

Rules and Procedures

Rule 327

June 12, 2006

Rule 327 - PROTECTION OF ABUSED PERSONS

This Rule is issued to establish Department policy and procedure in responding to incidents of abuse; domestic violence; to ensure compliance with the provision of [M.G.L. Chapter 209A](#), and Chapter 403 of the Acts of 1990 (An Act Relative to the Protection of Abused Persons); and to enhance officer safety by making officers aware of the potential danger of violence to themselves and the victim that is inherent in domestic violence incidents. This Rule has been amended to reflect the changes mandated by the organizational change creating a Family Justice Division within the Bureau of Investigative Services, and further changes creating a Domestic Violence Unit located at the Family Justice Center at 989 Commonwealth Avenue, Boston. This Rule is effective immediately, superseding all rules, orders, bulletins, or other directives previously issued concerning Abuse Prevention or Domestic Violence.

Sec. 1 Policy: It is the policy of this Department that such incidents will be recognized and responded to as a criminal activity. They will receive a priority one response (two officers) and, consistent with state law, the arrest of the suspect is presumed to be the preferred response to domestic violence incidents. In the institution of this procedure, it is understood that it will not cover every conceivable situation that may arise. When provisions of this rule are found to be incomplete or inapplicable to a particular set of circumstances, officers are expected to act intelligently and exercise sound judgment, attending to the spirit above the letter of the law.

Sec. 2 Professionalism: Officers should act in a professional manner at all times when responding to a domestic dispute. Officers should not let their own opinions and emotions govern their words or actions. Officers shall not threaten, suggest, or otherwise indicate the arrest for all parties for the purpose of discouraging requests for law enforcement intervention. It should be noted that the statute provides that no officer shall be held liable in any civil action regarding personal injury or property damage brought by any party to a domestic violence incident for an arrest based on probable cause when the officer acted reasonably and in good faith and in compliance with the statute.

Sec. 3 Safety: When responding to calls for domestic violence officers should take whatever steps are necessary to ensure the safety of all present, including themselves. While officers must be concerned with the needs of the victim, they must anticipate the unexpected, and never lose sight of the abuser. Domestic violence incidents are often characterized by anger, frustration, and intense emotions. These feelings can easily be directed against the responding officers, causing serious injury or death. For this reason at least two officers should be dispatched to domestic violence calls, and officers should not hesitate to call for a back-up unit, if they deem it necessary.

Sec. 4 Definitions: For the purposes of this Rule the following definitions will apply:

Abuse: The occurrence of one or more of the following acts between family and/or household members:

- (a) Attempting to cause or causing physical harm;
- (b) Placing another in fear of imminent physical harm;
- (c) Causing another to engage involuntarily in sexual relations by force, threat or duress.

Family or Household Members: Persons who either:

- (a) Are or were married to one another;
- (b) Are or were residing together in the same household;
- (c) Are or were related by blood or marriage;
- (d) Have a child in common regardless of whether they have ever married or lived together;
- (e) Are or have been in substantive dating or engagement relationship, considering the length and type of relationship, the frequency of interaction, and the length of time since the termination of the relationship.

Domestic Violence Intimate Partner (DVIP): Domestic abuse involving persons that are or were in an intimate partner relationship. (Intimate partnerships should be defined as present or former marital, or significant dating relationships between persons; either living together or not; additionally, persons who have children together either in a custodial or non-custodial arrangement.)

Non-Intimate Partner Domestic Violence (NIDV): Domestic abuse involving all other persons not involved in an intimate partner relationship covered under MGL 209A. (For example, incidents between family and household members such as brothers, sisters, aunts, uncles, grandparents, etc., sharing living quarters.)

The Family Justice Division (FJD) of the Bureau of Investigative Services (BIS) includes the following units: The Domestic Violence Unit, The Sexual Assault Unit, The Crimes Against Children Unit, The Human Trafficking and Teen Prostitution Projects.

