





POLICIES AND PROCEDURES MANUAL

	DOMESTIC VIOLENCE	
	POLICY NUMBER: 55-2	ISSUING AUTHORITY 
	EFFECTIVE DATE: January 1, 2025	Christine A. Elow Police Commissioner

I. GENERAL CONSIDERATIONS AND GUIDELINES

Police officers can be agents of change—fulfilling a mandate to intervene, holding abusers accountable, and providing protection to victims. A victim's first contact with law enforcement rarely happens after the first or even the second domestic violence incident. Due to the complex nature of these crimes and their devastating effects, a coordinated response by various units in the department and the courts is essential toward reaching the best possible outcome for victims and their families.

Domestic violence victims can display a variety of behaviors, and officers should understand and be prepared for a range of possible responses. Some responses by victims, such as being uncooperative, though frustrating to officers, may allow victims and their families to feel safer once officers have left the scene or the perpetrator is released from custody.

Anyone can be a victim of domestic violence; anyone can be an offender regardless of gender and/or sexual orientation. It is important to consider who the dominant aggressor is and to make that determination based on the totality of the facts and circumstances, not on the victim/offender's gender, size, or other characteristics.

Officers arriving at an incident may encounter a victim who is taking responsibility for an abuser's actions. A victim, in fear of their abuser, may act in ways that appear to conceal the abuse. The victim may waive the right to *no contact* orders, choose not to obtain a restraining order, may provide bail for the abuser, or recant in court. Officers should be aware that victims may act this way to keep themselves and their children safe.

When abusers believe they are losing control over their victims, the risk to the victims of serious injury, sexual assault, stalking, and homicide increase.

Many victims of domestic violence never file a report with police, obtain a restraining order/injunction, or connect with a domestic violence program. Numerous victims do not call 911 for many of the same reasons that they find it difficult to leave their abusers. Furthermore, many victims may regret calling 911 once they are thrust into the criminal justice system, which can bring increased financial burdens due to lost income, attorney fees, embarrassment for having to publicly testify to the abuse, and pressure to recant.

This whole process may, in fact, put the victim at a higher risk of danger. An appropriate response is to assist in determining what risks exist and help to problem-solve on how to mitigate those risks.

Trauma may influence a victim's interactions with responding officers who should not assume a victim is uncooperative. Violence can be traumatizing, and each victim responds differently. Victims should be encouraged to use all available services, including advocates, who can greatly assist the victim with a safety planning process.

II. POLICY

It is the policy of the Cambridge Police Department to:

- A. establish arrest and prosecution as the preferred means of police response to domestic violence;
- B. attempt to provide for the safety of victims, witnesses, their children, and anyone else living in the home;
- C. take appropriate action for any violation of permanent, temporary, or emergency orders of protection;
- D. promote the safety of law enforcement personnel responding to incidents of domestic violence;
- E. provide victims and witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders including prosecutors, parole, probation, community-based domestic violence and sexual assault programs, social service agencies, adult and child protective services, clergy, educators, government agencies, animal welfare organizations, businesses, and employers; and
- F. conduct thorough investigations and effect the arrest of the dominant aggressor upon establishment of probable cause absent exigent or extenuating circumstances.

III. DEFINITIONS

- A. *Abuse*: The occurrence of one or more of the following acts between family or household members: attempting to cause or causing physical harm; placing another in fear of imminent serious physical harm; or causing another to engage involuntarily in sexual relations by force, threat, or duress.
- B. *Family or Household Members*: Except for the charge of Domestic Assault and Battery M.G.L c. 265, § 13M, family or household member shall include any of the following.
 - 1. Persons who are or were married to one another.
 - 2. Persons who are or were residing together in the same household.
 - 3. Persons who are or were related by blood or marriage.
 - 4. Persons who have a child in common regardless of whether they have ever married or lived together.

- 5. Persons who are or have been in a substantive dating or engagement relationship.
- C. *Firearm*: A firearm shall not be limited to its definition in M.G.L. c. 140, § 121, but rather shall include rifles, shotguns, machine guns, ammunition, high capacity feeding devices, or antique firearms.
- D. *Harass*: As defined in MGL c. 268, § 13B, shall mean to engage in any act directed at a specific person or persons, which seriously alarms or annoys such person or persons and would cause a reasonable person to suffer substantial emotional distress. Such act shall include, but not be limited to, an act conducted by mail, telephonic or telecommunication devices, electronic communication, internet communication, instant message, or facsimile communication.
- E. *SAFEPLAN*: A court-based civil advocacy program for victims of domestic violence, sexual assault, and stalking who are seeking protection from abuse through a 209A Restraining Order or 258E Harassment Prevention Order.
- F. *Serious Bodily Injury*: As defined in M.G.L. c. 265, §§ 13A(b), 15A(b), and 15D(a), shall mean bodily injury that results in permanent disfigurement, loss or impairment of a bodily function, limb or organ, or a substantial risk of death.
- G. *Strangulation*: As defined in M.G.L. c. 265, § 15D(a) shall mean the intentional interference of the normal breathing or circulation of blood by applying substantial pressure on the throat or neck of another.
- H. *Suffocation*: As defined in M.G.L. c. 265, § 15D(a) shall mean the intentional interference of the normal breathing or circulation of blood by blocking the nose or mouth of another.

