

Responding to Police Officer Domestic Violence: The IACP Model Policy

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Law enforcement agencies in the United States are faced with the challenge of preventing and responding to cases of domestic violence perpetrated by their own employees, including police officers. Several research studies suggest that police officers may be more likely to perpetrate domestic violence than others in the general population. Unfortunately, there are many dynamics of domestic violence that are exacerbated when the abuser is a police officer. The purpose of this article is first to describe 1996 legislation that dictates the response of police departments when one of their own is convicted of a domestic violence offense. The second objective is then to outline in some detail the recent Model Policy released by the International Association of Chiefs of Police (IACP) recommending standards for preventing and responding to the problem of police officer domestic violence.

The Lautenberg Act

In September of 1996, a federal law was passed which prohibits individuals -- including police officers -- from owning or using a firearm if they have been convicted of a misdemeanor domestic violence offense (*18 U.S.C. § 925*). This bill, widely referred to as the Lautenberg Act, was passed as an amendment to the Omnibus Consolidated Appropriations Act of 1996. By modifying the Gun Control Act of 1968, the Lautenberg Act expanded existing federal law that only barred gun ownership from those convicted of a felony offense to include those convicted of a qualifying misdemeanor domestic violence offense. The offense does not need to be designated as domestic violence within state law, but is covered under the Lautenberg Act if it involves the use or attempted use of physical force or threat with a deadly weapon and is committed against:

- a current or former spouse,
- a past or present cohabiting partner,
- a person with whom the perpetrator has a child in common
- a person with whom the officer has or has had a dating relationship

Individuals with a felony or misdemeanor conviction for domestic violence are ineligible to own firearms or ammunition even if the offense occurred before the law was enacted.

A section of the 1994 Crime Bill also prohibits individuals from possessing a firearm while a protective order, restraining order, or harassment order is in effect (*18 U.S.C. § 925*). Although police and military personnel are only allowed to retain their government-issued firearm while on duty, some departments consider their officers to be on duty at all times and they would therefore not be required to relinquish their service weapon.

Unfortunately, there is typically no procedure in place to ensure that the courts notify police departments that a court order is in effect against an officer. There is also some confusion regarding which types of protective and restraining orders are included. To clarify the issue, the following description of “qualifying” orders is provided in the recently updated version of the IACP Model Policy.

“Protection order” refers to any injunction or other order issued by a court, including criminal or civil orders of protection, regardless of form, content, length, layout, or name (such as stay away, restraining, criminal, and emergency or temporary protection orders or injunctions), issued for the purpose of preventing the following:

- Violent or threatening acts against another person
- Stalking or harassment of another person
- Contact or communication with another person
- Physical proximity to another person.”

There is also some confusion among police executives regarding which weapons may be seized from an officer when such a qualifying order is in effect. Obviously, the department must be in compliance with federal law, state law, and local ordinances with respect to weapons seizure. However, the safety of the victim must be paramount in such a situation and “a department may choose to be more restrictive than federal law by prohibiting officers from possessing service weapons when subject to protective orders or under criminal and/or administrative investigations.”

The IACP Model Policy

In 1999, the International Association for Chiefs of Police (IACP) released through the National Law Enforcement Policy Center a Model Policy and supporting Concepts and Issues Paper outlining procedures for handling cases of domestic violence perpetrated by police employees. The IACP Model Policy has been distributed widely since its release in April of 1999. It has since been updated in May 2003, and is currently being disseminated with a new effort by the IACP. The Model Policy and supporting Concepts and Issues Paper are available at the IACP website at www.theiacp.org.

The Model Policy and supporting Concepts and Issues Paper were created by the IACP with support from the Office of Community Oriented Policing Services (COPS) and the Violence Against Women Office (VAWO), both branches of the U.S. Department of Justice. They were developed with the input of police leaders, victim advocates, and victims of domestic violence. The widespread dissemination of the IACP Model Policy therefore sets the standard for law enforcement response in this area. It has since been adapted and implemented in many

police agencies across the country, and statewide in Hawaii, Maine, and Massachusetts. The Model Policy put forth by the IACP in collaboration with the U.S. Department of Justice called for several components in the continuum of response to this problem, including:

- Prevention and Training
- Early Warning and Intervention
- Incident Response Protocols
- Victim Safety and Protection
- Post-Incident Administrative and Criminal Decisions¹

In each of these areas, law enforcement agencies were encouraged by the IACP to “set a standard of zero-tolerance for domestic violence through implementation of a policy to address past, present, and future incidents of police officer domestic violence.” Moreover, the IACP noted that “the absence of a clearly delineated policy and adequate training leaves a department at risk for charges of liability.”