The Family Justice Center of Boston: The (FJC) located at 989 Commonwealth Avenue, Boston. The FJC hours of operation are Monday-Friday 8AM-5PM. Located at the FJC are the BPD Domestic Violence Unit (7 days, 7:30 AM-11:45 PM @ 343-4350), The Crimes Against Children Unit, the Human Trafficking and Teen Prostitution Project, and the Suffolk County District Attorney's Family Protection Unit, as well as several other community based non-profit, state, and city agencies that provide services to victims of domestic abuse and child sexual assault. The FJC does not allow offenders on the premises. Under no circumstances is a suspect/offender to be referred to the FJC for services.

Domestic Violence Unit: Located at the Family Justice Center, the citywide Domestic Violence Unit is comprised of detectives specially trained in the investigation and prosecution of intimate partner and family violence. Detectives assigned to the DVU work in concert with other family violence specialists at the FJC to ensure a continuum of services for victims and their children. DVU detectives are assigned follow-up investigations of all BPD reported incidents of domestic violence via the ITS case assignment system utilized by the DVU Sergeant Detectives. DVU detectives are on-duty from 7:30 am until 11:45 pm daily.

(For response protocols, see Section 6, Duties of the DVU.)

Operations shall keep a list of on-duty DVU Superior Officer Detectives for each shift, and the on-call Superior Officer Detective for the last half shift, (11:45pm-7:30AM).

Crimes Against Children Unit: The Crimes Against Children Unit, located at the Family Justice Center, is assigned the follow-up investigations all reported incidents of child pornography, Internet crimes against children, and DSS-referred cases of Child Sexual Assault.

("Breaking" (911) incidents of child sexual assault still require the response of the Sexual Assault Unit, who will retain investigation of these cases.)

For serious cases of non-sexual child physical maltreatment, assault, or neglect, officers responding to and district detectives investigating these incidents should consult with the Superior Officer in Charge of the CACU to advise in the investigation and evidentiary needs of these cases. When possible, a CACU detective specializing in cases of serious child physical abuse will assist district detectives in the investigation of these cases. All reports of child abuse must be faxed to the CACU at the Family Justice Center at 617-343-6160.

Sex Trafficking: A commercial act induced by force, fraud or coercion, or in which a person is induced to perform such act has not attained the age of 18.

Labor Trafficking: The recruitment, harboring, transportation, provision, or obtaining of a person for labor services through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

High Risk Victims and Trafficking Team: A multi-agency task force, headquartered at the FJC, comprised of law enforcement agencies and service provider partners whose goals are to improve identification, investigation, and victim rescue through comprehensive training, outreach, and education, and targeted prosecution of offenders. This Investigative/Intervention Team provides a safety net for the victim, and aids in the prosecution of perpetrators of these crimes. The Task force focuses on both immigration and non-immigration cases.

Domestic Violence Advocate: A civilian member of the department assigned to the district stations who specializes in safety planning, court procedures, and referral to services for victims of domestic violence.

Court: The Superior, Probate and Family, District or Boston Municipal Court Departments.

Court Order: An oral or written command by a justice of any court described above which grants the relief listed in [M.G.L. c. 209A](#), section 6, paragraph (7). In addition, an oral or written command from any other jurisdiction.

Sec. 5 Duties of Responding Officers: Officers confronted with domestic violence incidents shall take the following steps when they have reason to believe a family or household member has been abused or is in danger of being abused:

- A. Remain on the scene as long as physical danger exists.
- B. Assist in obtaining medical treatment, transport, or arrange transportation to a health care facility.
- C. In serious cases, officers shall notify a Domestic Violence Detective at the FJC to respond to the scene. In all other cases involving physical evidence or when photographs are required, responding officers shall contact the Patrol Supervisor or District Detective to take photos or seize evidence.
- D. Assist the victim in locating and getting to a safe place such as a shelter, family or friend's residence. Inform the victim of the services available at the Family Justice Center and from the Domestic Violence Advocate located at the District or Area.
- E. Give the victim a copy of 209A rights in hand, and read those rights to the victim. If the victim's primary language is not English, the statement should be provided in the victim's native language, if possible. The copy that is left with the victim should provide the name and address of the appropriate district court. Victims should also be referred to any domestic violence program offered at the Family Justice Center or operated by the District Attorney's Victim Witness Assistance Office also located at the Family Justice Center. If an arrest is made the officer shall inform the victim that the abuser may be eligible for bail and may be promptly released.
- F. Arrest shall be the preferred response whenever an officer observes, or has probable cause to believe, that a felony has been committed, or a person has committed a misdemeanor amounting to abuse, or an assault and battery, whether or not it was committed in the officer's presence.

- G. Officers shall arrest any person that the officer observes, or has probable cause to believe, has committed a violation of a court order. According to M.G.L.c. 209A, a law enforcement officer may presume the validity of, and enforce in accordance with section six, a copy of a protection order issued by another jurisdiction that has been provided to the law enforcement officer by any source; provided, however, that the officer is also provided with a statement by the person protected by the order that such order remains in effect. Law enforcement officers may rely on such statement by the person protected by such order.
- H. **Physical Injuries/Dominant Aggressor Identification Procedures:** In situations where both parties present physical injuries and conflicting accounts of how they obtained those injuries, officers shall summon a Patrol Supervisor to the scene to assist them with determining the dominant aggressor in the incident. The dominant aggressor is not necessarily the individual who struck first; and size, strength, and force used should always be taken into consideration when trying to determine the true aggressor versus the individual in a defensive posture. The officers and the Patrol Supervisor should take into consideration whether the injuries are consistent with offensive or defensive wounds; if the accounts are consistent with other physical evidence or witness accounts at the scene; the relationship history or history of abuse; etc. A premise history should be conducted through Operations to aid in this determination, as well as a BOP and warrant check on the participants to determine past restraining order history or prior 209A or other violent criminal history. As bona fide mutual domestic battering situations are rare, all efforts should be made to prevent inadvertently arresting victims of abuse. Documentation of the efforts to determine the dominant aggressor shall be contained in the incident report, as well as the required administrative reports. (See Section 9, Paragraph B. Reports, for instructions on reporting requirements in dual arrest situations.)

I. Transportation to a Safe Location: If no order has been issued from court, and an officer believes that a situation demonstrates the potential for danger or abuse, during court hours, the officer will advise the victim of the availability of court orders and provide transportation to the local courthouse, if necessary, to a safe shelter, or, during the hours of its operation, (day and first half) they should arrange to meet a DVU detective at the FJC.

J. After court hours, follow the above procedures, but also advise the victim of the availability and procedure for obtaining an emergency court order. If the victim requests an emergency order, the officer will bring the victim to the district station and activate the Judicial Response System with the assistance of the Duty Supervisor. If the District Domestic Violence Advocate is available, he/she shall assist the victim with safety planning.

K. The Judicial Response System is activated as follows: On each Wednesday, the Operations Division will notify each District of the confidential telephone number or pager number for the judge assigned as the on-call judge for that week. Where an officer responds to a district station with a victim seeking an emergency court order, the Duty Supervisor shall call the on-call judge, and allow the officer to speak with the judge regarding the incident and particulars of the case. When speaking with the judge, the officer will have a "BOP" criminal history on the suspect, if one exists.

Any call back or return phone number provided when calling the on-call judge must be to a police official with knowledge of the situation (i.e., the Duty Supervisor or another Superior Officer, or responding/reporting officer with the same level of knowledge) and not to an operator or a dispatcher. When the judge cannot be contacted or fails to return the initial call within 15-20 minutes, the Duty Supervisor shall call the State Police Duty Officer at (508) 820-2121. The State Police Duty Officer will then contact the judge and have the judge contact the appropriate Duty Supervisor. The judge will respond in person or will authorize the Duty Supervisor to record the court order. The Trial Court of Massachusetts forms now come in an envelope (FA 3, 9/95) and are available at the District station as supplied by the local court clerk. The envelope contains the following forms:

- Complaint for Protection from Abuse Page 1 of 2, (FA 1, 9/95)

- Complaint for Protection from Abuse Page 2 of 2, (FA 1A, 9/95)
- Abuse Prevention Order Page 1 of 2, (FA 2, 9/95)
- Abuse Prevention Order Page 2 of 2, (FA 2A, 9/95)
- Complaint for Protection from Abuse Request for Address Impoundment, (FA 4, 9/95)
- Defendant Information Form in Restraining Order Cases, (FA 5, 9/95)

The Duty Supervisor will be responsible for ensuring that these forms are filled out according to the judge's orders, and may assign the responding/reporting officer the task. The orders may be for the defendant to refrain from abuse, and/or vacate the home, or for any other appropriate stipulation. Copies of the FA 3, 9-95 form(s) are to be distributed to the court, the plaintiff (victim), and the defendant (abuser), and one copy will be kept at the District station in the same manner as prescribed in Section 7B, paragraph 4a - e, of this rule. The Duty Supervisor will ensure that the forms are filled out correctly and accurately.

Sec. 6 Duties of Domestic Violence Unit: Detectives assigned to the DVU are specifically trained in all aspects of intimate and non-intimate partner violence and are centrally located at the Family Justice Center. DVU Detectives shall assume responsibility for all follow-up investigations of all reported incidents of 209A abuse beginning with the assignment of the incident report through resolution of the investigation. If a DVU Detective determines during the course of a follow-up investigation that a sexual assault has occurred, the DVU detective shall retain the matter and fully investigate the allegations according to the department rule governing response to sexual assault.

Response Protocols-Serious Incidents: For serious incidents of domestic violence involving significant bodily injury, or multiple injured victims (other family members, minor children, witnesses) or injuries with a likelihood of death, and requiring specific crime scene management and assistance from the BIS Technical Services Division, an on-scene Patrol Supervisor should have Operations contact a DVU Supervisor (343-4350) to respond with the on-duty DVU detective(s) to the scene to take charge of the incident and direct the Crime Scene Management team in the collection and preservation of evidence. In similar circumstances on the last half shift, Operations should notify the on-call DVU Superior Officer to respond when warranted.

For employee and police officer-related incidents of domestic violence, the on-duty Superior Officer Detective of the DVU should be notified by Operations and respond at all times (See Rule 327A).

Sec. 7 Service, Documentation, and Maintenance of Abuse Prevention Orders: It is the responsibility of the Department to serve, document, and maintain Abuse Prevention Orders. The following procedures will be followed in order for the Department to fulfill this responsibility.

A. District Responsibilities:

1. The Commander of each police district shall receive all incoming abuse prevention orders.

2. The Commander shall record each order in the computerized "Abuse Prevention Order Database." The database shall contain the following information:
 - Court Information
 - Defendant Information
 - Plaintiff Information
 - Comments
 - Services/Attempts at Service
 - Date
 - Tour
 - Unit
 - Officer name and ID # entering information

3. After recording information in the database as noted above, the Duty Supervisor shall assign a unit to serve the order during that tour of duty. After serving the order, the officer(s) shall complete the Return of Service, and return it to the Duty Supervisor. It is the sole responsibility of the Duty Supervisor to ensure that the return is mailed to the appropriate court.

4. The police copy of the order (blue copy) shall be filed in alphabetical order by the DEFENDANT'S last name. Each district shall designate a file cabinet for keeping active abuse prevention orders. The file cabinet shall be accessible to the Duty Supervisor during all tours of duty. This information is accessible citywide via the Department Intranet Website.

5. Upon receipt of a Return of Service, the Duty Supervisor shall inspect the Return of Service for accuracy and enter the date of service in the database. The Duty Supervisor shall mail the Return of Service in a marked, addressed envelope to the issuing court, or place it in the complaint tray for the court within the same police jurisdiction.

