



POLICY AND PROCEDURE

NO.453

Domestic Violence Handling for Employees

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PURPOSE:

This General Order supplements the Worcester Police Departments policy and procedure, number 451, for the handling of domestic violence situations. This General Order establishes guidelines for the handling of Department employees, both sworn and civilian, accused of domestic violence.

GENERAL CONSIDERATIONS:

The Worcester Police Department recognizes domestic violence as a universal problem that affects people from all walks of life. Domestic violence is criminal activity and it is Department policy that arrest is presumed to be the most appropriate response. No person is exempt, whatever his or her occupation, from the consequences of their actions that result in a violation of M.G.L. c. 208, 209, 209A, 209C and/or Superior Court injunctions. Therefore, this general order is issued to:

- ensure the safety of the victims;
- provide procedures for the uniformity of the investigation of said incidents;
- provide notification and reporting procedures;
- provide for the securing and safeguarding of Department weapons, equipment and personally owned weapons taken into custody; and
- Ensure compliance with all provisions of a Court Order.

RESPONSIBILITIES OF THE RESPONDING OFFICERS:

The provisions of M.G.L. c.209A and policy and procedure number 451 are to be complied with in all incidents of domestic violence. Officers responding to a domestic violence incident involving a

Department employee, sworn or civilian, shall adhere to the following procedures:

1. Take immediate action to ensure the safety of the victim;
2. Request that a Patrol Supervisor (who is a higher rank than the involved officer) respond to the scene;
3. Remain on the scene until relieved by a Superior Officer;
4. Proceed with the investigation in accordance with M.G.L.c.208, 209, 209A, 209C, c.140, S.129B, Court Orders, Policy and Procedures, Rules and Regulations;
5. Enforce the provisions of any Court Order that is in full force and effect;
6. Complete a Worcester Police Incident Report and any special reports ordered to be made or required.

RESPONSIBILITIES OF THE PATROL SUPERVISOR:

Upon being notified of a domestic violence incident involving a Department employee, the Patrol Supervisor shall immediately respond to the scene of the incident. Specifically, the Patrol Supervisor shall:

1. Assess the actual and potential harm to the victim.
2. The supervisor dispatched to an incident involving an off duty officer or official should be of a higher rank than the involved officer. It will be the responsibility of this superior ranking official to take any police action if during the course of the investigation this is deemed necessary. In particular, if probable cause exists and an arrest is to be effected, this should be accomplished by a supervisory official at least one rank higher than the off-duty officer.
3. Upon investigation, if the Patrol Supervisor has reasonable cause to believe that there is evidence of physical abuse or the threat of physical abuse exists and the abuser is a sworn member of the Department, the Patrol Supervisor shall seize and take into custody all Department issued firearms in the possession of the employee. In addition, the Patrol Supervisor shall request that the employee, whether sworn or civilian, surrender all personally owned firearms, their License to Carry firearms and/or their Firearms Identification Card. The Patrol Supervisor shall attempt to obtain consent from the parties involved to search the incident scene for the purpose of seizing and taking into temporary custody all privately owned firearms present.
4. If a sworn member of the Department does not have his Department issued firearm on his person or under his control at the time of the incident, the Patrol Supervisor will accompany the employee to the location at which the firearm is located and take custody of the firearm.
5. If privately owned firearms cannot be seized at the time of the incident, the Patrol Supervisor shall request that any application for a Temporary Restraining Order or Emergency Restraining Order shall contain a provision for the surrender of any firearms, License to carry and/or Firearms Identification Card.
6. Submit a copy of the Incident Report to the Licensing Authority of appropriate jurisdiction responsible for the issuance of the alleged abuser's License to carry and/or Firearms Identification Card.
7. Have a check made of the LEAPS database for Restraining Orders in effect against the involved Department employee.
8. Ensure that the provisions of Chapter 209A and applicable departmental rules, regulations and procedures have been enforced.
9. The Patrol Supervisor shall submit a report detailing his assessment and action taken before the end of the supervisor's tour of duty.