Prevention and Training

According to the IACP Model Policy, an orientation of zero tolerance toward domestic violence must be established “through a comprehensive baseline education and training for all department employees.” Then, ongoing education must be directed to each of the following groups, because all are involved in responding to incidents of domestic violence perpetrated by a police employee:

- Recruits
- Patrol Officers
- Dispatchers/Communications Officers
- Field Training Officers
- Administrative Command/Supervisors

Ongoing education is needed in the initial academy training for new recruits, training for FTO’s, and periodic in-service and other roll-call training for working officers. It must be conducted in collaboration with representatives from the domestic violence shelter and/or other victim service organizations. These are the experts in this area, who can complement the perspective of law enforcement trainers with those from victim advocacy. The collaboration must demonstrate a true “teamwork” approach to the problem, and police executives must work to ensure that the attitude of the department is not one that minimizes or dismisses the contribution of victim service professionals. To be effective, training must be designed to address a wide range of topics, including the following:

- Understanding domestic violence
- Departmental domestic violence response protocol
- Warning signs of domestic violence by officers

¹ Headings and other items throughout this report often reflect exact wording from the IACP Model Policy and Concepts and Issues Paper.

- Victim safety, including safety planning
- Federal domestic violence laws

Additional training provided to command and supervisory staff should address the following:

- Department legal considerations and liability
- Media and public relations
- Criminal versus administrative investigations

It is of course critically important that specialized training be provided to those supervisors responsible for monitoring warning signs among officers and those employees responsible for conducting administrative investigations.

In addition, the written policy must be disseminated to all employees, sworn and civilian, and included in the department's manual of policies and procedures. Updated information should then be disseminated whenever the policy is revised and/or other supporting information becomes available such as new research, advocate program brochures, etc. To be effective, training must be designed to address a wide range of topics, including the following:

Early Warning and Intervention

One of the most important aspects of early warning and intervention is an effective background investigation, which departments can use to screen out candidates with a history of perpetrating domestic violence or other forms of abuse. Not surprisingly, research confirms what common sense would suggest -- that the best predictor of future violence is past violence. Therefore, a thorough background investigation should ask all candidates, search databases, and review all records about past arrests, convictions, or civil protection orders. Background investigators must also contact past wives and girlfriends, while recognizing that these women may be reluctant to provide information, especially if their contribution would jeopardize his being hired. Of course, records may not reveal violent behavior that goes undetected but the background investigation can follow the same kind of factfinding approach that is used for criminal investigations. The Model Policy then states unequivocally that:

“Those candidates with a history of perpetrating violence ... should be screened out at this point in the hiring process.”

The same theme appears in the comprehensive document on *Recruiting and Retaining Women: A Self Assessment Guide for Law Enforcement*. This book was written by the National Center for Women & Policing and published in late 2000 by the U.S. Bureau of Justice Assistance:

“The background investigation should always be used to screen out applicants who have a history of perpetrating spouse or child abuse, sexual harassment, violent behavior, or non-payment of spousal or child support obligations. Records of restraining orders should be checked. Divorce petitions should also

be examined for evidence of the use of violence. The address of the applicant should be checked for instances of 911 calls regarding domestic violence.”

In addition to background investigations, other methods of early warning and intervention include a psychological examination which should be performed by an experienced psychologist or psychiatrist with all viable candidates for law enforcement employment. As stated in the IACP Model Policy, this psychological screening should focus on “indicators of abusive tendencies in their background.” Police executives know that failure to conduct an effective psychological screening and monitoring can expose a department to civil liability for officers who later engage in violence or other forms of misconduct. A thorough background investigation and psychological examination can go a long way toward protecting victims, citizens, and the agency from problems with violent officers.

