



MYRTLE BEACH POLICE DEPARTMENT

ADMINISTRATIVE REGULATIONS AND OPERATING PROCEDURES

Subject: *Domestic Violence By Police Officers and Police
Department Employees*

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PURPOSE

This procedure recognizes that the profession of law enforcement is not immune from members committing domestic violence against their intimate partners. The purpose of this regulation is to establish procedures for handling acts of domestic violence committed by police officers or police department employees and for implementing prevention strategies. This procedure will provide executives, officers, and 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.

PROCEDURE STATEMENT

This procedure offers a comprehensive, proactive approach to domestic violence by police department employees with an emphasis on victim safety. It delineates a position of zero tolerance by the department. It is imperative to the integrity of the profession of policing and the sense of trust communities have in their local law enforcement agencies that leaders, through the adoption of clear regulations, make a definitive statement that domestic violence will not be tolerated. In the process of implementing this regulation, the department will review the records of all employees during the annual evaluation process to determine whether any charges or convictions of domestic violence or valid protection orders exist. If an employee is found to have any charges or convictions for domestic violence or is the subject of a qualifying order, as defined as criminal conduct in state law or professional conduct as defined herein, department legal counsel and/or city/county attorney shall be consulted immediately regarding continued employment or duty assignment.

Federal law prohibits police officers convicted of qualifying misdemeanor domestic violence crimes from possessing firearms. Officers found guilty of a qualifying domestic violence crime through criminal proceedings shall be terminated.

DEFINITIONS

1. Domestic Violence – for the purpose of evaluating professional conduct and not strictly relying on the definition of criminal conduct as defined in state law, refers to an act or pattern of violence perpetrated by a police officer or police department employee upon his or her intimate partner not done in defense of self or others, including but not limited to the following:
 - a. Bodily injury or threat of imminent bodily injury
 - b. Sexual battery
 - c. Physical restraint
 - d. Property crime directed at the victim
 - e. Stalking
 - f. Violation of a court order of protection or similar Injunction
 - g. Death threats or death
2. Intimate Partner - of a police officer or police department employee is any person who meets one or more of the following criteria:
 - a. Is or was legally married to the police officer
 - b. Has a child in common with the police officer
 - c. Is cohabitating or has cohabitated with the police officer
3. 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).

PROCEDURE

While prioritizing the safety of victims, this procedure 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 officers or police department employees, and offer direction for conducting the subsequent administrative and criminal investigations. Components of the procedure include:

- 1) Prevention and Training
- 2) Early Warning and Intervention
- 3) Incident Response Protocols
- 4) Victim Safety and Protection

5) Post Incident Administrative and Criminal Decisions

1. PREVENTION AND TRAINING

The Department will adhere to a zero tolerance procedure towards police officer or police department employee domestic violence and will not tolerate violations of the procedure. The department will provide ongoing training to every police officer and police department employee on domestic violence and the zero tolerance procedure throughout all phases of the police officer's career.

A. PREVENTION THROUGH COLLABORATION

- 1) Through ongoing partnership with local victim advocacy organizations, the department shall develop domestic violence curricula and train officers and police department employees in order to enhance the officer's / employee's / agency's response to victims.
- 2) The department shall provide local domestic violence victim advocacy organizations copies of all domestic violence training curricula, protocols and policies for review and possible revision.

B. TRAINING TOPICS

Upon implementation of this procedure, all officers and police department employees shall receive comprehensive mandatory instruction covering the following topics:

- 1) Understanding Domestic Violence
- 2) Departmental Domestic Violence
- 3) Response Protocol
- 4) Warning Signs of Domestic Violence by Officers
- 5) Victim Safety
- 6) Federal Domestic Violence Laws

C. ONGOING TRAINING

Departments shall use a variety of training techniques including In-Service, Roll Call, FTO, Ride-Alongs, and Training Bulletins to regularly reinforce standards of effective response protocol.

2. EARLY WARNING AND INTERVENTION

A. PRE-HIRE SCREENING AND INVESTIGATION

- 1) Certification agencies and/or departments shall conduct thorough background investigations of all potential new employees using address history, driving record, and protection order database.
- 2) All candidates shall be asked if they have engaged in or been investigated for domestic violence and asked about any past arrests, suspended sentences, diversion programs, convictions, and protection orders related to elder abuse, child abuse, sexual assault, stalking, or domestic violence.
- 3) Those candidates with a history of perpetrating violence (to include; elder abuse, child abuse, sexual assault, stalking, or domestic violence) should be screened out at this point in the hiring process.
- 4) Candidates shall be clearly informed of the department's position of zero tolerance concerning domestic violence by police officers or police department employees.

B. POST CONDITIONAL OFFER OF EMPLOYMENT

- 1) The psychological screening of all viable candidates will focus on indicators of abusive tendencies in their background.
- 2) Departments should strongly consider a no hire decision in the case of a candidate with tendencies indicative of abusive behavior.

