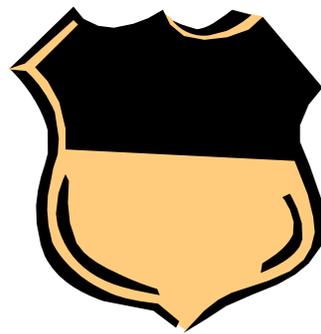


**Model Policy  
On  
Domestic Violence in the Law  
Enforcement Community**



**New Jersey Domestic Violence Fatality and  
Near Fatality Review Board**

*Panel on Domestic Violence in the Law Enforcement  
Community*

Office on the Prevention of Violence Against Women  
Division on Women  
New Jersey Department of Community Affairs  
2006

**PANEL ON DOMESTIC VIOLENCE IN THE LAW ENFORCEMENT COMMUNITY**

**New Jersey Domestic Violence Fatality and Near Fatality Review Board**

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## **I. PURPOSE**

This policy recognizes that some law enforcement officers commit acts of domestic violence as defined in *N.J.S.A. 2C:25-17 et. seq.* and that the integrity of the law enforcement profession and the community's trust in law enforcement are dependant upon a uniform policy on the handling of such incidents. The purpose of this policy is to establish uniform procedures that delineate responsibility for implementing domestic violence prevention strategies in the law enforcement community and for handling matters of domestic violence and abuse involving law enforcement officers. This policy stresses the importance of addressing the safety needs of the victim while holding the perpetrator accountable. The policy recognizes that victims abused by law enforcement partners may be especially isolated and especially fearful of reporting abuse to authorities because reporting could result in retaliation and/or loss of employment of the officer. The policy also recognizes that conflict may exist between the liability considerations of police departments and the confidentiality and safety needs of the victim. The policy seeks to balance these by establishing a case-by-case strategy for addressing each substantiated incident of officer abuse.

This policy provides guidance to law enforcement executives and officers in addressing incidents where one (or more) party to a possible domestic violence incident is an employee of any rank in the law enforcement department. Although the language of the policy speaks to law enforcement officers, law enforcement agencies should apply the following principles to all applicants and employees whenever appropriate.

## **II. SCOPE**

The Criminal Justice Act of 1970, *N.J.S.A. 52:17B-97 et seq.* requires the Attorney General "to provide for the general supervision of criminal justice" in this State. All law enforcement agencies and law enforcement officers in the State are required to cooperate with the Attorney General "to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the state". *N.J.S.A. 52:17B-98.* Accordingly, it is directed that all law enforcement agencies and law enforcement officers are to comply with this directive.

## **III. POLICY**

The policy takes a continuum approach, seeking first to educate at all phases of an officer's career, then prevent, or identify, domestic abuse situations early on in order to reduce danger, increase victim safety and increase the chances of officer career stability.

Where incidents of domestic violence are alleged to have occurred, the department should act quickly to protect the victim, arrest the perpetrator,

conduct parallel administrative and criminal investigations and develop and implement appropriate, case specific remedies to the situation. Although this policy communicates intolerance of domestic violence, it also recognizes that the severity of acts of domestic violence vary and that suspension and/or termination of an officers' position may serve to exacerbate the violence and further endanger the victim. Hence, the response to officer domestic violence must take into account many factors and be tailored to protect the victim, hold the batterer accountable and protect the liability interests of the department. Once implemented, the policy should apply to past acts /allegations of domestic violence, as well as existing and future offenses of domestic violence. In the process of adopting this policy, law enforcement agencies must review the records of all officers and officer candidates to ensure they are free of a history of committing acts of domestic violence.

Moreover, federal law prohibits law enforcement officers who have been convicted of misdemeanor domestic violence offenses anywhere in the nation from possessing a firearm pursuant to 18 *U.S.C.* 922(g)(8). This law applies to offenses that have as an element (1) the use or attempted use of physical force, or (2) the threatened use of a deadly weapon. Under New Jersey law, a disqualifying offense would be:

1. Harassment, *N.J.S.A.* 2C:33-4b, by striking, kicking, shoving.
2. Simple assault, *N.J.S.A.* 2C:12-1a(1), by attempting to or purposely, knowingly or recklessly causing bodily injury.
3. Simple assault, *N.J.S.A.* 2C:12-1a(2), by negligently causing bodily injury to another with a deadly weapon.

The federal law applies if an officer at the time of the offense was the current or former spouse of the victim; the parent or guardian of the victim; a person with whom the victim shared a child in common; a person who was or had in the past cohabitated with the victim as the victim's spouse, parent or guardian; or a person who was similarly situated to a spouse, parent, or guardian of the victim.

