

Adopted December 11, 2023

Law Enforcement Advisory Board

DOMESTIC VIOLENCE INVOLVING LAW ENFORCEMENT MODEL POLICY

Issued Pursuant to 2023, No. 74, § 1

Effective date: January 1, 2024

INTRODUCTION:

This Domestic Violence Involving Law Enforcement Model Policy (the Policy) is issued by the Vermont Law Enforcement Advisory Board pursuant to 2023, No. 74, § 1. On or before July 1, 2024, every State, county, and municipal law enforcement agency shall adopt the Policy pursuant to 20 V.S.A. § 2365(d)(1). On or before July 1, 2024, every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and is certified pursuant to section 2358 of this title shall adopt the Policy pursuant to 20 V.S.A. § 2365(d)(2). Agencies and constables referenced above shall adopt any updated Policy within six months following the issuance of the update pursuant to 20 V.S.A. § 2365(d)(3). Agencies shall adopt a policy or policies that include, at a minimum, each component of this Policy. Agencies may include additional provisions that are not in conflict with the provisions of this policy.

This policy provides guidance to law enforcement agencies regarding incidents when law enforcement agency employees are reported victims or alleged perpetrators of domestic violence. This policy:

- (1) addresses domestic violence survivors' needs and leverages best practices in awareness, prevention, and investigation of domestic violence;
- (2) identifies existing support offered to any law enforcement agency employee or officer who is the victim of or the person who committed domestic violence;
- (3) identifies new means of supporting law enforcement agency employees or officers who are the victims of or the persons who committed domestic violence;
- (4) develops processes to protect the privacy of agency employees and officers who are the victims of domestic violence and to maintain the confidentiality of any information shared by these individuals; and
- (5) amends or replaces language found in 2010 Domestic Violence Involving Law Enforcement Model Policy, section 3.8 (Member Responsibilities), subdivision (4) to require a law enforcement agency employee or officer subject to a final relief from abuse order pursuant to 15 V.S.A. § 1103 to immediately surrender all service weapons.

DISCLAIMER:

This policy is a guide only and shall not be construed as creating any substantive or procedural rights enforceable at law by any party in any civil or criminal matter. This policy shall not be construed as creating a higher legal standard of care with respect to third party claims.

This information is not legal advice and is not a substitute for the advice of an attorney. If you require legal or other expert advice regarding this topic, you should seek the services of a competent attorney or other professional.

SECTION 1. DEFINITIONS

Law enforcement agency employee: Civilian employees and sworn law enforcement officers employed by a law enforcement agency as defined in 20 V.S.A. § 2351a.

Domestic violence: Attempting to cause or causing physical harm to a family or household member, or placing a family or household member in fear of imminent serious physical harm, while on or off duty.

Executive officer: The highest-ranking law enforcement officer of a law enforcement agency.

SECTION 2: HIRING PRACTICES

Law enforcement agencies shall adhere to the following best practices:

- (1) Agencies shall ask applicants if they have engaged in or been investigated for domestic violence, including any past arrests, suspended sentences, diversion programs, and convictions.
- (2) Agencies shall ask applicants if they have ever been served a protective order related to domestic violence, elder abuse, child abuse, sexual assault and/or stalking.
- (3) The agency shall conduct thorough background investigations of all applicants. Applicants will be screened out as necessary regarding any affirmative answers to the above inquiries. Agencies shall not hire applicants with demonstrated histories of committing violence, including convictions for domestic violence, child abuse, elder abuse, stalking, animal cruelty, and/or sexual assault. Agencies shall also comply with the provisions of 20 V.S.A. § 2362a.
- (4) Agencies shall inform prospective employees of an agency's position of zero-tolerance concerning domestic violence committed by employees.
- (5) Agencies shall adhere to the entry standard rules for uncertified applicants set forth by the Vermont Criminal Justice Training Council for Basic Training.

SECTION 3: EARLY WARNING AND INTERVENTION

Early warning and intervention best practices are set forth in this policy specific to domestic violence, but these best practices may apply to other emerging behavioral issues as well. Agencies may have additional policies that apply to early warning and intervention steps related to emerging behavioral issues. Employees should also be cognizant of behaviors of co-workers that are indications of victimization or perpetration of domestic violence.

- (1) Agencies shall support programming for the mental and physical wellbeing of their employees, including Employee Assistance Programs. In response to observed warning signs or at the request of an employee, intimate partner, or other family member, Agencies shall strive to provide assistance/make a referral before an act of domestic violence occurs.
- (2) Agencies shall inform employees of the procedure for seeking referrals to confidential counseling services.
- (3) A disclosure by any person to an agency employee that an employee has personally engaged in domestic violence or threatened to engage in domestic violence may result in referrals for assistance or the initiation of an internal or criminal investigation as appropriate.