Although some have recommended that candidates with a history of domestic violence victimization should be screened out of the process, this is completely inappropriate. While it is true that victims of childhood violence are at increased risk for future violent behavior this should not be used as a disqualifier for law enforcement employment. Rather, questions should be asked regarding the candidate’s interpretation and response to the experience. Often, individuals who experienced domestic violence as a child are the best and most committed officers in responding to this problem.

When new officers are hired, the department then has the responsibility for training both the new officers and their families on the zero tolerance policy toward domestic violence. The department should invite family members to workshops where the department will provide information about the dynamics of the problem, guidance on what family members can do, and contact numbers within the department and referral sources in the community. Because it will be most difficult for departments to reach those families where abuse is occurring, therefore outreach to the families of employees must be regular and ongoing. To make certain that family members of current officers are aware of the policies, the department should also send a letter to the family explaining the policy and the resources that are available to family members.

Supervisor responsibilities

According to the IACP Model Policy, it is the responsibility of all supervisors within the department to monitor behavior for warning signs that an officer may be engaging in domestic violence or other forms of abuse. The department then has the responsibility to provide non-punitive avenues of assistance such as confidential referrals to confidential counseling for those officers that might be at risk. Monitoring officers for warning signs is the responsibility of all supervisors in the department. Warning signs could include such problematic behaviors as the following. In fact, some of these “warning signs” may constitute actual manifestations of the domestic violence itself (e.g., stalking and surveillance activities, controlling behaviors).

- excessive and/or increased use of force on the job
- stalking and inappropriate surveillance activities
- unusually high incidences of physical altercations and verbal disputes
- citizen and fellow officer complaints of unwarranted aggression and verbal abuse

- inappropriate treatment of animals
- on- or off-duty officer injuries
- monitoring and controlling any family member or intimate partner through such means as excessive phone calling
- Stalking any intimate partner or family member
- Discrediting and/or disparaging an intimate partner
- Tardiness
- Excessive absences
- Alcohol and drug abuse

It is the responsibility of all supervisors in the department to be aware of such problematic behaviors, document them, address them with the officer, and report them to their ranking supervisor through the chain of command to the chief of police. Of course, this necessitates specific training for supervisors on identifying warning signs and responding appropriately. Where appropriate, supervisors should request an evaluation of the officer's mental and physical fitness for duty by suitable professionals, and the officer can be sent to a certified program for batterers. Other non-punitive options for referral can include: employee assistance program, internal or external professional counseling, advocacy support and peer support programs.

Officer responsibilities

The IACP Model Policy clearly states that officers with knowledge of domestic violence by their colleagues have a responsibility to report this to their supervisor, and failure to do so can result in investigation and possible sanctions. Officers also have the responsibility to report any attempts to intimidate or coerce victims, to interfere with an investigation of domestic violence, either by the accused officer or others on the department. The same is true for officers who fail to cooperate with any related investigation.

Officers also have the responsibility for informing their supervisor when they are being investigated for domestic violence or the subject of a restraining or protective order of any kind. Regardless of jurisdiction, officers must provide this information to their supervisor along with a copy of any restraining or protective order against them. This is especially critical because many police officers do not live in the jurisdiction where they work. Agencies should therefore develop written agreements with neighboring jurisdictions for notification if any of their officers are the subject of a domestic violence investigation.

Incident Response Protocols

When a family member reports domestic violence by a police officer, the department has the responsibility to initiate both criminal and administrative investigations. According to the IACP Model Policy, these responsibilities include:

- documenting all reports, including those made informally and/or anonymously
- completing a formal incident report for any possible criminal activity

- notifying both the on-duty patrol supervisor and the chief of police, through the chain of command
- making all incident reports available to victims without cost

When a patrol officer responds to the scene of a domestic violence call or incident involving another police officer, he or she must immediately address the safety needs and medical needs of the victim, and take steps to secure the scene, record excited utterances, admissions and/or incriminating statements, and make an arrest if probable cause exists. Then the patrol officer must inform a supervisor regardless of the involved officer's jurisdiction. The on-scene supervisor then has a number of responsibilities, including:

- addressing safety issues for the victim and all children in the household
- securing the scene and collecting evidence, including color photographs and video documentation if possible
- ensuring an arrest is made where probable cause exists
- removing all allowable weapons in the event of an arrest
- avoiding dual arrest where possible
- notifying the chief of the accused officer's department
- informing the victim of available resources and other referrals
- attempting to locate the alleged offender if he/she has fled the scene

If an arrest is not made, the supervisor should submit a written report explaining why no arrest was made and/or no warrant sought. These procedures are to be followed regardless of whether the victim is another police officer.

