



SUFFOLK ACADEMY OF LAW
The Educational Arm of the Suffolk County Bar Association
560 Wheeler Road, Hauppauge, NY 11788
(631) 234-5588



DOMESTIC VIOLENCE

SCPD Response to Domestic Violence and Extreme Risk Orders of Protection

FACULTY

Christopher A. Love, Esq.
SCPD Staff Attorney

**Coordinator & Moderator: Laura A. Ahearn, Esq., LMSW, Executive Director and
Founder, The Crime Victims Center**

October 18, 2022
Suffolk County Bar Association, New York

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There's a whole new way to obtain your CLE certificate! It's fast, easy and best of all you can see the history of courses that you've attended!

Within 10 days of the course you attended, your CLE Certificate will be ready to view or print. Follow the instructions below:

1. Go to SCBA.org
2. Member Log In (upper right corner)
3. If you **do not** know your username or password, click the area below and enter your email that is on file with SCBA. Follow the prompts to reset your username and password.
4. After you log in, hover over your name and you will see “Quick Links”. Below that you will see:
 - a. My SCBA
 - b. My CLE History
 - c. Update My Information
 - d. Update My Committees
5. Click on **My CLE History**, you will see the courses you have attended. Off to the right side you will see the Icon for certificates. You are now able to download the certificate, print it or save it. You may go to your history and review the courses you have taken in any given year!
6. **CLE certificates will no longer be mailed or emailed.** Certificates will be available within 10 days after the course.



Christopher A. Love, Esq. – SCPD Staff Attorney

Sergeant Love has been with the SCPD for 29 years, where he has been assigned as a first responder, a patrol supervisor and an internal investigator. Chris has been a senior staff attorney in the department's Legal Bureau since 2013 and is also the Compliance Coordinator for the SCPD's 2014 Settlement Agreement with the U.S. Department of Justice.

Chris is a graduate of Touro Law, and the U.S. Army Judge Advocate General's School. He attended the 230th Session of the F.B.I. National Academy and is a former adjunct professor of criminal justice at New York Institute of Technology and former assistant professor of military science at Hofstra University. He lives in Port Jefferson with his wife and two daughters.



POLICE RESPONSE TO DOMESTIC VIOLENCE

October 18, 2022



Sergeant Christopher A. Love, J.D., LL.M.

Legal Bureau

(631) 852-6419, 6496

Lovechr@suffolkcountyny.gov



Agency Policy

Response to incidents of domestic violence and violations of related court orders shall stress ***enforcement of the law to protect the victim*** and shall communicate the philosophy that domestic violence is criminal behavior

It is also policy to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible



Definitions

Domestic Violence

physical, psychological, sexual or emotional abuse by one member of a family or household against another member of the family or household

Domestic Incident

includes criminal and family offenses and may also include disputes between family or household members that don't rise to the level of an offense



Definitions

Members of same family or household

- Related by blood or marriage (in-laws)
- Legally married or formerly married
- Child in common
- Intimate relationship

When the nature of a relationship is unclear and reasonable cause to believe exists that a crime involving a family offense occurred, officers shall proceed under this policy as if the parties are members of the same family or household.



Definitions

Intimate relationship – Factors to consider

The nature or type of relationship, regardless of whether the relationship is sexual in nature

The frequency of interaction between the persons

The duration of the relationship

****Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an intimate relationship ****



911 Call Flow



911 Caller
"Complainant"



E911 Call Center
"Communications"



911 Call Flow

911 Caller
"Complainant"



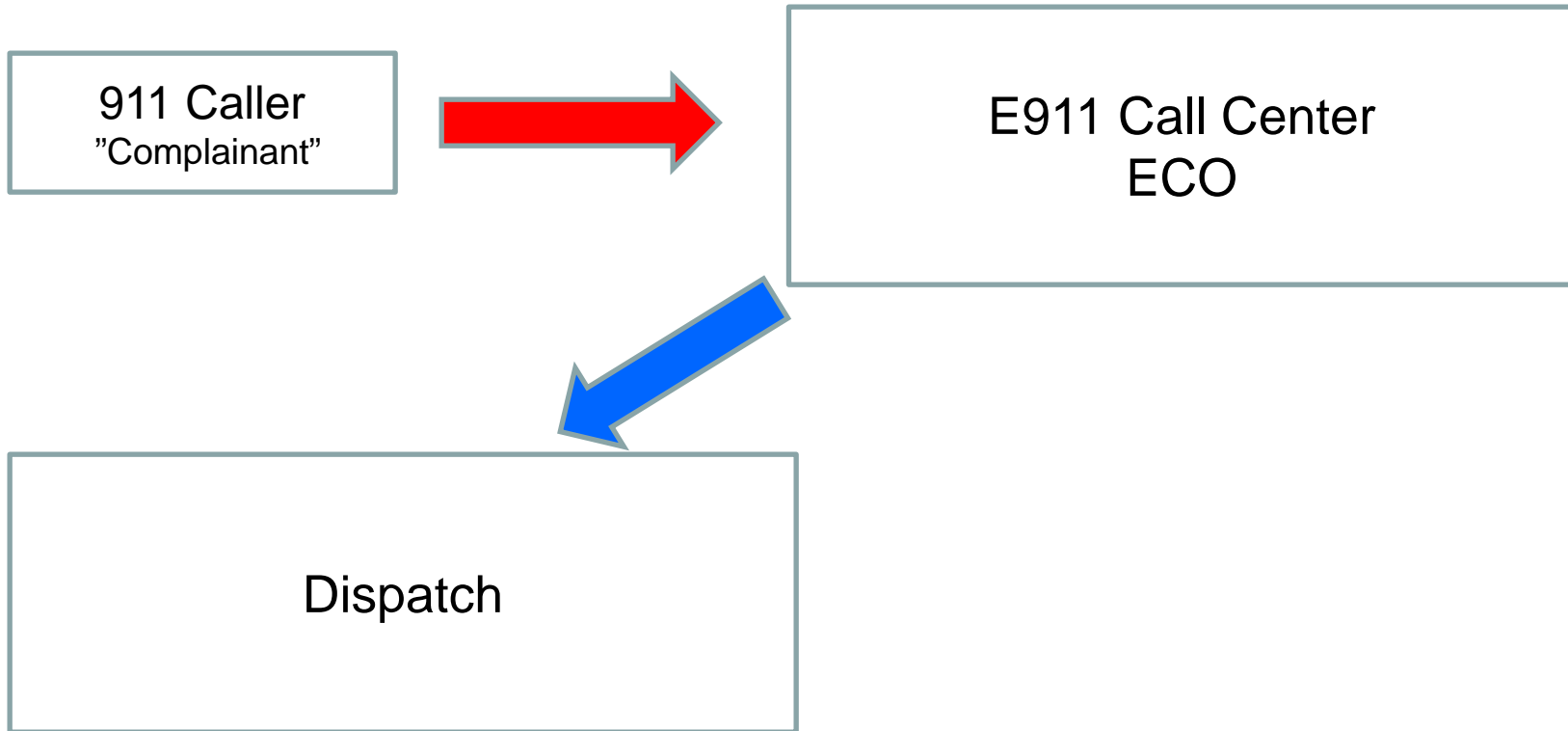
E911 Call Center
"Communications"

