

Town of Moriah
Police Reform and Reinvention
February 2021

Town of Moriah

38 Park Place

Port Henry, NY 12974

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Reform and Reinvention in accordance with Executive Order 203, Town of Moriah Police Department.

The Town of Moriah is located in eastern Essex County, NY and is the third most populous township within the county. Moriah has five hamlets: Moriah, Moriah Center, Mineville, Witherbee and Port Henry.

Port Henry was formerly a Village that dissolved in April of 2017.

The Town of Moriah formed a Police Department in the late 1960's for the purpose of policing areas outside then the Village of Port Henry. The former Village had their own Police Department until 1991, when they dissolved the department and the Town agreed to patrol the entire Township making the cost a "Townwide Charge"

Moriah has a population of 4,800 people with 5 population centers and six zip codes. At one point the Town employed four full time office and four part-time officers. Through the years primarily through attrition and not being able to recruit new officers, the Police Force is now staffed with two full time officers, one titled Officer in Charge and one Patrolman. This provides approximately 80 hours of coverage per week with the exception of vacation and sick time.

Both officers have been employed in the department for over 20 years and the Officer in Charge will be retiring in April of this year.

We have two vehicles that we use for patrols in the Town.

As we are a small department, we are heavily dependent on the NYS Police and the Essex County Sheriff's office for assistance. The NYS Police respond to over 40% of our calls, with the Town Police and Sheriff handling the rest.

We work in tandem with both the State Police the State Police and also the Sheriff's Department.

We do have some "Hot Spots" within our Township, primarily the Hamlet of Witherbee and also Port Henry.

Drugs are a major problem and again we are dependent upon other policing agencies and also work with the District Attorney's Office.

My tenure with the Town of Moriah goes back to 1986 when I first was elected to the position as Supervisor. I have assigned a Committee of two Town Board members to oversee the department in accordance with Town Law. I serve as one member in that capacity.

I can state that in all my years in office, I have never received any complaints regarding racial bias or any discrimination charges or complaints.

The Town Board receives a Police Report monthly which is read at every Town Board Meeting. All meetings are broadcast on YouTube and the Public Access Channel.

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When the Police Committee meets periodically the meeting notices are posted and open to the public.

We have always provided a complete transparency whenever possible.

I am very concerned about the future of this department, as the affordability and recurrent of qualified officers becomes more difficult.

If not for the NYS Police and Sheriff's Department working with the Town, the crime rate would be much higher.

Enclosed you will find the Reform & Reinvention of Policing within our community.

POLICE REFORM AND REINVENTION COLLABORATIVE

The current state of law enforcement in the Town of Moriah:

- Two Full Time Police Officers
- One Officer in Charge
- One Patrolman
- Each Officer works a minimum of 40 hours per week

The Moriah Police Department carries out a variety of duties and responsibilities. Responding to the Essex County 911 dispatcher to direct calls for service from community members.

The role of the Moriah Police Department ranges from a variety of areas. Responding to criminal conduct, traffic control and accidents, assisting in background checks, assisting in animal control (both criminal and non-criminal).

Very few community based grievances have been filed against the Moriah PD. It has been determined that most complaints about the police have come from elements of the community that are engaged in the violation of the laws of New York State.

The question of Police responding to mental health calls would be based on the county mental health workers request for direct police aid. Police do respond to calls for substance abuse / overdose calls that are beneficial to the community needs.

The Moriah Police work closely with the greater community in a proactive manner regarding violence prevention. A close working relationship with Moriah central School and the Moriah Youth Committee exist and has provided an improved environment for public safety.

Law Enforcement Presence in School. The Moriah Police have an excellent relationship with the School and have provided invaluable service to the educational community. However, the County Sheriff does provide a School Resource Officer that carries the majority of current policing requirements.

The Staffing and Budgeting requirements for the Moriah PD is currently under an evolving process. With a retiring and experienced Officer in Charge the pool of future hires is limited. The desire to increase the size of the department exists with a potential reliance on part time employees.