RESPONSIBILITIES OF THE OPERATIONS DIVISION ON-DUTY COMMANDING OFFICER:

The Commanding Officer in charge of the officer(s)/supervisor assigned the initial investigation, upon being notified of a domestic violence incident involving a department employee, sworn or civilian, shall:

1. Ensure that the supervisor has responded to the scene and commenced an investigation.
2. Ensure enforcement of all provisions of M.G.L. c.208, 209, 209A, 209C, c.140, S129B, Court Orders, policies and procedures, rules and regulations.

3. Ensure reports and proper documentation of the facts and circumstances of the incident and action taken are submitted through proper channels in accordance with department procedures.
4. Ensure that appropriate notifications are made in accordance with department procedure and chain of command. Notifications should include the Commanding Officer of the jurisdiction in which the incident occurred and the Commanding Officer of the officer involved.

RESPONSIBILITIES OF THE INVOLVED EMPLOYEE:

A Department Employee who has:

- been served with a Restraining Order; or
- learns that he/she is a defendant named in any such order/complaint involving abuse; or
- is arrested for any crime involving abuse shall:
 1. Immediately provide oral notification to the on-duty Commanding Officer of his or her permanent assignment, naming the investigating police department (example; department employee lives in town other than where he or she is employed).
 2. Within 24 hours provide written notification to the Commanding Officer of his or her permanent assignment. A copy of the Restraining Order (if applicable) shall be attached.
 3. Upon being served with a Restraining Order, the department employee shall immediately surrender his or her License to Carry/FID Card, department issued firearm and any personal firearms in compliance with M.G.L.c.140 S129B. The department employee may file an affidavit that a firearm is necessary for employment and request an expedited hearing on the suspension and surrender order under M.G.L.c.209A S3B.

RESPONSIBILITIES OF AN EMPLOYEE'S COMMANDING OFFICER:

A Commanding Officer, upon being notified that an employee under his/her command has been served a Restraining Order and/or been involved in a domestic violence incident, shall take the following actions:

1. Ensure that the victim was afforded his/her rights under 209A, the Abuse law.
2. Ensure that all appropriate notifications were made and that required documentation be completed and review all reports and documents;
3. If a sworn Department member is the alleged abuser, ensure that the sworn Department member's issued firearm is seized for safekeeping and that privately owned firearms, Licenses to Carry and/or Firearms Identification Cards are surrendered, if so ordered by the court;
4. Assign, a Superior Officer of a rank higher than that of the alleged abuser to investigate the conduct of the Department employee and any follow-up investigation of the incident.

PROCEDURES TO FOLLOW WHEN COURT ORDERS ARE INVOLVED:

PROCEDURE (A) WHEN THERE HAS NOT BEEN A VIOLATION OF A COURT ORDER:

1. When an officer has a temporary restraining order, or a permanent restraining order served on him/her the weapons shall be removed according to court order and/or Massachusetts's General Laws regarding ;(a) consent, (b) search incident to arrest and (c) search warrants.

2. The officer will be placed on restrictive duty.
3. When an officer who has been served is allowed to perform police duties, the officer is not to respond to calls at a location where he/she is personally involved as the subject of a temporary or permanent restraining order.

PROCEDURE (B) TO FOLLOW IN THE EVENT THAT AN OFFICER VIOLATES A COURT ORDER:

1. Violation of a court order shall mandate an arrest.
2. Department booking and prisoner processing procedures will be followed.
3. All firearms, shotguns, rifles, ammunition, etc. in the officers possession shall be removed in accordance with the court order and/or Massachusetts General Laws regarding (a) Consent, (b) searches incident to arrest and (c) search warrants.
4. Whether the officer will be allowed to be on street duty if he/she has violated a restraining order, pending a hearing or trial will be subject to review by the Chief of Police.
The Office of the Chief, in accordance with departmental procedures will determine the involved employee's work status and if applicable, the appropriate disciplinary action. If an employee files an affidavit with a court that his/her carrying of a firearm is required in the performance of his/her employment, in accordance with the provisions of M.G.L.c.209A S3B, paragraph 2, and the court, after a hearing, modifies its original order to permit such carrying, the Chief of Police, or his designee, shall have sole discretion to decide if an employee shall be permitted to continue to carry his/her Department-issued firearm or to return such firearm, if it has already been surrendered.

Per:



Gary J. Gemme
Chief of Police

Policy update 26 December 2008 adding section #2 to the Responsibilities of the Patrol Supervisor.