

FOLLOW-UP INVESTIGATIONS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.01	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 42.1.1; 42.1.2; 42.1.3; 42.1.4; 42.2.2; 42.2.4; 42.2.5; 42.2.6; 42.2.9	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

Follow-up investigations are investigations into crimes beyond the preliminary investigation performed by the first officer(s) at the scene. Follow-up investigations are generally the responsibility of the department's detective unit; however, patrol officers may conduct their own follow-up investigations for those less serious crimes that do not require the utilization of resources generally unavailable to patrol officers.

This policy contains general procedures for conducting any follow-up investigation. Where a policy exists on responding to a specific crime, that policy should also be followed. See department policies on **Domestic Violence, Bias Crimes, Rape Investigations, Missing Persons, Dead Bodies, Breaking and Entering, Bank Robberies, Auto Theft, Structure Fires,** and **Vehicle Fires**.

II. POLICY

It is the policy of this department to conduct follow-up investigations in accordance with the criteria established in this policy.

III. PROCEDURES

A. Responsibilities

COVERAGE: The department has an on-call schedule of investigators to cover all hours in which investigators are not assigned to duty shifts. [42.1.1]

1. **DETECTIVE SUPERVISOR:** It shall be the responsibility of the Chief of Police or his designee to determine:
 - a. Whether a follow-up investigation shall be conducted;
 - b. How many investigators are to be assigned to each investigation; and
 - c. How many hours are to be expended on each investigation?
2. **PRELIMINARY INVESTIGATIONS:** Preliminary investigations are the responsibility of the officer assigned to a particular incident. Usually, this will be a patrol officer. [42.1.4]

3. FOLLOW UP INVESTIGATIONS: In general, the responsibility for conducting follow-up investigations is that of the Investigative Function. [42.1.4]
 - d. A specific investigator shall be assigned by the Detective Supervisor as the principal investigator for each case.
 - e. Cases involving specialized skills, knowledge or ability should be assigned to or assisted by those officers having that expertise, regardless of function assignment.
4. ROLL CALL: Detectives shall periodically attend patrol officer shift briefings. [42.2.4]

B. Case Management

5. CASE SCREENING: The Detective Supervisor shall review the preliminary investigation report for each candidate case using departmental screening criteria to determine the likelihood of a successful follow-up investigation. Screening criteria includes: [42.1.2]
 - f. The nature and seriousness of the crime;
 - g. Solvability factors;
 - h. Community reaction to the crime;
 - i. Availability of department resources;
 - j. The documented experiences of this department and other law enforcement agencies;
 - k. Research conducted by the department including the application and utilization of crime analysis; and
 - l. Research conducted by other law enforcement agencies.
6. CASE ASSIGNMENT
 - m. The Detective Supervisor shall assign cases screened for follow-up investigation.
 - n. The supervisor should consider investigator experience, expertise, and case load in making assignments.
 - o. Cases may be referred back to the patrol function for follow-up if appropriate.
7. CASE FILE CONTROL: The Detective Supervisor shall maintain a case file roster to manage open cases. The roster will include: [42.1.3(a)]
 - p. The investigator assigned;
 - q. Incident number;
 - r. Date of assignment; and
 - s. Dates that the report updates are due.
8. CASE PROGRESS REPORTING
 - t. Investigators will periodically report the progress of investigations assigned to them to the Detective Supervisor.
 - u. Progress reports shall be made at least once each week, and more frequently if necessary in the Stow Police Department Records Management System.
 - v. It shall be the responsibility of Detective Supervisor to determine if additional resources shall be expended in the investigation of such cases or if the investigation shall be suspended.
9. CASE FILE CONTENTS: The case file for each investigation shall contain, as applicable, each of the following: [42.1.3(c)]

- w. A copy of the preliminary report;
- x. Statements of witnesses and suspects;
- y. Investigator's notes;
- z. Tests conducted and the results if available;
- aa. Documents obtained which relate to the investigation (i.e., telephone records, copies of checks, receipts, etc.);
- bb. Case status reports; and
- cc. Other documents and resources pertinent to the investigation.