Emergency Complaint Operator – ECO

- Speaks to caller
- Categorizes call ("10 code")
- Designates Priority (0-5)
- Enters call into CAD

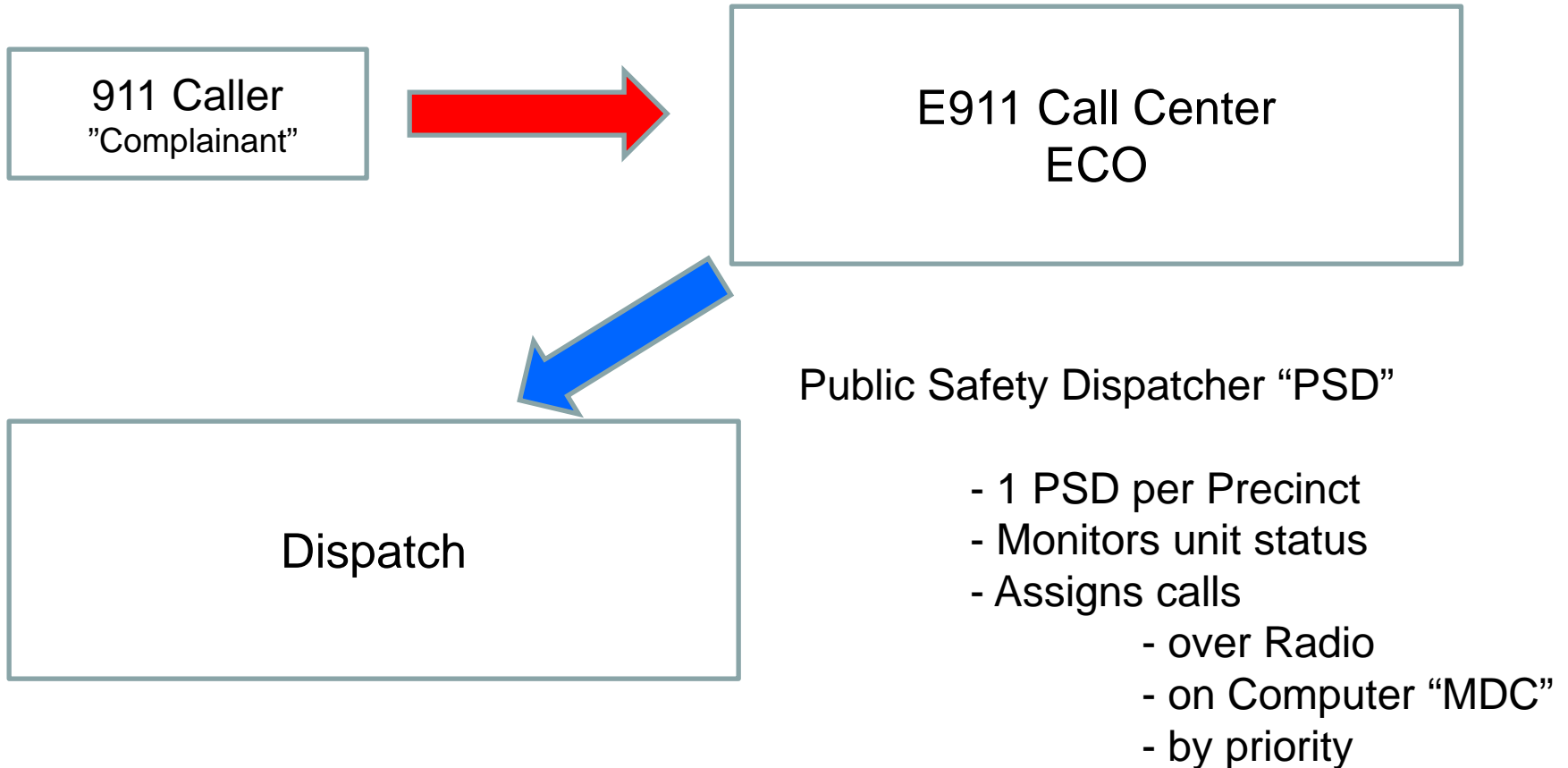


911 Call Flow



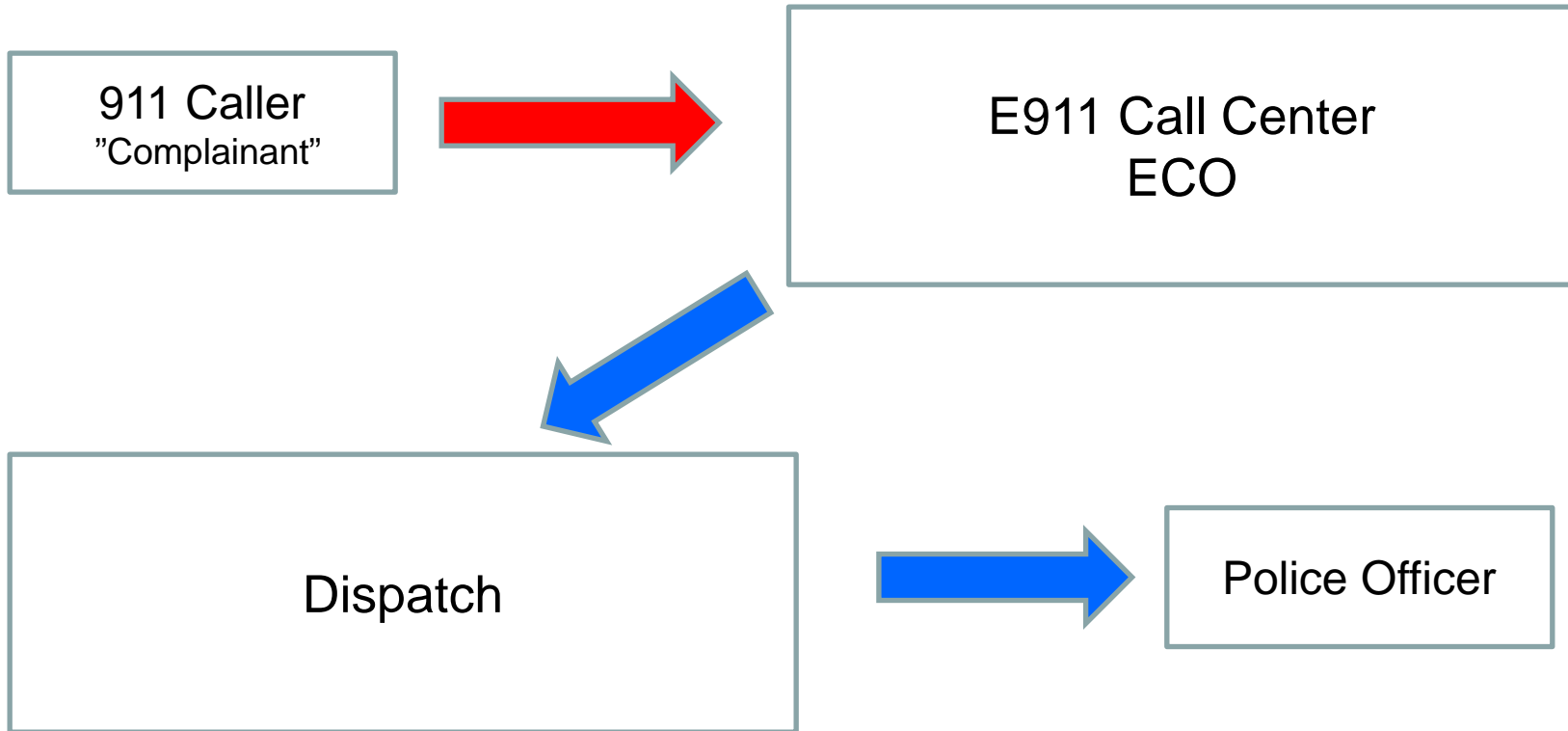


911 Call Flow





911 Call Flow



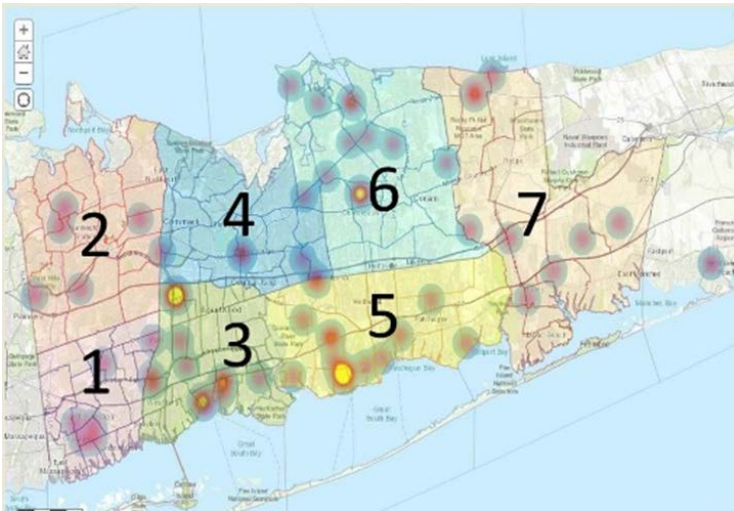


911 Call Flow

Dispatch



Police Officer



PCT broken down into Geographic Sectors

911 calls labeled by Sector of occurrence

P.O.s can see all calls in CAD

Dispatcher assigns calls according to

- Priority
- Availability



Violent Domestic Incident 10-85

Dispatched Immediately

If Sector car **is** available

Directly to that car

Adjacent cars advise
of back-up

If Sector car is **not** available

Directly to available
adjacent car, or

In the "blind"

More than 2 officers will typically respond if
violence in progress

Priority 1-3



Non-Violent Domestic Incident 10-86

Dispatched Immediately

If Sector car **is** available

Directly to that car

Adjacent cars advise
if back-up requested

If Sector car is **not** available

In the "blind"

To adjacent car if
priority 2

More than 2 officers will typically respond if
violence in progress

Priority 2-5



Domestic Incident Reporting

All incidents must be reported

Reporting Officer must **notify** a Supervisor when

- parties cannot be found (10-19) (Policy 311.6.1)
- incident already reported (void) (Policy 311.6.1)
- allegations of physical contact b/w parties

Supervisor must **respond** to scene when no arrest is made, and

- suspect has a pistol license
- any party sustained a physical injury
- threat or use of deadly weapon/dangerous instrument
- any act relating to COB



Domestic Incident Report



Must be filled out by reporting officer:

Whether or not an arrest is made

Policy 311.10

Whether or not the incident occurred in
Suffolk County

NYS Exec Law §646(3)



New York State Domestic Incident Report

DCJS-3221



MANDATORY ARREST



Police officer **shall** arrest & not attempt to reconcile the parties when:

- (a) Felony (except certain GL 4°)
- (b) VOP
 - stay away, or
 - refrain from + family offense
- (c) Misdemeanor family offense
 - unless victim requests otherwise
 - officer shall not inquire nor discourage