6. If an officer has made an attempt to serve an order to no avail, the Duty Supervisor shall record the date of the attempt of service in the

database, and shall ensure that the relieving Duty Supervisor receives the order to be served during the next tour of duty. At least one attempt on three different tours of duty shall be made and recorded on the Return of Service and in the database before sending the Return to the court prior to the court hearing.

7. One Superior Officer shall be assigned to supervise the maintenance of abuse prevention order files. These files shall be kept in a manner so as to ensure that an officer on the scene of an alleged violation of such order may be informed of the existence and terms of such order at any time of the day or night. The Superior Officer in charge of these files shall ensure that orders that have expired or that have been vacated by the court are removed, and that the information regarding their validity is entered into the database.

B. Police Officer's Responsibilities:

1. Each order shall be served upon the defendant. The officer shall make an effort to serve the order by delivering a copy in hand to the defendant at his home, workplace, or other location.
2. If the officer is unable to make in-hand service to the defendant, the officer shall use an alternative form of service such as the following:
 - (a) as ordered by the court;
 - (b) by leaving the order at the defendant's last and usual address as shown on the order;
 - (c) by leaving the order with an adult at the defendant's address; or an adult who knows the defendant and who states he/she is willing to give the order to the defendant. Write the adult's name and address on the Return. **DO NOT, UNDER ANY CIRCUMSTANCES, GIVE THE ORDER TO THE PLAINTIFF TO SERVE.**
 - (d) by other means, i.e., with an adult at the defendant's workplace. Write the adult's name and address on the Return.
3. The officer must specify in writing on the Return (green copy) the manner in which service was made. The officer must also print and

sign his/her name, unit, the date, and the location of service. If an officer has been unable to make service of the order, he shall record on the Return of Service: "Attempt to serve, date, time, location, his name and unit", and submit this Return of Service (green copy) to the Duty Supervisor before the end of the officer's tour of duty.

4. The Abuse Prevention Order (FA 2, 9/95 and FA 2A, 9/95), and the Complaint for Protection from Abuse (FA 1, 9/95 and FA 1A, 9/95) are distributed as follows:
 - (a) The original (white copy) of the order and complaint is retained by the court.
 - (b) The pink copy of the order and complaint is given to the plaintiff immediately.
 - (c) The yellow copy of the order and the complaint is given to the defendant immediately, and the defendant is advised that violation of the order is a criminal offense that will result in arrest.
 - (d) The green copy of the orders completed and is returned to the Duty Supervisor.
 - (e) The blue copy of the order is filed with the Police Department in the city or town where the defendant lives. If one of the parties does not live in Boston, a photocopy of the blue copy of the order must be mailed to the outside department.
5. When officers assist a victim of abuse in obtaining an emergency abuse order after court hours, officers are to activate the Judicial Response System, and refer to instructions on the envelope of the application for Abuse Prevention Order form(s) packet (FA 3, 9/95) and Section 5, paragraph K of this Rule.

Sec. 8 Criminal Complaints: Arrests will be made and criminal complaints will be sought for all violations of c. 209A orders that occur within the City of Boston, regardless of the city/town or court where the action originated (e.g., a Somerville court order violation occurring in Dorchester will be criminally prosecuted in Dorchester Court). The application for a criminal complaint for a violation of c. 209A is sought in the court within whose jurisdiction the violation occurred.

Sec. 9 Reports: In order to properly document incidents of domestic violence, one or more of the following reports will be made:

- A. Only Boston Police Officers shall write domestic violence incident reports. (BPD Form 1.1). Whether or not an arrest is made in a domestic violence call, the officer shall

submit an incident report (1.1). The Duty Supervisor shall ensure that in Key Situations mandatory field, that the type "DVIP" or "NIDV" is chosen, and ensure the relationship described in the narrative matches the Key Situation box and that the type of Incident reflects the crime committed under the choices in the ITS menu. The reports shall document the following information at a minimum:

1. Names of all children their ages and relationships to other household members;
2. Names of all household members and contact telephone numbers;
3. Cause of the incident, if known;
4. Any injuries sustained and medical treatment required;
5. Prior calls at the address or prior abuse history;
6. The presence/seizure of weapons, FID Cards, Licenses to Carry.
7. All excited utterances by victim, accused, or witnesses present.
8. All evidence seized, photographs taken of the victim, and description of premises and persons present.
9. Any action taken under M.G.L.c. 209A (e.g., restraining order).
10. All action taken by the officer, including any and all referrals, arrests, and advice given to the victim regarding his/her rights of their rights.
11. Any known violent or gang affiliation history. The officer must also submit an FIOFS to support violent or gang affiliation history.

B. Dual arrest situations: Under this Rule, dual arrest situations occur where one or both parties involved in an incident are summoned into court in place of arrest. Reports for dual arrests where both parties engaged in offensive and injurious behavior and where no defensive injuries could be determined or no dominant aggressor identified, should contain a description of all physical evidence, witness statements, and all statements made by either party. The incident report and court complaints shall reflect that the incident is a mutual domestic assault, and shall reflect the grounds for the dual arrest.

In addition to the Form 1.1 required above, in a situation where dual arrests have been made, the officer shall submit an administrative report (Form 26) describing the steps taken to determine the dominant aggressor prior to making the determination to arrest both parties. A check shall be made of both parties for past incidents of domestic violence and documented on the report (See section 5H-Physical Injuries/Dominant Aggressor). Such information shall also be included in the narrative section of the incident report. Incident Reports shall reflect the efforts made to determine the dominant aggressor, including the efforts made by a Patrol Supervisor called to the scene. Administrative reports shall be addressed to the reporting officer's District or Unit Commander, and copies shall be faxed to the Domestic Violence Unit.

The Duty Supervisor shall check all reports for content in accordance with this section before sending the reports to the DVU.

C. Miscelling: An officer responding to radio calls describing family trouble or domestic violence may give a miscel only under the following circumstances:

1. Six-Boy: No such person can be found.
2. Six-Charlie: No such address.

No dispatcher shall change the nature code of a DVIP or NIDV call without a Patrol Supervisor on-scene assessment. Additionally,

Dispatchers shall notify the Operations Duty Supervisor immediately if a Unit requests a nature code change.

Sec. 10 Stalking: Whoever (1) willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which seriously alarms or annoys that person and would cause a reasonable person to suffer substantial emotional distress, and (2) makes a threat with the intent to place the person in imminent fear of death or bodily injury, shall be guilty of the crime of stalking.

The District Detective Supervisor shall forward all reports of stalking incidents to the Domestic Violence Unit for investigation, regardless of the relationship of the offender to the victim.

Sec. 11 Animal Cruelty: Officers should remain vigilant concerning any animal abuse or neglect, which is often indicative of other abuse in the home. Animal abuse is now a felony under M.G.L. c 277 s. 7. Any suspected animal abuse shall be reported to the MSPCA Law Enforcement Section. Reports of Animal Cruelty shall also be forwarded to the Domestic Violence Unit for informational purposes.

Sec. 12 Child Abuse and Neglect: Special attention must also be given to the safety and welfare of any children that responding officers have reason to suspect may be suffering from some form of abuse and/or neglect. In an effort to assist in a coordinated and comprehensive investigation of child abuse and neglect, the District Detective Supervisor shall review and maintain all 51A's filed, assign a District Detective, and fax a copy of the 51A and incident report to the Crimes Against Children Unit.

