

Rules and Procedures

Rule 327A

June 12, 2006

Rule 327A - DOMESTIC VIOLENCE SITUATIONS INVOLVING DEPARTMENT EMPLOYEES

Sec. 1 General Considerations:

The Boston Police Department recognizes domestic violence as a universal problem that affects people from all walks of life. Domestic Violence is criminal activity and it is Department policy that arrest is the preferred response. No person is exempt, whatever his or her occupation, from the consequences of their actions that result in a violation of M.G.L. c. 208, 209, and/or 209A. This rule guides officers responding to incidents of domestic violence involving both sworn and civilian personnel. The purpose of this rule is to:

- Ensure the safety of the victims;
- Provide procedures for the uniformity of the investigation of said incidents;
- Provide notification and reporting procedures;
- Provide for the securing and safeguarding of Department weapons, equipment, and personally owned weapons taken into custody;
- Ensure compliance with all provisions of a court order; and
- Ensure Departmental compliance with Federal law. Federal law prohibits police officers that have been convicted of misdemeanor domestic violence crimes from possessing a firearm.

Sec. 2 Responsibilities of Operations Personnel:

A. If, upon receiving a call for assistance for DVIP, NIDV, or VIORDR, the E911 call taker determines that one of the parties is a Department employee, or a sworn officer of another police department, a Patrol Supervisor shall automatically be dispatched to the scene, along with the officers dispatched to the call.

B. If it is determined that the incident involves a Department employee, whether victim or offender, Operations personnel shall notify a DVU supervisor to respond to the scene of the incident. If it is determined that the incident involves a department employee as the offender, Operations personnel shall also notify IAD.

C. Operations personnel shall not accept miscels for employee-related domestic violence calls.

Sec. 3 Responsibilities of the Responding Officers:

The provisions of [MGL c. 209A](#) and this Rule are to be complied with in all incidents of Domestic Violence. Officers responding to an incident where a Department employee is involved in domestic violence as either a suspect or a victim, or an incident involving a sworn member of another jurisdiction's police department, shall adhere to the following procedures:

- A. Take immediate action to ensure the safety of the victim.
- B. Request that a Patrol Supervisor respond to the scene.
- C. Comply with the requirements of [MGL c. 209A](#).
- D. Enforce the provisions of any court order that is in effect.
- E. Complete a Boston Police Incident Report and fill in the occupation box with "department employee" or "City of Boston"
- F. Remain on scene until relieved by a Superior Officer.
- G. Not miscel the call under any circumstances.

Sec. 4 Responsibilities of the Patrol Supervisor:

Upon being notified of a domestic violence incident involving a department employee, or sworn member of another police department, the Patrol Supervisor shall immediately respond to the scene of the incident and take control of the investigation of the incident. Specifically, the Patrol Supervisor shall:

- A. Assess the actual and potential harm to the victim.
- B. Confirm with Operations that the incident involves a department employee, whether victim or offender, to ensure proper notification of DVU. If the domestic violence incident involves a department employee as the offender, confirm with Operations to ensure additional notification of IAD.
- C. Upon investigation, if the Patrol Supervisor has a reasonable belief that there is evidence of physical abuse or that the threat of physical abuse exists, and that the accused is a sworn member or employee of the Department or any other police department, the Patrol Supervisor shall seize and take into custody all department-issued firearms in the possession of the employee and transfer the property to the responding DVU Supervisor.

D. Take appropriate action, where necessary, to seize firearms considered as evidence, and firearms illegally possessed, and document such seizures on a Chain of Custody Evidence Form before transferring the firearms to the custody of the responding DVU Supervisor.

E. If the offender is a member of another jurisdiction's police department, notify the Duty Supervisor that the offender is a sworn member of another jurisdiction.

F. Request that the accused employee, whether sworn or civilian, surrender all personally owned firearms, his/her License to Carry Firearms and/or his/her Firearms Identification Card. The Patrol Supervisor shall attempt to obtain consent from the parties involved to search the incident scene for the purpose of seizing and taking into temporary custody all privately owned firearms present and transfer the privately owned firearms to the responding DVU Supervisor.

