

## Domestic Violence involving Law Enforcement

### Model Policy

#### 1.0 PURPOSE

1.1 This policy recognizes that the profession of law enforcement is not immune from members committing domestic violence. The purpose of this policy is to establish procedures for handling acts of domestic violence committed by members or employees, to offer specific guidance for handling domestic violence cases involving employees of any law enforcement agency, and for implementing early recognition and prevention strategies.

**Comment: An alternative to the purpose language above might be to remove the first sentence.**

1.2 This policy will provide managers, members, and all department employees with guidance in addressing incidents where one (or more) party at a reported domestic violence incident is a sworn member, of any rank in the department. This policy offers a comprehensive, pro-active approach to domestic violence by members with an emphasis on victim safety. Federal law prohibits persons convicted of qualifying misdemeanor domestic violence crimes from possessing firearms.

1.3 Members found guilty of a qualifying domestic violence crime through criminal proceedings shall be disciplined up to and including termination.

#### 2.0 DEFINITIONS

2.1 "Domestic Assault" is defined in the Agency Domestic Violence Response Policy or Vermont Statute.

2.1.1 A domestic assault (T.13 VSA Sec 1041) occurs when any person who attempts to cause or willfully or recklessly causes bodily injury to a family or household member, or willfully causes a family or household member to fear imminent serious bodily injury.

2.2 Member is defined as a sworn member of the law enforcement department or agency.

2.3 Police Officer/Officer is defined as a member of any other police department

2.4 Department Employee is defined as a civilian employee of a department.

#### 3.0 POLICY

3.1 While prioritizing the safety of victims, this policy is designed to:

(1) Address prevention through hiring and training practices,

(2) Provide direction to supervisors for intervention when warning signs of domestic violence are evident,

(3) Institutionalize a structured response to reported incidents of domestic violence involving sworn members as well as all employees of any law enforcement agency, and

(4) Offer direction for conducting the subsequent internal and criminal investigations.

3.2 Components of the policy include:

- (1) Hiring practices;
- (2) Early Warning and Intervention;
- (3) Incident Response Protocol;
- (4) Victim Safety and Protection; and
- (5) Post-Incident administrative and criminal decisions

3.3 Notwithstanding what is contained herein, members are required to follow procedures set forth in the [Agency Domestic Violence Response Policy] regardless of identity of the parties involved in the investigation.

3.4 The department will adhere to a zero-tolerance policy towards members who commit acts of domestic violence.

3.5 Hiring Practices, Early Warning and Intervention

NOTE: It should be noted from the outset that while this early warning and intervention initiative is set forth in this policy directly pertaining to domestic violence, that all members should consider it as a meaningful way to identify and prevent other emerging problems that peers may be experiencing. Members should also be cognizant of behaviors of co-workers that are indications of victimization or perpetration of domestic violence.

(1) Hiring Process Will Include:

(A) All applicants shall be asked if they have engaged in or been investigated for domestic violence related offenses, asked about any past arrests, suspended sentences, diversion programs, and convictions.

(B) All applicants shall be asked if they have ever been served a protective order related to domestic violence, elder abuse, child abuse, sexual assault and/or stalking.

(C) Any answers in the affirmative to the above inquires, applicants will be screened out as necessary.

(2) The Department shall conduct thorough background investigations of all new applicants considered for employment. All applicants shall be questioned about past allegations, arrests and/or convictions of domestic violence, sexual assaults and stalking as well as past and present protective orders.

(3) Any applicant considered for employment with a history of committing violence, such as domestic violence, child abuse, elder abuse, stalking, animal cruelty, sexual assaults, etc., will not be hired.

(4) Candidates shall be clearly informed of the department's position of zero-tolerance concerning domestic violence by members.

***[The use of a polygraph in the hiring process is strongly encouraged.]***

### 3.6 Post-Hire Intervention

(1) The department shall, either in response to observed warning signs or at the request of a member, intimate partner, or other family member, provide non-punitive avenues of assistance, such as the Employee Assistance Program, before an act of domestic violence occurs.

(2) The department shall inform members of the procedure for seeking confidential referrals, either internally (Department Clinician) or externally, to confidential counseling services.

(3) 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 and shall be investigated both internally (via a DPS 1001 as required by Section III, Article III of the VSP Rules and Regulations) and criminally.

