

ELIZABETH POLICE DEPARTMENT GENERAL ORDERS



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SUBJECT: EMPLOYEE INVOLVED DOMESTIC VIOLENCE INVESTIGATIONS

EFFECTIVE DATE:

December 22, 2020

ACCREDITATION STANDARDS: 1.3.2

BY THE ORDER OF:

Chief Giacomo Sacca

BY AUTHORITY OF:

Police Director Earl J. Graves

SUPERSEDES ORDER #:

PURPOSE: The purpose of this policy is to maintain a process for handling matters of domestic violence involving police employees. This policy addresses instances when the police employee is alleged to have committed acts of domestic violence and instances when the police employee is a victim of domestic violence. This policy is applicable to all members of this department, both sworn and non-sworn. This policy supplements and does not supplant this department's policy on domestic violence investigations.

POLICY: It is the policy of the Elizabeth Police Department to adopt a position of zero tolerance regarding domestic violence. All domestic violence matters involving employees of this department will be investigated in strict accordance with the New Jersey Attorney General's Guidelines, the appropriate county prosecutor's guidelines, applicable federal and state laws and this department's written directive system.

PROCEDURE:

I. GENERAL

- A. This department will act quickly where incidents of domestic violence are alleged to have occurred to protect the victim, arrest the actor where appropriate, and conduct parallel administrative and criminal investigations. Additionally, this department will strive to develop and implement appropriate, case-specific remedies to the situation.
- B. 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 N.J.S.A. 2C: 29-2b, 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. Domestic violence investigation guidelines can be found on the DCJ Website http://www.nj.gov/oag/dcj/agguide/directives/dv_manual.htm.
 22. A listing of all Attorney General guidelines can be found on the NJ DCJ Website at <http://www.nj.gov/oag/dcj/agguide.htm>.
- C. This policy adopts the definitions found within N.J.S.A. 2C: 25-19 and all Attorney General guidelines and directives involving domestic violence.
- D. This policy does not supersede:
1. *Attorney General's Guidelines on Police Procedures in Domestic Violence Cases;*
 2. *Attorney General Directive Implementing Procedures for the Seizure of Weapons from Municipal and County Law Enforcement Officers and from All State Law Enforcement Officers Involved in Domestic Violence Incidents.*
 3. These guidelines and directives remain in full force and effect and must be followed by officers responding to a domestic violence call involving a law enforcement employee.
- E. Failure of any employee to comply with any provision of this policy may subject the employee to discipline and criminal, civil, and administrative sanctions.

II. PRE-EMPLOYMENT SCREENING, BACKGROUND INVESTIGATIONS, AND EVALUATION

- A. The Chief of Police shall conduct thorough background investigations of all potential new employees to determine if there is a criminal history with particular attention to acts of domestic violence, sexual abuse, stalking, elder abuse, or child abuse, including a check of the domestic violence central registry to determine the existence of any active restraining orders and to determine if there is a history of domestic violence.
1. Candidates shall be interviewed about any history of acts of domestic violence, sexual assault, stalking, elder abuse, or child abuse and past or present restraining orders and their disposition.
 2. Those candidates with a history of perpetrating acts of domestic violence, sexual assault, stalking, elder abuse, or child abuse shall be identified and declared ineligible for employment as police officers.
- B. Following a conditional offer of employment, sworn candidates shall be required to undergo a psychological examination, performed by an experienced and licensed psychiatrist/psychologist or other mental health professional. The psychological screening should include a focus on indicators of violent or abusive tendencies or behaviors, including domestic violence, in their background.

III. EDUCATION AND TRAINING

- A. All officers shall receive at least four hours of training on domestic violence issues annually, as approved by the Division of Criminal Justice, pursuant to N.J.S.A. 2C: 25-20.
- B. All public safety telecommunicators (dispatchers) will receive annual training on how to handle a domestic violence call.
- C. All employees of this department will receive at least annual training on the impact of domestic violence within the law enforcement community and on this department's policy when a police employee is involved in a domestic violence incident.
- D. When such training is available, supervisors will receive training on:
 - 1. How to recognize potential indicators or early warning signs of domestic violence behavior by law enforcement employees;
 - 2. How to investigate indicators of potential abusive behavior or early warning signs potentially indicative of domestic violence;
 - 3. When to notify the Chief of Police of information gathered in accordance with the established chain of command;
 - 4. Available programs to assist law enforcement domestic violence victims and batterers.