Effective January 14, 2004, any person who has been convicted in this State or elsewhere of a disorderly persons offense involving domestic violence whether or not armed with or having in his or her possession a weapon enumerated in *N.J.S.A.* 2C:39-1r, may not purchase, own, possess, or control a firearm. *N.J.S.A.* 2C:39-7.

#### **IV. DEFINITIONS**

A. Domestic violence means the occurrence of one or more of the following criminal offenses upon a person protected under the *Prevention of Domestic Violence Act of 1990*:

Homicide

*N.J.S.A.* 2C:11-1

Assault	N.J.S.A. 2C:12-1
Terroristic threats	N.J.S.A. 2C:12-3
Kidnapping	N.J.S.A. 2C:13-1
Criminal restraint	N.J.S.A. 2C:13-2
False imprisonment	N.J.S.A. 2C:13-3
Sexual assault	N.J.S.A. 2C:14-2
Criminal sexual contact	N.J.S.A. 2C:14-3
Lewdness	N.J.S.A. 2C:14-4
Criminal mischief	N.J.S.A. 2C:17-3
Burglary	N.J.S.A. 2C:18-2
Criminal trespass	N.J.S.A. 2C:18-3
Harassment	N.J.S.A. 2C:33-4
Stalking	N.J.S.A. 2C:12-10

B. Victim of domestic violence means a person protected by the *Prevention of Domestic Violence Act* and includes any person:

1. Who is 18 years of age or older, or
2. Who is an emancipated minor, and who has been subjected to domestic violence by:
  - a) A spouse
  - b) Former spouse
  - c) Any other person who is a present or former household member, or
3. Who, regardless of age, has been subjected to domestic violence by a person:
  - a) With whom the victim has a child in common, or
  - b) With whom the victim anticipates having a child in common, if one of the parties is pregnant, or
4. Who, regardless of age, has been subjected to domestic violence by a person with whom the victim has had a dating relationship.
  - a) A victim may be below the age of 18.
  - b) The domestic violence assailant must be over the age of 18 or emancipated at the time of the offense. See Note 3. below for criteria for determining whether a person is emancipated.

Note:

1. The *Prevention of Domestic Violence Act* does not define a victim of domestic violence by age, physical or psychological condition or

gender.

2. An unemancipated minor who commits an act of domestic violence may not be prosecuted as a domestic violence defendant but can be prosecuted under the juvenile delinquency laws. The entry of pre- or post-dispositional restraints can also be considered.
3. A minor is considered emancipated from his or her parents when the minor:
  - a) Has been married;
  - b) Has entered military service;
  - c) Has a child or is pregnant; or
  - d) Has been previously declared by a court or an administrative agency to be emancipated.

C. Domestic violence restraining order means any temporary restraining order, final restraining order or any civil or criminal protection order issued from New Jersey or another state or jurisdiction.

## **V. PREHIRE SCREENING AND INVESTIGATION**

A. Agencies shall conduct thorough background investigations of all potential new employees to determine if there is a history of committing acts of domestic violence, sexual abuse, stalking, elder abuse and/or child abuse.

B. All candidates shall be interviewed about any history of acts of domestic violence, sexual assault, stalking, elder abuse and/or child abuse and past or present restraining orders and the disposition. Family members shall also be interviewed separately from the candidate.

C. All candidates for a law enforcement position must complete a Federal Firearms Qualification Inquiry in accordance with the Attorney General's memorandum dated April 4, 1997, on *Federal Firearms Restrictions: Convictions of Offenses Involving Violence Against a Family Member*. All candidates must also complete the supplemental Domestic Violence Questionnaire.

D. Those candidates with a history of perpetrating acts of domestic violence, sexual assault, stalking, elder abuse and/or child abuse shall be screened out at this point in the hiring process.

E. The Domestic Violence Central Registry shall be queried to determine whether or not a restraining order has been issued against the candidates.

## **VI. POST-CONDITIONAL OFFER OF EMPLOYMENT**

A. The department shall require a psychological examination of all viable candidates to be performed by an experienced psychologist and or psychiatrist.

B. The psychological screening will include a focus on indicators of violent or abusive tendencies or behaviors, including domestic violence, in their background.

## **VII. EDUCATION AND TRAINING**

A. All law enforcement officers shall receive at least four hours training annually, as approved by the Division of Criminal Justice, pursuant to *N.J.S.A. 2C:25-20* on such domestic violence issues as:

1. Impact of domestic violence on society.
2. Dynamics of domestic violence.
3. Statutory and case law concerning domestic violence.
4. Procedures for obtaining a restraining order.
5. Policies and procedures as promulgated by the Attorney General and the County Prosecutor.
6. Use of available community resources, support services, available sanctions and treatment options.