C. POST HIRE INTERVENTION

- 1) When new police officers or police department employees are hired, the department shall reach out to their intimate partners/family members to introduce this procedure and other relevant department procedures.

D. DEPARTMENT RESPONSIBILITIES

- 1) The department shall develop cross jurisdictional memorandums of understanding (MOUs) to ensure timely notification of an incident involving an officer or police department employee.
- 2) The department shall, either in response to observed warning signs or at the request of an officer or police department employee, intimate partner, or other family member, provide non punitive avenues of assistance before an act of domestic violence occurs.

- 3) The department shall inform officers and police department employees of the procedure for seeking confidential referrals, either internally or externally, to confidential counseling services.
- 4) A disclosure on the part of any officer or police department employee, intimate partner or family member to any member of the department that an officer or police department employee has personally engaged in domestic violence will be treated as an admission or report of a crime and shall be investigated both administratively and criminally.

E. SUPERVISOR RESPONSIBILITIES

Supervisors shall be cognizant of and document pattern 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 officer complaints of unwarranted aggression and verbal abuse.
 - e. Inappropriate treatment of animals.
 - f. On or off duty officer 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
 - c. Discrediting and/or disparaging an intimate partner
- 3) Deteriorating work performance
 - a. Tardiness
 - b. Excessive absences
 - 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 officer 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 discipline as warranted.

- c. Prepare and submit, through your chain of command, to the Chief in a written request for a psychological exam/counseling by a psychologist/psychiatrist who is knowledgeable about domestic violence.

F. POLICE OFFICER RESPONSIBILITIES

- 1) Officers and police department 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.
- 2) Officers and police department employees who engage in the following actions will be subject to severe discipline up to and including dismissal:
 - a. Failure to report knowledge of abuse or violence involving a fellow officer or police department employee.
 - b. Failure to cooperate with the investigation of a police officer or police department employee domestic violence case (except in the case where that officer or police department employee is the victim).
 - c. Interference with cases involving themselves or fellow officers or police department employees .
 - d. Intimidation/coercion of witnesses or victims (i.e., surveillance, harassment, stalking, threatening, or falsely reporting).
- 3) Officers and police department employees who learn they are the subject of a criminal investigation, regardless of jurisdiction, are required to immediately make a report to their supervisors 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.
- 4) Officers and police department 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 qualifying protection order, the officer or police department employee shall surrender all firearms unless department policy allows for possession of the primary service weapon. Failure to do so may result in severe discipline up to and including dismissal.

3. INCIDENT RESPONSE PROTOCOLS

A. DEPARTMENT-WIDE RESPONSE

- 1) The department shall accept, document, and preserve all calls or reports, including those made anonymously, regarding domestic violence as on the record information.
- 2) All reports of possible criminal activity implicating police officers in domestic violence shall be documented in accordance with the regulations governing the handling of reports of domestic violence involving civilians.
- 3) The on-scene supervisor shall forward a copy of the report alleging domestic violence by the officer to the Chief through the Chain of Command.
- 4) All such incident reports shall be made available by the department to the victim without cost.

B. COMMUNICATIONS RESPONSE

- 1) Communications officer/dispatchers shall be instructed to assign a priority to all domestic violence calls, including those that involve or appear to involve a police officer or police department employee of any department.
- 2) Communications officer/dispatchers shall immediately notify the supervisor on duty and the dispatch supervisor of any domestic violence call received that involves, or appears to involve, a police officer or police department employee, regardless of the involved officer's or police department employee's jurisdiction.
- 3) 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.
- 5) Communications officers/dispatchers shall have available current contact information of local domestic violence victim advocacy organizations for on-scene supervisors to provide to victims.

C. PATROL RESPONSE

- 1) Upon arrival on the scene of a domestic violence call or incident involving a police officer or police department employee, the primary patrol unit shall immediately notify dispatch and request a supervisor of higher rank than the involved officer or police department employee report to the scene, regardless of the involved officer's or police department employee's jurisdiction.
- 2) The responding officers shall perform the following actions:
 - a. Obtain needed medical assistance
 - b. Address the immediate safety of all parties involved
 - d. Secure the scene and preserve evidence
 - e. Note all excited utterances, admissions and/or incriminating statements
 - f. Make an arrest if probable cause exists

D. ON-SCENE SUPERVISOR RESPONSE

- 1) A supervisor of higher rank shall report to the scene of all police officer or police department employee domestic violence incidents including a police officer or police department employee, regardless of the involved officer's or police department employee's jurisdiction.
- 2) 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 by law.
- 3) 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.
- 4) In cases where probable cause exists, the on-scene supervisor shall ensure an arrest is made.
- 5) Investigate domestic violence with police officer or police department employee incidents in the same manner as shall other domestic violence investigations as established by departmental guidelines.