IV. EARLY WARNING AND INTERVENTION

- A. Department responsibilities:
 - 1. In response to observed warning signs of domestic violence behavior or at the request of an employee, this department will provide non-punitive avenues of assistance to employees, their partners, and other family members.
 - 2. To encourage employees to take personal responsibility in seeking referrals and assistance, confidential or otherwise, and assistance from the department, or on their own initiative, to prevent a problem from escalating to the level of criminal conduct.
 - 3. When this department is aware that an employee is undergoing a separation or divorce, or that an employee is otherwise undergoing a high-conflict period with a spouse or intimate partner, and the employee is exhibiting any of the warning signs of domestic violence behavior, the department will encourage the employee to seek individual counseling.
 - 4. This department will investigate reports of domestic violence reported by family members, other employees, or neighbors of employees.
 - 5. In response to observed signs of domestic violence behavior or at the request of an employee, this department will refer the employee to employee assistance (e.g., departmental psychologist, Cop-to-Cop, etc.).

6. Any call to any residence in the town in which the resident is an employee of the Elizabeth Police Department, whether it be a Police Officer, Special Police Officer, or civilian employee; shall result in a written report naming all involved and what actions were taken. This is to be completed even if the disturbance is deemed not to be an official act of domestic violence.

B. Supervisor responsibilities

1. Supervisors shall document as an early warning indicator any information potentially indicative of domestic violence including but not limited to:
 - a. Aggressiveness:
 - 1) Excessive or increased use of force on the job;
 - 2) Inappropriate surveillance activities;
 - 3) Unusually high incidences of physical altercations and verbal disputes;
 - 4) Citizen and fellow officer complaints of unwarranted aggression or verbal abuse;
 - 5) Inappropriate treatment of animals;
 - 6) On or off-duty injuries.
 - b. Domestic violence-related issues such as monitoring, controlling, or harassing the purported victim directly or through any other person.
 - c. Deteriorating work performance:
 - 1) Tardiness;
 - 2) Excessive unscheduled absences;
 - 3) Evidence of alcohol and/or drug abuse.
2. When a supervisor notices a pattern of behavior potentially indicative of domestic violence, the supervisor will:
 - a. Address the behaviors, consistent with this department's policy on *Internal Affairs* and *Early Warning System*, through an interview with the employee and document all contacts. Under no circumstances will the identity of a reporting victim or witness be disclosed to the employee at this stage.
 - b. Forward all written reports detailing the behaviors to the Chief of Police in a timely manner to determine discipline or other appropriate action.
 - c. Prepare and submit to the Chief of Police a written request for a psychological exam or counseling by a licensed psychologist,

psychiatrist, or other mental health professional. The supervisor's written report will include the factual basis for the referral and will attach any relevant supporting documentation. A copy of the report will also be forwarded to the Union County Prosecutor for consideration and discussion with the Chief of Police.

- d. Under no circumstances will the identity of a reporting victim or witness be disclosed to the employee at this stage.
3. When a supervisor determines that an officer is an actor in a domestic violence, the supervisor will:
 - a. Prepare and submit to the Chief of Police a written request for a psychological exam/counseling by a licensed psychologist, psychiatrist, or other mental health professional. The psychologist, psychiatrist, or mental health professional must be provided with all reports and information available regarding the domestic violence incident(s). The psychologist, psychiatrist, or mental health professional must attempt to contact the reported victim for his/her input and must be provided with the reported victim's contact information; the contact information must be kept confidential. A copy of the report will also be forwarded to the Union County Prosecutor.
 - b. Request that the Chief of Police order the officer to seek assistance from a program for batterers that has been approved by the Union County Prosecutor or the Chief of Police. If such a program is not available, request that the Chief of Police order the officer to a counselor who has demonstrable training and experience in counseling domestic violence batterers. The cost of the counseling is to be paid by the officer.
 - c. Contact and inform the victim of the concerns regarding the officer's behavior, that the officer has been ordered to undergo a psychological evaluation, that the evaluator will be contacting the victim. That the victim is not required to speak with the evaluator and, that any information disclosed by the victim may not be confidential. The supervisor will document that he/she informed the reported victim concerning this procedure.
 - d. If the Chief of Police decides to take disciplinary action against the officer, it will provide a copy of the psychological report to the officer in a timely manner, unless doing so would endanger the safety of the victim.

C. Employee responsibilities:

1. When an employee knows or is made aware of any information of abuse or violence involving a fellow employee, the employee must report that knowledge or information to a supervisor.
2. Employees have an obligation to cooperate with any investigation of a domestic violence case involving a law enforcement employee, except in the case where the employee is the victim.