Within this topic lies the issue of militarization of police. The Town of Moriah has no desire for the appropriation of military equipment.

The strength of the Moriah PD lies with its ability to effectively engage in community policing. Outside police agencies rely on the officers of the Moriah PD to de-escalate encounters with our community members. As longstanding members of the community the officers of the local PD have had success in the overcoming of any potential distrust of police.

Our officers are parents and community members that interact with the citizens of Moriah in a variety of ways. Contact that provide opportunities for positive interactions with members of the PD. The police officers of Moriah have undergone training in the fields of community outreach and de-escalation.

The Moriah PD does not engage in the use of "Stop and Frisk", Biased-Based Stops, or the use of Pretextual Stops or the use of Informal Quotas for Summonses. Our members are aware that the State of New York has criminalized the use of chokeholds by police. The PD of Moriah has never engaged in the utilization of said technique.

The goal of the community of Moriah is to maintain a Police Department that is fully committed to community based policing. Men and women that are valued members of the community that interact with the public in a variety of ways promoting understanding and respect for one another. To promote the use of de-escalation strategy, community engagement and foster community outreach.

The Town of Moriah has a strong policy of transparency. All police activities are reported monthly before and open meeting of the Town Council. This meeting is traditionally open to the public with the exception of the COVID -19 restrictions.

Recorded and live on Facebook the reporting of all police activity in the Town of Moriah is very transparent.

Oversight of the Moriah Police Department is in the hands of elected community members of the Town Council. A body that is close to the constituency and highly responsive to their needs.

TOWN OF MORIAH

POLICE DEPARTMENT DOMESTIC DISPUTES

POLICY

1. It is the policy of the Moriah Police Office to respond to every request for assistance involving a domestic dispute, and to consider domestic violence as possible criminal conduct which should be investigated as any other alleged crime.
2. It is our policy to make an arrest where reasonable cause exists that an offense has been committed or that an order of protection has been violated. The determination of probable cause shall remain consistent with other crimes and the NYS Criminal Procedure Law, and not be unduly influenced by the domestic nature of the situation.
3. Conventional tactics of crisis intervention skills and reconciliation of parties shall not be used as an acceptable substitute for appropriate criminal proceedings in domestic violence cases where physical abuse has occurred.

RESPONSES

1. Communications shall immediately dispatch two patrols to all domestic dispute calls.
2. As soon as possible, the first unit to arrive shall advise the Communications Center whether or not the second unit is needed. If they are not needed, they are to discontinue their response.
3. Units assigned to a domestic dispute call are to make a non-emergency response, unless there is a specific aggravating factor such as a known physical altercation in progress.
4. It is the responsibility of each Communications Operator to advise assigned units when there is a known violent situation or other aggravating factor requiring an accelerated response.
5. The Shift Commander shall monitor calls involving domestic violence and/or family offenses to ensure appropriate action is taken when necessary.

GENERAL PROCEDURES

1. Where a victim is injured or claims to be injured the responding officer shall assist the victim in obtaining proper medical treatment.
2. A patrol officer at the scene of a domestic violence call who does not make an arrest shall remain at the scene until satisfied any immediate danger has passed.
3. In all cases of domestic violence a "domestic Incident Report" shall be completed, whether or not an arrest was made.
4. When appropriate, photographs of the premises or persons involved may be taken upon request to a member of Investigative Services via the Shift Commander.
5. If an offender has left the scene prior to the arrival of the patrol an attempt shall be made to locate the offender and, if a crime has been committed arrest the offender.
6. Where a patrol officer has reasonable cause to believe that an individual has committed a felony, such as an assault causing serious physical injury against a victim, the officer shall not attempt to reconcile the parties or mediate, but shall arrest the offender. As soon as possible after the arrest a statement shall be taken from the complainant and a domestic incident report shall be completed.
7. Where a patrol officer has reasonable cause to believe that an individual has committed a misdemeanor against a victim, or has committed a petty offense against the victim in the officer's presence, the officer shall not attempt to reconcile the parties or mediate, but shall arrest the offender. If

the complainant requests that an arrest not be made the officer has the authority to arrest, if probable cause exists. As soon as possible after an arrest a statement shall be taken from the complainant and a domestic incident report shall be completed.

