

DOMESTIC VIOLENCE BY POLICE EMPLOYEES

POLICY & PROCEDURE NO. 1.07	ISSUE DATE: July 27, 2015
	EFFECTIVE DATE: 8/3/2015
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

As part of our commitment to earning the trust of the citizenry so essential to policing our community, it is essential that police professionals hold themselves to an exemplary standard in the area of domestic violence.

A pro-active approach must focus on victim safety. The touchstone must be a policy of “zero tolerance” of acts of domestic violence by members of this department.

While prioritizing the safety of victims, this policy is designed to address prevention through hiring and training practices, provide direction to supervisors for intervention when warning signs of domestic violence are evident, institutionalize a structured response to reported incidents of domestic violence involving employees, and offer direction for conducting the subsequent administrative and criminal investigations. Components of the policy include:

1. Prevention and Training;
2. Early Warning and Intervention;
3. Incident Response Protocols;
4. Victim Safety and Protection; and
5. Post-Incident Administrative and Criminal Decisions.

II. POLICY

It is the policy of this department:

- A. Not to hire or retain individuals that have a history or a documented propensity for domestic violence, elder abuse, child abuse, sexual assault or stalking;
- B. To provide on-going training to every member on all forms of domestic violence and the department's zero tolerance policy;
- C. To thoroughly investigate all complaints of domestic violence allegedly committed by members of this department; and
- D. To take disciplinary and criminal action for violations of this policy by department members where appropriate.

III. DEFINITIONS

- A. *Domestic violence*: An act or pattern of violence perpetrated by a police officer or other department employee, upon his or her intimate partner not done in defense of self or others, including but not limited to the following:
 1. Bodily injury or threat of imminent bodily injury or death;
 2. Sexual battery;
 3. Physical restraint;
 4. Property crime directed at the victim;
 5. Stalking; and
 6. Violation of a court order of protection or similar injunction\.
- B. *Intimate Partner*: Any person who meets one or more of the following criteria:
 1. Is or was legally married to the employee;
 2. Has a child in common with the employee;
 3. Has or had a dating relationship with the employee;
 4. Is specified as an intimate partner by state law; and
 5. Is cohabitating or has cohabitated romantically with the employee.
- C. *Protection Order*: Usually referred to as a restraining order, any injunction or other order issued by a court, including criminal or civil orders of protection, regardless of form, content, length, layout, or name (such as stay away, restraining, criminal, and emergency or temporary protection orders or injunctions), issued for the purpose of preventing the following:

1. Violent or threatening acts against another person;
2. Stalking or harassment of another person;
3. Contact or communication with another person; and
4. Physical proximity to another person.

IV. PROCEDURES

A. *Prevention and Training*

1. PREVENTION THROUGH COLLABORATION
 - a. The department shall train employees in order to enhance this agency's response to the needs of victims.
 - b. The department shall, upon request, provide local domestic violence victim advocacy organizations copies of all domestic violence training curricula, protocols and policies for review and comment.
2. TRAINING TOPICS: As part of our ongoing training, all employees shall receive periodic comprehensive instruction covering the following topics:
 - a. Understanding Domestic Violence;
 - b. Departmental Domestic Violence Response Protocol;
 - c. Warning Signs of Domestic Violence by employees;
 - d. Victim Safety; and
 - e. Domestic Violence Laws.
3. ONGOING TRAINING: This department may use a variety of training techniques including in-service, roll-call, FTO, ride-along, and training bulletins to regularly reinforce standards of effective response protocol.
4. PROGRAM EVALUATION: To enhance the effectiveness of the training, this department may work with internal or external research resources to evaluate the training and its impact.

B. *Early Warning and Intervention*

1. PRE-HIRE SCREENING AND INVESTIGATION: This department shall conduct thorough background investigations of all employee candidates. For further information, see the department policy regarding **Recruitment and Selection**.

2. POST-HIRE INTERVENTION

- a. When new employees are hired, the department shall reach out to their intimate partners and/or family members to introduce this policy and other relevant department policies.
- b. This department will engage in periodic outreach to employees and their intimate partners and/or family members with information on this policy, the point of contact within the department and referrals for local support services. The message will include assurances that we take all complaints of domestic violence seriously, that we will investigate and take appropriate action, and that no special treatment or privilege will be extended to offenders that happen to be employed as law enforcement employees.