Family Offenses



Aggravated Harassment 2nd

Assault 2nd & 3rd

Attempted Assault

Coercion 2nd

Criminal Mischief 1st, 2nd, 3rd, 4th

Criminal Obstruction of
Breathing/Blood Circulation

Disorderly conduct (doesn't
have to be in a public place)

Forcible Touching

Grand Larceny 3rd & 4th

Harassment 1st & 2nd

Identity Theft 1st, 2nd, 3rd

Menacing 2nd & 3rd

Reckless Endangerment 1st
& 2nd

Sexual Abuse 2nd & 3rd

Sexual Misconduct

Stalking 1st, 2nd, 3rd, 4th

Strangulation 1st & 2nd

Unlawful Dissemination/
Publication of an Intimate
Image



MANDATORY ARREST



Officers **shall** arrest for:

Any Felony

Any Misdemeanor family offense involving physical
violence or threat thereof regardless of victim wishes

Any Misdemeanor family offense in accord with victim wishes

A stay away VOP

A refrain from VOP if a family offense

A Violation when victim signs civilian arrest

A Violation committed in officer's presence and victim does
not request otherwise



Cross-Complaints

Officers not required to arrest both parties

May arrest only Primary Physical Aggressor

Comparative extent of injuries

Threats of future harm

Prior DV histories

Acts of defensive nature

Regardless of either party's willingness to cooperate



Justification Defense



Nothing contained in this [law/procedure] shall be deemed to require the arrest of any person when the officer reasonably believes the person's conduct is justifiable under article thirty-five of title C of the Penal Law



Suspect 10-19

Take Reasonable and Appropriate steps to locate

Felony

notify Detective Squad

Detective will be assigned to case

Misdemeanor & Violation

complete DIR

forward to and notify PCS



Evidence Collection



At the scene

Crime Scene Section or ID Section will respond when SPI or Death

Officer/Supervisor may take photos for PI & Property Damage

Felony

notify Detective Squad

Detective will be assigned to case & direct evidence collection

Misdemeanor & Violation

complete DIR

forward to and notify PCS

reporting officer collects at scene



Evidence Collection



At the scene

E-mails

Text messages

Video (Cell)