IV. PROCEDURES

- A. Dispatcher Response
 - 1. Dispatch two officers to the scene, and a supervisor if possible, as the likelihood of injury associated with domestic violence situations requires that officers immediately proceed to the place of the dispute.
 - 2. Assign a priority response to all active domestic violence calls, including those calls that involve or appear to involve a police officer of any police department.
 - 3. Immediately notify an ECD supervisor of any domestic violence calls.
 - 4. Preserve documentation of the facts and circumstances of each call for use in potential administrative and criminal investigations.
 - 5. Maintain current contact information of local domestic violence victim advocacy organizations for responding officers to provide to victims.
 - 6. Attempt to elicit all information from the caller that may help the responding and investigating officers assess the situation, including the following:

- a. immediate safety of the caller, the victim, and others at the scene;
 - b. nature of the incident (verbal or physical), nature of injuries, and whether violence is ongoing;
 - c. the type of weapons that are involved, or present, if applicable;
 - d. potential hazards to responders, including animals;
 - e. whether the caller or alleged assailant is under the influence of alcohol or drugs, or if there are mental health issues;
 - f. description of the caller and alleged assailant;
 - g. presence or absence of the alleged assailant, and direction and mode of travel, if applicable;
 - h. other people involved or witnesses at the scene, including children;
 - i. alleged assailant's criminal history (BOP check);
 - j. number of times the department has been called to this address;
 - k. existence of a protection order currently on file against the suspect or caller (BOP check);
 - l. outstanding warrants (check CJIS and Warrant Management System);
 - m. personal identifying information of the caller and alleged assailant; and
 - n. record of firearms identification cards and/or licenses to carry having been issued to resident(s).
7. Inform the caller of the status of the responding officers.
 8. Keep the caller on the line. If the caller is a victim or witness to a domestic violence incident in progress, relay ongoing information provided by the caller to the responding officers and remain aware of the victim's safety.
 9. Make the safety of domestic violence victims a primary concern.
 10. Address threats of violence, whether immediate or remote, by working with the victim to focus on ways to enhance safety, such as waiting for officers at another location or leaving the location if the suspect returns.
 11. Keep in mind that the caller could be the victim or assailant.
 12. Do not cancel the police response if a subsequent request to cancel police response is received. Advise the responding officers of the second call and instruct them to continue to respond, investigate, and assess the situation to ensure that all parties are safe.
- B. Police Officer Response
1. Initial Observations

- a. Upon arrival, responding officers should approach the scene with the utmost degree of caution. Upon approach, officers should make observations of the surrounding area for evidence such as weapons, damaged furniture, broken windows, and any other items that may be evidence of a domestic violence incident.
 - b. Officers shall listen for sounds of an argument, threats, or an ongoing physical assault. All evidence, utterances, statements, and observations should be documented in an incident report, and photographed if appropriate.
2. Entering a Private Premises
- a. Officers may enter private premises without a warrant in the following circumstances.
 - (1) At the request of someone in lawful control of the premises.
 - (2) Where there is imminent danger of violence that could result in death or serious bodily injury.
 - (3) Where a breach of the peace has been committed in an officer's presence.
 - (4) When a police officer has probable cause to believe a felony has occurred and is in fresh pursuit of the fleeing felon or a subject who has committed a jailable misdemeanor.
 - (5) To quell an ongoing disturbance and restore peace.
 - (6) After repeated attempts to contact residents, having reason to believe the occupants may be in danger, and informing the patrol supervisor.
 - b. The term *private premises* shall include, but not be limited to, a house, an apartment, a condominium, a hotel room, a mobile home, a dormitory room, or a house trailer.
3. Officer Demeanor
- a. The responding officers shall maintain a professional, non-biased, and objective demeanor throughout their investigation. Officers should immediately state their reason for being present to the persons at the scene—including any children. This action can help diffuse the situation.
 - b. Upon entering, officers should prevent the physical movement of the parties as much as possible and control their access to any potential weapons.
 - c. Officers should be cognizant that individuals may be under the influence of drugs or alcohol or may pose additional safety risks to themselves or others on scene.
 - d. Should an arrest be pending, officers should attempt to remove children or the arrestee from the scene prior to affecting the arrest. Officers should explain to children that the incident was not their fault and that the police are there to help the family. If a child or children called 911, tell them that they did the right thing by calling the police.

- e. Additional factors may complicate the victim's response to law enforcement. These factors may include but not be limited to the following.
 - (1) Immigration status.
 - (2) Language skills including English as a second language.
 - (3) Cultural identity.
 - (4) Physical limitations and disabilities.
 - (5) Sexual orientation and gender identity.
 - f. These victims may fear the police and may present angrily or as abusers themselves. It is important to be aware of and deter any biases.
4. Responsibilities on Scene
- a. Separate the parties and interview them independently. However, if there are only two officers present at the scene they should, if practical, remain within view of each other for officer safety and to avoid any subsequent conflict.
 - b. Determine whether interpreter services are needed and obtain such services when available. Officers can call QWEST, a multilingual communications network provided to assist police departments at (888) 892-2850 for interpretive language services 24 hours a day.
 - c. Remain on scene if the officers have reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of an officer.
 - d. Assist the victim in obtaining medical treatment for any sustained injuries by arranging for treatment on scene or for appropriate transportation by ambulance to a health care facility and document any sustained injury.
 - e. Attempt to identify and interview the caller, neighbors, and other potential witnesses. The identities of all persons present and involved should be documented in the incident report. It is not unusual for some witnesses to be unsupportive of the victim. Do not tell the suspect who called the police.
 - f. Attempt to obtain the following information at the scene. If this is not possible, obtain the information during the follow-up investigation.
 - (1) Determine the relationships of all parties, including children, at the scene. If children are not immediately observed, ask if there are children present in the household.
 - (2) If children are present, record their names and dates of birth; check on the children to determine if they have sustained any injuries. Unless it involves a medical emergency or safety concern, consider conducting a *minimal facts* interview on scene if appropriate. If the child needs a more comprehensive interview, a member of the department should contact the District Attorney's Office/Children's Advocacy Center to schedule a forensic interview.