### 3.7 Supervisor Responsibilities

(1) Supervisors shall be cognizant of any pattern of abusive behavior potentially indicative of domestic violence, including but not limited to the following:

(A) 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 member complaints of unwarranted aggression and verbal abuse
- (e) On- or off-duty member injuries

(B) Domestic Violence-Related Issues:

(a) Monitoring and controlling any family member or intimate partner through such means as excessive phone calls or contact by other means.

(b) Stalking any intimate partner or family member

(2) If the supervisor notes a pattern of problematic or early warning behavior, the supervisor shall:

(A) Address the behaviors through a review or other contact with the member and document all contacts

(B) Forward written reports capturing the behaviors to the member's Commander through the chain of command in a timely manner

### 3.8 Member Responsibilities

(1) Members are encouraged to take personal responsibility in seeking confidential referrals and assistance from the department to prevent a problem from escalating. (It should be noted that couples counseling is strongly discouraged when domestic violence is suspected as it may compromise victim's safety). Domestic Abuse Education Program is a recommended tool.

**Comment [FXA1]:** Rick Gauthier's draft removed the sentence on counseling. Both VSP and BPD have it in the policy. Recommend to keep it in unless a compelling reason exists otherwise.

(2) Members who engage in the following actions will be subject to discipline:

(A) Failure to report knowledge of abuse or violence involving a fellow member or other department employee.

(B) Failure to cooperate with the investigation of a member domestic violence case (except in the case where that member is the victim)

(C) Interference with cases involving themselves or fellow members, i.e. intimidation/coercion of witnesses or victims, surveillance, harassment, stalking, threatening, or falsely reporting

(3) Members who learn they are the subject of a criminal investigation or response by a law enforcement agency to a domestic violence related call, regardless of jurisdiction, are required to immediately make a report to their supervisors and, if applicable, provide notice of the court dates, times, appearances, and proceedings. Failure to do so will result in discipline.

(4) Members 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 qualifying protective order (under existing law), the member shall surrender all firearms unless department policy allows for possession of the primary service weapon. Failure to do so will result in discipline.

Any member who threatens, harasses, or abuses another using [the agency's/department] resources such as equipment or work time shall be subject to disciplinary action, up to and including terminations. [This department] shall not tolerate domestic violence against another while in the agency facility, vehicles, or conduction business on this agency's behalf.

**Comment [FXA2]:** The following two paragraphs in red are part of the Rick Gauthier language.

When any member of the [named agency] receives a call that involves an agency member and is criminal in nature but occurred within another jurisdiction, the other jurisdiction, if not already notified, will be notified by the [agency head] or his/her designee. The department will advise the other agency of the location, individuals involved, and all other pertinent information. The department will request copies of all reports from the other agency/department.

### 4.0 PROCEDURES

#### 4.1 Incident Response Protocols

##### (1) Department-Wide Response

(A) The department shall accept, document, and preserve all calls or reports, including those made anonymously, regarding domestic violence as on the-record information.

(B) All reports of possible criminal activity implicating members or other police employees from any agency in domestic violence shall be documented in accordance with the policies governing the handling of reports of domestic violence involving civilians.

#### (2) Communications Response

(A) Emergency Communications Dispatchers shall immediately notify the supervisor on duty of any suspected domestic violence call received that involves, or appears to involve, a police employee, regardless of the involved employee's jurisdiction.

(B) Emergency Communications Dispatchers shall prepare and preserve documentation of the facts and circumstances of the call, including the 911 recordings, for use in potential administrative or criminal investigations.

#### (3) Responding Unit's Responsibilities

(A) Upon arrival on the scene of a domestic dispute call or incident involving a police employee from any agency, the primary responding unit shall immediately notify dispatch and request the on duty member in charge report to the scene, regardless of the involved officer or employee's jurisdiction.

Standard domestic violence and investigation procedures shall be followed.

In responding to domestic violence incidents in which both parties involved are sworn officers (regardless of agency), standard domestic violence response and investigation procedures shall be followed. If an arrest is made, all service weapons assigned to the accused officer will be confiscated.

#### (4) On-Scene Supervisor Response

(A) A supervisor shall report to the scene of all police officer domestic dispute incidents including a police employee, regardless of the involved employee's jurisdiction. Members responding to a report of a domestic dispute involving a member of the department /agency will, when possible, call for a member of a higher rank than the member involved in the domestic dispute to respond. **The Chief of Police shall be notified or his/her designee. If the supervisor's Chief of Police is involved, the supervisor will contact the [state's attorney, town manager, mayor, etc].**

(a) 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.

