

**BAY CITY DEPARTMENT OF PUBLIC SAFETY
BAY CITY, MICHIGAN**

SECTION 1 - ADMINISTRATIVE
GENERAL ORDER

September 8, 2015
INDEX NO. 1.23

DOMESTIC MISCONDUCT

I. PURPOSE:

This policy recognizes that public safety professionals are not immune from committing domestic violence against their intimate partners. The purpose of this policy is to establish procedures for handling acts of domestic violence committed by members of the Bay City Department of Public Safety. This policy will provide all department employees guidance in addressing incidents where one (or more) party to a reported domestic violence incident is an employee, whether sworn or civilian, of any rank in the department.

II. DEFINITIONS:

The Bay City Department of Public Safety defines this type of conduct very broadly. This definition may be broader than State law.

- A. "Domestic misconduct" refers to an act or pattern of violence perpetrated by a Department of Public Safety employee upon his or her intimate partner not done in defense of self, others, or property, including but not limited to the following:
1. Bodily injury or threat of imminent bodily injury
 2. Sexual battery
 3. Physical restraint
 4. Property crime directed at the victim
 5. Stalking
 6. Violation of a court order of protection or similar injunction
 7. Death threats or death
- B. An "intimate partner" of a Department of Public Safety employee is 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
 5. Is cohabitating or has cohabitated with the employee
 6. A child of the employee
 7. A parent of the employee
- C. "Protection order" refers to 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:

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1. Violent or threatening acts against another person
 2. Stalking or harassment of another person
 3. Contact or communication with another person
 4. Physical proximity to another person
- D. Collateral misconduct: Any conduct by another member of the Bay City Department of Public Safety to assist another department employee in the continuation of the act of domestic misconduct. This would also include any actions designed to shield the employee or impair the ability of the Department to be informed of the domestic misconduct.
- E. Self-reporting: It is the responsibility of the employee to provide the department with specific notice whenever he/she is involved in any acts of domestic misconduct. This is specifically true whenever the employee is the subject of any judicial proceeding concerning these types of acts, whether the employee is the person accused or the victim.

III. INCIDENT RESPONSE PROTOCOLS

- A. The department shall accept, document, and preserve all reports regarding employee involved domestic violence. Incidents involving Bay City Department of Public Safety employees shall be turned over to an outside agency for investigation.
- B. All reports of possible criminal activity implicating Department of Public Safety employees in domestic misconduct shall be documented in accordance with the policies governing the handling of reports of domestic violence involving civilians.
- C. A copy of the report alleging domestic violence by or against an employee shall be forwarded to the Public Safety Director through the chain of command.
- D. All such incident reports shall be made available by the department to the victim without cost.

IV. PATROL RESPONSE

- A. Upon arrival on the scene of a domestic violence call or incident involving a Department of Public Safety employee, the primary patrol unit shall immediately notify dispatch and request a supervisor report to the scene.
- B. The responding officers shall perform the following actions:
 1. Obtain needed medical assistance
 2. Address the immediate safety of all parties involved

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3. Secure the scene and preserve evidence
4. Note all excited utterances, admissions and/or incriminating statements

V. ON-SCENE SUPERVISOR RESPONSE

- A. A supervisor shall report to the scene of all Department of Public Safety employee domestic violence incidents within the City of Bay City; including those involving a police officer from another jurisdiction.
- B. The on-scene supervisor shall request an outside agency to investigate the incident if it involves a Bay City Department of Public Safety employee.
- 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.
- D. Whenever a department law enforcement officer is arrested, the supervisor shall relieve the accused officer of all service weapons.
- E. The supervisor shall inquire whether the victim wants any firearms removed from the home for safekeeping by the department and make arrangements as necessary.
- F. The on-scene supervisor shall ensure the victim is informed of the following:
 1. The department's policy on employee domestic violence, procedures and cross-jurisdictional responsibilities as they apply
 2. The standard of probable cause for arrest
 3. Procedures for obtaining protective orders
 4. The availability of an on-scene advocate
 5. The availability of confidential transportation to a location that can provide improved victim safety
 6. Community resources and local domestic violence victim service
 7. The option to remove firearms for safekeeping
- G. Whenever an employee involved domestic violence call does not result in an arrest or a warrant is not sought, the on-scene supervisor shall explain the circumstances in a written memorandum to the Public Safety Director.
- H. The on-scene supervisor shall notify the Public Safety Director through the chain of command as soon as possible. In the event that the involved party is an officer from another jurisdiction, the supervisor shall ensure that the accused officer's command is notified. All notifications, and attempts to notify, shall be fully documented.