- g. Obtain contact information for the victim. Inform the victim that if they intend to leave their place of residence, and wish to be informed of the abuser's release, the victim should provide a number where they may be reached, or where a message may be left safely.
 - h. Obtain information about the suspect's ownership of, presence of, or access to firearms and their location.
 - i. Gather information regarding the suspect's past behavior/dangerousness. This should be documented in an incident report, the Domestic Violence Worksheet, and Strangulation Worksheet when applicable. This information should then be provided to the Bail Commissioner to help in determining bail and to the prosecutor for use at arraignment.
- 5. Getting to a Safe Place
 - a. Assist the victim and dependent children in locating and getting to a safe place, including but not limited to a designated meeting place, for entry into an emergency shelter or a family member's or friend's residence or a similar place of safety.
 - (1) Under no circumstances should an officer release information to the public regarding the location of a domestic violence shelter.
- 6. Notice of Rights
 - a. Give abuse victims immediate and adequate notice of rights by handing to them a written copy of the rights and reading it to them. When the person's native language is not English, the statement shall be provided in the person's native language, whenever possible.
- 7. Activating the Emergency Judicial Response System (E.J.R.)
 - a. Assist the victim by activating the Emergency Judicial Response System when a judge is not available through court. This should be done even when the alleged abuser has been arrested.
 - (1) If a victim is unable to appear in court because of severe hardship due to the victim's physical condition, officers can seek an order by contacting the court.
 - (2) A representative may appear in court on behalf of the victim to seek an emergency or temporary order. Officers should advise these victims that a representative may appear on their behalf.
- 8. Issuance of an Abuse Prevention Order
 - a. Upon issuance of any applicable order under M.G.L. c. 209A, police shall immediately take possession of all firearms and licenses in the control, ownership, or possession of the defendant. Such firearms and licenses may not be returned until the order has been completely vacated or the firearms provision modified by order of the court.
 - (1) Violations of Orders: In the interest of immediacy and the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officer witnesses or

has probable cause to believe has violated an order, including a violation that stems from the possession of firearms, weapons, or licenses.

- (2) If the situation does not meet the conditions of a substantive dating relationship, consider if the facts and circumstances meet the criteria of a 258E protection order.

9. Substantive Dating Relationships

- a. Officers will gather information to determine whether a substantive dating relationship exists. Officers will examine the same factors that the courts review when making this determination including:
 - (1) the length of time of the relationship;
 - (2) the type of relationship;
 - (3) the frequency of interaction between the parties including the interaction between the parties through the use of technology; and
 - (4) the length of time that has elapsed since the termination of the relationship.
- b. If the officer determines that a *substantive dating relationship* exists or did exist, then the officer shall take the proper action, including arrest when appropriate, regardless of whether the victim seeks a restraining order.
- c. Even in cases where there is no substantive dating relationship, a crime, such as stalking or criminal harassment, may have been committed.

C. Arrest Guidelines

1. Decision to Arrest

- a. In any decision to arrest, the safety of the victim, children, and other family members shall be of utmost importance. As in other types of criminal investigations, uncorroborated statements by a victim can constitute probable cause that a crime occurred. The decision to arrest must be based on whether probable cause exists that domestic violence occurred, not on whether the victim wishes to seek complaints or wishes to testify at a future date.

2. Substance Abuse and/or Mental Health Issues

- a. When assessing credibility in order to establish probable cause, officers should remember that a victim who is under the influence of drugs or alcohol, or who suffers from mental illness, is not an inherently unreliable witness.

3. Arrest, Mandatory or Preferred

- a. **Mandatory:** In the interest of immediacy, and the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officers witness or have probable cause to believe has violated an emergency, temporary, or permanent vacate, refrain from

abuse, stay away, or no-contact order or judgment, a suspension and surrender order, or protection order issued by any jurisdiction. (M.G.L. c. 209A, § 7)

- b. Preferred: When there is no outstanding protective order, arrest shall be the preferred response whenever officers responding to a domestic violence incident witness or have probable cause to believe that a person:
 - (1) Has committed a felony.
 - (i) Aggravated Assault and Battery M.G.L. c. 265, § 13A(b)
 - (ii) Assault and Battery By Means of a Dangerous Weapon M.G.L. c. 265, § 15A
 - (iii) Assault and Battery upon an Elder or a Person with a Disability M.G.L. c. 265, § 13K
 - (iv) Assault and Battery on a Family or Household Member, Subsequent Offense Only M.G.L. c. 265, § 13M(b)
 - (v) Assault by Means of a Dangerous Weapon M.G.L. c. 265, § 15B
 - (vi) Intimidation of a Witness M.G.L. c. 268, § 13A
 - (vii) Kidnapping M.G.L. c. 265, § 26
 - (viii) Stalking M.G.L. c. 265, § 43
 - (ix) Strangulation or Suffocation M.G.L. c. 265, § 15D
 - (2) Has committed a misdemeanor involving abuse, as defined in M.G.L. c. 209A.
 - (i) Assault or Assault and Battery on a Family or Household Member c. M.G.L. 265, § 13M(a)
- 4. If the Suspect Has Fled the Scene
 - a. When probable cause to arrest exists and the suspect has fled the area, patrols, including other jurisdictions where the suspect is believed to be going, shall be advised to locate and arrest the suspect.
 - (1) One department's statement that probable cause to arrest exists shall be honored by another department. The second department shall immediately attempt to affect the arrest as requested by the investigating department.
 - (2) Officers will attempt to make a warrantless arrest within a reasonable period of time. However, as soon as is practical, the investigating department shall seek an arrest warrant from the appropriate court, in cases involving abuse as defined under M.G.L. c. 209A.
 - (3) When probable cause exists to believe a crime involving abuse occurred, it is not proper procedure to advise the victim to seek complaint applications on their own.
- 5. The Massachusetts Probation Service Electronic Monitoring (ELMO) Law

