than the person would have received under New Jersey law.
- B. For purposes of this section:
1. Emergency situation would include a situation that presents a need for immediate action by law enforcement to protect the victim against violent behavior, threats or violations of a non-contact order.
 2. Non-emergency situation would include a situation where there is a request for enforcement of child support, changes in visitation or any other modification or enforcement request that does not involve violent behavior, threats, or a violation of a non-contact order.

- C. In an emergency situation, the restraining order or order of protection should be presumed valid when presented to an officer. The primary responsibility of the officer should be to ensure the safety of the holder of the out-of-state order and, secondarily, to verify the validity of the order.
1. If the named defendant in the court order committed a criminal offense under New Jersey law against the victim and appeared to have violated the court order, the officer should arrest the defendant and sign the criminal complaint against the defendant for the criminal offense. The officer also should charge the defendant with contempt, N.J.S.A. 2C: 29-9a.
 2. If the named defendant committed no criminal offense but appears to be in violation of the out-of-state no-contact order, the officer should determine whether the order appears to be facially valid.
 3. If the court order appears to be facially valid, the officer should arrest the defendant for violating the terms of the court order. The defendant should be charged with contempt, N.J.S.A. 2C: 29-9b.
 4. An order will be considered facially valid if:
 - a. The order contains the names of the correct parties; and
 - b. The order has not expired; and
 - c. The victim informs the officer that the named defendant appeared at the court hearing or had notice to appear in court when the court order was issued.
 5. In most states a restraining order or an order of protection has a specified expiration date. The officer must review the court order to determine whether it remains valid. Only New Jersey and Washington State have court orders with no stated expiration dates. In these two states, a final restraining order remains in effect until modified or vacated by a court.
 6. Defects on the face of the order, such as boxes checked indicating no service, do not invalidate the enforcement of the order. In such cases, the officer should ask the victim about the apparent defects to determine whether the defendant had been served with the order or has knowledge that the order was issued.
 7. If the victim does not have a copy of the out-of-state court order and the officer cannot determine the existence of the court order or if the court order contains an apparent defect which would cause a reasonable officer to question its authenticity, the officer should
 - a. Arrest the actor if the criteria of the New Jersey Domestic Violence Act, N.J.S.A. 2C: 25-17 et seq., have been met and if a criminal offense had been committed (see subsection I.A of this policy), and
 - b. Assist the victim in obtaining a temporary restraining order in accordance with departmental procedures, or

- c. If the officer determines that a non-emergency situation exists, explain to the victim the procedure to obtain a domestic violence restraining order in New Jersey.
- 8. If the responding officer has probable cause to believe that a defendant, who is no longer at the scene, has violated the provisions of a valid restraining order and/or committed a criminal offense requiring arrest, the applicable provisions of this policy apply.
- D. Where there is no probable cause for the officer to make a mandatory arrest, the officer should consider whether other criminal offenses have been committed. Where there is an injury, the officer should determine whether the injury meets the criteria of being a significant bodily injury, which is a third-degree crime.
- E. If the actor is at the premises of the victim, the officer may be able to charge the actor with being a defiant trespasser. The officer should ask the victim if the victim had ordered the actor to leave the property. The elements for being a defiant trespasser are:
 - 1. A person is a defiant trespasser if that person knowing that he or she is not permitted to do so enters or remains in any place as to which notice against trespass is given by actual communication to the actor.
 - 2. Thus, if the victim has told the actor to leave the property, and the actor refused and is at the scene, the officers should arrest the actor.
- F. In a non-emergency situation, the officer should refer the victim to the appropriate court, so the victim may seek to obtain appropriate relief in accordance with the out of state restraining order or order of protection. If the victim had moved into New Jersey from another state, the officer should refer the victim to the family part of superior court in the county where the victim is then located. If the victim is only temporarily in New Jersey, the officer should refer the victim to the court where the victim is then residing.
- G. When responding to a domestic violence incident involving an out-of-state order of protection or restraining order, officers should determine whether the actor violated any federal laws. Questions should be referred to the Middlesex County Prosecutor's Office.
- H. Mutual orders of protection:
 - 1. The plaintiff of a mutual order of protection from another state is entitled to full faith and credit in this state to the same degree as if the order had been issued solely on the plaintiff's behalf. The defendant of a mutual order of protection from another state would be entitled to relief if:
 - a. The defendant had filed a written pleading in that other state seeking this protective order; and
 - b. The issuing court had made specific findings on the record that the defendant was entitled to the order.

2. The enforcement of a mutual order of protection by a defendant should be a relatively rare occurrence. In non-emergent situations, the defendant should be referred to the appropriate court for relief.
 3. If the officer determines that the defendant in the out-of-state restraining order or order of protection traveled across a state line with the intent to engage in conduct that violates a portion of the court order or to injure, harass, or intimidate the named victim in the court order, the officer should report this fact to the designated assistant county prosecutor who will determine whether the case should be referred to the US Attorney's Office for the appropriate action pursuant to 18 U.S.C.A. 2261 and 2262.
 4. Officers should not charge a violation of federal law since the officer does not have federal jurisdiction.
- I. N.J.S.A. 2C: 25-22 provides that a law enforcement officer shall not be held liable in any civil action brought by any party for an arrest based on probable cause when that officer in good faith enforced a court order. Under the qualified immunity doctrine, a law enforcement officer may also assert immunity to federal actions brought under 42 U.S.C.A. 1983.