8. Where a patrol officer has reasonable cause to believe that the terms of an order of protection have been violated, the officer shall not attempt to reconcile the parties or mediate, but shall arrest the offender.

9. There is no requirement that a crime (felony or misdemeanor) occur in an officer's presence. Consequently, a lawful arrest may be founded upon factors other than the officer's observations, including but not limited to: physical injury, property damage, or statements made by the victim or other witnesses.

10. Patrol officers are reminded that they have an official responsibility under Section 812, Subdivision 3 of the Family Court Act, which states: "No official or other person . . . shall discourage or prevent any person who wishes to file a petition or sign a complaint from having access to any court for that purpose."

VICTIM RIGHTS

It shall be the responsibility of patrol officers to inform the victim of their options and rights as they relate to domestics, and to provide them with a copy of the P-28 Victims Rights Form. Victims have a right to:

1. Request an officer assist in providing for their safety and their children, including providing information on how to obtain a temporary order of protection.
2. Request the officer assist in obtaining essential personal effects and locating and taking them, or assist in making arrangements to take them and their children to a safe place within the officer's jurisdiction, including but not limited to a domestic violence program, a family member or friends residence, or a similar place of safety.
3. Request a copy of any domestic incident reports at no cost from the office.
4. Legal counsel of their own choosing and, if they proceed in family court and it is determined they can not afford an attorney, one must be appointed to represent them without cost.
5. Ask the Warren County District Attorney or a law enforcement officer to file a criminal complaint.
6. File a petition in the family court when a family offense has been committed against them, and to have their petition and request for an order of protection filed on the same day they appear in court.

SPECIAL CONDITIONS

1. Where an officer has reasonable cause to arrest, the officer is required to make the arrest.
2. The officer may not use any of the following reasons for not making an arrest:
 - A. That the suspect lives on the premises with the complainant.
 - B. That there is no restraining order in effect.
 - C. That there might be financial consequences caused by the arrest.
 - D. That the suspect and complainant are married or had a prior or existing cohabiting relationship.
 - E. That the complainant has made prior calls or is a persistent caller.
 - F. That the suspect gives verbal assurances that they will not harm the complainant.
 - G. That the alleged injury is minor and not immediately visible.

H. That the complainant may not be a willing participant in subsequent criminal proceedings.

I. That the prosecution and conviction may not occur despite the existence of probable cause to arrest.

CIVILIAN ARREST

1. The victim shall be afforded the opportunity to make a civilian arrest pursuant to Section 140.30 of the Criminal Procedure Law. This may be a useful alternative for those situations in which a patrol officer is not permitted to make a summary arrest, such as when they lack probable cause or the petty offense was not committed in their presence.

2. The officer shall inform the victim, when possible out of the presence of the suspect, of their right to make a civilian arrest. If the victim decides to make a civilian arrest, the officer shall assist the victim in effecting and processing such arrest.

3. Members shall be cognizant of the language contained in Section 140.40, Subdivision 4 of the Criminal Procedure Law regarding police duties with respect to all civilian arrests. ". . . a police officer is not required to take an arrested person into custody or take any other action prescribed in this section on behalf of the arresting person if he has reasonable cause to believe that the arrested person did not commit the alleged offense, or that the arrest was otherwise unauthorized."

4. The patrol officer does not have to make an affirmative finding of probable cause in order to assist in a civilian arrest. However, if the officer has reasonable cause to believe that the complainant's allegations are untrue, the arrest shall be terminated.