B. All police dispatchers, sworn and unsworn, shall receive annual training on how to handle a domestic violence call.

C. All law enforcement officers and unsworn members of the department shall receive at least annual training on the impact of domestic violence within the law enforcement family and the department's policy and procedures when a law enforcement officer or an unsworn member is involved in a domestic violence incident.

D. In addition to all topics delineated in Section VII. A. above, all police supervisors shall also receive annual training on such matters as:

1. How to recognize potential indicators of domestic violence behavior by law enforcement officers.
2. How to investigate or document information on indicators of potential

abusive behavior and notification to supervisor's immediate ranking supervisor who will inform the chief in accordance with the department's chain of command.

3. Know what programs are available to assist law enforcement domestic violence victims and batterers before and after an officer commits a criminal act involving domestic violence.

## **VIII. EARLY WARNING AND INTERVENTION RESPONSIBILITIES**

### **A. Department Responsibilities**

1. The department shall either in response to observed warning signs or at the request of an officer, provide non-punitive avenues of assistance to officers, their partners, and other family members before an act of domestic violence occurs.

2. Officers are encouraged 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 against a victim of domestic violence.

3. When the department is aware that an officer is undergoing a separation or divorce, the department shall provide the officer and their partner with information regarding available individual counseling referrals.

### **B. Supervisor Responsibilities**

1. Supervisors shall be aware of and document any pattern of abusive behavior potentially indicative of domestic violence including but not limited to the following:

#### **a) Aggressiveness**

- (1) Excessive and/or increased use of force on the job.
- (2) Stalking and inappropriate surveillance activities.
- (3) Unusually high incidences of physical altercations and verbal disputes.
- (4) Citizen and fellow officer complaints of unwarranted aggression and verbal abuse.
- (5) Inappropriate treatment of animals.
- (6) On- or off-duty officer injuries.

b) Domestic violence-related issues

(1) Monitoring and controlling any family member of a victim of domestic violence through such means as excessive phone calling.

(2) Stalking any victim of domestic violence or family member.

(3) Discrediting and/or disparaging a victim of domestic violence.

c) Deteriorating work performance

(1) Tardiness.

(2) Excessive absences.

(3) Alcohol and drug abuse.

2. 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 detailing the behaviors to the chief through the chain of command in a timely manner to determine discipline or other appropriate action as warranted.

c) Prepare and submit to the chief a written request for a psychological exam/counseling by a psychologist/psychiatrist or other mental health professional. The psychologist/psychiatrist or other mental health professional shall be a Domestic Violence Specialist or shall have demonstrable training and experience in domestic violence. The psychologist/psychiatrist or other mental health professional shall be required to include in the report whether or not the officer is a danger to self or others. The department shall provide contact information to the psychologist/psychiatrist or other mental health professional and require that the professional speak with the victim separately from the officer as part of the evaluation. The department shall provide the professional with all incident reports of acts of domestic violence by the officer, any previous psychological evaluations of the officer and the officer's disciplinary record.

d) When warranted, request that the chief order an officer to seek assistance from a certified program for batterers. If such a program is not available, request that the chief order the officer to a counselor who is a Domestic Violence Specialist or who has demonstrable training and experience in domestic violence.

e) Contact the alleged victim to inform her/him 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 alleged victim; that the victim is not required to speak with the evaluator; and that any information disclosed by the alleged victim may not be confidential. The supervisor shall document that he/she informed the alleged victim.

### C. Law Enforcement Officer Responsibilities

1. Officers 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.
  - b) Failure to cooperate with the investigation of a law enforcement officer domestic violence case except in the case where the officer is the victim.
  - c) Interference with cases involving themselves or fellow officers.
  - d) Intimidation/coercion of witness or victims (i.e., surveillance, harassment, stalking, threatening, or falsely reporting).
2. Officers who are the subject of a criminal investigation, regardless of jurisdiction, are required to immediately file a report to their supervisor 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.
3. Officers who 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.

## IX. 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 law enforcement officers in domestic violence shall be documented in accordance with the policies governing the handling of reports of domestic violence involving civilians.

3. A copy of the report alleging domestic violence by the officer shall be forwarded to the chief through the chain of command including the Internal Affairs Officer.