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VI. ADDITIONAL CRITICAL CONSIDERATIONS

- A. When responding to a domestic violence complaint involving a police officer from another jurisdiction, all responding officers, and supervisors shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an employee of their own department with the exception of requesting an outside agency to handle the investigation.
- B. In the event that the reported incident involves the Public Safety Director the supervisor shall immediately notify the Prosecuting Attorney and the City Manager.
- C. In responding to domestic violence incidents where the victim is a police officer, domestic violence response and investigation procedures set forth in this General Order shall be followed.
- D. In responding to domestic violence incidents where the parties involved are both police officers, domestic violence response and investigation procedures set forth in this General Order shall be followed.
- E. If a protective order is issued against an officer, additional firearm seizure may be required under state law.

VII. DEPARTMENT FOLLOW-UP

- A. In a timely manner, the Public Safety Director shall ensure that all officers who responded to a Department of Public Safety employee domestic violence incident 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
 - 3. A clear delineation of assignments
- B. Arrest warrants charging department employees and police officers from other jurisdictions with domestic violence and protective orders issued at a later time shall be served by no fewer than two officers with at least one being a supervisor. In cases where department firearms have not previously been seized from department employees, department firearms shall be seized.
- C. In the event the protection order expires or the victim asks that it be discontinued, the department shall still conduct a thorough administrative investigation.

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VIII. VICTIM SAFETY AND PROTECTION

- A. The department shall work with the investigating agency, community resources and advocacy agencies to connect victims and their children with appropriate services.
- B. The command officer designated as principal contact for the victim shall inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.
- C. 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.
- D. If an officer suspect's intimidation or coercion of the victim/witness is occurring, the officer shall prepare a written report to be delivered immediately to the investigating agency in charge of the case through the chain of command.

IX. POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

The Department of Public Safety shall conduct a separate parallel administrative investigation of alleged incidents of employee domestic violence in a manner that maintains the integrity of both investigations and promotes zero tolerance. Regardless of the outcome of the criminal case, the Department shall uphold all administrative decisions. If the facts of the case indicate that domestic violence has occurred or any department policies have been violated, administrative action may be taken independent of any criminal proceedings as soon as practicable. 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.

The responsibility to complete the administrative investigation of a Department of Public Safety employee domestic violence incident shall rest with the Professional Standards Sergeant of the department.

- A. Regardless of whether an arrest was made on scene, the investigator shall conduct an independent, comprehensive administrative investigation using standard elements of criminal investigations. Victims and witnesses shall be re-interviewed and their statements recorded; crime scene evidence, photographs, and medical records accessed; and 911 tapes requested.

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- B. 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.
- C. 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.
- D. If administrative policies are violated or sufficient concern exists regarding a violation, the Department shall initiate an independent administrative investigation, seize department firearms as allowed under department policy as soon as practicable, and take disciplinary action up to and including termination.
- E. In determining the proper course of administrative action, the 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.
- F. If the accused is a law enforcement officer who is assigned enforcement duties while the administrative and/or criminal investigations are under way, those duties should not include response to domestic violence calls.
- G. If the Department determines through an administrative investigation that the employee violated department policy, regardless of whether the employee plead nolo contendere in response to criminal charges, the department may employ the full range of administrative sanctions. Any employee determined through an administrative investigation to have committed domestic violence shall be subject to disciplinary action up to and including termination from the Department.

X. CRIMINAL INVESTIGATIONS AND DECISIONS

The responsibility to complete a criminal investigation of an incident of Department of Public Safety employee domestic violence shall rest with the investigating agency.

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XI. CONVICTION OF A CRIME OF DOMESTIC VIOLENCE:

When a sworn employee is convicted of a crime of domestic violence that brings in the provisions of 18 U.S.C. 922(g)(9) law, the employee shall be terminated as not being able to function completely with the job classification for which they were hired.

By order of:



Michael J. Cecchini
Public Safety Director