3. Employees may be subject to criminal charges or discipline if they:
 - a. Interfere with domestic violence cases involving themselves or fellow employees;
 - b. Intimidate or coerce witnesses or victims (e.g. surveillance, harassment, stalking, threatening, or false reporting).
4. Employees who are involved in any domestic violence incident involving a police response, regardless of jurisdiction, must immediately notify the on-duty Watch Commander, or Patrol Supervisor, and provide notice of the court dates, times, appearances, and proceedings. Failure to do so may result in disciplinary action.
5. Employees, who apply for or are the subject of any domestic violence restraining order or protective order proceeding whether or not the order is issued and regardless of jurisdiction, must immediately notify their supervisor and provide a copy of the order, if issued. Failure to do so may result in disciplinary action.

V. INCIDENT RESPONSE PROTOCOLS

A. Department-wide response:

1. All personnel will accept, document, and preserve all calls or reports, including those made anonymously, regarding domestic violence as on-the-record information. The responding officer shall complete a detailed incident report. This report shall be completed regardless of whether or not an arrest is made and regardless of whether or not a criminal offense has been committed.
2. All reports of possible criminal activity implicating law enforcement employees in domestic violence will be documented in accordance with policy governing the handling of reports of domestic violence incidents.
3. A copy of the report alleging domestic violence by an employee will be forwarded to the Chief of Police and the Internal Affairs supervisor through the chain of command.
 - a. The department will make all such incident reports available to the victim without cost.
 - b. The department will make all such incident reports available to the employee at no cost.
4. The Internal Affairs supervisor is the designated principal law enforcement contact person. The Internal Affairs supervisor's information must be provided to the victim. The Internal Affairs supervisor will:
 - a. Advise the victim to immediately report any violation of any restraining order to the police department where it occurred and to the designated principal law enforcement contact person.

- b. Advise the victim to contact him/her if there is any harassment, witness tampering or intimidation by a law enforcement employee.
- c. Intervene if the employee or agents of the employee are harassing or intimidating the victim or violating no-contact orders.
- d. Provide the victim with the name and contact number of the domestic violence assistant prosecutor in the county where the actor employee is charged with committing a criminal offense, contempt of a domestic violence restraining order, or subject to a motion for forfeiture of weapons. The victim should also be provided with the name of the victim-witness advocate or detective in the prosecutor's office who have been designated as the resource persons in the prosecutor's office.
- e. Provide the victim with contact information for a local domestic violence program and with approved safety planning material.
- f. Keep the victim apprised of all case developments.
- g. Ensure that the chain-of-command, including the Chief of Police, is regularly briefed on both the administrative and criminal investigations.
- h. Assist the victim with safety planning should the employee be terminated. Assistance will be provided by linking the victim with resources and preparation planning either within the department or via outside government and non-profit agencies.

B. Communications Center Response

- 1. Communications officers/dispatchers will assign a high priority to all domestic violence calls, including those that involve or appear to involve law enforcement personnel from any agency.
- 2. Communications officers/dispatchers will immediately notify the on duty Watch Commander, or Patrol Supervisor, of any domestic violence call received that involves, or appears to involve, law enforcement personnel from any agency.
- 3. The on duty Watch Commander, or Patrol Supervisor, will prepare and preserve documentation of the facts and circumstances of the call, including any relevant recorded call for service, for use in potential administrative or criminal investigations upon knowledge or notification that the domestic violence incident involved law enforcement personnel from any agency.

C. Patrol response

- 1. Upon arrival on the scene of a domestic violence call or incident involving a law enforcement employee, the primary patrol unit will immediately notify dispatch and request the supervisor to report to the scene, regardless of the involved employee's jurisdiction.