Supervisor Responsibilities:

- (1) Supervisors should be cognizant of any pattern of abusive behavior potentially indicative of domestic violence, including but not limited to the following:
 - (a) Aggressiveness or changes in mood:
 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 employee complaints of unwarranted aggression and verbal abuse
 5. On- or off-duty employee injuries
 6. Apparent emotional instability
 7. Changes in mood or appearance
 - (b) Domestic Violence-Related Issues:
 1. Monitoring and controlling any family member or intimate partner through such means as excessive phone calls or contact by other means

2. Stalking any intimate partner or family member
 3. Threatening behavior directed at a partner or family member.
- (2) If the supervisor notes a pattern of problematic or early warning behavior, the supervisor shall:
- (a) Address the behaviors through a review or other contact with the employee and ensure that pertinent facts and circumstances are documented.
 - (b) Make referrals for programming for the mental and physical wellbeing of their employees, including Employee Assistance Programs, as appropriate.

Employee Responsibilities:

- (1) Employees are encouraged to take personal responsibility in seeking confidential referrals and assistance from their agency to prevent a problem from escalating. Best practices discourage couple counseling when domestic violence is suspected because it may compromise victim safety. A Domestic Violence Accountability Program is a recommended tool.
- (2) Employees are responsible for the following actions. Failure to abide by these responsibilities may be considered misconduct and result in discipline up to and including termination.
 - (a) Employees shall report knowledge of abuse or violence involving a fellow employee.
 - (b) Employees shall cooperate with an internal investigation of an employee domestic violence case (except in the case where the employee is the victim).
 - (c) Employees shall not interfere with criminal or internal investigations involving themselves or other employees by intimidating or coercing witnesses or victims, surveillance, harassment, stalking, threatening, or false reporting.
 - (d) Employees shall not threaten, harass, or abuse another using agency resources.
 - (e) Employees who are arrested, charged, or know they are the subject of a criminal investigation or response by any law enforcement agency related to domestic violence, shall promptly report this information to their supervisor, and, if applicable, provide notice of the court dates, times, appearances, and proceedings.

- (3) Employees who learn they are the subject of any protective order proceeding, regardless of jurisdiction and whether the order is issued, shall promptly notify their supervisor and provide a copy of the order, if applicable.

SECTION 4: INCIDENT RESPONSE PROTOCOL

Documentation:

- (1) Agencies shall accept, document in writing, and preserve all calls or reports, including anonymous reports, regarding allegations of domestic violence committed by an individual known to be an employee of any law enforcement agency in the same manner as allegations against members of the public.

Communications:

- (1) Emergency communications dispatchers shall notify a supervisor as soon as practicable of any call involving allegations of domestic violence committed by an individual known to be an employee of any law enforcement agency.
- (2) Emergency communications dispatchers shall prepare and preserve documentation of the facts and circumstances of the call, including the 911 recordings, in the same manner as the preservation of information relating to allegations against members of the public.

Responding Officer Responsibilities:

- (1) Upon arrival to the scene of a call or incident involving allegations of domestic violence involving a law enforcement agency employee, the responding officer(s) shall promptly notify dispatch and request the on-duty supervisor in charge report to the scene, regardless of the involved employee's jurisdiction.
- (2) Law enforcement officers shall respond and investigate allegations of domestic violence against individuals known to be employees of any law enforcement agency in the same manner as responses and investigations of allegations against members of the public. In the circumstance of an arrest, weapons controlled by individuals known to be employees of any law enforcement agency shall be seized in the same manner as weapons controlled by members of the public.

On-Scene Supervisor Response:

- (1) A supervisor shall report to the scene of any domestic violence incident involving an individual known to be an employee of any law enforcement agency. Efforts shall be made for an on-scene response by a supervisor who is of equal or greater rank to the involved employee.

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- (2) The supervisor shall inform their executive officer, or designee, of any domestic violence incident involving an individual known to be an employee of any law enforcement agency.
- (3) The on-scene supervisor shall assume command and ensure that the crime scene is secured and that all evidence is collected in the same manner as responses to incidents involving members of the public. Written reports, including incidents in which no arrests are made, shall be completed in the same manner as incidents involving members of the public.
- (4) The on-scene supervisor or the supervisor's executive officer shall promptly notify the involved employee's executive officer of the incident. All notifications and attempts to notify shall be documented.