- a. Police may request ELMO information by submitting a written request to Elmo.Inforequests@jud.state.ma.us from a verifiable law enforcement agency email address. These requests are typically responded to within 24 to 48 hours. ELMO will supply GPS information *For Investigative Purposes Only*.
 - b. All requests should be sent to Elmo.Inforequests@jud.state.ma.us. Law enforcement may also contact ELMO directly at 978-365-2970 for assistance.
6. Dual Arrests / Dominant Aggressor
 - a. Dual arrests, such as the issuance of mutual restraining orders, are strongly discouraged because they trivialize the seriousness of domestic abuse and increase the danger to victims. Prior to making a dual arrest officers shall notify the sector sergeant.
 - (1) Officers should attempt to identify the dominant aggressor and act based on that determination. In most cases, an effective investigation will reveal the dominant aggressor.
 - (2) Officers should be aware of the difference between offensive and defensive injuries. The use of force used must be reasonable given the nature of the threat and surrounding circumstances and, if warranted, may include the use of weapons. In some cases, the dominant aggressor may have the more serious injuries. If one of the persons acted entirely in self-defense, the situation should be treated as such and the dominant aggressor identified and arrested, if appropriate.
 - (3) If the officers determine that neither party acted in self-defense and that both parties have committed an act of domestic abuse, then the officers should determine who is the dominant aggressor and act after considering the totality of the circumstances including:
 - (i) the severity of injuries and fear inflicted in the incident;
 - (ii) the use of force and intimidation in the incident;
 - (iii) prior incidents involving either party; or
 - (iv) the likelihood of either party committing domestic violence in the near future.
 - (4) Any officer arresting both parties is required by law to submit a separate detailed written report in addition to an incident report, setting forth the grounds for dual arrest. In the event of a dual arrest, officers shall notify the sector sergeant prior to effecting the arrest.
 - (5) Officers investigating an incident of domestic violence shall not threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party.
7. Arrest of a Caretaker

- a. In cases involving the abuse of a child, an elder, or a person with a disability, officers should consider the victim's ability to be left alone safely if the abuser is arrested.
 - (1) If the child, the elder, or the person with a disability cannot be left alone, the appropriate protective agency or hospital must be contacted, to arrange for temporary care.
 - (2) When a caretaker is arrested and an agency is called for temporary care, the officer shall explain to the child, elder, or person with disability the situation and the reasons for calling a protective agency.
- 8. Bail
 - a. A person, who is 18 years or older, shall not be bailed sooner than 6 hours after arrest, except by a judge in open court, if under arrest for the following crimes:
 - (1) a Restraining Order Violation under M.G.L. c. 208 or 209A;
 - (2) any act that would constitute abuse, as defined in section 1 of chapter 209A; or
 - (3) a violation of sections M.G.L. c. 265, § 13M or 15D.
 - b. When a juvenile is properly charged with intimate partner violence, the 6-hour bail hold does NOT apply. All juveniles are exempt from this hold.
 - (1) Circumstances which warrant a charge of M.G.L. c. 265, § 13M upon a juvenile, would be those cases of violence perpetrated against someone with whom the juvenile was once married, has a child in common, has been in a substantive dating relationship, or is engaged to be married. In such cases, as in teen dating violence, the six-hour waiting period for bail does NOT apply to juveniles. By statute these provisions only apply to those defendants who have attained the age of 18 years. (M.G.L. c. 276, § 58.)
 - (2) Officers should therefore follow the typical protocol for arresting a juvenile. Officers are required to contact the juvenile's legal guardian, M.G.L. c. 119, § 67. Officers would then be required to contact an on-call bail clerk or bail magistrate for a bail determination, even if the offense is alleging intimate partner violence.
 - c. Officers should inform the victim that the abuser may be eligible for bail and may be promptly released. If a defendant is released on bail from the place of detention, a reasonable attempt shall be made by the arresting police department to notify the victim of the defendant's release.
 - (1) Under M.G.L. c. 276, § 58A, a defendant may be held without bail if a court determines that a defendant is a danger to the victim or the public.
 - (i) The responding officer's actions and behavior at the scene form the basis for this determination by the prosecuting agency and/or court.

(ii) Officers should ensure that the proper documentation is prepared in a timely manner and forwarded to the appropriate officer to be brought to court and the prosecuting agency.

(iii) In the event an officer believes that a defendant is a domestic violence high risk and poses a danger to a victim or the public, it should be documented in the police report and steps should be taken to notify the prosecuting agency.

9. Notification to the Victim in Criminal Cases

- a. The law directs that a *reasonable attempt* must be made by the arresting police department to notify the victim if a defendant charged with a violation of a restraining order or a criminal act constituting domestic abuse is released on bail from the place of detention. If the defendant is released on bail by order of a court, a reasonable attempt at notice shall be made by the district attorney. (M.G.L. c. 276, §§ 42A, 57, 58 as amended by Act §§ 28, 31-32.)

10. Information Provided to Defendant

- a. The person admitting the defendant charged with a criminal act constituting domestic abuse to bail is required to provide the defendant with informational resources regarding domestic violence, including a list of nearby certified batterer's intervention programs. (M.G.L. c276, §§ 42A, 57, 58 as amended by Act §§ 28, 31-32.)
- b. The legislation also establishes a committee to develop and implement a program for the dissemination of these informational resources (Act § 41). These informational resources will be provided to the courts and bail magistrates.

11. Probable Cause Standard

- a. All officers shall utilize the same standard of *probable cause* for domestic violence offenses as with all other crimes.
- b. Decisions to arrest will be based on whether probable cause and the authority to arrest exist, not on the victim's agreement to testify at a future date.

12. Referrals

- a. Officers should provide information, including phone numbers, about local resources such as the community based domestic violence and sexual assault advocacy programs for emergency shelter and counseling services and the Office of the District Attorney's Victim Witness Advocacy Program.
- b. It is advisable that police departments have referral information preprinted so that it can be distributed with the Abused Person's Notice of Rights card. Referral information can be typed onto the card or stapled to it. Victim compensation can also be a valuable resource.

13. Incident Reports

- a. Concerning domestic violence incidents, reports will be filed whether an arrest is made, including domestic disputes. They will be made available to the victim, at no cost, upon their request to the Records Unit. Since the initial investigation should determine the existence of any history of abuse, that information must be included within the report.
 - (1) Prosecution and subsequent legal action can be greatly aided by documentation and description of physical injuries, photographs of the injuries, noting the presence of children in the household, and other information gained through the investigation.
 - (2) All police departments that require an investigating officer to complete a report concerning an incident, offense, alleged offense, or arrest on a form provided by their department, shall include on the form a space to indicate whether the offense, alleged offense, or arrest involved abuse as defined in M.G.L. c. 209A. (See M.G.L. c. 41, § 98G and M.G.L. c. 22C, § 49.)