Departmental follow-up

After responding to an incident where a police officer is accused of domestic violence, the department has a number of responsibilities for follow-up as articulated in the IACP Model Policy:

- debriefing the officers who responded to the incident
- reviewing policies and confidentiality guidelines with responding officers
- assigning someone to assist the victim in a coordinated and consistent manner
- proactively seeking information on existing restraining or protective orders
- enforcing any existing restraining or protective orders
- assigning command staff to conduct safety planning with the victim
- assigning command staff to assess the officer for potential further violence
- making decisions regarding referrals, duty assignments, and administrative actions for the officer under investigation

Clearly, these complex and difficult responsibilities require specific training for command staff and other supervisors within the department.

Investigators must explain the complex guidelines regarding confidentiality to both victims and accused officers. It is imperative that the victim is informed that anything told to the investigator (either by the victim or anyone else who is interviewed) will be discoverable by the officer if there is a hearing. Also the victim should be informed that specific disclosures will result in particular consequences. For example, if a victim tells the department that her officer husband held her at gunpoint, the department will need to confiscate the officer's weapon. It must be recognized that the victim will make decisions regarding which information to divulge at what point in time, based on the victim's evaluation of the current threat. The victim should not be judged as unreliable or not credible based on information that was withheld at any point during the investigation. The fear of retaliation from the abuser may prevent the victim from fully disclosing the magnitude of the abuse.

Victim Safety and Protection

Victim safety and protection are always paramount concerns in domestic violence situations, but many have noted that victims of a police officer are among the most vulnerable for a number of reasons. As illustrated in the recent murder-suicide by Chief Brame of Tacoma Police Department, these situations have the potential for extreme danger:

“Departments must recognize that as the consequences of being held responsible for his/her behavior (the potential loss of employment coupled with the loss of control over the intimate partner) become apparent, an abusive officer may escalate behavior to extreme acts of violence such as abducting the victim, taking hostages, and committing homicide and/or suicide.”

Victims of police officer domestic violence therefore require a number of measures to protect their safety, as articulated in the IACP Model Policy. For example, the police department has the responsibility of:

- making available all necessary and appropriate services
- assigning a member of command staff as the victim's primary liaison
- keeping confidential the victim's whereabouts, safety plan, and communications
- assigning command staff to inquire about removing any weapons from the home
- assigning command staff to conduct a lethality assessment with the victim
- assisting the victim in safety planning, especially when leaving the abusive partner
- monitoring officers for possible intimidation or coercion of victims or witnesses
- seeking out secondary sources of information, in case witnesses are coerced
- seeking and preserving supplemental evidence, in case the victim recants

Again, these complex and difficult responsibilities require specific training for command staff and other supervisors within the department. It is especially important that any member of the department who is assigned to be a liaison for the victim be well trained and acutely sensitive to the dynamics of domestic violence and concerns of victims. For example, meetings between the victim and a representative from the department are best arranged at a discrete location. The victim is likely to be intimidated by meeting at the police station, so meetings should take place at the domestic violence agency or another non-threatening location.

Among the service referrals provided to victims must be an independent domestic violence agency that can provide confidential options-based counseling. It is not reasonable to expect the victim of a police officer to trust an advocate who is affiliated with the police department or prosecutor's office. In addition, police representatives must keep in mind that many of the established victim service agencies may not be equipped to accommodate the victim of a police officer. Shelters can be reluctant to house a victim of a police officer because of the threat posed to the shelter residents and staff. Cases involving police officers can put domestic violence advocates in an adversarial position to a police department with which they normally enjoy a collaborative relationship.

Victim safety and protection become even more complicated when the victim is also an officer. In these cases, it is especially important to address the limitations of confidentiality with the victim. The victim should not be penalized for reporting the abuse or for having failed to report previous abuse. The IACP Concepts and Issues Paper specifically states that "departments should not allow the reported incident to impact negatively upon the assignments and evaluations of the victimized officer. This means that the victim should not be referred for a psychological evaluation, not be given lower performance evaluations, and not be given punitive assignments. Supervisors should watch for any and all forms of retaliation against the victim for having reported a fellow officer. Examples of this would be ostracism by co-workers, setting the victim up in potentially dangerous situations, allegations of officer misconduct, or failing to provide back up when the officer requests it.