5. In cases involving a civilian arrest the civilian complainant shall sign the accusatory instrument.

FAMILY OFFENSES

1. Family offenses consist of the following:

- A. Harassment in the first degree.
- B. Harassment in the second degree.
- C. Disorderly Conduct (including conduct not in a public place).
- D. Assault in the second degree (or attempted).
- E. Assault in the third degree (or attempted).
- F. Reckless Endangerment in the second degree.
- G. Reckless Endangerment in the first degree.
- H. Menacing in the second degree.
- I. Menacing in the first degree.

2. To be considered "family offenses" the victim and offender must be either:

- A. Related by blood or marriage (including in-laws);
- B. Legally married to one another;
- C. Formerly married to one another; or

- D. Have a child in common.
3. If a "family offense" has been committed by one family member against another, the victim has the option of proceeding in criminal court and/or the Family Court, and may proceed in both courts concurrently. The only exception would be when the respondent would not be criminally responsible by reason of age pursuant to Section 30.00 of the Penal Law, at which time the Family Court would have exclusive jurisdiction over any proceedings.
4. For the purposes of identifying and appropriately responding to the dynamics of domestic violence, patrol officers are advised the definition of "family members" for the purposes of law enforcement includes the following. These people do not have the Family Court option and must file an actions or proceedings in a criminal court.
- A. Persons not married, but living together in an intimate relationship. (Unless they have children in common.)
 - B. Person not married, but formerly lived together. (Unless they have children in common.)
 - C. Same sex couples.
 - D. Intimate dating partners. (Unless they have children in common.)

ORDERS OF PROTECTION

1. A local criminal court is authorized by section 530.12 of the Criminal Procedure Law to issue a Temporary Order of Protection which provides protection for victims of family offenses when a criminal action is pending. Section 530.13 extends this protection to victims of crimes other than family offenses when a criminal action is pending. These two subdivisions require commencement of a criminal action.
2. A local criminal court cannot issue a protective order unless an accusatory instrument has already been filed. Upon conviction of the accused, the court may enter an Order of Protection. The duration of such order shall be fixed by the court and, in the case of a felony conviction, shall not exceed five years. In the case of a Class A misdemeanor conviction, the duration shall not exceed three years. In the case of a conviction for any other offense, the duration shall not exceed one year.
3. Section 252 of the Domestic Relations Law permits the Supreme Court to issue an Order of Protection or a Temporary Order of Protection in connection with an action for divorce, separation or annulment. This section requires the commencement of such action before a protective order may properly be issued by the Supreme Court.
4. Various provisions of the Family Court Act authorize the issuance of protective orders. A noteworthy distinction is that the Family Court, unlike a local criminal court or the Supreme Court, may issue a protective order simply upon application of either party. There is no requirement that an action have previously been commenced (FCA Section 430). There is however a requirement that the parties be subject to the jurisdiction of the Family Court. They must be related by marriage, blood related, or be former spouses, or they must have a child in common.
5. Members shall arrest a person who is in violation of a valid order of protection where there is probable cause to believe there has been a violation of that order. Where the victim does not possess a copy of the order, the officer shall check with the Communications Center to determine whether or not there is a copy of the order on file in our office or on the NYSPIN system.
6. There is no requirement that the prohibited conduct listed on an order of protection be committed in the presence of an investigating officer. Therefore, a lawful arrest may be made which is founded on factors other than the officers direct observations.
7. Whenever an arrest is made for the violation of an order of protection, a statement should be taken

from the victim, if possible. This statement shall include a reference to the terms of the order which were violated and the actions of the defendant which constituted the violation.

8. Whenever possible, an arresting officer should make arrangements to make a photocopy of the order which served as the basis for the arrest. Under no circumstance should any officer take the victims sole copy of an order.