G. If privately owned firearms, a License to Carry and/or Firearms Identification Card cannot be seized at the time of the incident, request that any application for a Temporary Restraining Order or Emergency Restraining Order contain a provision for the surrender of all firearms, Licenses to Carry, and/or Firearms Identification Cards.

H. If necessary, notify Operations to have the ID Unit notified to respond to the scene for photographs and crime scene processing.

I. Submit a copy of the Incident Report, BPD Form 1.1, to the Licensing Authority of appropriate jurisdiction responsible for the issuance of the alleged abuser's License to Carry and/or Firearms Identification Card.

J. Have Operations perform a Board of Probation check on all parties to determine if any outstanding restraining orders are in effect.

K. Ensure that the provisions of [M.G.L. 209A](#) and this rule are complied with; that the responding officers have completed an Incident Report, BPD Form 1.1, and submitted a special administrative report to their Commanding Officer detailing the facts of the incident, their assessment of the real and/or perceived threat to the victim and subsequent actions taken at the scene to ensure the safety of the victim and other family members (i.e., evidence gathered, weapons seized, statements made by persons present). All reports shall be submitted before the end of their tour of duty.

L. Whenever an employee-related domestic violence call does not result in an arrest or a warrant was not sought, the Patrol Supervisor shall submit a written administrative report explaining any and all reasons why an arrest was not made or a warrant was not sought.

M. Ensure that a thorough investigation is conducted and an arrest of the dominant aggressor is made.

Sec. 5 Responsibilities of the Domestic Violence Unit Supervisor:

The Domestic Violence Unit will ensure the availability of a supervisor 24 hours a day/7 days a week. Upon notification from Operations of a confirmed incident of domestic violence involving a department employee, the DVU supervisor shall respond to the scene. In accordance with M.G.L. c. 209A, when a crime involving abuse is committed by a department employee, the DVU supervisor will take the appropriate action including aiding the victim and identifying and arresting the offender.

A. If a prevention order is issued or a police officer is arrested, the DVU supervisor shall order the officer to immediately surrender his/her Department issued weapon and ammunition. The Police Commissioner shall determine if an officer's authorization to carry a department issued firearm under M.G.L. c 41 s. 98 shall be suspended while a protective order is in effect.

B. The DVU supervisor shall seize owned or controlled personal firearm(s) and forward the firearm(s) to the Firearms Analysis Unit for safekeeping. The DVU supervisor will forward seized Department issued weapons to the Range Commander for safekeeping until final disposition of the matter or until the abuse prevention order is vacated. The DVU supervisor shall also forward Department issued weapons seized as evidence to the Firearms Analysis Unit.

Sec. 6 Responsibilities of the Duty Supervisor:

The Duty Supervisor, upon being notified of a domestic violence incident involving a department employee or police officer from another jurisdiction, shall:

A. Ensure that the Patrol Supervisor has responded to the scene and commenced a preliminary investigation.

B. Upon confirmation of the incident, request Operations to notify the Commanding Officer of the District or Unit of the involved employee; notify the Commanding Officer of the District where the incident occurred; and if the incident is reported during a night shift or during a weekend, notify the on-duty city-wide Commander.

C. If the accused officer is a member of another jurisdiction's police department, notify the DVU, contact the Duty Supervisor of that officer's jurisdiction, and refer the outside department to the DVU for follow-up and reports.

D. If the involved officer/employee of the domestic violence incident is the victim, standard domestic violence response and investigation procedures should be followed,

and ensure that the Domestic Violence Unit and the advocate assigned to the district are forwarded copies of all reports. If the victim/employee is injured, the Duty Supervisor shall notify their District/Unit Commander immediately.

E. Ensure proper documentation of the incident as required by Rule 327 and [M.G.L. c. 209A](#).

F. Ensure the above provisions relative to firearms have been complied with.

Sec. 7 Responsibilities of the Involved Employee:

A. A department employee who has been served with a Restraining Order, Temporary Restraining Order and/or Extension of a Restraining Order under MGL c. [208](#), [209](#), or [209A](#); or learns they are a defendant named in any such Order, or has a criminal complaint issued for any violation of MGL c. 209A, shall immediately notify his/her Commanding Officer in writing, who shall then forward a copy to the DVU. For employees residing inside the city, the Commanding Officer shall notify the District Commander in charge of the District where the employee resides of the order.