4. All such incident reports shall be made available by the department to the victim without cost.

5. The Chief shall designate a superior officer in the department as the Principal Law Enforcement Contact person and victims shall be given the name and contact information for the Principal Law Enforcement Contact person. The Principal Law Enforcement Contact person shall not be the principal administrative or criminal investigator of the case. If the designated Principal Law Enforcement Contact person is not available 24/7 than an alternate contact person shall also be designated and the contact information provided to the victim. The Principal Law Enforcement Contact person shall:

a) Advise the victim that if there is any violation of any restraining order that it should be immediately reported to the police department where it occurred and then the victim should advise the Principal Law Enforcement Contact person of the violation.

b) Advise the victim that if there is any harassment, witness tampering or intimidation, the victim should contact the Principal Law Enforcement Contact person.

c) Intervene if the officer or agents of the officer 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 abusive officer is employed, as well as other resource persons in the prosecutor's office.

e) Provide the victim with contact information for the local domestic violence program and with safety planning material as provided by the Division of Criminal Justice.

f) Keep the victim apprised of all case developments.

g) Ensure 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 officer be terminated.

## B. Communications Response

1. Communications officers/dispatchers shall be instructed to 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 shall immediately notify the supervisor of any domestic violence call received that involves, or appears to involve, law enforcement personnel from any agency.
3. Communications supervisors 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 upon knowledge or notification that the domestic violence incident is officer involved.

## C. Patrol Response

1. Upon arrival on scene of a domestic violence call or incident involving a law enforcement officer, the primary patrol unit shall immediately notify dispatch and request a supervisor of higher rank than the involved officer report to the scene, regardless of the involved officer'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;
  - c) Secure the scene and preserve evidence;
  - d) Note all excited utterances, admissions and/or incriminating statements;
  - e) Make an arrest if probable cause exists or if required by law.

## D. On-Scene Supervisor Response

1. A supervisor of higher rank shall immediately report to the scene of all law enforcement officer domestic violence incidents regardless of the involved officer's jurisdiction.
2. The on-scene supervisor shall ensure that the county prosecutor's office is immediately notified of any domestic violence incident involving a law enforcement officer for direction on handling the case.
3. The supervisor shall ensure that the local Domestic Violence

Response Team or local domestic violence program is notified.

4. 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.

5. 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.

6. In cases where mandatory arrest is required or probable cause exists, the on-scene supervisor shall ensure an arrest is made.

7. If the alleged offender has left the scene and probable cause exists, the supervisor shall perform the following actions:

- 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.

8. If the victim has left the scene, the supervisor shall make every effort to follow through on the investigation and attempt to locate the victim.

9. Arrest of both parties involved in a domestic violence incident should be avoided. The supervisor shall ensure that a thorough investigation is conducted and an arrest of the dominant aggressor is made in accordance with state law. In determining which party is the dominant aggressor where both parties exhibit signs of injury, the officer 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.

10. The on-scene supervisor shall 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 on-scene advocate;
- 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.

11. Whenever a law enforcement officer involved domestic violence call does not result in an arrest or warrant is not sought, the on-scene supervisor shall explain in a written report why these actions were not taken.

12. The on-scene supervisor shall notify the chief through the chain of command as soon as possible. If the officer is from another jurisdiction, the supervisor shall ensure that notification is made to the officer in charge of the department where the accused officer is employed. The supervisor shall also ensure that the chief in the department where the accused officer is employed is notified. All notifications, and attempts to notify, shall be fully documented.

13. The supervisor shall ensure that the communications supervisor is notified that the incident involves a law enforcement officer.

#### E. Additional Critical Considerations

1. When responding to a domestic violence complaint involving a law enforcement officer from another jurisdiction, all responding officers, investigators, and supervisors shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from their own department as set forth in the *Attorney General's Guidelines on Police Response to Domestic Violence Cases* and in Section X. of this policy.

2. If the reported incident involves the chief of police or police director or public safety director, the supervisor shall immediately notify the county prosecutor's office who will directly oversee the criminal investigation. The County Prosecutor shall designate a member of the office to respond to the scene of all domestic violence incidents involving a chief of police, police director or public safety director.

3. In responding to domestic violence incidents where 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*.

4. In responding to domestic violence incidents where 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 Section X. of this policy should be followed. After probable cause and dominant aggressor are determined, an arrest should be made and all duty and personal firearms/weapons of the accused officer seized.

#### F. Department Follow-Up

1. In a timely manner, the chief shall ensure that all officers who responded to a law enforcement officer domestic violence 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.

2. 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 shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from their own department as set forth in the *Attorney General's Guidelines on Police Response in Domestic Violence Cases* and in Section X. of this policy. All weapons are to be seized.

3. 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 violated department policy by failing to report the temporary or final restraining order.

4. Arrest warrants charging law enforcement officers 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 of senior rank to the officer being served. In cases where firearms have not previously been seized, firearms shall be seized and decisions about seized weapons shall be made as set forth in the *Attorney General's Guidelines on Police Response in Domestic Violence Cases* and in Section X. of this policy.