1. DEPARTMENT RESPONSIBILITIES

- a. The department shall provide timely notification of a domestic violence incident involving a police employee and shall attempt to develop cross-jurisdictional protocols or even MOUs (Memoranda of Understanding) with area police departments to this end.
- b. The department shall, either in response to observed warning signs or at the request of an employee, intimate partner, or other family member, provide non-punitive avenues of assistance before an act of domestic violence occurs.
- c. The department shall inform employees of the procedure for seeking confidential referrals, either internally or externally, to confidential counseling services.
- d. A disclosure on the part of any employee, intimate partner or family member to any member of the department that an employee has personally engaged in domestic violence will be treated as an admission or report of a crime, shall be reported to the appropriate department official, and shall be investigated both administratively and criminally.

2. SUPERVISOR RESPONSIBILITIES [35.1.9(D)]

- a. Supervisors shall be cognizant of and document any pattern of abusive behavior potentially indicative of domestic violence including but not limited to the following:
 - 1) Aggressiveness:
 - a) Excessive and/or increased use of force on the job;
 - b) Stalking and inappropriate surveillance activities;
 - c) Unusually high incidences of physical altercations and verbal disputes;

-
- d) Citizen and fellow employee complaints of unwarranted aggression and verbal abuse;
 - e) Inappropriate treatment of animals; and
 - f) On or off-duty injuries.
- 2) Domestic violence-related issues:
- a) Monitoring and controlling any family member or intimate partner through such means as excessive phone calling;
 - b) Stalking any intimate partner or family member; and
 - c) Discrediting and/or disparaging an intimate partner.
- 3) Deteriorating work performance:
- a) Tardiness;
 - b) Excessive absences; and
 - c) Alcohol and drug abuse.
- 4) When the supervisor notes a pattern of problematic behavior (as detailed above), the supervisor shall:
- a) Address the behaviors through a review or other contact with the employee and document all contacts;
 - b) Forward written reports capturing the behaviors to the chief through the chain of command in a timely manner to determine if intervention or discipline is warranted;
 - c) Prepare and submit to the chief a written request for a psychological exam/ counseling by a psychologist/psychiatrist who is knowledgeable about domestic violence; and,
 - d) When warranted, request the chief order an employee to seek assistance from a certified program for batterers, or a counselor knowledgeable about domestic violence, as determined by the Chief of Police.
3. POLICE EMPLOYEE RESPONSIBILITIES [35.1.9(B)]
- a. Employees are encouraged to take personal responsibility in seeking confidential referrals and assistance from the department to prevent a problem from escalating to the level of criminal conduct against an intimate partner.
 - b. Employees who engage in the following actions will be subject to severe discipline up to and including dismissal:
 - 1) Failure to report knowledge of abuse or domestic violence involving a fellow employee;

- 2) Failure to cooperate with the investigation of a police employee domestic violence case;
 - 3) Interference with the investigation or prosecution of domestic violence cases involving themselves or fellow employees; and,
 - 4) Intimidation/coercion of witnesses or victims (e.g., surveillance, harassment, stalking, threatening, or falsely reporting).
- c. Employees who learn they are the subject of a criminal investigation, regardless of jurisdiction, are required to immediately make a report to their supervisor and provide notice of the court dates, times, appearances, and proceedings. Failure to do so may result in severe discipline up to and including dismissal.
 - d. Employees who learn they are the subject of any protective order proceeding, whether or not the order is issued and regardless of jurisdiction, shall immediately notify their supervisor and provide a copy of the order, if issued. If subject to a protection order that includes an order that firearms and licenses be surrendered, the employee shall surrender all firearms and licenses immediately. Failure to do so may result in severe discipline up to and including dismissal. (Note: This will not preclude the department from adopting a policy allows for possession of the primary service weapon under certain conditions, subject to court approval.)