10. FILE ACCESS [42.1.3(D)]

- dd. Case file for open, active cases shall be kept in the records storage area of the investigative function. **[DESCRIBE RECORDS STORAGE AREA LOCATION.]**
- ee. Assess to such records shall be available to:
 - 1) Investigators;
 - 2) Detective Supervisor(s); and
 - 3) Reporting Officer
 - 4) [OTHERS]**
- ff. Files for active cases may be maintained by the assigned investigator if the investigator is working the case. Case files shall be kept in a secure location by investigators (locked desk, locked file cabinet, or investigators office etc.)

11. SUSPENDING AN INVESTIGATION

- gg. An active case shall not be suspended without an evaluation by the principal investigator of the following:
 - 5) Absence of further leads or solvability factors;
 - 6) Unavailability of investigative resources;
 - 7) Negative interviews with victims/witnesses;
 - 8) Inconclusive physical evidence found at the scene of the crime/incident;
 - 9) The exhaustion of all other information sources; and
 - 10) The degree of seriousness of the crime.
- hh. In all cases, the principal investigator shall have the approval of a superior officer of the Detective Division prior to the suspension of investigative efforts.

12. CASE STATUS: The Detective Supervisor shall supervise the status of case assignments, utilizing the following administrative designations appearing on all Investigative Reports: [42.1.3(b)]

- ii. OPEN: The case is assigned to a detective, and investigative efforts are active.
- jj. SUSPENDED: All available leads have been exhausted, but the case has not been brought to a satisfactory conclusion, and investigative efforts may be resumed.
- kk. CLOSED: The case has been satisfactorily concluded.
- ll. RECORDING: Case status can be changed and updated by the Sergeant in Charge of Detectives through the Record Management System.

13. INACTIVE INVESTIGATION FILES [42.1.3(E)]

mm. Case files for inactive cases shall be filed in accordance with the administrative designator (Open, Suspended, Closed).

nn. Open Inactive Cases: Open inactive cases shall be filed in the "Open Inactive Case File" area [**LOCATION - DETECTIVE AREA, CENTRAL RECORDS, OTHER**].

11) Such cases shall include cases where suspects have been identified and charged with a crime, but their whereabouts are unknown.

12) [**IDENTIFY OTHERS**].

13) Case files shall be maintained indefinitely.

oo. Suspended Cases: Suspended cases shall be filed in the "Suspended Case File" area [**LOCATION - DETECTIVE AREA, CENTRAL RECORDS, OTHER**].

14) Such cases shall include cases where all available leads have been exhausted, but the case has not been brought to a satisfactory conclusion, and investigative efforts may be resumed.

15) Case files shall be maintained indefinitely unless otherwise specified.

14. RE-OPENING INACTIVE INVESTIGATIONS (COLD CASES)

pp. Cold Case: A "Cold Case" is a criminal investigation that has been suspended, usually due to the exhaustion of investigative leads or evidence. [42.2.9(a)]

qq. Activation Criteria: A cold case may be reactivated in the event that: [42.2.9(b)]

16) New evidence in the case has been discovered;

17) New technology is available which may provide new leads in the case;

18) A witness in the case has come forward; or

19) A victim's body has been found.

rr. Activation Process: The Detective Supervisor shall review or assign for review cold cases to determine if additional investigative resources could result in the case being solved. The Chief of Police may determine that a case should be reopened. The supervisor should consider the following criteria in determining whether to reopen a case: 42.2.9(b)]

20) The nature of the crime;

21) The nature and weight of the new evidence, if any;

22) The age of the case;

23) The availability of witnesses; and

24) The likelihood of a successful prosecution.

ss. In each case where a cold case is reviewed and a determination is made to reopen the case, an addendum shall be made to the report of the fact that the case has been reopened as well as any investigative activities. [42.2.9(c)]

15. RECORDS RETENTION: The Secretary of the Commonwealth, Public Records Division, requires retention of records in accordance with a published schedule, 11-81. Investigative records not required to be held longer by policy or another authority shall be held as follows:

tt. Permanent

25) Death reports

- 26) Firearms wounds
- 27) Motor vehicle accidents, fatal
- 28) Rape
- 29) Child Abuse
- uu. Eleven (11) Years
 - 30) Armed robbery
 - 31) Assault with a dangerous weapon
 - 32) Confining and putting in fear with intent to commit a felony
 - 33) Unarmed robbery
- vv. Seven (7) Years
 - 34) All crimes except:
 - a) Murder
 - b) Assault with intent to rob
 - c) Robbery
 - d) Assault with intent to Murder
 - e) Stealing by confining and putting in fear
 - 35) Motor vehicle accidents, personal injury
- ww. Three (3) Years
 - 36) Motor vehicle accidents, property damage
 - 37) Stolen goods
 - 38) Stolen vehicles
- xx. Two (2) Years after the case is closed: Missing persons.