XIII. DOMESTIC VIOLENCE CENTRAL REGISTRY

- A. Officers must review the information contained in the domestic violence central registry (DVCR) when investigating a domestic violence offense or a violation of a restraining order.
- B. Officers must provide the information contained in the DVCR to the judge or zone prosecutor who is determining confinement on a domestic violence case.
- C. When an officer is assisting a victim with applying for a temporary restraining order (TRO), the officer must provide the information contained in the DVCR to the municipal court judge who is hearing the application for the TRO.
- D. Officers must review the information contained in the DVCR when conducting a background investigation involving a person's application for a handgun purchase permit, a Firearms Identification Card, or employment as a police officer.
- E. All information in the DVCR is confidential. Only the court, law enforcement and public agencies authorized to investigate a report of domestic violence can access the information in the DVCR.
- F. If information in the DVCR is disseminated to an unauthorized person, the person who disseminated the information is guilty of a crime of the fourth-degree.

XIV. PUBLIC RELEASE OF DOMESTIC VIOLENCE REPORTS

- A. All police reports in a domestic violence case are confidential except where otherwise authorized for release by law and this policy.
- B. Absent a court order or authorization by the MCPO, domestic violence reports shall not be released to the media or any other person.

- C. Subsections XIII.D and XIII.E below pertain only to requests for domestic violence reports by a defendant against whom charges are currently pending or requests by their attorneys.
- D. Upon receiving a request for discovery of domestic violence reports, proceed as follows:
1. If an indictable charge is pending (a 4th degree crime or higher) against a party involved in a domestic violence incident, a written request for the reports shall be made to the Middlesex County Prosecutor's Office.
 2. This department shall not release any reports when an indictable charge is pending because the Middlesex County Prosecutor's Office will be the prosecuting agency.
 3. If the charges were disorderly person or petty disorderly person offenses (e.g., simple assault, harassment, etc.) this department will forward the discovery request to the municipal prosecutor. The municipal prosecutor shall be responsible for discovery and may authorize the release directly to the requesting party.
 4. **NOTE: VICTIM LOCATION INFORMATION OR CONTACT INFORMATION SUCH AS: ADDRESS OR SHELTER LOCATION, PHONE NUMBERS OR PLACE OF BUSINESS MUST BE REDACTED AND REMAIN CONFIDENTIAL PURSUANT TO N.J.S.A. 2C: 25-26(c).**
- E. If the victim or defendant requests any copies of the police reports for their TRO/FRO hearing, those records shall be released directly to the requesting party. The request shall be made in writing by the requesting party and shall include the date and time of the TRO/FRO hearing and the name of the judge hearing the matter.
- F. A request for domestic violence reports by a victim or defendant for other reasons such as a pending child custody dispute, divorce action or civil action shall be directed to the Middlesex County Prosecutor's Office for review by an assistant prosecutor.
- G. **THE V.I.N.E. FORM SHALL NOT BE RELEASED UNDER ANY CIRCUMSTANCES TO A REQUESTING PARTY OR ATTORNEY.**
- H. Requests for police reports (to include prior incidents regarding the individuals involved) from the New Jersey Department of Children & Families should be complied with expeditiously and without redaction in order for it to effectively investigate each complaint.

XV. DOMESTIC VIOLENCE SECURITY ALARM

- A. Currently, the ADT Alarm Company installs alarms, free of charge, into the homes of certain domestic violence victims. The victims must meet certain conditions that will justify the installation of the alarm and an emergency response. The Middlesex County domestic violence shelter, WomenAware Outreach office in New Brunswick, completes the application process. This policy will apply to all domestic violence security alarms, regardless of the alarm company. The conditions include:

1. Extreme danger of attack by a person who is subject to a restraining order;
 2. Willing to maintain the restraining order as an active order;
 3. Willing to testify and cooperate with any criminal prosecution;
 4. Have a land-line telephone in the residence;
 5. Victims must sign a waiver form acknowledging that if the alarm is activated the police may enter the residence.
- B. WomenAware will contact the police department at least one day in advance to respond to the residence when the alarm is being installed in order to obtain the required information. The responding officer shall inspect the premises and complete an incident report for the installation of a domestic violence alarm. This report must include a history of violence at that address and involving the suspect and/or the victim regardless of where the violence occurred, so that CAD has information necessary for victim and officer safety.
- C. When an alarm is received, ADT will advise communications that it is a domestic violence alarm. When the address is entered into CAD, a note will be visible stating that an ADT DV alarm was installed. Responding officers will respond in priority mode to a possible domestic assault. The officer will secure the premises and if the situation dictates a forcible entry will be made to ensure the safety of the victim.

XVI. CRIMINAL OFFENSES AGAINST THE ELDERLY AND DISABLED

- A. Where an elderly or disabled person is subjected to a criminal offense listed as an act of domestic violence, officers shall follow the appropriate procedures previously listed in this policy. Where the actions or omissions against an elderly or disabled person do not meet the domestic violence conditions, officers may file appropriate criminal charges against the offender.
- B. A person may be charged with Endangering the Welfare of the Elderly or Disabled, N.J.S.A. 2C: 24-8, if the person has:
1. A legal duty to care for or has assumed continuing responsibility for the care of a person who is:
 - a. 60 years of age or older; or
 - b. Emotionally, psychologically, or physically disabled; and
 2. The person unreasonably neglects or fails to permit to be done any act necessary for the physical or mental health of the elderly or disabled person.