B. INCIDENT RESPONSE PROTOCOLS

1. DEPARTMENT-WIDE RESPONSE

- a. The department shall accept, document, and preserve all calls or reports regarding domestic violence involving police employees, including those made anonymously, as “on-the-record” information.
- b. All reports of possible criminal activity implicating police employees in domestic violence shall be documented in accordance with the policies governing the handling of reports of domestic violence involving civilians.
- c. The on-scene supervisor shall forward a copy of the report alleging domestic violence by the employee to the chief through the chain of command.
- d. All such incident reports shall be made available by the department to the victim without cost as required by law.¹

2. COMMUNICATIONS RESPONSE

- a. Communications officers/dispatchers shall be instructed to assign a high priority to all domestic violence calls, including those that involve or appear to involve a police employee of any department.

-
- b. Communications officers/dispatchers shall immediately notify the supervisor on duty and the Chief of Police of any domestic violence call received that involves, or appears to involve, a police employee, regardless of the involved employee 's jurisdiction.
 - c. Communications officers/dispatchers shall prepare and preserve documentation of the facts and circumstances of the call, including the 911 tape, for use in potential administrative or criminal investigations.
 - d. Communications officers/dispatchers shall have available current contact information of local domestic violence victim advocacy organizations for on-scene supervisors to provide to victims.
3. PATROL RESPONSE
- a. Upon arrival on the scene of a domestic violence call or incident involving a police employee, the primary patrol unit shall immediately notify dispatch and request a supervisor of higher rank than the involved employee report to the scene, regardless of the involved employee's jurisdiction.
 - b. The responding officers shall perform the following actions:
 - 1) Obtain any needed medical assistance for any parties involved;
 - 2) Address the immediate safety of all parties involved;
 - 3) Secure the scene and preserve evidence;
 - 4) Note all excited utterances, admissions and/or incriminating statements; and,
 - 5) Make an arrest if probable cause exists.
4. ON-SCENE SUPERVISOR RESPONSE [35.1.9(D)]
- a. A supervisor of higher rank shall report to the scene of all police employee domestic violence incidents including a police officer, regardless of the involved employee's jurisdiction.
 - b. The on-scene supervisor shall assume command and ensure that the crime scene is secured and that all evidence is collected. Photographic and/or video documentation of the parties involved and scene shall be recorded where such resources are available.
 - c. The supervisor shall inquire as to the safety of all children present at the time of the incident and all children in the household. As appropriate and necessary, the children should be interviewed separately from other parties.
 - d. In cases where probable cause exists, the on-scene supervisor shall ensure an arrest is made.
-

- e. If the alleged offender has left the scene and probable cause exists, the supervisor shall perform the following actions:
 - 1) Exhaust all reasonable means to locate the alleged offender;
 - 2) Ensure that an arrest warrant is sought, if unable to locate the alleged offender; and,
 - 3) Document all subsequent actions in a timely manner.
- f. In the event that the victim has left the scene, the supervisor shall make every effort to follow through on the investigation and attempt to locate the victim.
- g. Arrest of both parties involved in a domestic violence incident should be avoided. The supervisor shall ensure that a thorough investigation is conducted and an arrest of the dominant aggressor is made in accordance with state law.
- h. Whenever an officer is arrested, the supervisor shall relieve the accused officer of all service weapons regardless of whether the officer is a member of the responding department.
- i. The accused employee will be required to surrender all other firearms owned or at the disposal of employee for safety reasons. If the employee refuses to do so, available legal action should be undertaken, where appropriate.
- j. The on-scene supervisor shall remove any and all firearms from the home for safekeeping by the department and make arrangements as necessary.
- k. The on-scene supervisor shall ensure the victim is informed of the following:
 - 1) The judicial process and victim rights;
 - 2) The department's policy on police employee domestic violence, procedures and cross-jurisdictional responsibilities as they apply;
 - 3) The standard of probable cause for arrest;
 - 4) Procedures for obtaining protective orders;
 - 5) Victim compensation;
 - 6) The availability of an on-scene advocate;
 - 7) The availability of confidential transportation to a location that can provide improved victim safety;
 - 8) Community resources and local domestic violence victim service; and,