2. Responding officers will follow standard police response procedures as set forth in the *Attorney General's Guidelines on Police Response Procedures in Domestic Violence Cases* and policies of this department.
- D. On-scene shift supervisor response
1. The supervisor will immediately report to the scene of all law enforcement employee domestic violence incidents regardless of the involved employee's jurisdiction.
 2. The supervisor will assume command and ensure that the scene is secured and that all evidence is collected in accordance with approved investigative procedures.
 3. The supervisor will immediately notify the Union County Prosecutor's Office of any domestic violence incident involving a law enforcement officer for direction on handling the case regardless of whether criminal charges are filed or a whether a restraining order is issued.
 4. The supervisor will ensure that an arrest is made in cases when mandatory arrest is required or when probable cause exists.
 5. If the alleged offender has left the scene and probable cause exists, the supervisor will:
 - a. Exhaust all reasonable means to locate the alleged offender;
 - b. Ensure that an arrest warrant is sought, if unable to locate the alleged offender;
 - c. Document all subsequent actions in a timely manner.
 6. If the victim has left the scene, the supervisor will make every effort to follow through on the investigation and attempt to locate the victim.
 7. Arrest of both parties involved in a domestic violence incident should be avoided. The supervisor will ensure that a thorough investigation is conducted, and an arrest of the primary aggressor is made, in accordance with state law. In determining which party is the primary aggressor where both parties exhibit signs of injury, the supervisor should consider such factors as:
 - a. Any history of domestic violence or violent acts by either person;
 - b. Whether the injury was caused by a person acting in self-defense;
 - c. Relative size and strength of the persons involved;
 - d. The comparative severity of the injuries suffered or inflicted;
 - e. Each person's fear of physical injury resulting from the other person's threatened use or history of use of force.
 8. The supervisor will ensure the victim is informed of the following:

- a. Victims' rights as set forth in the *Victim Notification Form*;
 - b. Procedures for obtaining a restraining order;
 - c. The availability of a domestic violence crisis response team member or a domestic violence advocate immediately following the incident;
 - d. The availability of confidential transportation to a location that can provide improved victim safety.
 - e. Community resources, local domestic violence victim services, including shelter, and safety planning information.
9. Whenever a domestic violence call involving a law enforcement officer does not result in an arrest or a warrant is not sought, the supervisor will explain in a written report why these actions were not taken, and the report shall be forwarded to the Internal Affairs supervisor.
 10. The supervisor will notify the Chief of Police through the chain-of-command as soon as possible. If the employee is from another jurisdiction, the supervisor will ensure that notification is made to the Chief of Police or law enforcement chief executive in the department where the accused employee is employed. All notifications, and attempts to notify, will be fully documented in writing and shall be forwarded to the Internal Affairs supervisor.
 11. The supervisor will ensure that dispatch is notified that the incident involves a law enforcement employee for documentation purposes in the Lawsoft CAD.

E. Additional critical considerations:

1. When responding to a domestic violence incident involving a law enforcement officer from another jurisdiction, all responding officers, investigators, and supervisors will follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from this department as set forth in the *Attorney General's Guidelines on Police Response to Domestic Violence Cases* and *Attorney General Weapons Seizure Directives*.
2. When responding to a domestic violence incident involving a law enforcement officer from another county, the Chief of Police or his/her designee shall notify the county prosecutor where the officer is employed.
3. If the reported incident involves the Chief of Police the supervisor will immediately notify the Union County Prosecutor's Office, which may directly oversee the criminal investigation. If warranted, the Union County Prosecutor may designate a member of that office to respond to the scene of all domestic violence incidents involving a Chief of Police.
4. In responding to domestic violence incidents when the victim is a law enforcement officer, standard domestic violence response and

investigation procedures should be followed as set forth in *the Attorney General's Guidelines on Police Response to Domestic Violence Cases*.

5. In responding to domestic violence incidents when the parties involved are both law enforcement officers, standard domestic violence response and investigation procedures as set forth in the *Attorney General's Guidelines on Police Response to Domestic Violence Cases* and the *Attorney General Weapons Seizure Directives* should be followed.
6. When responding to a domestic violence complaint involving a law enforcement officer employed by the federal government or out-of-state agency, all responding officers, investigators and supervisors will follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from this department as set forth in the *Attorney General's Guidelines on Police Response Procedures in Domestic Violence Cases* and in the *Attorney General's Weapons Seizure Directives*. When applicable, all weapons are to be seized. The Chief of Police shall notify the federal government agency that employs the officer.

F. Department follow-up:

1. In a timely manner, the Chief of Police or his/her designee shall ensure that all employees who responded to a law enforcement officer domestic violence call are debriefed. The debriefing should include:
 - a. A review of department confidentiality guidelines;
 - b. A direct order prohibiting discussion of the incident outside of the official inquiry;
 - c. A clear delineation of assignments.
2. Follow-up investigators will proactively seek out information on existing protective orders and, if found, will enforce them and any applicable state and federal firearms laws and determine whether the officer violated department policy by failing to report the temporary or final restraining order.
3. Arrest warrants charging law enforcement officers with domestic violence and protective orders issued at a later time should all be served by no fewer than two officers with at least one being of senior rank to the officer being served. In cases where firearms have not previously been seized, firearms will be seized and decisions about seized weapons shall be made as set forth in the *Attorney General's Guidelines on Police Response Procedures in Domestic Violence Cases* and in the *Attorney General Weapons Seizure Directives*.
4. This department will conduct a thorough Internal Affairs investigation even if the temporary or final restraining order is dismissed against a member of this department.