5. If the temporary or final restraining order is dismissed, the department shall still conduct a thorough administrative investigation.

6. Following the reported incident, the chief of the primary investigative department or his/her designee shall immediately contact the Principal Law Enforcement Contact person and advise them of the domestic violence incident and to perform the duties listed in Section IX. A.(5) above.

#### G. Response in Cases Involving Restraining Order Only

1. Any law enforcement officer who is served with a temporary or final restraining order issued against that officer must immediately inform his or her supervisor and provide a copy of the order to the supervisor.
2. Whenever a department is notified that a temporary or final restraining order is issued against a member of that department, the department shall 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. The department shall also ensure that a supervisory officer will be present at any time the law enforcement officer is removing personal items from any common residence with the victim pursuant to the restraining order.
3. If the law enforcement officer's duty and off duty firearms and weapons have not already been turned in pursuant to Section X., the weapons shall be immediately seized by the department.
4. No weapon is to be returned or issued to the law enforcement officer except pursuant to the procedure set forth in Section X.
5. The department shall ensure that an internal affairs investigation is initiated pursuant to the procedures set forth in Section XII.
6. The department will ensure that immediate notification is made to the prosecutor's office of the issuance of a restraining order against the officer.
7. The chief or his/her designee shall immediately contact the designated Principal Law Enforcement Contact person to perform the duties listed in Section IX. A.(5) above.
8. When the domestic violence incident occurred in the same jurisdiction as the department where the law enforcement officer is employed, the department shall conduct a criminal investigation pursuant to the procedures set forth in Section IX. in those cases involving a mandatory arrest situation set forth in *N.J.S.A. 2C:25-21* or where the victim requests criminal charges be filed in discretionary arrest situations.

## **X. SEIZURE OF WEAPONS**

### **A. Surrender or Seizure of Weapons**

1. Whenever an act of domestic violence as defined in *N.J.S.A. 2C:25-19* has been alleged to have been committed by a law enforcement officer, all weapons, department issued and personal, possessed by that officer shall immediately be:

- a) Seized by the law enforcement officer responding to the domestic violence call if the responding officer reasonably believes that the presence of weapons would expose the victim to a risk of serious bodily injury, or
- b) Surrendered by the officer involved when served with a domestic violence restraining order, search warrant or bail condition which requires the surrender of weapons.
- c) Any firearm purchaser identification card or permit to purchase a handgun possessed by the officer involved in a domestic violence call shall also be seized by the law enforcement officer responding to the domestic violence call or shall be surrendered by the officer involved when served with a domestic violence restraining order, search warrant or bail condition which requires the surrender of weapons.

2. Whenever an act of domestic violence as defined in *N.J.S.A. 2C:25-19* has been alleged to have been committed by a law enforcement officer resulting in the seizure of the officer's weapons, or the officer has been served with a domestic violence restraining order or a domestic violence warrant for the seizure of weapons or there is a bail condition which requires the surrender of weapons, the officer must:

- a) Immediately report that fact to the officer's departmental supervisor who must promptly notify the prosecutor's office in the county where the officer is employed;
- b) Voluntarily surrender all weapons to the law enforcement officer responding to the domestic violence call or in response to a requirement in a domestic violence restraining order or a domestic violence warrant for the seizure of weapons or in a bail condition.

3. Where weapons have been seized from an officer, a report shall immediately be made to the arresting officer's departmental supervisor who must notify the prosecutor's office in the county where the charge had been filed.