B. Employees shall also immediately notify their Commanding Officer if there is a change in status of any existing restraining order, including, but not limited to, the modification or addition of restrictions or an extension of the expiration date. Notification to an employee's Commanding Officer shall be made in writing no later than the beginning of the employee's next tour of duty or within 24 hours, whichever comes first. The employee's Commanding Officer shall forward a copy of the written notification to the DVU, and send a copy of said change to the DVU.

C. An employee served with a Restraining Order shall attach a copy of the Restraining Order to their report along with all receipts for any surrendered firearms if so ordered by the Court, if voluntarily surrendered, or if their License to Carry or Firearms Identification Card has been suspended or revoked by the licensing authority.

D. A Department employee who is arrested outside the City of Boston for a violation of a Restraining Order and/or a violation of [M.G.L. c. 209A](#), including the issuance of a criminal complaint, shall immediately notify the Duty Supervisor, Operations Division (617-343-4680). The Duty Supervisor, Operations Division, shall notify the Commanding Officer of the employee's respective District or Unit of the arrest.

E. A Department employee who is served with a Restraining Order ordering the employee to surrender all firearms in their custody shall immediately turn their Department issued firearm, if any, over to the custody of a Superior Officer assigned to the DVU. Privately owned firearms shall be surrendered, at the first opportunity, to the employee's Commanding Officer, for an employee residing in the City of Boston, or to the police department in the city or town in which the employee resides, unless ordered

otherwise by the court. The involved employee must submit receipts to their Commanding Officer verifying compliance with any order to surrender firearms, License to Carry and/or Firearms Identification Card.

F. When an outside law enforcement agency serves an abuse prevention order on a BPD officer outside the City of Boston, the officer shall comply with any request to surrender all firearms, including a department issued firearm, and notify his/her District/Unit Commander.

Sec. 8 Responsibilities of an Employee's Commanding Officer:

A District or Unit Commander, upon being notified that an employee under their command has been served a Restraining Order and/or has been involved in a Domestic Violence incident, shall take the following actions:

A. Ensure the safety of the victim.

B. If the domestic violence incident occurred in the City of Boston, recommend to the victim the services of the district domestic violence advocate and the domestic violence unit detective assigned to the district where the incident occurred, and ensure that they devise a safety plan with the victim.

C. Order that all appropriate notifications be made, and that the required documents be completed, and review all reports and documents for accuracy and completeness.

D. If a sworn Department member is the alleged abuser, ensure his/her Department issued firearm is seized for safekeeping and that privately owned firearms, a License to Carry and/or a Firearms Identification Card are also surrendered, if so ordered by the Court, or if the licensing authority has suspended or revoked his/her License to Carry or Firearms Identification Card.

E. If the department employee is the offender in a domestic violence situation, consult with the Commanding Officer of the Internal Affairs Division to determine which IAD Superior Officer shall initiate the IAD investigation of Department Rules violations.

F. Consult with the Commanding Officer of the Domestic Violence Unit to determine which DVU Supervisor shall initiate the follow-up DVU criminal investigation.

G. Immediately notify the Internal Affairs Division and the Domestic Violence Unit if there is any change in status of an employee under a restraining order (i.e., restrictions modified or added, expiration date extended, etc.).

Sec. 9 Responsibilities of the Licensing Unit Commander:

The Commander of the Licensing Unit, upon the receipt of a License to Carry or Firearms Identification Card from the Commanding Officer of a police officer who has an abuse prevention order issued against said officer, shall initiate administrative action in accordance with M.G.L. c. 140 s.131. The Commander of the Licensing Unit shall ensure that there are no statutory disqualifications before returning any firearms licenses upon the protective order being vacated.

Sec. 10 Post-Incident Administrative Decisions:

The Department shall conduct separate parallel administrative and criminal investigations of alleged incidents of employee domestic violence. If the facts of the case indicate that domestic violence has occurred or any departmental policies have been violated, administrative action shall be taken separate and distinct from any criminal proceedings as soon as practicable. Independent of the outcome of the criminal case, the department shall adhere to all positions and policies relating to the incident.