G. Response in cases involving restraining order only

1. Any law enforcement employee who is served with a temporary or final restraining order must immediately inform his/her supervisor and provide a copy of the order to the supervisor.
2. Whenever this department is notified that a temporary or final restraining order is issued against a member of this department, this department will serve the restraining order, if it has not already been served, or will assist any other agency in ensuring the immediate service of the restraining order.
3. This department will also ensure that a supervisory officer will be present at any time the law enforcement employee is removing personal items from any common residence with the victim pursuant to the restraining order.
4. If a law enforcement officer's duty and off-duty firearms and weapons have not already been turned in pursuant to the *Attorney General Weapons Seizure Directives*, the weapons shall be immediately seized by this department.
5. No weapon is to be returned or issued to the law enforcement officer except pursuant to the procedure set forth in *Attorney General Weapons Seizure Directives*.
6. This department will ensure that an Internal Affairs investigation is initiated pursuant to the procedures set forth in *the Attorney General's Internal Affairs Policy and Procedures Manual*.
7. The Chief of Police or his/her designee will immediately notify the Union Prosecutor's Office of the issuance of a restraining order against the officer.

VI. SEIZURE OF WEAPONS

- A. See [Attorney General Directives Implementing Procedures for the Seizure of Weapons from Municipal and County Law Enforcement Officers and from All State Law Enforcement Officers Involved in Domestic Violence Incidents \[Directives 2000-3 and 2000-4 dated September 1, 2000\]](#).

VII. VICTIM SAFETY AND PROTECTION

- A. This department will make all reasonable efforts to:
 1. Provide law enforcement protection and other safety measures to a victim of law enforcement officer domestic violence.
 - a. Directed patrol initiatives including:
 - 1) Drive-bys;
 - 2) Dismounted patrols;
 - 3) Welfare checks.
 2. Assist in arranging for the transportation of the victim to a safe place when necessary.

3. Ensure victim contact with trained domestic violence advocates for safety planning.
 4. These protective measures will remain in effect even if the employee is terminated as a result of committing domestic violence.
- B. Victim notification – to better ensure victim safety, the Internal Affairs supervisor will inform the victim as to the status of the case as far in advance as possible to all impending actions taken against or with the employee. This department will provide reasonable assistance to help the victim with safety measures.
 - C. Confidentiality of victim location – if the victim wishes to be placed in an undisclosed safe home, she/he may be transported by another party in lieu of a law enforcement officer. Those law enforcement employees who do have contact with the victim must keep all information concerning his/her whereabouts and safety plans confidential.
 - D. Prohibition of law enforcement court accompaniment – no law enforcement officer will attend any domestic violence related court proceeding of any law enforcement employee unless subpoenaed to appear, or authorized by the Chief of Police, or as part of the investigation.

VIII. POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

- A. This department shall conduct an administrative investigation of an alleged incident of domestic violence committed by a sworn employee of the department in accordance with *the Attorney General's Internal Affairs Policy and Procedures Manual*.

IX. SUPPLEMENTAL

- A. Any police officer found guilty of acts related to domestic violence in criminal court, civil court, or administrative hearing(s) may be subject to termination, in accordance with the Elizabeth Police Department Rules and Regulations, upon final disciplinary action if the guilty finding abrogates their police powers or the duty to carry weapons.
- B. Any civilian employee of this department found guilty of acts related to domestic violence in criminal or civil court, or administrative hearing(s) may be subject to termination upon final disciplinary action if the conviction negates any certifications required to perform any of the essential functions of their position. Examples include CJIS access, etc.

X. DOMESTIC VIOLENCE INVOLVING NON-SWORN EMPLOYEES

- A. Any non-sworn employee accused of an act of domestic violence shall report the incident to their immediate supervisor.
- B. The supervisor shall report the incident to the Internal Affairs supervisor. The Internal affairs supervisor shall notify the Chief of Police.
- C. An investigation shall be conducted to determine if the domestic violence incident prohibits the employee from performing the essential functions of their job.