14. Expanded Confidentiality of Abuse Prevention Order Provisions

- a. The law expands the confidentiality of police records of rape and sexual assaults, M.G.L. c. 41, § 97D, to include all reports of domestic violence. Unlike the old statute, the new statute includes specific authorization for victims, prosecutors, counselors, and law enforcement officers to obtain the records. (M.G.L. c. 41, § 97D as amended by Act § 7,) The law also specifically excludes these reports, as well as rape and sexual assault reports, from the police daily log. (M.G.L. c. 41, § 98F as amended by Act § 8.)
 - (1) Unlike with sexual assault crimes governed by M.G.L. c. 265, § 24C, the law does not extend the confidentiality of police reports in domestic violence cases once those reports are filed in court. In the event a party seeks impoundment of the reports, clerks should not disseminate the reports until the issue has been decided by a judge.
 - (2) A plaintiff's residential address and workplace address shall appear on the court order and be accessible to the defendant unless the plaintiff specifically requests that this information be withheld from the order (M.G.L. c. 209A, § 8.) Police officers helping to issue emergency abuse prevention orders must be cognizant of victims' confidentiality rights and requests.

15. Confidentiality of Reports, M.G.L. 41, § 97D

- a. All reports, including communications between police officers and victims of domestic violence/abuse perpetrated by family or household members, rape, and sexual assault are confidential and are not public records. Violation of this section shall be punished by imprisonment of 1 year and/or fined \$1,000.00.
 - (1) Police departments shall ensure the confidentiality of domestic violence records, including information regarding the identity of a victim or children and any medical information or statements by witnesses.
 - (2) Victims of domestic violence have a strong privacy interest in this type of information whether contained in the initial incident report or supplemental reports. Except for

the complete report's release to the victim, reports should be reviewed and redacted accordingly in response to other requests.

16. Police Department Log, M.G.L. c. 41, § 98F

- a. The following entries shall be kept in a separate log and shall not be a public record, nor shall such entries be disclosed to the public.
 - (1) Any entry which pertains to those who are handicapped, confined to a wheelchair, bedridden, or required to use a device designed to provide mobility.
 - (2) Any information concerning the response to reports of domestic violence, rape, and sexual assault.
 - (3) Any entry concerning the arrest of a person for assault, assault and battery, or violation of a protective order where the victim is a family or household member, as defined by M.G.L. c. 209A, § 1.

17. Mandated Reporting

- a. A report will be filed with the Department of Children and Families (DCF) whenever the police officer has reasonable cause to believe that a child under the age of 18 has been abused or neglected, in accordance with M.G.L. c. 119, § 51A. If a child has witnessed abuse, this could be *neglect* for purposes of mandatory filing.
- b. During office hours contact, the local DCF office. After hours, call the Child-At-Risk hotline 1-800-792-5200. Officers may file on behalf of the child. If an officer intends to file a 51A child abuse report, they should tell the non-offending parent or caretaker and explain the filing process, including the fact that the report is being filed. A written report must be filed within 48 hours; an oral report immediately.
 - (1) A report will be filed with the Disabled Persons Protection Commission (DPPC) whenever the officer has reasonable cause to believe that a caretaker has abused and/or neglected a person with a disability between the ages of 18 and 59, in accordance with M.G.L. c. 19C, § 10. An immediate report should be filed by calling the DPPC hotline at 1-800-426-9009. If officers intend to file a report, they should advise the person with a disability who is the subject of the abuse or neglect of such intent.
 - (2) A report will be filed with the Executive Office of Elder Affairs whenever the officer has reasonable cause to believe that someone age 60 or older has been abused or neglected, in accordance with M.G.L. c. 19A, §§ 14-26. An immediate call shall be placed to the 24-hour hotline at 1-800-922-2275. If officers intend to file a report, they should tell the elder person who is the subject of the abuse.

D. Firearms

- 1. When a firearm or other weapon is present at the scene of a domestic violence situation, officers shall perform the following.

- a. Seize the firearm or weapon as evidence of the crime if the responding officers are informed that a firearm or weapon has been involved in the incident.
 - b. Every department within the Commonwealth shall honor another department's request for assistance in seizing firearms, weapons, or licenses, regardless of which department is named in the order.
2. If the firearm or weapon is not reported to have been involved in the incident but officers subsequently learn that there are firearms or weapons on the premises, officers shall perform the following.
 - a. Request that the firearm or weapon be placed in their custody temporarily to alleviate the threat of serious violence.
 - b. Absent compliance with the request, provide for the safety of victims and consider options to legally seize the firearms.
 - c. Determine whether a firearm or weapon is lawfully possessed.
 - d. If the officer determines that the firearm or weapon cannot be seized, the following actions should take place.
 - (1) A judge can order the defendant to surrender guns and licenses.
 - (2) The licensing authority who issued a license to carry may revoke or suspend such license.
 - e. In all domestic violence cases, the investigating department shall advise the licensing authority that the subject of the license is suspected of abuse. The supervisor in the Records Unit and the Deputy Superintendent of Administration shall be notified.
3. The department named within the order shall be responsible for the storage of the seized items or the delegation of storage to an authorized facility. In cases involving police officers who are defendants in Abuse Prevention Orders, the defendant shall immediately surrender all firearms, including departmental weapons and licenses, to the department serving the order.
4. Although state and local police officers cannot enforce federal provisions, the Police Commissioner should be notified whenever an officer identifies a case involving the following circumstances, because there may be federal action that can be taken.
 - a. For misdemeanors involving domestic violence under 18 USC § 922(g)(9), it is unlawful for any person convicted of certain misdemeanor crimes involving domestic violence to ship, transport, possess, sell, or otherwise dispose of, or receive firearms or ammunition.
 - b. Federal law prohibits any person subject to a qualifying order of protection from possessing firearms and ammunition. See 18 USC § 922(g)(8).