- 6) Department service weapons will be seized pending the Administrative investigation.
- 7) The command staff officer shall inquire whether the victim wants any firearms removed from the home and will assist involved parties in making arrangements for their relocation.
- 8) Whenever a police officer or police department employee involved domestic call does not result in an arrest or a warrant is not sought, the on-scene supervisor shall explain in a written report.
- 9) The on-scene supervisor shall notify, through his/her chain of command, the Chief and the accused officer's or police department employee's immediate supervisor as soon as possible. In the event that the officer or police department employee is from another jurisdiction, the Chief, or his/her designee, will ensure that the accused officer's or police department employee's Chief is notified. All notifications, and attempts to notify, shall be fully documented.

4. ADDITIONAL CRITICAL CONSIDERATIONS

- A. In the event that the reported incident involves the Chief of Police, the supervisor shall immediately notify his/her Chain of Command, who will notify the City Manager and the Solicitor's Office.
- B. In responding to domestic violence incidents where the victim is a police officer or police department employee, standard domestic violence response and investigation procedures should be followed.
- C. In responding to domestic violence incidents where the parties involved are both police officers or police department 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 the accused officer confiscated.

5. DEPARTMENT FOLLOW-UP

- A. In a timely manner, the Administrative Captain or his/her designee shall ensure that all officers who responded to a police officer or

police department 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
 - 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 officer or police department employee violated department procedure by failing to report the protective order.
- C. Arrest warrants charging police officers or police department employees with domestic violence and protective orders issues at a later time shall be served by no fewer than two officers with at least one being of senior rank to the officer or police department employee being served. In cases where firearms have not previously been seized, firearms shall be seized if allowed by the department and decisions about service weapons will be made.
- 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.
- 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 officer or police department 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.
 - 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 officer or police department employee.

6. VICTIM SAFETY AND PROTECTION

- A. Departments shall work with community resources and advocacy agencies to connect victims and their children with appropriate services.
- B. The Command Staff 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 officers 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 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.
 - 1) In order to determine whether the victim/witness is being intimidated or coerced, the investigator in charge shall see out secondary sources of information.
 - 2) Given the possibility that a victim will recant or choose not to participate in court proceedings, supplemental evidence shall be sought out and preserved.

7. POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

Departments shall conduct separate parallel administrative and criminal investigations of alleged incidents of police officer or police department employee domestic violence in a manner that maintains integrity of both investigations and promotes zero tolerance. If the facts of the case indicate that domestic violence has occurred or any department procedures have been violated, administrative action shall be taken independent of any criminal proceedings as soon as practicable.

A. ADMINISTRATIVE INVESTIGATIONS AND DECISIONS

The responsibility to complete the administrative investigation of a police officer or police department employee domestic violence incident shall rest with the Office of Professional Standards. The Chief may ask an outside law enforcement agency to conduct the administrative investigation.

- 1) 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. Victims and witnesses shall be re-interviewed and their statements recorded; crime scene evidence, photographs, and medical records accessed; and 911 tapes requested.
- 2) Where sufficient information/evidence exists, the department shall take immediate administrative action against the accused officer or police department employee that may include removal of service weapon, reassignment, sanctions, suspension, or termination.
- 3) When an investigation of an incident uncovers officers or police department employees who had knowledge of violence on the part of another officer or police department employee but failed to notify the department or engaged in actions intended to interfere with the investigation, the department shall investigate those officers and police department employees and take disciplinary action and criminally charge as warranted.
- 4) In determining the proper course of administrative action, the department shall consider factors including the level of danger an officer or police department employee poses as indicated by the outcome of the danger assessment of the officer or police department employee, the officer's or police department 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.
- 5) If the accused officer or police department 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.
- 6) If the department determines through an administrative investigation that the officer or police department employee violated department procedure, regardless of whether the officer or police department employee plead *nolo contendere* in response to criminal charges, the department may employ the full range of administrative sanctions. Any officer or police department employee determined through an

administrative investigation to have committed domestic violence shall be terminated from the department.

B. CRIMINAL INVESTIGATIONS AND DECISIONS

The responsibility to complete a criminal investigation of an incident of police officer or police department employee domestic violence shall rest with the domestic violence investigator. The Chief may ask an outside law enforcement agency to conduct the criminal investigation.

- 1) The investigating official shall conduct criminal investigations as would be the case for any other criminal violation.
- 2) In accordance with the officer's or police department employee's and victim's privacy rights, the investigating official or agency shall conduct sufficient interviews (taped) of family members, friends, neighbors, colleagues, and others who may have information regarding criminal charges.
- 3) Even though an initial report may already exist concerning a police officer or police department employee, reports of any subsequent or additional criminal incidents, which may include fellow officers 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.
- 4) The department shall completely investigate the charges and where warranted, seek prosecution even in cases where the victim recants.
- 5) The department shall establish a liaison to work with the Solicitor 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.
- 6) As with any other case for criminal prosecution, the investigating officer shall request filing of court papers/complaints.
 - a. Ensure that the victim is notified in a timely manner and offered available assistance, to include safety planning.

- 7) Any officer or police department employee convicted through criminal proceedings of a domestic violence crime shall be terminated.