C. Conducting Follow-Up Investigations

16. The following guidelines should be used, as applicable, during all follow-up investigations:

- yy. Reviewing and analyzing all previous reports prepared in the preliminary phase to include: [42.2.2(a)]
 - 39) Departmental records;
 - 40) Existing evidence;
 - 41) Statements of victims, suspects and witnesses; and
 - 42) Laboratory examination results;
- zz. Conducting additional interviews and/or interrogations: for further guidance see the department policies regarding **Interviewing Victims and Witnesses** and **Interrogating Suspects and Arrestees**; [42.2.2(b)]
- aaa. Seeking additional information from other officers; [42.2.2(c)]
- bbb. Seeking additional information from informants: for further information, see the department policy on **Use of Confidential Informants** ; [42.2.2(c)]
- ccc. Planning, organizing and conducting searches: for further guidance, see the department policy on **Search and Seizure** ; [42.2.2(d)]

- ddd. Identifying and apprehending suspects: for further guidance, see the department policies on **Eyewitness Identification** and **Arrest**; [42.2.2(e)]
 - eee. Determining involvement of suspects in other crimes; [42.2.2(f)]
 - fff. Conducting background investigations and checking suspects' criminal histories; [42.2.2(g)]
 - ggg. Conducting surveillance;
 - hhh. Collecting physical evidence: for further information see the department policy on **Collection and Preservation of Evidence**;
 - iii. Arranging for dissemination of information to other law enforcement agencies, targeted groups, or the public, as appropriate;
 - jjj. Preparing cases for court presentations; [42.2.2(h)]
 - kkk. Assisting in prosecution with the district attorney's office; and
 - III. Arranging for dissemination of information as appropriate.
17. Officers conducting follow-up investigations shall maintain contact with victims and witnesses, as appropriate. For further information, see the department policy on **Victim/Witness Assistance**.

D. Investigative Task Forces [OPTIONAL] [42.2.5]

18. This department is a member of **Middlesex County Mutual Aid Agreement, CEMLEC**
- mmm. The purpose of the Task Force is to **Uphold the laws of the Commonwealth, to investigate crime, and to serve the citizens of the municipality they serve.**
 - nnn. **[DEFINE TASKFORCE AUTHORITY. INCLUDE RESPONSIBILITIES AND ANY WRITTEN AGREEMENTS, MEMORANDUM OF UNDERSTANDING, MUTUAL AID, ETC.]**
19. The Detective Supervisor shall serve as the department liaison to the taskforce.
20. The Detective Supervisor shall submit a report to the Chief of Police detailing:
- ooo. A brief overview of taskforce activities and agency participation;
 - ppp. The results to the agency of such taskforce participation; and
 - qqq. Recommendations regarding the agency's continued participation in the taskforce.

USE OF CONFIDENTIAL INFORMANTS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.02	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 42.2.7	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

The department recognizes the importance of confidential sources of information. Such sources often provide critical information that leads to the successful solution of many crimes. Sources may provide information which results in the prevention of either violence or disruption of public order.

The courts have long upheld the use of confidential sources as legitimate and necessary tools for law enforcement. Each police officer should be cognizant of the role of the confidential source and the need to use the source properly. Police officers should cultivate all legitimate sources of information including witnesses, other police officers, anonymous tips, and persons who may reveal information through casual conversation.

The use of informants, however, requires detailed documentation and administrative control. All actions by the confidential informant must be carefully supervised to provide investigative integrity.

This policy will provide uniformity, accountability, and protection to officers and the department in official actions with confidential informants, and it will also serve to enhance the effective use of confidential informants.