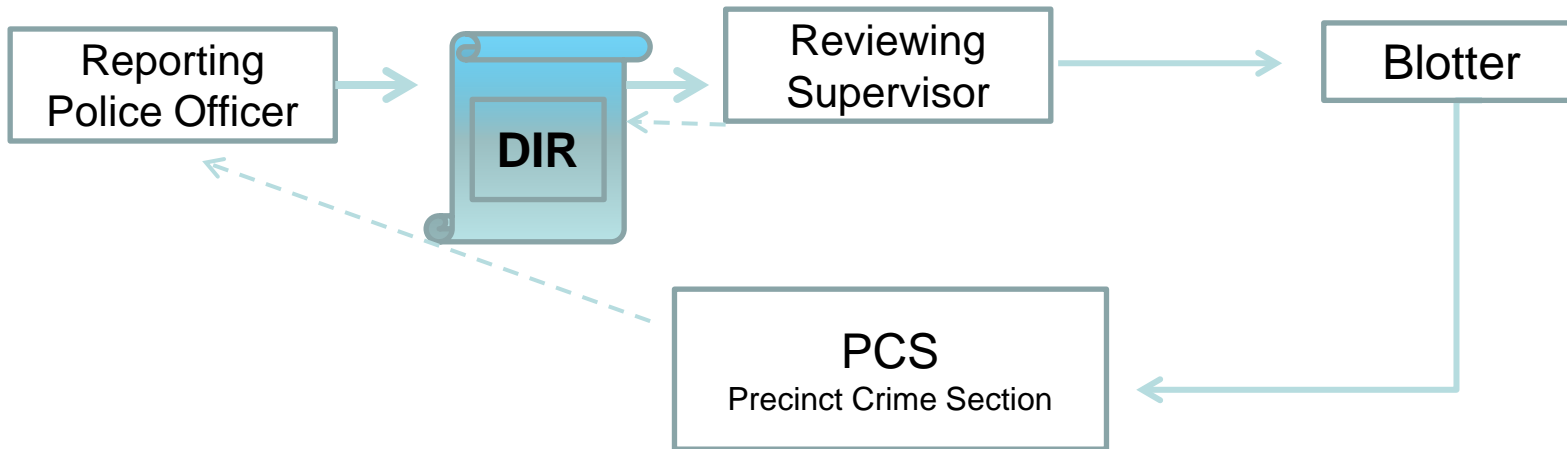
Video Surveillance

Voicemails

*Obtain physical records
from complainant or photograph*

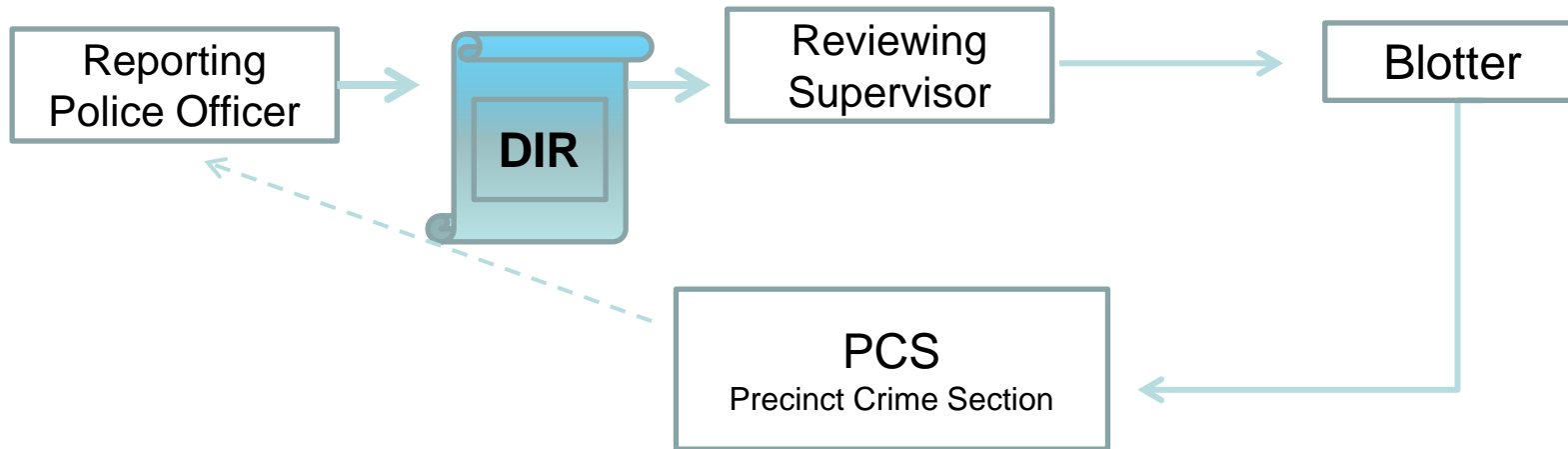


Post Incident





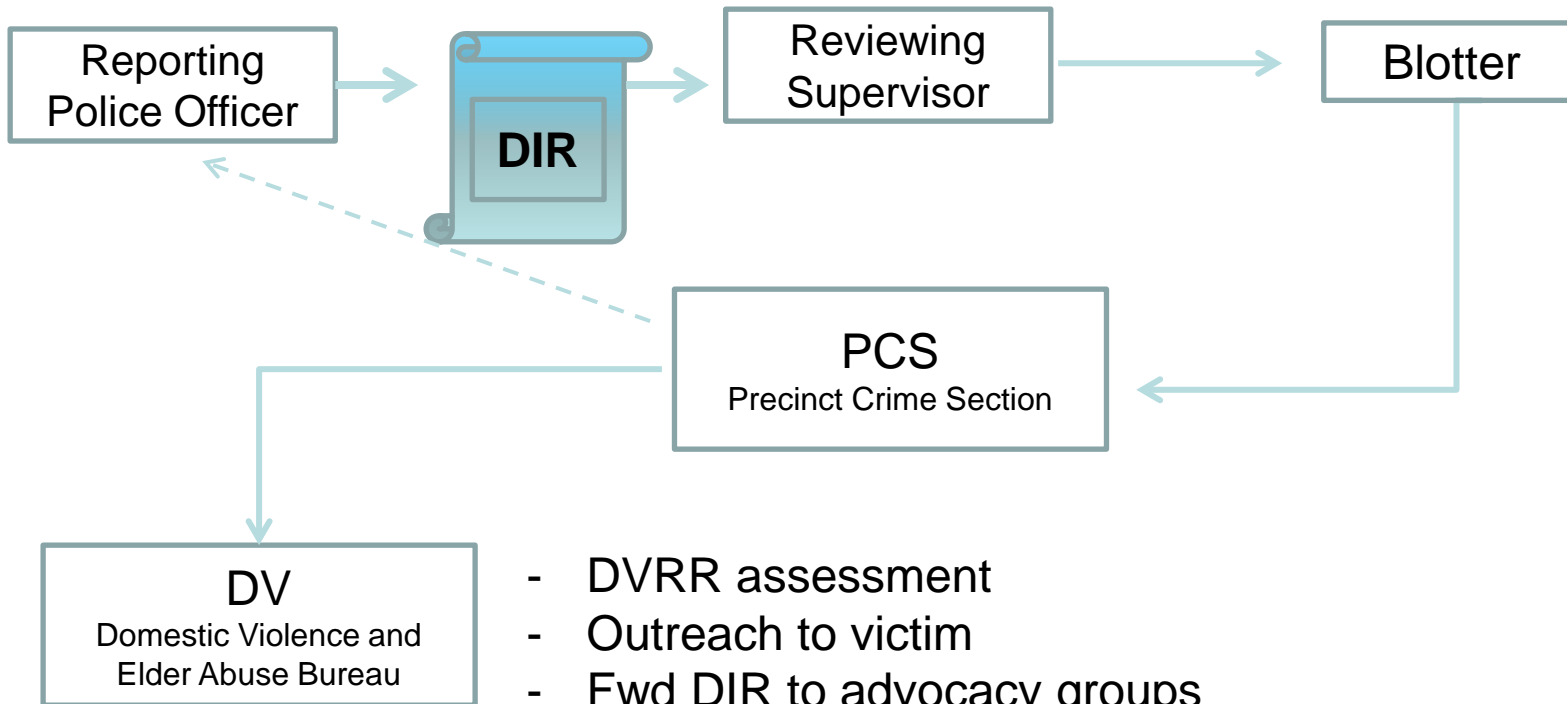
Post Incident



- Returns DIR to PO if correction necessary
- If offense committed and no arrest - contacts victim to confirm
- If out-of-district – fwd to LEA with jurisdiction
- If involves MOS – fwd to IAB or outside agency
- ALL DIRs faxed to SCPD Domestic Violence Bureau



Post Incident



- DVRR assessment
- Outreach to victim
- Fwd DIR to advocacy groups
- Fwd to Probation or Parole if suspect is on
- FWD to APS if offense against person >65



Domestic Violence Recidivism Reduction

Scoring system using 8 risk items to assess the likelihood of reoffending in DV Cases

Algorithm assigns between 0-13 points (13 highest)

Developed by Dr. Kris Henning of Portland State University

“DVRR”



DVRR Matrix



Risk Items	0	1	2
1. Gender of Offender	Female	--	Male
2. Age of Suspect when 1 st SCPD Incident occurred	18 or Older	Under 18	--
3. Current Incident Violated OP	No	Yes	--
4. Prior DV or Family Disturbance Offenses	None	1	2 or More
5. Prior Arrests (Any Offense)	None	1 to 4	5 or More
6. Prior Violent Offenses-Suspect	None	1 to 2	3 or More
7. Prior Alcohol/Drug Offenses	No	Yes	
8. Past Year DV or Family Disturbance Offenses	None	1	2 or More



DVRR Offender Scoring



DVRR Score

Category

Outreach

0-13

COB/Strangulation

Home visit to victim

9-13

DVRR

Home visit to victim

Domestic Violence
Recidivism Reduction

4-8

LAO

Phone call to victim

Lethality Assessment
Outreach

0-3

Not Classified

Report retained in DV/EA
Bureau



Danger Assessment Survey



- Distribute when any offense is alleged or committed :
 - Danger Assessment Cover Page
 - Danger Assessment Questionnaire
 - Danger Assessment Calendar Page
- Brief explanation to victim - tool that will help them evaluate the risk of being subjected to future domestic violence in their relationship.
- Direct victim to contact agencies on cover page.