### **B. Custody And Control Of Seized Or Surrendered Weapons**

1. Any department-issued weapon, which is seized or surrendered in connection with a domestic violence incident, is to be returned to the custody and control of the department which issued that weapon.
2. All other weapons owned, possessed, or controlled by the officer, which are seized or surrendered, are to be promptly forwarded to the county prosecutor's office in the county where the seizure of weapons took place in accordance with the procedures set forth in the *Attorney General's Guidelines on Police Response Procedures in Domestic Violence Cases* and the County Prosecutor's Procedures for the seizure and transportation of firearms to the prosecutor's office in accordance with the provisions of *N.J.S.A. 2C:25-21d*.
3. Where the weapons have been seized pursuant to a court order, domestic violence search warrant, condition of bail or at the scene pursuant to *N.J.S.A. 2C:25-21d*, the county prosecutor's office where the civil and/or criminal charge was filed or incident occurred shall conduct an immediate investigation of the incident and determine whether the officer should be permitted to carry a weapon and what conditions, if any, should be recommended to the court for the return of the weapons to the law enforcement officer pending the disposition of the domestic violence proceedings. The County Prosecutor completing the investigation shall forward the report to the County Prosecutor within whose jurisdiction the officer is employed.
4. Where the domestic violence charges, either criminal or civil, which resulted in the seizure of weapons from a law enforcement officer have been dismissed or withdrawn before a hearing, the procedures in Paragraph C, listed below, should be followed for the return of the weapons to the law enforcement officer.
5. The chief of the law enforcement department where the officer is employed shall:
  - a) Conduct an investigation into the officer's background, which shall include a psychiatric/psychological/mental health evaluation to determine the officer's fitness to carry a firearm, and shall recommend to the appropriate county's office whether the officer should be permitted to carry weapons and what conditions, if any, should be imposed for the return of the weapons, consistent with any family or criminal or municipal court bail orders entered against the officer in the jurisdiction where the incident occurred. The psychologist/psychiatrist or other mental health professional shall be a Domestic Violence Specialist or shall have demonstrable training and experience in domestic violence. The psychologist/psychiatrist or other mental health professional shall be required to include in the report whether or not the officer is a

danger to self or others. The department shall provide contact information to the psychologist/psychiatrist or other mental health professional and require that the professional speak with the victim separately from the officer as part of the evaluation. The department shall provide the professional with all incident reports of acts of domestic violence by the officer, any previous psychological evaluations of the officer and the officer's disciplinary record.

b) If necessary, re-assign the officer charged with committing an act of domestic violence or served with a restraining order so that the officer will not have contact with the domestic violence complainant.

6. The county prosecutor's office within whose jurisdiction the incident occurred should confer with the domestic violence complainant regarding the complainant's position on the return of weapons. However, the recommendation or determination whether the weapons should be returned rests with the County Prosecutor, not the victim or the law enforcement department where the officer is employed.

### C. Return Of Seized Weapons

1. When a court had specifically directed that the officer's weapons be seized either pursuant to a domestic violence restraining order or a domestic violence warrant for the seizure of weapons; or as a condition of bail, the officer whose weapons have been seized because of a domestic violence incident may request an expedited court hearing to determine the officer's status regarding the possession of weapons.

2. When a court order, either criminal or civil, which prohibits a law enforcement officer from possessing weapons is in effect, no weapons are to be returned to the officer subject to the domestic violence proceedings without a court order. If the domestic violence charges or complaint are withdrawn or dismissed prior to a court hearing, the provisions in Paragraph 4, listed below, should be followed.

3. If it is determined by the County Prosecutor that the officer may carry weapons in accordance with that officer's duty assignments while the domestic violence proceedings, either criminal or civil, are pending court action, the County Prosecutor may recommend to the appropriate court that:

a) The officer be permitted to carry a department issued handgun during on duty hours (duty hours means an officer's daily active duty shift) but not carry a handgun off duty, and

b) The officer be directed not to enter his or her residence which is shared with the complainant while on duty and armed, or meet with

the complainant or any other person covered by the restraining order, while armed.

c) The department owned weapons are to be issued by the department to the officer at the beginning of the officer's daily active duty shift and the weapons are to be returned to the custody of the department at the end of the officer's daily active duty shift.

4. When a weapon has been seized from a law enforcement officer involved in a domestic violence offense but no criminal charges, court order or warrant has been issued or is pending regarding possession of weapons, a County Prosecutor may, after review of the Internal Affairs Report and department recommendations, authorize the return of the seized weapons subject to conditions, if any, the Prosecutor determines necessary.

#### D. Restrictions on Return of Firearms

Pursuant to the provisions of the federal law, 18 *U.S.C.A.* 922(g), if a final domestic violence restraining order is issued, and for the duration of that order:

1. A law enforcement officer may be authorized by a court to possess a department issued firearm under conditions recommended by the appropriate county prosecutor, and
2. The officer may not possess any personally owned firearms.

### **XI. VICTIM SAFETY AND PROTECTION**

#### A. Victim Safety

Every effort shall be made to provide law enforcement protection and other safety measures to a victim of law enforcement officer domestic violence. These measures are especially important immediately following the report of an abusive incident, immediately preceding and following the implementation of sanctions against the officer, and at any other point at which the victim anticipates or is experiencing prohibited contact or harassment from the officer or agents of the officer. Such protection shall include but not be limited to:

1. Directed patrol initiatives including:
  - a) Drive-bys;
  - b) Dismounted patrols;
  - c) Welfare checks.

2. Locating and surveilling the abuser.
3. Arresting the officer for violations of no-contact orders and witness tampering.
4. Transporting the victim to a safe place when necessary.
5. Ensuring victim contact with trained domestic violence advocates for safety planning.