II. POLICY

It is the policy of this department that:

- A. Confidential informants may be used to enhance efforts to detect, investigate and prosecute criminals; and
- B. All necessary precautions shall be taken to protect the identity of confidential informants and the integrity of the agency, and to guard against the misconduct or misuse of confidential informants.

III. DEFINITIONS

- C. Source of Information: Any person who provides information about criminal activity to the department. This includes, but is not limited to, witnesses, other police officers, anonymous

tips, and persons who may reveal information through casual conversations. These persons are not confidential informants.

D. Informant: A confidential source who:

1. Provides information in exchange for monetary or other lawful consideration;
2. By virtue of providing information is directed by the contact officer to perform certain lawful acts; and
3. By his/her position or knowledge is solicited by the police department to provide information to which [s]he has access.

E. Contact Officer: A police officer who maintains an ongoing professional relationship with a confidential source.

F. Entrapment: Activity on the part of a police officer that induces or lures an otherwise innocent person to commit a crime that [s]he did not contemplate committing. Entrapment is a defense to criminal charges. It is the implanting of criminal intent in the mind of the person. It includes acts of persuasion, coercion, trickery, or fraud carried out by law enforcement officers or their agents to induce a person to commit a crime which [s]he would not otherwise commit.

IV. PROCEDURES

G. Development of Confidential Informants

4. INFORMANT MANAGER: The Chief of Police shall designate a Confidential Informant Manager to oversee the agency's use of informants, this individual should be a Detective or higher rank.
5. INFORMANT REGISTRATION
 - a. All confidential informants shall be registered with this department.
 - b. Registration of informants is mandatory when an officer:
 - 1) Has developed a confidential source of information whom [s]he: intends to use as an informant;
 - 2) Wants to document the use of a source of information; or
 - 3) Wants to activate an inactive informant/source of information.
 - c. The officer shall register the informant by submitting an informant registration package which includes:
 - 4) Completing an Informant Personal History Form;
 - 5) Criminal history (BOP, III);
 - 6) Local police record, if any;
 - 7) Confidential Informant Agreement;
 - 8) Recent photograph; and
 - d. If the contact officer is unable to obtain all of the information required, [s]he shall:
 - 9) Submit as much of the informant registration package as possible, with a signed copy of the Confidential Informant Agreement being mandatory;
 - 10) Provide a written explanation of the reasons [s]he is unable to obtain the missing information.

11) Provide a summary of the information possessed by the informant and its relative importance to the success of the investigation.

6. APPLICATION PROCESSING

- e. The Informant Manager will process informant registration from the officer who developed the CI.
- f. Upon receipt of an application, the manager will assign an Informant Registration Number which will be noted in the Informant Registration Package.
- g. The Informant Manager shall review the application and accompanying documents and determine the suitability of the informant.
- h. If the Informant Registration Package is incomplete, the manager shall weigh the importance of the informant's information against the missing information in determining suitability of the informant.

7. DISAPPROVALS: If the use of the person as an informant is disapproved:

- i. Note the reasons for disapproval in the Other Pertinent Information Section;
- j. Notify the contact officer of the decision; and
- k. File the Informant Registration Package in the master file for reference.

8. APPROVALS: If the use of the person as an informant is approved, the Informant Manager shall:

- l. File a copy of the Informant Registration Package in the master file; and
- m. Notify the contact officer of the approval and the informant's registration number.

H. Master File Security

9. FILE MAINTENANCE [42.2.7(C)]

- n. The Informant Manager shall maintain a secure master file of all informants with either the Managers Office or with the Sergeant in charge of Detectives. [42.2.7(a)]
- o. Each file in the master file shall contain the following: [42.2.7(b)]
 - 12) A copy of the Informant Personal History Form;
 - 13) A signed copy of the Informant Agreement Form;
 - 14) All Informant Contact Sheets; and
 - 15) All Confidential Fund Expenditure Requests and Receipts.
- p. Each informant's file shall be maintained for a minimum of ten years after the informant is declared inactive or disapproved.
- q. Review the status of each active recorded informant or source of information on a quarterly basis. When the file indicates that an informant has not been utilized for one year, the Chief or his/her designee will notify the contact officer to discuss the informant's status.