Domestic Violence Danger Assessment

We ask that you take the time necessary to complete the attached danger assessment and also contact an agency listed below to assist you. **Keep these documents in a safe place where only you have access.**

"Several risk factors have been associated with increased risk of homicides (murders) of women and men in violent relationships. We cannot predict what will happen in your case, but we would like you to be aware of the danger of homicide in situations of abuse and for you to see how many of the risk factors apply to your situation."¹

We hope that after completing this assessment, it brings to your attention the seriousness of the situation you may be in. **Regardless of your score, please contact one of the agencies listed below for immediate assistance:**

- **L.I. Against Domestic Violence** (631) 666-7181/(631) 666-8833
- **Brighter Tomorrows** (631) 395-3116/(631) 395-1800
- **Suffolk County Crime Victims Center at PFML** (631) 689-2672/(631) 332-9234
- **The Retreat** (631) 329-4398/(631) 329-2200
- **VIBS Family Violence & Rape Crisis Center** (631) 360-3730/(631) 360-3606
- **Suffolk County Police Domestic Violence and Elder Abuse** (631) 854-7520
- **In Case of Emergency - DIAL 911**

Danger Assessment Scoring:

Add total number of "Yes" Responses, 1 through 19*: _____

Add 4 points for a "Yes" to question 2: _____

Add 3 points for EACH "Yes" to questions 3 and 4: _____

Add 2 points for EACH "Yes" to questions 5, 6 and 7: _____

Add 1 point for EACH "Yes" to questions 8 and 9: _____

Add 1 point if 3A is checked: _____

TOTAL: _____

* Note: Response from question 20, not to be included in overall scoring.

Danger Assessment Scoring:

○ Less than 8 – Variable Danger (Please contact an agency listed above)

○ 8-13 – Increased Danger (Please contact an agency listed above)

○ 14-17 – Severe Danger (Please contact an agency listed above)

○ 18 or more – Extreme Danger (Please contact an agency listed above)

¹ Danger Assessment, Jacquelyn C. Campbell, PhD, RN, FAAN, Copyright 2004 Johns Hopkins University, School of Nursing.

**We strongly suggest that you contact an agency listed above, regardless of your score.
Keep these documents in a safe place where only you have access.**

ANGER ASSESSMENT

Jacquelyn C. Campbell, Ph.D., R.N.
Copyright 2003 www.dangerassessment.com

Several risk factors have been associated with increased risk of homicides (murders) of women and men in violent relationships. We cannot predict what will happen in your case, but we would like you to be aware of the danger of homicide in situations of abuse and for you to see how many of the risk factors apply to your situation.

Using the calendar, please mark the approximate dates during the past year when you were abused by your partner or ex partner. Write on that date how bad the incident was according to the following scale:

1. Slapping, pushing; no injuries and/or lasting pain
2. Punching, kicking; bruises, cuts, and/or continuing pain
3. "Beating up"; severe contusions, burns, broken bones
4. Threat to use weapon; head injury, internal injury, permanent injury
5. Use of weapon; wounds from weapon

(If any of the descriptions for the higher number apply, use the higher number.)

Mark Yes or No for each of the following. ("He" refers to your husband, partner, ex-husband, ex-partner, or whoever is currently physically hurting you.)

- ___ 1. Has the physical violence increased in severity or frequency over the past year?
- ___ 2. Does he own a gun?
- ___ 3. Have you left him after living together during the past year?
3a. (If have never lived with him, check here:___)
- ___ 4. Is he unemployed?
- ___ 5. Has he ever used a weapon against you or threatened you with a lethal weapon?
(If yes, was the weapon a gun?___)
- ___ 6. Does he threaten to kill you?
- ___ 7. Has he avoided being arrested for domestic violence?
- ___ 8. Do you have a child that is not his?
- ___ 9. Has he ever forced you to have sex when you did not wish to do so?
- ___ 10. Does he ever try to choke you?
- ___ 11. Does he use illegal drugs? By drugs, I mean "uppers" or amphetamines, "meth", speed, angel dust, cocaine, "crack", street drugs or mixtures.
- ___ 12. Is he an alcoholic or problem drinker?
- ___ 13. Does he control most or all of your daily activities? For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car? (If he tries, but you do not let him, check here: ___)
- ___ 14. Is he violently and constantly jealous of you? (For instance, does he say "If I can't have you, no one can.")
- ___ 15. Have you ever been beaten by him while you were pregnant? (If you have never been pregnant by him, check here: ___)
- ___ 16. Has he ever threatened or tried to commit suicide?
- ___ 17. Does he threaten to harm your children?
- ___ 18. Do you believe he is capable of killing you?
- ___ 19. Does he follow or spy on you, leave threatening notes or messages, destroy your property, or call you when you don't want him to?
- ___ 20. Have you ever threatened or tried to commit suicide?
- ___ Total "Yes" Answers

Thank you. Please talk to your nurse, advocate or counselor about what the Danger Assessment means in terms of your situation.