Where sufficient information exists, the Department shall take immediate administrative action to intervene, which can include removal of badge, removal of weapon, reassignment, administrative leave with or without pay, or termination.

Sec. 11 Criminal Investigations and Decisions:

A Superior Officer of the Domestic Violence Unit will assume responsibility for completing the criminal investigation of all incidents of employee related domestic violence. The designated investigating Superior Officer shall be of a rank higher than the accused officer.

A. The DVU Superior Officer shall conduct the criminal investigation as he/she would any other criminal violation of 209A.

B. Even though an initial report may already exist concerning a police officer, if the victim reports any subsequent or additional criminal activity, each incident shall be documented separately, assigned a case number, and investigated thoroughly.

C. The Department shall completely investigate the charges and where warranted, seek prosecution, even if the victim recants the charges or fails to participate in the prosecution.

Sec. 12 Surrendering Department Issued Firearms Pursuant to Abuse Prevention Orders Issued Against an Officer:

A. In accordance with M.G.L. c. 209A, s. 3B and/or s. 3C, when an Abuse Prevention Order is or has been issued against a Boston Police Department Officer, it shall be the Department's policy that the officer shall be required to surrender his/her Department issued weapon and ammunition immediately to his/her Commanding Officer or to a

Superior Officer so designated by his/her Commanding Officer. Additionally, the Police Commissioner shall determine if an officer's authorization to carry a department issued firearm under M.G.L. c. 41, s. 98 is suspended while a protective order is in effect against the officer.

B. Officers who are licensed to carry a firearm pursuant to M.G.L. c.140 s. 131 or a Firearms Identification Card pursuant to M.G.L. c.140 s. 129B shall also surrender their license(s) to their Commanding Officer or his/her designee who shall forward them to the Commander of the Licensing Unit for administrative action as proscribed in section M.G.L. c. 140 s. 131 (d) (vi) and M.G.L. c. 140 s. 129B (1) (viii). Personal firearms surrendered to this Department shall be forwarded to the Department Firearms Examiner for safekeeping.

C. Department issued weapons surrendered pursuant to Section 5, Paragraph B of this rule shall be delivered to the Department Range Master at Moon Island for storage until such time as the Abuse Prevention Order is vacated.

D. Upon the protective order being vacated, the Commander of the Bureau of Professional Standards and Development shall authorize in writing the return of the officer's duty weapon and any personal weapons surrendered to the Boston Police Department. The Commander of BII shall forward this authorization to the Police Commissioner for final approval. Personal firearms surrendered to this Department by an officer shall not be subject to the requirements of Rule 311, Section 8 for their return.

E. The Commander of the Licensing Unit shall ensure there are no statutory disqualifications before returning any firearms licenses upon the protective order being vacated.

F. In situations where an outside law enforcement agency serves a protective order on a police officer from this Department at his or her residence outside the City of Boston, that officer shall comply with the request of surrender of firearms, including department issued firearms pursuant to the protective order issued against them. When such a situation occurs, the officer shall immediately notify the Operations Duty Supervisor who shall notify Internal Affairs Commander or the on call member of Internal Affairs. The designated member of Internal Affairs shall then contact the agency concerned and request the return of the department weapon and any other department property taken.

Sec. 13 Additional Considerations:

All Department personnel shall keep all information concerning victims confidential, including their whereabouts, safety plan, and any communications or impounded addresses. Federal law

prohibits officers convicted of misdemeanor domestic violence assaults from carrying firearms. The department shall ensure compliance with Federal law (see 18 U.S.C.S922 (g) (9)).

Albert E. Goslin
Superintendent in Chief
Acting Police Commissioner

Notes:

- Amended by SO 06-054, issued November 24, 2006, section 2(B), section 4(B) and section 8(E).
- Amended by SO 07-016, issued April 2, 2007, update the organization names to reflect the new BPD organizational structures. Section 12.
- 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. Section 5, B. Section 12, B.