A. Definitions: For the purposes of this section of Rule 327, the following definitions shall apply:

- Child: a person under the age of eighteen (18) years of age;
- Caretaker: The child's parent, guardian, any other household member and any other person entrusted with the responsibility for the child's health and welfare;

- Abuse: The non-accidental commission of any act by a caretaker upon a child which causes or creates a substantial risk of serious physical or serious emotional injury, or constitutes a sexual offense under the laws of the Commonwealth;
 - Neglect: Includes failure by a Caretaker, either deliberately or through negligence (or inability), to take actions necessary to provide a Child with minimally adequate food, clothing, shelter, medical care, supervision or other essential care;
 - Serious Physical Injury: Includes any non-trivial injury, death, malnutrition or failure to thrive;
 - Serious Emotional Injury: An extreme emotional condition such as a severe state of anxiety, depression or withdrawal;
 - Crimes Against Children Unit of the Family Justice Center (CACU/FJC): The CACU will be available for consultation, coordination and assistance with the investigation for all crimes against children. District Detectives assigned to a non-sexual child assault investigation may contact the CACU at 343-6183.
- B. Duties of Responding Officers:** As mandated reporters, officers who suspect child abuse shall immediately make a verbal report to the Department of Social Services on the Child Abuse Hotline (1-800-792-5200), and within forty-eight (48) hours file a 51A form ([M.G. L. c. 119](#)). The officer shall complete the 51A form and mail the original to the Department of Social Services. The officer can obtain the specific mailing address when making the verbal report on the Child Abuse Hotline. The 51A shall not take the place of the Boston Police Incident Report Form 1.1. The responding officer shall also complete a 1.1 Incident Report documenting the incident, and their observations. If Officers have reason to believe that a child is suffering from abuse or neglect, officers shall request EMS to respond to the scene and conduct an evaluation. The reporting officer shall forward a copy of the 1.1 to the DSS hotline or local DSS Office.

[M.G.L. c. 119 s. 39](#) prohibits the abandonment of any child under the age of ten (10) years of age. When a Responding Officer is called to a scene for a report of a child "left home alone," on arriving at the scene and determining that a child under the age of ten has in fact been left home alone and unsupervised, a District Patrol Supervisor shall be summoned to commence the initial response. Emergency Medical Services shall be called to the scene to examine the child. A reasonable effort shall be made to identify the child's parent or guardian and who was last responsible for supervising the child. If unable to identify or contact the child's parent, guardian or caretaker, the child should be transported by EMS to a hospital emergency room for examination.

The Officer filing the 51A form with D.S.S. will make duplicate copies of the 51A

and the 1.1 Incident Report and forward them to the District Detective Supervisor for follow-up assignment by a District Detective. If upon follow-up investigation additional evidence of intimate partner abuse is discovered, a supplemental incident report shall be written and the Domestic Violence Unit will conduct the follow-up of the DVIP.

C. Assigned Detective's Responsibilities (District or CACU):

Using the information contained in the completed 51A form, and the 1.1 Incident Report, the detective shall conduct a search of the available databases (Department Intranet/Repeat Incident Analysis; Detective Case Management ITS, and/or SAU Case Tracking) reported incidents of abuse and/or neglect involving the reported child and/or his/her family. Special attention shall be given to any previously reported history of domestic violence, and/or substance/alcohol abuse involving the child's family.

The assigned detective shall contact the appropriate D.S.S. Field Office and ascertain the status of the 51A, which had been filed by the police officer. If the 51A has been "screened in" for further D.S.S. action, contact the assigned D.S.S. caseworker or investigator and report on any pertinent information that may be beneficial to him/her in investigating and serving the family.

The assigned detective shall deposit the 51A in a permanent file at the district or unit.

D. Patrol Supervisor/Unit Supervisor Responsibilities:

The supervisor shall ensure that officers under his/her supervision respond appropriately to incidents of all child maltreatment and that all children impacted, whether present or not, are identified if possible.

The supervisor shall ensure that all

information necessary for the accurate and complete filing of a 51A with the Department of Social Services is obtained. He/she shall also ensure that necessary and appropriate emergency medical assistance has been obtained to examine and treat the child(ren) impacted.

The supervisor shall ensure that he/she, or officers under his/her supervision, who have reason to suspect that a child, under the age of eighteen, is or has been abused or

neglected, either physically or sexually, contact DSS and file a 51A on behalf of the child(ren).