(i) The supervisor shall ensure that the [Agency/department Domestic Violence Response Policy] is adhered to in every respect.

(b) Whenever a member or employee involved domestic violence call does not result in an arrest, the supervisor shall explain in a written report.

**Comment [FXA3]:** Rick Gauthier wording included the following sentence. Anonymous reports will not be turned away simply because they are anonymous, but they will not be placed on the record until/unless they can be substantiated.

The language that is provided is in the VSP and BPD policy.

**Comment [FXA4]:** Rick Gauthier language.

(c) The on-scene supervisor shall notify the member's Commander/Chief as soon as possible of the incident. In the event that the officer or employee is from another jurisdiction, the Commander/Chief or his/her designee shall ensure that the officer's chief is notified. All notifications, and attempts to notify, shall be fully documented.

(5) Department Follow-Up

(A) In a timely manner, the member's Commander shall ensure that all members who responded to a police employee domestic dispute call are debriefed. The debriefing shall include the following:

- (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.

(B) Follow-up investigators shall 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 members with domestic violence and protective orders issued at a later time shall be served by no fewer than two members with at least one being a supervisor to the member/officer being served. In cases where firearms have not previously been seized, department-issued firearms shall be seized in accordance with any administrative order issued by the department and other firearms via any other legal means.

(D) In the event the protection order expires or the victim asks that it be discontinued, the department shall still conduct a thorough internal investigation.

(E) Following any reported incident for which Vermont State Police is the investigating agency, the department shall designate a member of the command staff to perform the following duties:

- (a) Act as a principal point of contact to keep the victim apprised of all developments
- (b) Offer safety planning to the victim
- (c). Report the findings of the safety planning to the Colonel who will make decisions concerning appropriate sanctions, administrative actions, and referrals for the accused member.
- (d) Refer the victim to the community based victim advocates and advocacy groups.

4.2 Victim Safety and Protection

(1) The command staff member designated as principal contact for the victim shall inform the victim of confidentiality policies and their limitations, and attempt to ensure that confidentiality is maintained throughout the case.

(2) 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 and provide instructions regarding the need to report any concerning behavior or conduct.

(3) If an employee suspect's intimidation or coercion of the victim/witness is occurring, the employee shall prepare a written report to be delivered immediately to the investigator in charge of the case and the members Commander 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.

(C) Victim should be referred to the police-based victim advocate or to the 24-hour community based advocacy groups.

In the event that a department member is a victim of domestic violence, that member will, if applicable, be provided with the time off necessary to attend hearings in which he/she is involved.

#### 4.3 Post-Incident Administrative and Criminal Decisions

(1) The department shall conduct internal and criminal investigations of alleged incidents of member domestic violence in a manner that maintains the integrity of both investigations and promotes zero-tolerance.

(2) 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.

(3) The department will adhere to and observe all necessary protocols to ensure accused member's departmental, union, and legal rights are upheld during the administrative and criminal investigations.

(A) Where sufficient information/evidence exists, the department shall take immediate administrative action against the accused member that may include removal of credentials and service weapons, reassignment, discipline, or termination as appropriate.

(B) When an investigation of an incident uncovers employees who had knowledge of violence on the part of another member or other department employee but failed to notify the department or engaged in actions intended to interfere with the investigation, the department shall investigate those members/employees and take disciplinary action as appropriate.

(C) If the department determines through an internal investigation that the member violated department policy, regardless of whether the member plead nolo contendere in response to criminal charges, the department may employ the full range of administrative sanctions.

(D) Any member determined through an administrative investigation to have committed domestic violence shall be subject to discipline up to, and including, termination.

#### 4.4 Other Members Will Not Accompany Suspects to Court Proceedings

(1) Agency/Department members will not accompany member suspects to any domestic related court proceedings while on duty unless subpoenaed to appear or ordered to do so by their chain of command. If appearing while off duty they will neither carry nor display any Vermont State Police equipment to include assigned firearms(s) or insignias on their person, concealed or not. They must be aware of the fact that their mere presence in domestic violence related actions may appear intimidating to the victims.

4.5 Using Department Resources to Commit Domestic Violence is **Prohibited**

(1) Any member, who threatens, harasses, or abuses someone using Departmental resources such as work time, workplace phones, Fax machines, mail, E-mail, or other means shall be subject to corrective or disciplinary action.

**Comment [FXA5]:** Both 4.5 and 4.5.(1) are not included in Rick Gauthier's draft. Recommend it be included in LEAB draft. It is in the VSP policy.