9. In cases where a Family Court order was violated, the victim may seek to have a criminal charge (contempt) filed, and/or may seek to have a petition in Family Court alleging a violation. In the second case, the officer should advise the victim to appear at the Probation Department during normal business hours.

10. Regardless of which court issued an order of protection, when a violation occurs the offense charged shall be the applicable offense designated under Article 215 of the NYS Penal Law. These are crimes and arrested persons must be fingerprinted and photographed in accordance with the Criminal Procedure Law.

11. In many cases the conduct prohibited on an order of protection will be conduct which, when committed, is illegal. An example might be an assault which violates the order and also is a violation of the Penal Law. In these cases two criminal charges can be filed.

12. When making an arrest for violation of an order of protection, an appearance ticket shall not be issued and pre-arraignment bail shall not be granted. The only exception would be when the order of protection has a recommended bail set by a judge.

13. When making an arrest for violation of an order of protection and bail is not posted as noted above, the defendant shall be arraigned by the appropriate court.

FAMILY COURT ORDERS OF PROTECTION

1. Orders of protection originating out of the Family Court generally come to the office in duplicate. One copy goes to the Civil Office for service and one is filed in the Communications Center. On occasion there is a question as to whether or not the Civil Office has served the papers. To eliminate this problem a tracking record is being maintained to record deliver, assignment, and service of Family Court orders of protection.

2. The Civil Office will list all incoming Family Court orders of protection in the tracking record upon receipt. The Civil Office supervisor will add the initials of the civil law enforcement officer assigned to serve order of protection. At the completion of each workday, the civil law enforcement officers will record which orders have been served.

3. If a Patrol Services member has occasion to deal with a person who is on the list, but has not yet been served, the copy of the order in the Communications Center is to be duplicated and served on the individual. Thereafter, the officer making the service must complete an affidavit of service and forward it to Civil Office office, with a copy sent to the Sergeant's Office. The Patrol Sergeant charged with responsibility for maintaining the Order of Protection files will then update all records as required.

ORDERS OF PROTECTION - FILING AND RECORDS

1. All valid orders of protection will be kept on file in the Communications Center and entered in the NYSPIN system.

2. Orders will be filed by the designated Patrol Sergeant, or his designee.

3. Orders received by any member of this office are to be immediately given to the on-duty shift commander. The shift commander shall ensure the order is placed in the "In-coming Orders of Protection" box in the Sergeant's office for filing in the Communications Center as soon as possible by the Sergeant responsible for orders.

4. Orders will be filed under the respondent or defendant last name. In cases where an order is directed to more than one respondent or defendant, additional copies of the order will be separately filed under each name. The name under which it is filed will be highlighted.
5. Files will be reviewed on a monthly basis and expired orders will be removed.
6. Whenever an order of protection is being recalled or otherwise changed or amended, the issuing court must provide notice to the office. Such notice must be in writing, signed by a judge, and delivered to our office as an original. Telephonic notification will not be accepted. A facsimile delivery will be acceptable as long as the original immediately follows by mail. The ONLY facsimile number authorized for this purpose is the facsimile machine in the Sergeant's Office. All such records are to be filed with the original order of protection.
7. Any member receiving an order to expunge an "Order of Protection" is to immediately forward it to the Shift Commander. The Shift Commander will pull the order from the file, mark it expunged, and place it in the order box for review after making sure the entry is deleted in the NYSPIN system.
8. Orders should always be in one of two places - the Communications Center or the Incoming Order of Protection box in the Sergeant's Office.