Department Follow-up:

- (1) In a timely manner, the involved employee's executive officer, or designee, shall debrief all employees who responded to a domestic violence incident involving an individual known to be an employee of any law enforcement agency. The debriefing shall include the following:
 - (a) A review of agency expectations regarding the confidentiality of investigations relating to witnesses and victims;
 - (b) An order prohibiting discussion of the incident outside of the official inquiry; and,
 - (c) A clear delineation of assignments.
- (2) Ongoing investigations of any domestic violence incident involving an individual known to be an employee of any law enforcement agency shall be conducted in the same manner as investigations involving members of the public, including but not limited to potential violations of active abuse protection orders and/or applicable state and federal firearm laws.
- (3) If the incident involves allegations of domestic violence committed by the executive officer of their own law enforcement agency, the supervisor shall notify the agency's governing body and the Vermont Criminal Justice Council.
- (4) If the incident involves allegations of domestic violence committed by the executive officer of another law enforcement agency, the supervisor's executive officer, or designee, shall notify the agency's governing body and the Vermont Criminal Justice Council.
- (5) Internal investigations of any domestic violence incident involving an employee of a law enforcement agency shall be conducted in the same manner as other internal investigations, including determining potential violations of the reporting provisions of this policy. Internal investigations shall still be conducted even if a protection order expires or is vacated.

- (6) Efforts shall be made to serve protective orders and arrest warrants involving domestic violence committed by law enforcement agency employees by at least two officers of equal or greater rank to the involved employee.
- (7) Following any domestic violence incident involving an employee of a law enforcement agency, the investigating agency shall strive to provide the following services to reported victims:
 - (a) Designate a command staff employee to:
 - i. Act as a principal point of contact to keep the victim apprised of all developments;
 - ii. Offer safety planning to the victim;
 - iii. Report the findings of the safety planning to the executive officer who will make decisions concerning appropriate sanctions, administrative actions, and referrals for the accused employee.
 - iv. Refer the victim to the community-based victim advocates and advocacy groups.
 - v. Assist the victim and children in safety planning and caution the victim to be alert to stalking activities and provide instructions regarding the need to report any concerning behavior or conduct.

SECTION 5: VICTIM SAFETY AND PROTECTION

- (1) The command staff employee designated as principal contact for the victim shall inform the victim of confidentiality policies and their limitations and attempt to ensure that confidentiality is maintained throughout the case.
- (2) All employees should be aware of possible victim/witness intimidation or coercion and the increased danger when the victim leaves an abusive partner.
- (3) If an employee suspect's intimidation or coercion of the victim/witness is occurring, the employee shall prepare a written report to be delivered promptly to the investigator in charge of the case and the employee's supervisor through the chain of command.
 - (a) In order to determine whether the victim/witness is being intimidated or coerced, the investigator in charge shall seek out secondary sources of information if available.
 - (b) Investigators should be aware that intimidation and coercion may increase the risk of recanted statements or non-participation of a victim in court proceedings and should seek and preserve supplemental evidence.
 - (c) Victim should be referred to a victim advocate or to the 24-hour community-based advocacy groups.
- (4) Law enforcement agencies shall comply with 21 V.S.A. § 472c and ensure that law enforcement agency employees who are victims of domestic violence may

attend relevant court hearings as set forth in that statute.

- (5) Agency employees will not accompany employee suspects to any domestic related court proceedings while on duty unless subpoenaed to appear or ordered to do so by their chain of command.
 - a. If appearing while off duty they will not carry or display any agency equipment, including assigned firearms(s) or insignias on their person. They must be aware of the fact that their mere presence in domestic violence related actions may appear intimidating to the victims.
- (6) Law enforcement agency employees shall not use agency resources including but not limited to computer aided dispatch and record management systems, work phones, emails, or other means to: obtain information about a victim without authorization or to threaten, harass, or abuse another.
 - a. Violations of this provision may be considered misconduct and result in disciplinary action up to and including termination.

SECTION 6: POST-INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

- (1) Law enforcement agencies are responsible for ensuring the integrity of internal investigations and criminal investigations related to domestic violence involving agency employees.
- (2) The agency will adhere to and observe all necessary protocols to ensure accused employee's departmental, union, and legal rights are upheld during the administrative and criminal investigations.
- (3) Where sufficient evidence exists, the agency shall take immediate administrative action against the accused employee that may include removal of credentials and service weapons, reassignment, discipline, or termination as appropriate.
- (4) When an investigation of an incident reveals an employee failed to report information required by this policy or sought to interfere with any investigation, the agency shall investigate the employee(s) and take disciplinary action as appropriate.
- (5) If an agency determines through an internal investigation that an employee violated agency policy, the agency may employ the full range of administrative sanctions regardless of the disposition of any criminal proceedings.
- (6) Any employee determined through an administrative investigation to have committed domestic violence shall be subject to discipline up to and including termination.

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Section 7. Firearm Relinquishment

Law enforcement officers shall relinquish agency-issued firearms to their agency if the officer:

- (1) is the subject of a final relief from abuse order issued pursuant to 15 V.S.A. § 1103;
- (2) is the subject of a final order against stalking issued pursuant to 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm; or,
- (3) has been convicted in any court of a misdemeanor crime of domestic violence.

See 13 V.S.A. § 4017a; 18 U.S.C. §§ 922(d)(9) and 925(a)(1).

Agencies are advised that there may be additional scenarios under which firearms relinquishment is appropriate, including pursuant to relevant statutory prohibitions, court orders, and/or conditions of release.

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