These protective measures shall remain in effect even if the officer is dismissed as a result of committing domestic violence.

#### B. Victim Notification

To better insure victim safety, the victim shall be informed by the Principal Law Enforcement Contact person as to the status of the case and as far in advance as possible to all impending actions taken against or with the officer. Any assistance the department or the prosecutor's office can provide to help the victim with safety measures shall be employed.

#### C. Confidentiality of Victim Location

The safety of the victim is of the utmost importance. Therefore, 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 victims shall keep all information concerning their whereabouts and safety plans confidential.

#### D. Domestic Violence Advocate

Each county prosecutor's office shall obtain from the New Jersey Coalition for Battered Women the identify of an outside local agency or person to whom an intimate partner or family member of a law enforcement officer can speak confidentially regarding abuse or potential abuse by a law enforcement officer. Such agency or contact person shall have or be a Domestic Violence Specialist or have extensive expertise in the field of domestic violence and also have substantive training on the special circumstances surrounding officer abuse. When necessary and with the approval of the victim, the agency or person shall be permitted to advocate on behalf of the victim and/or request a conference with the Principal Law Enforcement Contact person or other relevant law enforcement personnel. If a conference is requested it should be scheduled as soon as possible after the request.

#### E. Victim Input

The officers conducting the administrative and criminal investigations and the assistant prosecutor handling the case shall speak with the victim at all stages of the proceedings regarding the victim's needs and concerns about the disposition of the case. Every effort shall be made to incorporate the victim's needs and safety concerns into the case disposition.

#### F. Prohibition of Law Enforcement Court Accompaniment

No law enforcement officer shall attend any domestic violence related court proceeding of any law enforcement officer employee unless subpoenaed to appear.

## **XII. POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS**

Departments shall conduct an administrative investigation of an alleged incident of domestic violence committed by an officer in the department in accordance with the *Attorney General's Internal Affairs Policy and Procedures Manual*. 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 investigation or proceeding.

Departments will adhere to and observe all necessary protocols to ensure an accused officer's departmental, union, and legal rights are upheld during the administrative and criminal investigations.

#### A. Internal Affairs Investigations and Decisions

The responsibility to complete the internal affairs investigation of a law enforcement officer domestic violence incident shall rest with the Internal Affairs Division of the department.

1. Regardless of whether an arrest was made, the department shall conduct an internal affairs investigation of alleged incidents of law enforcement domestic violence. The internal affairs officer shall inform the victim that any information disclosed, except for the victim's location and contact information, may not be confidential. Victims and witnesses shall be 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 that may include removal of service weapons, law enforcement identification and badge, reassignment, placement on administrative duty, sanctions, temporary suspension or termination.

3. While the internal affairs and/or criminal investigation are in progress an accused officer shall not be assigned any domestic violence related duties, and shall not be assigned to respond to any domestic violence call or any call in the location of the victim's residence or place of employment. This does not relieve the officer from his or her sworn duty to enforce the law and protect citizens.

4. When an investigation of an incident uncovers officers who had knowledge of an act of domestic violence on the part of another officer but failed to notify the department, or engaged in actions delineated in Section VIII.C.(1), the department shall investigate those officers and take disciplinary action and file criminal charges if probable cause exists.

5. If the department determines through an internal affairs investigation that the officer violated department policy, regardless of whether or not criminal charges have been filed, the department shall take disciplinary action. The department can employ the full range of administrative sanctions in accordance with departmental rules and regulations up to and including termination. Recognizing the potential consequences to the victim of the loss of employment of the officer, including a heightened safety risk, every effort should be made to determine the best overall outcome of each situation on a case-by-case basis. In determining the proper course of administrative action, a department shall consider factors including but not limited to:

- a) The psychiatric/psychological/mental health evaluation;
- b) The officer's history of compliance with departmental rules;
- c) Prior written or verbal threats by the officer;
- d) History of aggressive and/or domestic violence behaviors;
- e) The severity of the abuse;
- f) The needs and wishes of the victim, including safety considerations;
- g) The existence of alcohol or substance abuse problems;
- h) Adherence to no-contact orders and other court orders including payment of child support and alimony, and participation in batterer's intervention and substance abuse programs; and
- i) Other factors as delineated in Section VIII. B.(1).

6. If the officer is not terminated, the department shall also issue strict conditions for continued employment that incorporate victim safety measures.

7. When determining the appropriate level of administrative sanctions, the

level of sanction should reflect the level of violence, the existence of threats of violence and the level of controlling behavior. A non-violent or verbal act of domestic violence which is accompanied by a controlling behavior warrants a higher level sanction than where a pattern of controlling behavior does not exist. Subsequent acts of domestic violence should not be given the same level of sanction previously given but should progressively increase in severity.