E. Duty Supervisor Responsibilities:

The Duty Supervisor shall ensure that in response to incidents of child abuse and/or neglect reported or discovered during their tour of duty, all reasonable and appropriate actions are taken, that an incident report (1.1) is completed to document

the incident and that a 51A is filed with the Department of Social Services. The Duty Supervisor shall also ensure the accuracy and completeness of all reports.

Sec. 13 Safe Placement of Surrendered Newborns (“Safe Haven Law”): On October 28, 2004, the “Safe Haven” Law went into effect and is scheduled to expire on June 30, 2008. M.G.L. c 119 s. 391/2 allows for the PARENT of a newborn infant, 7 days of age or less, to surrender his/her child at certain “designated facilities”, without fear of any consequence or criminal prosecution for child abuse or neglect.

In order to qualify and be in compliance with the requirements of this law, the following elements must be present at the time of contact:

- The person making contact to surrender custody of the child must identify himself/herself as a parent of the child. Absent any other definition or designation, the term “parent” shall be defined as either the biological mother or biological father of the subject child.
- The child can be no more than 7 days old.
- The “designated facilities” are limited to hospitals, police departments and manned fire stations.

Upon notification by an individual that he/she is the parent of the child, and wants to invoke the “Safe Havens” law and surrender their newborn infant, the officer(s), (Contact Officer(s)) shall immediately notify Operations of his/her location, that he/she has a “Safe Haven” baby and parent and shall request EMS to respond to the location. In consideration of the parent, the Contact Officer(s) should be aware of the potential needs of the individual requesting to surrender their child. If the individual has identified herself as the biological mother, her medical condition must be considered, in that she may have given birth within the last 7 days and may be in need of some type of medical attention herself. The Contact Officer(s) must also be alert to the mental state of the person surrendering the child and request assistance as appropriate and necessary.

The law provides no authority to detain the individual attempting to surrender the child. The act of leaving the child with the police shall not be considered abuse or neglect. However, if officers suspect that the child has been abused and/or neglected, they are mandated to report it in accordance with M.G.L. c.119 s.51A.

Contact Officer(s) must make every effort to solicit the following information:

- (1) The name of the newborn infant;
- (2) The name and address of the parent placing the newborn infant;
- (3) The location of the newborn infant's birthplace;

- (4) Information relative to the newborn infant's medical history and his/her biological family's medical history, if available;
- (5) Any other information that might reasonably assist the department or the court in current or future determinations of the best interests of the child, including whether the parent or guardian plans on returning to seek future custody of the child;

The Contact Officer(s) may only encourage the parent to provide the information. The parent is not required to provide the information. He/she will not face consequences for failing to provide information. In the event that the parent does not wish to provide any information to the Contact Officer(s), the officer(s) will document his/her observations of the person attempting to surrender the child, including a detailed physical description of the individual, what they do and say, and any other pertinent descriptive information. The officer(s) shall complete a 1.1 incident report regarding the incident.

The Contact Officer(s) shall immediately contact the Department of Social Services via the Child-At-Risk Hotline (1-800-792-5200). The purpose of this call is to notify DSS of the placement of the newborn at the facility, NOT TO FILE A 51A.

If during the course of the interaction with the individual who is attempting to surrender the child, the Contact Officer(s) become aware, or have reasonable suspicion, based upon articulable facts, that the child is older than 7 days, or that the individual is not a parent of the child, he/she shall conduct a threshold inquiry and collect as much information as possible from the individual with the child. The Contact Officer(s) shall request that a Patrol Supervisor respond to his/her location to assist in the inquiry. The Contact Officer(s) will, as a result of his/her suspicions, call the Child-At-Risk Hotline, (1-800-792-5200), and file a 51A as mandated reporter(s).

Albert E. Goslin
Superintendent in Chief
Acting Police Commissioner

Notes:

Amended by SO 08-034, issued 09/12/2008, all references to the "Ballistics" or "Ballistics Unit" shall be amended to Firearms Analysis Unit. All references to the "Ballistician" or the "Department Ballistician" shall be amended to the Firearms Examiner.