- c. For a federal felon in possession of a firearm under 18 USC § 922(g)(1), it is unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year to possess any gun or ammunition.
- d. For persons named in protective orders under the Federal Crime Control and Law Enforcement Act of 1994, it is unlawful for an individual subject to a *permanent* restraining order involving *intimate partners* to receive, ship, transport, or possess guns, including handguns, rifles, and shotguns, or ammunition that traveled by interstate commerce.

E. Property

1. Vacate Orders and Court Orders to Retrieve Belongings

- a. Once a vacate, no contact, stay away, or refrain from abuse order is issued, officers should not accompany a defendant to the property without specific judicial authorization.
- b. The defendant in the vacate order is allowed to retrieve belongings under the following conditions.
 - (1) The defendant must have a court order allowing for the retrieval of the property.
 - (2) The police must accompany the defendant. Officers shall remain with the defendant throughout the process.
 - (3) The victim must have prior notice by the police department, and the victim must agree to the timing of the retrieval.
 - (4) The defendant must not be allowed to use this as a means of harassing or abusing the victim.
 - (5) The defendant may retrieve personal property such as clothing, shoes, and personal care items. If the defendant is attempting to collect any other items, including furniture or electronic equipment that is in dispute, the defendant should be referred to the issuing court or the Probate and Family Court for settlement of shared property.
- c. If an order is in effect, the Domestic Violent Unit will assist with making arrangements for property pickup. If there is a dispute between the parties, the court may resolve the issues.

2. Removing or Destroying Property

- a. When a person is accused of removing or attempting to remove property from the dwelling, or is accused of damaging or destroying property, the officer should investigate to determine the civil or criminal consequences and take appropriate action; for example, malicious destruction of property or vandalism.

F. Strangulation

1. Strangulation is a primary and significant dangerousness factor that is often misunderstood or misidentified. Strangulation and choking are not the same.
 - a. Choking is when a food object lodges in a person's throat while they are eating and temporarily stops the person's breathing.
 - b. Strangulation is when a person constricts the neck or throat of another person in order to block their air flow.
 - c. To properly assess not only the legal standards necessary for charging but also to understand the lethality of the assault, it is essential to fully document what happened by completing a Department Strangulation Worksheet.

G. High Risk Model

1. High-Risk Teams

- a. The Cambridge Arlington Belmont High Risk Assessment and Response Team (CABHART) is a multi-disciplinary team that identifies cases of domestic violence that pose the highest risk of lethality in Cambridge, Arlington, and Belmont and responds accordingly with timely intervention plans.
 - (1) CABHART strives to protect and serve high risk victims through the collaborative and coordinated efforts of public, private, and non-profit organizations by combining research-based risk assessment tools with the inter-disciplinary practitioner experience of its team members. CABHART shares critical information and provides a practical forum to identify and close systematic gaps.
 - (2) Through the implementation of service plans for high-risk victims and offender monitoring measures, CABHART works to ensure the long-term safety of victims and to hold offenders accountable.

2. Risk Assessment

- a. CABHART adheres to recognized assessment models and utilizes the Danger Assessment Tool to accomplish its mission.
- b. The Case Assessment Team (CAT) is comprised of representatives from each partnering agency who meet on a monthly, or emergency, basis to review high-risk cases and develop and implement crisis intervention plans for victims and their families.
- c. CAT is charged with the following responsibilities.
 - (1) The presentation of new cases.
 - (2) Conducting risk assessments.
 - (3) Creating offender monitoring plans.
 - (4) Developing victim service plans.
 - (5) Providing case updates.

3. Interviewing the Victim and Conducting the Risk Assessment

- a. Officers responding to domestic violence calls and domestic dispute calls, shall complete a Domestic Violence Incident Worksheet. There are three sections of the worksheet.
 - (1) All three questions of section one must be asked unless there are mitigating circumstances. If there are mitigating circumstances, they should be documented in the Incident Report.
 - (2) Questions for section two should be asked if there is an affirmative response to section one gaining as much information as the victim is willing to share.
 - (3) In section three, officers should check *yes* or *no* if a referral has been made to the Domestic Violence Unit.
- b. If the victim reports that strangulation has just occurred, officers shall complete the Strangulation Worksheet and attach it to the Incident Report.

H. Service of Restraining Orders

1. In-hand Service

- a. Service of orders shall be made in hand unless otherwise ordered by the court. M.G.L. c. 209A, § 7 requires that "the law enforcement agency shall promptly make its return of service to the court."
- b. Orders shall be served promptly upon receipt. If service is initially unsuccessful, the responsible police department must continue to attempt service until it is completed. Service of orders will not be delayed in order to forward service by a specialized officer or unit. If an officer is unable to make service after *numerous attempts*, the officer should document, in detail, the service attempts on the *return of service* form and request the court to allow service by leaving a copy of the order at the last known address of the defendant.
- c. Service of orders may compromise victim safety. Victim safety should be considered in the timing of the service of the order. To develop a safety plan around the service of the order, officers should encourage the victim to contact an advocate, either through the District Attorney's Office, SAFEPLAN, the local domestic violence program, or the department's Domestic Violence Unit.

2. Record of Service

- a. Departments must keep a record of all attempts at service. Officers should radio ECD and receive a CAD slip to document the date, time, and location of the attempted service.

3. Return of Service

- a. All returns of service, including service of Emergency Orders, must be sent to the court.