10. FILE ACCESS

- r. Informant files are considered confidential and shall be available only on a need-to-know basis.
- s. Access to the Informant Master File shall be limited to:
 - 16) Informant Manager;

17) Chief of Police;

18) Investigations Supervisor; and

19) Detectives, either with Stow or part of a narcotics task force.

I. CONTACT WITH INFORMANT

11. CONTACT DOCUMENTATION

t. Each time an informant supplies information concerning an investigation to the contact officer, the officer will complete an Informant Contact Sheet containing:

20) A summary of the information received from the informant;

21) Whether or not the information is used at the time received; and

22) A summary of any corroboration of the informant's information.

u. The form will be forwarded to the Informant Manager to be placed in the Master File.

12. INFORMANT HANDLING

v. Officers are to seek and accept only that information which furthers investigative activities and law enforcement responsibilities.

w. The informant should be treated with consideration, regardless of his/her character, education, or occupation.

x. The contact officer should be scrupulous in the fulfillment of all lawful and ethical promises which [s]he has made.

y. The contact officer should attempt to determine whether or not the informant is being used by another law enforcement agency and/or officer to prevent duplication of effort.

13. ALTERNATE CONTACT

z. Introduce the informant to a second officer, if possible. The informant should be told to contact the second officer during the times that the contact officer is unavailable.

aa. Officers shall keep the Informant Manager informed of relations and activities involving informants.

J. Covert Purchases

14. All transactions in which an informant receives funds for the purpose of purchasing goods or contraband will be witnessed by two officers.

bb. The informant will be thoroughly searched preceding the buy. If the informant's vehicle or residence is utilized in the investigation, a thorough search will also be conducted of those areas to which the informant had access.

23) The serial number of the bills will be recorded or the bills photocopied prior to providing them to the informant.

24) The informant shall not purchase any contraband with his/her personal funds.

25) All personal funds should be taken from the informant prior to contact with the suspect. The personal funds shall be returned to the informant immediately after the purchase.

cc. When possible, constant surveillance will be conducted of the informant after the search and until [s]he meets with officers after the buy.

dd. After the buy, the informant shall be thoroughly searched again.

26) All evidence and narcotic funds will be retrieved from the informant.

27) When possible, the entire process should be accomplished by the same officer, with the same witness.

15. The informant shall be thoroughly debriefed, and a written statement signed by the informant shall be obtained. If a written report is not practical at that time, a statement shall include a complete description of the suspect, a detailed account of all circumstances and conversations involved in the transaction, and any other facts that may be of importance.

K. Precautions with Informants [42.2.7 (f)]

16. MEETING INFORMANTS

- ee. Informants provide information for a variety of reasons, usually for their own interests. The best interests of the informant and of the officer meeting with the informant may not be the same.
- ff. It is preferable when meeting with informants that the meeting is done by more than one officer. In the event that a single officer must meet an informant alone:
 - 28) The officer shall advise the supervisor of the time, location and approximate duration of the meeting; and
 - 29) The officer shall contact the supervisor when the meeting is over.
- gg. The informant should never be permitted to take charge of any phase of the investigation.
- hh. The circumstances surrounding a meeting should not be repeated to the extent that a recognizable pattern is created.
- ii. The proper name of the informant should never be used in telephoning.
- jj. OPPOSITE SEX: The contact officer should meet personally with an informant of the opposite sex only in the presence of another officer.
- kk. PROBATION/PAROLE: If it is known that an informant is on supervised probation or parole, the contact officer will coordinate with the informant's probation or parole officer to ensure that using the informant does not interfere with conditions of the probation or parole.

17. PROTECTING INFORMANT'S IDENTITY: In order to avoid the risk that the confidential informant's identity might have to be disclosed in court proceedings, officers should:

- ll. Use informants only for introductions while having an undercover officer develop the relationship with the target and execute the transaction;
- mm. Prohibit the informant's involvement in planning an operation other than providing information;
- nn. Not permit the informant to participate in the criminal offense, unless absolutely necessary, and instruct the informant to leave as soon as possible after negotiations or transactions begin in a drug case;
- oo. Not permit the informant to be a witness to the criminal activity which will result in charges being brought against the suspect; and
- pp. Attempt to make the informant's testimony cumulative. For example, if the target in a drug case can be persuaded to bring a friend, the informant's testimony might be cumulative to what others present would say, and the informant's identity may not have to be revealed.