1. Whenever a police employee involved domestic violence call does not result in an arrest or a warrant is not sought, the on-scene supervisor shall explain in a written report.
 - m. The on-scene supervisor shall notify the chief and the accused employee's immediate supervisor as soon as possible. In the event that the employee is from another jurisdiction, the supervisor shall ensure that the accused employee's chief is notified. All notifications, and attempts to notify, shall be fully documented.
5. ADDITIONAL CRITICAL CONSIDERATIONS
- a. When responding to a domestic violence complaint involving a police employee from another jurisdiction, all responding officers, investigators, and supervisors shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an employee from this department.
 - b. In the event that the reported incident involves the chief of police [or commissioner], the supervisor shall immediately notify the District Attorney and the individual in government who has direct oversight for the chief, for example, the mayor, manager or chair of the board of selectmen.
 - c. In responding to domestic violence incidents where the victim is a police employee, standard domestic violence response and investigation procedures should be followed.
 - d. In responding to domestic violence incidents where the parties involved are both police employees, standard domestic violence response and investigation procedures should be followed. After probable cause and dominant aggressor are determined, an arrest should be made and all service weapons of any accused officer confiscated. ***If a protective order is issued against an officer, additional firearm seizure may be required under c.209A.***
6. DEPARTMENT FOLLOW-UP
- a. In a timely manner, the chief shall ensure that all officers who responded to a police employee domestic violence call are debriefed. The debriefing shall include the following:
 - 1) A review of department confidentiality guidelines;
 - 2) A direct order prohibiting discussion of the incident outside of the official inquiry; and,
 - 3) A clear delineation of assignments.
 - b. Follow-up investigators shall proactively seek out information on existing protective orders and, if found, shall enforce them and any applicable state and federal firearms laws and determine whether

the employee violated department policy by failing to report the protective order.

- c. Arrest warrants charging police employees with domestic violence and protective orders issued at a later time shall be served by no fewer than two officers, where possible, with at least one being of senior rank to the employee being served. In cases where firearms have not previously been seized, firearms shall be seized as allowed or required by law.
- d. In the event the protection order expires or the victim asks that it be discontinued, the department shall still conduct a thorough administrative investigation. The voluntariness of any such request will be strictly scrutinized.
- e. Following the reported incident, the department shall designate a member of the command staff to perform the following duties:
 - 1) Conduct a danger assessment of the accused employee to determine the potential for further violence and inform the victim of the possibility of danger regardless of the outcome of the assessment;
 - 2) Act as a principal point of contact to keep the victim apprised of all developments;
 - 3) Ensure that safety planning and danger assessment is made available to the victim; and
 - 4) Report the findings of the danger assessment to the chief who will make decisions concerning appropriate sanctions, administrative actions, and referrals for the accused employee.

C. VICTIM SAFETY AND PROTECTION

1. The department shall work with community resources and advocacy agencies to connect victims and their children with appropriate services.
2. The command staff member designated as the principal contact for the victim shall inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.
3. All employees shall be aware of possible victim/witness intimidation or coercion and the increased danger when the victim leaves an abusive partner. The designated principal contact shall assist the victim and children in safety planning and caution the victim to be alert to stalking activities.
4. If an officer suspects intimidation or coercion of the victim/witness is occurring, the officer shall prepare a written report to be delivered

immediately to the investigator in charge of the case through the chain of command.

- a. In order to determine whether the victim/witness is being intimidated or coerced, the investigator in charge shall seek out secondary sources of information.
- b. Given the possibility that a victim will recant or choose not to participate in court proceedings, supplemental evidence shall be sought out and preserved.

D. POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

1. PARALLEL CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS

- a. When possible, the department shall conduct separate parallel administrative and criminal investigations of alleged incidents of police employee domestic violence in a manner that maintains the integrity of both investigations and promotes zero tolerance.
- b. Regardless of the outcome of the criminal case, if the facts of the case indicate that domestic violence has occurred or any department policies have been violated, administrative action shall be taken independent of any criminal proceedings as soon as practicable.
- c. The department will adhere to and observe all necessary protocols to ensure an accused employee's departmental, union, and legal rights are upheld during the administrative and criminal investigations.