4. Orders Disseminated to the Department

- a. The Court is responsible for sending the order to the appropriate law enforcement agency for service on the defendant. In the event the plaintiff brings an order to the police department for service, officers should ensure that the police department's responsibilities under M.G.L. c. 209A and these guidelines are met.
5. Firearms
 - a. Upon service of the order requiring such, officers shall immediately take possession of all firearms, rifles, shotguns, ammunition and any licenses or FID cards in the control, ownership, or possession of the defendant. The license-issuing authority shall be contacted at once and fully informed of the incident and provided full reports in accordance with current law. All confiscated items shall not be returned until the order has been vacated or the firearms provision has been modified by order of the court. (M.G.L. c. 140, §§ 129B, 131.)
6. Notice to Plaintiffs
 - a. When assisting plaintiffs with emergency abuse prevention orders, officers should provide guidance to the plaintiff regarding the exact terms of the order sought.
7. Out-of-State Order Violations
 - a. A protective order issued in another jurisdiction as defined in M.G.L. c. 209A, § 1, shall be fully recognized in the Commonwealth. A responding officer shall serve and enforce the terms and conditions of an out-of-state protective order as written by the issuing jurisdiction.
 - b. Officers shall make a warrantless arrest of any person the officer witnesses or has probable cause to believe has violated an emergency, temporary, or permanent vacate, refrain from abuse, stay away, or no-contact order or judgment issued by another jurisdiction.
 - c. In assessing probable cause, an officer may presume the validity of the protection order issued by another jurisdiction when the officer has been provided with:
 - (1) a copy of the order, by any source; and
 - (2) a statement by the victim that such order remains in effect.
 - d. An order of protection is presumed valid if it gives the names of the persons involved, contains the date the order was issued, has not expired, specifies the terms and conditions set against the abuser, contains the name of the issuing court, and is signed by the issuing authority.
 - e. Violations of out-of-state orders or Massachusetts orders violated in another state may be charged criminally as contempt of court in the Commonwealth of Massachusetts. (M.G.L. c. 220, § 14.)
8. Notice to Defendants

- a. When serving an abuse prevention order, officers shall fully inform the defendant of the contents of the order and penalties for any violation of an order and provide additional resources, including information on batterer's intervention programs, substance abuse counseling, alcohol abuse counseling and financial counseling. (M.G.L. c. 209A, § 7.)

9. Third-Party Contact

- a. The Abuse Prevention Order states that the defendant is "ordered not to contact the plaintiff in person, by telephone, in writing, electronically or otherwise, either directly or through someone else." If there is third-party contact in violation of an outstanding abuse prevention order, consideration should be given to taking out charges against the third-party or defendant for violation of a restraining order or intimidation of a witness, depending on the circumstances.

I. Allegations Against Police Personnel

1. When responding to a domestic violence incident involving a law enforcement officer, all of the previously outlined protocols apply. However, additional protocols also apply.
 - a. Dispatch/Police Officer Response
 - (1) The dispatcher/officer shall immediately notify the Shift Commander or a patrol supervisor of all domestic incidents involving officers.
 - (2) The responding officers shall take immediate action to ensure the safety of the victim and all persons present.
 - (3) A supervisor of higher rank than the officer involved must respond to the scene.
 - (4) The responding officers will remain on the scene until relieved by the responding supervisor.
 - (5) The responding officers shall document in a report their actions and complete the report prior to the end of their tour of duty, unless there are mitigating circumstances and delay is approved by a supervisor.
2. On-Scene Supervisor's Response
 - a. Proceed to the scene of the incident and conduct an investigation.
 - b. Assess the actual and potential harm to the victim, children, and others present and ensure their safety.
 - c. Upon investigation, if the responding supervisor has reasonable cause to believe that there is evidence of physical abuse or that the threat of physical abuse exists and the abuser is a sworn member of the department, the responding supervisor shall seize and take into custody all department-issued firearms, licenses, and equipment in possession of the officer. In addition, the responding supervisor shall request the surrender of all personally owned firearms and licenses and shall take custody of said firearms and

licenses if consent is granted. The responding supervisor shall ensure a check of the firearms database is made.

- d. If the suspected officer does not have their department-issued firearm on their person or under his or her control at the time of the incident, the responding supervisor shall accompany the officer to the location where the firearm is located and take custody of department-issued firearms, licenses, and other weapons, or make arrangements to do so as soon as practical.
 - e. The supervisor shall ensure enforcement of M.G.L. c. 208, 209, 209A, 209C, M.G.L. c. 140, § 298, court orders, and department guideline and procedures, rules, and regulations.
 - f. The supervisor will ensure a Board of Probation (BOP) and Warrant Management System (WMS) check is conducted to determine the existence of outstanding abuse prevention orders, harassment orders, or warrants in effect against the involved officer.
 - g. The supervisor shall submit, through the department's appropriate chain of command, a report detailing their assessment of the incident and action taken before the end of the supervisor's tour of duty.
3. Shift Commander Responsibilities
- a. The Shift Commander in charge of the officers/supervisor assigned to the initial investigation, upon being notified of a domestic violence incident involving a sworn officer, shall ensure the patrol supervisor has responded to the scene and initiated an investigation. The Shift Commander will:
 - (1) Provide for the safety of the victim, children, or others present at the scene;
 - (2) enforce the provisions of M.G.L. c. 208, 209, 209A, 209C, M.G.L. c. 140, § 298, court orders, department guideline, procedures, rules and regulations;
 - (3) confirm that reports and proper documentation of the facts and circumstances of the incident and the action taken are submitted through the proper channels in accordance with department procedures;
 - (4) confirm that appropriate notifications are made in accordance with the department's procedures and chain of command. Notifications should include the Duty Chief when department officers are involved or the commanding officer of the jurisdiction in which the incident occurred.
4. Additional Considerations
- a. When responding to a domestic violence complaint involving a police officer from another jurisdiction, all responding officers, investigators, supervisors, and commanding officers shall follow department procedures regarding domestic violence and shall contact the officer's department to facilitate the seizure of weapons.
 - b. In the event the reported incident involves the chief, director, superintendent, or commissioner of a department, the commanding officer shall notify the individual in the

government who has direct oversight for the chief, director, superintendent or commissioner.