## B. Criminal Investigations and Decisions

The responsibility to complete a criminal investigation of an incident of law enforcement domestic violence shall rest with the domestic violence unit of the department, or in the event that no such unit exists, the criminal investigations unit or detective division. The chief may ask the county prosecutor's office to conduct the criminal investigation where the incident involves a chief, a public safety director or where there is a conflict of interest or other special circumstances.

1. The investigating official shall conduct the criminal investigation as in any other criminal violation and in accordance with the *Attorney General's Internal Affairs Policy and Procedures Manual*. If probable cause exists, criminal charges shall be filed.
2. The investigating official or agency shall conduct in depth and detailed interviews of family members, friends, neighbors, colleagues, and others who may have information regarding the alleged incident and the history of domestic violence.
3. Even though an initial report may already exist concerning a law enforcement officer, reports of any subsequent or additional criminal or non-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. An officer convicted through criminal proceedings of a domestic violence crime or disorderly persons offense shall be subjected to a permanent weapon's restriction in accordance with *N.J.S.A. 2C:39-7* and *18 U.S.C. 922(g)(8)* which may result in termination of employment.

## C. Termination Procedures

Upon the decision to terminate an officer, the chief shall do the following in accordance with the *Attorney General's Internal Affairs Policy and Procedures Manual*, department rules and regulations and applicable State law:

1. Notify the officer in person, simultaneous to but in a separate location from the victim.
2. Notify the victim in person, or have the Principal Law Enforcement Contact person notify the victim in person, simultaneous to but in a separate location from the officer's notification, and offer the victim safety planning and assistance as delineated in Section XI. A. of this policy.

**XIII. NEW JERSEY DOMESTIC VIOLENCE FATALITY AND NEAR  
FATALITY REVIEW BOARD MEMBERS**

<p><b>Government Representative</b>  <b>NJ Department of Human Services</b>  Charlene Womack  Division of Prevention and Community Partnerships</p>	<p><b>Government Representative</b>  <b>New Jersey State Police</b>  Detective Dawn Dalrymple  Victim Services Unit</p>
<p><b>Government Representative</b>  <b>Office of the Attorney General</b>  William Zaorski  Deputy Attorney General  Division of Criminal Justice  Department of Law and Public Safety</p>	<p><b>Government Representative</b>  <b>NJ Department of Health &amp; Senior Services</b>  Peri Nearon  Director, Office on Women's Health  Division of Family Health Services</p>
<p><b>Government Representative</b>  <b>Office of the State Medical Examiner</b>  Laura Cerminara  Forensic Administrator</p>	<p><b>Government Representative</b>  <b>Domestic Violence Fatality &amp; Near Fatality Review Board</b>  Erica Olson  Program Director</p>
<p><b>Government Representative</b>  <b>NJ Department of Community Affairs</b>  Commissioner Susan Bass Levin</p>	<p><b>Government Representative</b>  <b>Office on the Prevention of Violence Against Women</b>  Carol Vasile  Supervisor</p>
<p><b>Government Representative</b>  <b>Division on Women</b>  Michelle E. Richardson  Acting Director</p>	<p><b>Government Representative</b>  <b>Office of the Public Defender</b>  Yvonne Smith Segars  NJ Public Defender</p>
<p><b>Government Representative</b>  <b>New Jersey Task Force on Child Abuse &amp; Neglect</b>  Donna Pincavage  Executive Director</p>	<p><b>Public Member</b>  <b>New Jersey Coalition for Battered Women</b>  Sandy Clark  Associate Director</p>
<p><b>Public Member</b>  <b>County Prosecutor's Association</b>  Linda Estremera  Assistant Prosecutor  Middlesex County</p>	<p><b>Public Member</b>  <b>Batterer's Treatment/Intervention</b>  Bernie Hodgdon  Catholic Charities</p>

<p><b>Public Member</b>  <b>Psychologist</b>  Dr. Shamita Das Dasgupta  Manavi, Inc  NYU Law School</p>	<p><b>Public Member</b>  <b>Health Care Professional</b>  Anna Trautwein – Chair  Patient Education Coordinator  Perinatal Clinical Educator  St. Peter’s University Hospital</p>
<p><b>Public Member</b>  <b>Law Enforcement</b>  Jim Murphy  Former Deputy Chief  Washington Township</p>	<p><b>Resource Member</b>  Dr. Sue Rovi – Research Consultant  UMDNJ-Department of Family Medicine</p>
<p><b>Resource Member</b>  Laura Hook  Union County Prosecutor’s Office</p>	