DANGER ASSESSMENT

Jacquelyn C. Campbell, Ph.D., R.N. Copyright, 2003; www.dangerassessment.com

Fill in the calendar below for past 12 months – be sure to record the month and year, as well as filling in the dates. Start with the current month and work backwards. Using the calendar, please mark the approximate dates during the past year when you were abused by your partner or ex-partner. Write on that date how bad the incident was according to the following scale:

1. Slapping, pushing; no injuries and/or lasting pain
2. Punching, kicking; bruises, cuts, and/or continuing pain
3. "Beating up"; severe contusions, burns, broken bones
4. Threat to use weapon; head injury, internal injury, permanent injury, choking*or miscarriage
5. Use of weapon; wounds from weapon

*If you were choked to unconsciousness (dizzy/felt like you started to black out), also use this symbol: "©" in addition to writing 4. (Example: 4©)

Month _____ Year _____

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

NOTES:



Children Victims and Witnesses



Reporting Officer must notify CPS via the New York State Child Abuse and Maltreatment Register hotline when there is reasonable cause to suspect that a child has been abused or maltreated

(Social Services Law § 413)

CPS must also be notified whenever defendant is charged with

ENDANGERING THE WELFARE OF A CHILD



Extreme Risk Protection Orders

(Red Flag Law)



Red Flag Laws

- Family members, teachers, and law enforcement are often the first people to see the warning signs when a person is in crisis and is considering harming themselves or others
- Red Flag laws empower those who recognize the warning signs to intervene in order to temporarily prevent someone in crisis from accessing firearms



Red Flag Laws

- Following **Connecticut's** increased enforcement of its red flag law, one study found the law to be associated with a **14 percent reduction** in the state's firearm suicide rate. Another study in Connecticut found that **one suicide was averted for approximately every 11 gun removals** carried out under the law
- In **Indiana**, in the 10 years after the state passed its Extreme Risk law in 2005, the state's firearm suicide rate decreased by 7.5 percent. Like Connecticut, another study estimated that Indiana's Extreme Risk law averted one suicide for approximately every 10 gun removals



What's an ERPO in NY?



A Civil Order

Civil Practice Rules and Law (CPLR) Article 63-A

Issued to a PETITIONER

Commands a RESPONDENT to surrender firearms

Both Temporary & Permanent versions



Who can Petition

A police officer (CPL§1.20)

A district attorney (in county where respondent resides)

A family or household member (SSL §459-A(2))

A school administrator or designee (EDN §1125)

A physician, nurse, therapist, etc.



Who can Petition

In accordance with this article, a petitioner may file an application...Provided, however, that a petitioner who is a police officer or district attorney

SHALL

file such application upon the receipt of **credible information** that an individual is likely to engage in conduct that would result in serious harm



Family/Household Member



- (a) persons related by consanguinity or affinity;
- (b) persons legally married to one another;
- (c) persons formerly married to one another;
- (d) persons who have a child in common;
- (e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past
- (f) persons who have been in an intimate relationship regardless of whether such persons have lived together; or
- (g) any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.



Respondent

A person against whom an extreme risk
order is or may be sought
(CPLR§6340(3))

Must reside in County where petition is
filed

Not limited by age



FORMS

An application is made on forms provided by
the Office of Court Administration

UCS 6341 Facts supporting issuance
Docs attached as evidence
Firearms inventory
Sworn by Petitioner

UCS 840 RJI
Court administrative form



UCS 6341



New York State Unified Court System

Reset Form
nycourts.gov

Application for a Temporary Extreme Risk Protection Order

UCS-6341 (07/2022)
Page 1 of 4
nycourthelp.gov

Supreme Court

SUFFOLK

County

OFFICER'S NAME

Index Number:

LEAVE BLANK

-against-

Petitioner (applying party)

Respondent (against party)

The petitioner, being a:

- ☒ Police Officer, as defined in CPL §1.20; or
- ☐ District Attorney with jurisdiction in the county or city where the respondent resides; or
- ☐ Family or household member of the respondent, as defined in Social Services Law §459-a (2)¹; or
- ☐ Principal or other chief school officer or their designee named in writing of any school in which the respondent is currently enrolled or has been enrolled in the past six months; or
- ☐ Licensed physician, licensed psychiatrist, licensed psychologist, registered nurse, licensed clinical social worker, certified clinical nurse specialist, certified nurse practitioner, licensed clinical marriage and family therapist, registered professional nurse, licensed master social worker or licensed mental health counselor and having treated the respondent within the previous six months.

Residing or doing business at:

Address: WORK ADDRESS

Phone: WORK PHONE

Cell:

Email: WORK EMAIL

¹ Social Services Law 459-a(2): "Family or household members" mean the following individuals: (a) persons related by consanguinity or affinity; (b) persons legally married to one another; (c) persons formerly married to one another regardless of whether they still reside in the same household; (d) persons who have a child in common regardless of whether such persons are married or have lived together at any time; (e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; (f) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time . . . ; or (g) any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation.

UCS-6341 (6/2022)

Page 2 of 4

Index #: LEAVE BLANK

Petitioner alleges that the above-named respondent **is likely to engage in conduct that would result in serious harm to self or others** as defined in MHL § 9.39(a)² and petitions the Court to issue a temporary extreme risk protection order against the respondent pursuant to CPLR § 6342 based upon the facts and circumstances set forth in the following sworn application justifying the issuance of the order, to wit: Petitioner believes that the respondent is likely to engage in conduct that would result in serious harm to self or others because the respondent has engaged in, exhibited, or committed the following behavior(s) or act(s) **[check all that apply]**:

- ☒ A threat or act of violence or use of physical force directed toward self, the petitioner, or another person;
- ☐ A violation or alleged violation of an Order of Protection;
- ☐ A pending charge or conviction for an offense involving the use of a weapon;
- ☐ The reckless use, display or brandishing of a firearm, rifle or shotgun;
- ☐ A history of a violation of an Extreme Risk Protection Order;
- ☐ Evidence of recent or ongoing abuse of controlled substances or alcohol;
- ☐ Evidence of recent acquisition of a firearm, rifle, shotgun or other deadly weapon or dangerous instrument, or any ammunition therefor;
- ☐ Other [specify any other relevant factors the Court should consider]:

Facts and Circumstances

Please provide specific facts and circumstances justifying the issuance of an extreme risk protection order:

INSERT FACTS OF CASE AND BE AS SPECIFIC AS POSSIBLE. INCLUDE ALL THREATS.

² MHL 9.39(a): "Likelihood to result in serious harm" as used in this article shall mean: 1. substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that the respondent is dangerous to him/herself, or 2. a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.





UCS 6341



UCS-6341 (6/2022)

Page 3 of 4

Index #: LEAVE BLANK

Respondent's Age

The respondent's date of birth is _____ and age at the time the above act(s) allegedly occurred was: _____; or if exact age is not known, the respondent's approximate age at the time the above act(s) allegedly occurred was: _____.