Post-Incident Administrative and Criminal Decisions

Once an incident of domestic violence is reported against a police officer, the department has the responsibility for initiating parallel criminal and administrative investigations. The IACP Model Policy and supporting Concepts and Issues Paper clearly outline this departmental responsibility, regardless of how the report was made -- whether it was formal or informal, initiated by a 911 call, or provided anonymously to an officer or supervisor.

Administrative investigation

For the administrative investigation, the IACP Model Policy outlines the following responsibilities of the department:

- initiating an administrative investigation by Internal Affairs or someone appointed by the chief of police, including an outside agency
- thoroughly investigating all incidents following standard policies and procedures
- carefully documenting the investigation and preserving all evidence
- taking immediate administrative action to intervene, such as removing a badge, weapon, reassigning or terminating an officer, or placing an officer on administrative leave

Even when an arrest is not made, the IACP Model Policy states that administrative investigation and action may still be warranted. All decisions regarding the officer's status should include consideration of factors such as:

- level of danger posed to the victim (based on risk assessment)
- officer's history of compliance with departmental rules
- officer's history of aggressive behaviors and prior threats
- officer's problems with alcohol and/or substance abuse

During this process, the IACP Model Policy states that the department should seek legal counsel to insure that the accused officer's departmental and legal rights are upheld. Pending the outcome of the investigation, officers should be assigned so that they do not have responsibility for responding to incidents of domestic violence. If the investigation reveals that other officers had definitive knowledge of an incident, those officers should be investigated and sanctioned.

The Model Policy also highlights the potential for using administrative orders to prohibit specified conduct and spell out the potential penalties for violating the order. These orders are preferably made in writing, and they are designed to address the specific context of the situation at hand. They spell out the penalties for violating the order and otherwise intimidating or tampering with witnesses. Administrative orders can best be crafted by taking into account the concerns and needs of the victim. For example, the police executive or liaison can talk with the victim about what the victim would like to see result from reporting the abuse. This might include any number of outcomes, including counseling for the abuser, substance abuse treatment, and/or a stand-by during exchange of the children for visitation.

The benefit of such an administrative order is that it can be easily issued, it is clear in its dictates and penalties for violation, and it can be handled administratively within the department. This makes it a particularly flexible and agile tool for addressing the problem of officer-perpetrated domestic violence. Administrative orders of protection can be used to supplement both administrative and criminal procedures for investigation and discipline. They can also be used as part of a return-to-work agreement that is linked with an evaluation of fitness for duty conducted by a mental health professional. Best of all, they may actually prevent further abuse and provide clear accountability for perpetrators. If any officer is found to have committed domestic violence, the IACP Model Policy states that they should be terminated.

Criminal investigation

For the criminal investigation, the IACP Model Policy outlines the following responsibilities of the department:

- initiating an investigation with the domestic violence unit or other unit responsible for criminal investigations
- conducting sufficient taped interviews with victims, witnesses, and others with information
- documenting each individual incident separately and investigating thoroughly
- seeking prosecution even if the victim recants
- assigning a liaison to work with the prosecuting attorney
- requesting a filing of court papers or complaints, for criminal prosecution

The Model Policy discusses the common phenomenon of victims recanting in this type of situation. Therefore, it is necessary for both the criminal and administrative investigation to document and preserve all evidence in case the prosecutor decides to proceed even without the cooperation of the victim. Since the abuser is likely to continue to hold the victim responsible for his prosecution, every effort must be taken to protect the victim from the abuser's retaliation.

If the case results in a conviction, federal law prohibits the officer from carrying firearms. It is the responsibility of the police department to comply with federal law. IACP Model Policy unequivocally concludes that "any officer convicted through criminal proceedings of a domestic violence crime shall be terminated from the department." When any negative outcome results for an officer, it must be made absolutely clear that this was not the fault of the victim but rather the consequence of the officer's behavior and that the abuser alone bears full responsibility.

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