- c. When responding to an incident where the victim is a police officer, standard domestic violence response and investigation procedures should be followed.
 - d. In responding to domestic violence incidents where the persons involved are both police officers, standard domestic violence procedures should be followed. After probable cause and dominant aggressor determinations are made, an arrest should be made, and all service weapons of the accused officer confiscated.
5. Role of the Supervisor
- a. Response
 - (1) The supervisor shall ensure that all provisions of M.G.L. c. 209A, other related statutes, and these guidelines are fully adhered to.
 - (2) A supervisor shall be responsible for monitoring all domestic violence calls.
 - (3) Whenever possible, a supervisor shall respond to the scene for the purpose of providing advice or any other assistance.
 - (4) A supervisor shall confirm that all procedures, guidelines, and department policies have been followed.
 - b. Supervisor Responsibilities
 - (1) Supervisors will confirm that an incident report has been filed, even in cases where no arrest was made. Calls that are received as allegations of domestic violence or a domestic disturbance, will not be reclassified because no probable cause to arrest existed. Incident reports shall be filed in those cases.
 - (2) To ensure that the provisions of M.G.L. c. 209A and these guidelines are met, a supervisor or designee within the department who is specially trained to review domestic violence cases, will carefully review incident and arrest reports. If upon review of an incident report it is believed that probable cause exists, the supervisor will ensure that criminal charges are initiated according to the statute and these guidelines.
 - (3) Whenever a domestic violence incident is identified as posing a significant danger to the victim, the case should be assigned for follow-up, presented at roll call, and forwarded to a High-Risk Team, if applicable.
 - (4) Whenever a defendant is identified as being a high risk to the victim or the public, the case should be promptly referred to the local prosecuting agency.
 - (5) Prior to a dual arrest being made, the supervisor shall review the case to determine if one of the parties is a dominant aggressor before approving the dual arrests and reports.

c. Referrals

- (1) Supervisors shall confirm that the appropriate and mandated reports are filed for children, persons with disabilities, and the elderly.
- (2) Supervisors shall confirm that proper safety plans are in place for the survivor and other family members. These measures shall be implemented immediately, enabling those affected to make informed decisions
- (3) The safety plan may include all, some, or additional items, such as additional patrols, well-being checks, arresting the abuser, serving 209A orders, assisting in obtaining 209A orders, arranging transportation for medical, shelter, or other locations, referral to a Domestic Advocate.

d. Follow-up Investigations

- (1) Supervisors shall:
 - (i) determine if a follow-up is needed;
 - (ii) ensure it is conducted in a complete and thorough fashion; and
 - (iii) review and ensure proper charges are filed whenever appropriate.

J. Harassment Prevention Order Considerations (M.G.L. c. 258E.)

1. M.G.L. c. 258E provides victims of criminal harassment, stalking, and sexual assault, regardless of their relationship with the defendant, the ability to obtain harassment prevention orders against the perpetrators.
2. Harassment is defined as three or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse, or damage to property and that does in fact cause fear, intimidation, abuse, or damage to property, or an act that:
 - a. by force, threat, or duress causes another to involuntary engage in sexual relations or
 - b. constitutes a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43, or 43A of M.G.L. c. 265 or section 3 of chapter 272.
3. In-Hand Service (M.G.L. c. 258E.)
 - a. Service shall be made in-hand unless otherwise directed by the court. The law enforcement agency shall promptly make a return of service to the court. (M.G.L. c. 258E, § 9.)
 - b. Service of an order may directly compromise a victim's safety, therefore consider the timing of service of the order. To develop a safety plan around the service of the order, officers should encourage the victim to contact an advocate either through the DA's Office, SAFEPLAN, the local victim service program, or the department's Domestic Violence Unit.

4. Record of Service (M.G.L. c. 258E): Departments must keep a record of all returns of service. If an order is vacated, the court will notify the law enforcement agency and all records of the vacated order must be destroyed. All returns of service must be sent to the court. (M.G.L. c. 258E, § 9.)
5. Plaintiff Bringing an Order to the Police Department: The Court is responsible for sending the order to the appropriate law enforcement agency for service upon the defendant. If the plaintiff brings an order to the department for service, officers should confirm that the department's responsibilities under M.G.L. c. 209A and these guidelines are met.
6. Out-of-state Orders: A harassment order issued in another jurisdiction, as defined in M.G.L. c. 258E, § 1, shall be given full faith and credit in the Commonwealth. A responding officer shall serve and enforce the terms and conditions of an out-of-state order as written by the issuing jurisdiction.
7. Emergency Response: If police officers have reason to believe that a person has been or is in danger of being abused or harassed, they shall use all reasonable means to prevent further abuse or harassment. Law enforcement officers should make every reasonable effort to do the following as part of the emergency response. (M.G.L. c. 258E, § 8.)
 - a. Assess the immediate physical danger to the victim and provide reasonable assistance to mitigate the safety risk.
 - b. If there is observable injury to the victim or if the victim is complaining of injury, encourage the victim to seek medical attention and arrange for medical assistance by requesting an ambulance for transport to a hospital.
 - c. If a sexual assault has occurred, encourage the victim to seek medical attention at a Sexual Assault Nurse Examination site and request an ambulance for transport if appropriate. Provide the victim with referrals to local resources that may assist the victim in locating and getting to a safe place.
 - d. Provide adequate notice to the victim of their rights including, but not limited to, obtaining a harassment prevention order.
 - e. Assist the victim by activating the emergency judicial system when the court is closed for business.
 - f. Inform the victim that the abuser may be eligible for bail and may be promptly released.
 - g. Arrest any person who a police officer witnessed or has probable cause to believe violated a temporary or permanent vacate, restraining, stay-away or no-contact order or judgment issued under this chapter or similar protection order issued by another jurisdiction; provided, however, that if there are no vacate, restraining, stay-away or no-contact orders or judgments in effect, arresting the person shall be the preferred response if the police officer witnessed or has probable cause to believe that a person has committed a(n):

- (1) felony;
 - (2) misdemeanor involving harassment or abuse as defined in this policy;
 - (3) assault and battery in violation of section 13A of chapter 265; provided further, that the safety of the victim shall be paramount in any decision to arrest; and provided further, that if a police officer arrests both parties, the officer shall submit a detailed, written report in addition to an incident report, setting forth the grounds for arresting both parties.
- h. Whenever a police officer investigates an incident of harassment, the officer shall immediately file a written incident report.
 - i. The victim shall be provided with a copy of the full incident report at no cost upon request to the appropriate police department.