Time Elapsed

The above act(s) allegedly occurred:

☒ Less than six months ago; or

☐ More than six months ago.

Respondent's Location

The respondent currently is located, resides, or may be contacted at:

Current Location: _____

Home Address: _____

Phone: _____

Cell: _____

Email: _____

[Optional: check and complete this section only if applicable]

☒ The petitioner offers the following attached documents in support of this application for an extreme risk protection order.

NOTE: List each attached document with a brief description. Attach additional sheets if necessary:

1. EXAMPLES: _____
2. FIELD REPORT PDCS-1053 _____
3. SUPPLEMENTARY REPORT FROM POLICE OFFICER XXX _____
4. SCREENSHOT OF THREAT OR EXHIBIT _____
5. MENTAL HEALTH ASSISTANCE REPORT PREPARED BY XXX _____
6. DOMESTIC INCIDENT REPORT PREPARED BY X; SWORN STATEMENT BY WITNESS X _____

☐ The petitioner requests that attachment(s) numbered _____ be filed under seal as they contain medical, mental health, or other sensitive records and information.

☐ The petitioner requests that attachment(s) numbered _____ be filed under seal or, in the alternative, with all personally identifiable information redacted to prevent an unreasonable risk to the physical safety of those affiliates, witnesses, and other non-parties named therein.

[Optional: check and complete this section only if applicable]

☐ The petitioner knows or has reason to believe that the respondent owns, possesses or has access to a firearm, rifle or shotgun, and the following is a complete listing and description of **ALL** firearms, rifles and shotguns known or believed to be owned, possessed or accessible to the respondent and the respective location of each firearm, rifle or shotgun.³

³ For the purposes of this listing, the term "possession," as defined in PL § 10.00(8), means to have "physical possession or otherwise to exercise dominion or control."

UCS-6341 (6/2022)

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Index #: LEAVE BLANK

NOTE: Be as specific as possible regarding the description and location of the weapons and attach additional sheets if necessary:

TYPE	MAKE	MODEL	CALIBER	SERIAL NUMBER	PHYSICAL LOCATION (be specific)
<input type="radio"/> firearm					
<input type="radio"/> rifle					
<input type="radio"/> shotgun					
<input type="radio"/> firearm					
<input type="radio"/> rifle					
<input type="radio"/> shotgun					
<input type="radio"/> firearm					
<input type="radio"/> rifle					
<input type="radio"/> shotgun					
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<input type="radio"/> firearm					
<input type="radio"/> rifle					
<input type="radio"/> shotgun					
<input type="radio"/> firearm					
<input type="radio"/> rifle					
<input type="radio"/> shotgun					

[Optional: check only if applicable]

☐ Disclosure of petitioner's address or contact information would pose an unreasonable risk to petitioner's health or safety, and petitioner hereby requests that the Court order the confidentiality and redaction of petitioner's address and contact information from any papers served upon or provided to the respondent pursuant to CPLR §6342(6)(a).

☐ Disclosure of petitioner's name would pose an unreasonable risk to petitioner's health or safety, and petitioner hereby requests that the Court order the case caption to reflect that petitioner's name is anonymous and to redact petitioner's name from any papers served upon or provided to the respondent.

Signature of Petitioner

Sworn to before me this _____
day of _____, 20____.

Justice of the Supreme Court or Notary Public

Print Form



Temporary ERPO



"TERPO"

Hearing must be held the day application is filed

Court can examine Petitioner and any
Witnesses

Court can issue temporary order *ex parte*

Probable cause that respondent is likely to engage
in conduct that would result in serious harm to
himself or others as defined in MHL §9.39



MHL §9.39



“Likelihood to result in serious harm” as used in this article shall mean:

1. substantial risk of physical harm to himself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he is dangerous to himself, or
2. substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.



TERPO



Factors to consider:

- (a) a threat or act of violence or use of physical force directed toward self, the petitioner, or another person;**
- (b) a violation or alleged violation of an order of protection;**
- (c) any pending charge or conviction for an offense involving the use of a weapon;**
- (d) the reckless use, display or brandishing of a firearm, rifle or shotgun;**
- (e) any history of a violation of an extreme risk protection order;**
- (f) evidence of recent or ongoing abuse of controlled substances or alcohol; or**
- (g) evidence of recent acquisition of a firearm, rifle, shotgun or other deadly weapon or dangerous instrument, or any ammunition therefor.**



TERPO



Firearms surrender at service of
TERPO

Court may order Search

Suffolk County Sheriff's Office serving
and searching



ERPO



Final Hearing

Petitioner still has burden

Clear and Convincing standard

**“the evidence is highly and substantially more likely to
be true than untrue”**

Court considers same factors as TERPO

Respondent may challenge evidence presented by petitioner

Respondent may present their own evidence



ERPO



If Permanent Order issued

Temporarily suspend firearms licenses

Direct Respondent to surrender all firearms

Court notifies DCJS, FBI, et. al.

Order valid for Up To one year

Respondent has One opportunity to request re-hearing



Beyond ERPO



Respondent may request a hearing to vacate or amend the order once during the term of the order

Petitioner may renew the order within 60 days of its expiration

In order to recover guns once order expires, Respondent must:

Make written application to court

On notice to Petitioner & Licensing Officer



2022 Stats

- January-May 12
- June 15
- July 53
- August 12th 64



SCBA Lawyers Helping Lawyers Committee

The SCBA Lawyers Helping Lawyers Committee provides free and confidential assistance to those in the legal community who are concerned about their alcohol or drug use and/or mental health or wellbeing or that of a colleague or family member.

Assistance is available to the legal community including attorneys, members of the judiciary, law students, and family members dealing with alcohol or substance abuse disorder, other addictive disorders, anxiety, depression, vicarious trauma, age related cognitive decline and other mental health concerns that affect one's well-being and professional conduct.

**Please call the
Lawyers Helping Lawyers Helpline at (631) 697-2499
to speak with an attorney who will provide support and recommend
resources. All calls are private and confidentiality is protected under
Judiciary Law Section 499. (Lawyer Assistance Committee)**

Feel Free to Join Us at Our Weekly Recovery Meeting