2. ADMINISTRATIVE INVESTIGATION

- a. The responsibility to complete the administrative investigation of a police employee domestic violence incident shall rest with the Internal Affairs Supervisor (see the department policy regarding **Internal Affairs**).
- b. The chief may ask an outside law enforcement agency to conduct the administrative investigation.
- c. Regardless of whether an arrest was made on scene, the investigating official shall conduct an independent, comprehensive administrative investigation using standard elements of criminal investigations.
- d. Victims and witnesses shall be re-interviewed and their statements recorded; crime scene evidence, photographs, and medical records accessed; and 911 tapes requested.

3. Where sufficient information/evidence exists, the department shall take immediate administrative action against the accused employee

that may include removal of badge and service weapons, reassignment, sanctions, suspension, or termination. Placing an employee on administrative leave with pay is not disciplinary and is often appropriate while conducting an investigation.

- a. When an investigation of an incident uncovers employees who had knowledge of violence on the part of another employee but failed to notify the department or engaged in actions intended to interfere with the investigation, the department shall investigate those employees and take disciplinary action and criminally charge as warranted.
- b. The chief shall determine whether and when the accused employee should be issued an administrative order of protection.
- c. If administrative policies and/or administrative orders of protection are violated or sufficient concern exists regarding a violation, the department shall initiate an independent administrative investigation, seize firearms as allowed under department policy as soon as practicable, and take disciplinary action up to and including dismissal.
- d. In determining the proper course of administrative action, a department shall consider factors including the level of danger an employee poses as indicated by the outcome of the danger assessment of the employee, the employee's history of compliance with departmental rules, prior written or verbal threats, history of aggressive behaviors, and existence of an alcohol or substance abuse problem.
- e. If the accused employee is assigned enforcement duties while the administrative and/or criminal investigations are under way, those duties should not include response to domestic violence calls.
- f. If the department determines through an administrative investigation that the employee violated department policy, regardless of how the employee pleads in response to criminal charges, the department may employ the full range of administrative sanctions.
- g. Any employee determined through an administrative investigation to have committed domestic violence shall be terminated from the department.

4. CRIMINAL INVESTIGATIONS AND DECISIONS

- a. The responsibility to complete a criminal investigation of an incident of police employee domestic violence shall rest with the domestic violence unit of the department, or in the event that no such unit exists, the criminal investigations unit or detective division.

- b. The chief may ask an outside law enforcement agency to conduct the criminal investigation.
- c. The investigating official shall conduct criminal investigations as would be the case for any other criminal violation.
- d. In accordance with the employee's and victim's privacy rights, the investigating official or agency shall conduct sufficient interviews (preferably taped) of family members, friends, neighbors, colleagues, and others who may have information regarding criminal charges.
- e. Even though an initial report may already exist concerning a police employee, reports of any subsequent or additional criminal or non-criminal incidents, which may include fellow employees engaging in surveillance or intimidation of the victim, shall be documented in separate incident reports, assigned a case number, cross-referenced with the original case number and investigated thoroughly.
- f. The department shall completely investigate the charges and, where warranted, seek prosecution even in cases where the victim recants.
- g. The department shall establish a liaison to work with the prosecuting attorney for each case. This officer shall present all the information to the prosecuting attorney for action and ask that decisions about the adjudication of the case be made in a timely manner.
- h. As with any other case for criminal prosecution, the investigating officer shall request filing of court papers/complaints.
- i. Any employee convicted through criminal proceedings of a domestic violence crime shall be terminated from the department.

E. Termination Procedures

1. Upon the decision by the appointing authority to terminate an employee, the chief shall follow in accordance with department policy and state law.
 - a. Notify the employee, in writing, of the effective date of termination;
 - b. Inform the employee of available support services, to include counseling; and,
 - c. Ensure that the victim is notified in a timely manner and offered available assistance, to include safety planning.
2. Federal law prohibits anyone convicted of a misdemeanor domestic violence crime from possessing firearms. All sworn officers must, as a condition of employment, be able to lawfully carry a firearm. Also, it is

the policy of the Lancaster Police Department that all officers will hold and maintain a License to Carry Firearms issued from Massachusetts. The department shall ensure compliance with federal and State law. Termination is required if an officer becomes barred from carrying a firearm, or loses his/her ability to possess and maintain a Massachusetts LTC.

¹ M.G.L. c. 209A s. 6.