MEMBERS PERSONAL INVOLVEMENT IN DOMESTIC SITUATIONS

1. The Federal Omnibus Consolidated Appropriations Act of 1997 amended the Gun Control Act of 1968. The new legislation makes it unlawful for any person convicted of a "misdemeanor crime of domestic violence" to ship, transport, possess, or receive firearms or ammunition. This law applies to all law enforcement officers, and became effective on September 30, 1996.
2. For the purposes of subdivision one "misdemeanor crime of domestic violence" means an offense that:
 - A. is a misdemeanor under federal or state law; and
 - B. has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon committed:
 - a. by a current or former spouse, parent or guardian of the victim, or;
 - b. by a person with whom the victim shares a child in common, or;
 - c. by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or;
 - d. by a person similarly situated to a spouse, parent or guardian or the victim.
3. Any member that has been or currently stands convicted of a "misdemeanor crime of domestic violence" must immediately notify the Administration Office and turn in their office issued sidearm and all ammunition. The member must also immediately dispose of any personally owned firearms and ammunition to a third party, and provide proof of such transaction.
4. Any member who becomes the subject of any type of Order of Protection as the result of an arrest concerning a "misdemeanor crime of domestic violence" shall immediately notify the Administration Office, both verbally and in writing. Any change in status of an existing Order of Protection, including but not limited to the modification or addition of restrictions or change in an expiration date, must also be reported immediately, in writing, to the Administration Office. A copy of all such orders must be provided with the notification.

REGULATION 044: USE OF PHYSICAL FORCE

1. Members may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law.
2. It is the responsibility of each member to be aware of the requirements of Article 35 and to guide his/her actions based upon that law.

DUTIES OF MEMBER

1. Any member using physical force pursuant to his duties shall report or cause to be reported all facts relative to the incident on a Use of Physical Force Report.
2. Use of restraining devices as stated in this manual will not be construed as a use of physical force. However, when the handcuffs become an appliance to exert force necessary to subdue a person or when the person physically resists the application of handcuffs a use of physical force has occurred and the necessary reports must be submitted.
3. Subsequent to the use of physical force the member shall immediately evaluate the need for medical attention for that person and arrange for treatment when that person has a visible injury or complains of injury or pain and requests medical attention.
4. Persons with a visible injury who are refusing medical treatment may be transported to a hospital where the refusal can be witnessed by hospital personnel. Such refusal shall be documented on the Use of Physical Force Report.
5. The member shall immediately notify the on duty Shift Commander of any incident involving the use of physical force whether it occurs on or off duty.

DUTIES OF SHIFT COMMANDER

1. Insure that all members and other persons receive necessary assistance, including medical treatment and that all injuries are properly documented.
2. Determine if an investigator should be called to the scene.
3. Insure a complete investigation is conducted and a report is prepared and submitted.
4. Make an Administrative Notification..

DUTIES OF INVESTIGATOR

1. Respond as directed by the Shift Commander.
2. Obtain written statements from all involved parties and witnesses of the incident.

ADMINISTRATION OFFICE ACTION

1. Review all reports, photos and documents of the incident.
2. Take action as necessary in regard to the incident.
3. Ensure a file is maintained, including all reports submitted in connection with the incident.

Standard Operating Procedures

Prisoners

- 1 All prisoners will be patted down before being placed in the patrol cars.
- 2 All prisoners will be handcuffed, at the officer's discretion.
- 3 Handcuffs will only be removed at the judge's request or once inside the jail, or upon release by the judge. In case of a violent or escape risk prisoners will remain in handcuffs at all times. Handcuffs may be removed to allow prisoners to use the rest room. Officers will keep their prisoners in sight at all times and accompany them to the rest room.
- 4 Any and all paperwork that requires direct information from the prisoners will be done before incarceration or release from custody.
- 5 Should any person in custody become injured, notify the Officer in Charge immediately and seek proper medical attention. Make out report clearly stating how injury occurred, witness name (if any), location of occurrence, date and time and what was done about the treatment of injury. Should subject in custody refuse treatment, have them sign a statement to that effect in from the witness.
- 6 No prisoners will be abused, physically or verbally.

USE OF PHYSICAL FORCE

1. Members may use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law. No chokeholds or kneeling on the neck.
2. It is the responsibility of each member to be aware of the requirements of Article 35 and to guide his/her actions based upon the law.

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