L. Use of Informants by Patrol Officers

18. Patrol officers are encouraged to identify and develop informants.

19. Potential informants shall be registered by the patrol officer in compliance with this policy.

M. EVALUATING AN INFORMANT 'S INFORMATION

20. GENERALLY

qq. The contact officer should consider the informant's basis of knowledge and the informant's propensity for honesty and truthfulness.

rr. All pertinent information supplied by an informant should be independently investigated. This is particularly important in the early stages of a relationship with an informant to assist in evaluating his/her credibility and reliability.

21. BASIS OF KNOWLEDGE

ss. The contact officer should ascertain how the informant came upon the information, including what he or she saw, heard, and participated in, as well as any other background facts of the information.

tt. There will be no issues as to the "basis of knowledge" where the source of the tip was a citizen witness who obtained his information through personal observation.

22. PROPENSITY FOR TRUTHFULNESS

uu. The contact officer should assess the informant's propensity for honesty or truthfulness to determine whether the information is reliable and the informant credible.

vv. Officers who assert that they relied upon the informant in the past and, therefore, that [s]he is reliable must give some indication of the nature of that prior reliance.

23. RELIABILITY

ww. Although the officer's knowledge of a confidential informant's identity and whereabouts is not adequate standing alone to confirm the informant's reliability, it is a factor that weighs in favor of a finding of reliability.

xx. Officers may use, but are not limited to, the following methods in attempting to establish the credibility and reliability of information supplied by the informant:

30) Assessing any information previously provided;

31) Checking with other law enforcement agencies for whom the informant provided information;

32) Corroboration of details by other informants or by police investigation;

33) Surveillance; or

34) The use of controlled test situations.

N. Use of Wired Informant

24. Generally, an office may not secretly intercept an oral or wire communication, except in the following situations:

25. An oral or wire conversation may be intercepted and recorded secretly by police during investigations involving organized crime if:

yy. An officer is a party to the conversation or has been given prior authorization by a party; and

zz. It is being intercepted or recorded as part of an investigation or recorded as part of an investigation of one of a number of "designated offenses."

26. An oral or wire conversation may be intercepted and recorded secretly by police if the conversation or communication is intercepted or recorded pursuant to a warrant obtained in accordance with the provisions of M.G.L. c. 272, §99 (E) to 99 (N).
27. These policies are used to ensure the safety of a police officer or informant operating in an undercover capacity or as a witness to the Commonwealth.

O. Criminal Activity by an Informant

28. AUTHORIZED CRIMINAL ACTIVITY

aaa. Informants sometimes gain authority from police officers for participation in activity which would otherwise be criminal. Such authorization must be carefully considered. Authorization for such activity shall be as follows:

35) The Chief of Police only must approve, in writing, the use of an informant for activities which would otherwise be criminal. The Chief's approval should only cover activities in which there is little danger of violence, or in which corrupt action by a public official is not involved.

The Chief should obtain the advice of the District Attorney's Office before giving his/her approval.

When authorizing activity which would otherwise be criminal, the Chief of Police shall attempt to ensure the following:

- i. There is minimal effect on innocent people;
- ii. The informant is not the primary source of technical expertise or financial support;
- iii. The informant's activity is closely monitored; and
- iv. The informant does not directly profit from his/her participation beyond the plea agreement or compensation provided by the department.

29. UNAUTHORIZED CRIMINAL ACTIVITY

bbb. Unauthorized criminal activity by an informant shall be dealt with as follows:

36) An officer learning of unauthorized criminal activity by an informant shall notify the Chief or Police, Case Officer, or Sergeant in Charge of Det

37) The Chief of Police or his designee shall:

Decide whether or not to delay notification of appropriate law enforcement personnel;

Decide whether or not to request appropriate authorities to delay or forego enforcement action;

Decide whether or not to continue the use of the informant; and

Maintain detailed records of such incidents.

38) Delaying Notification of Law Enforcement

The Chief of Police or his designee must contact the District Attorney's Office from the affected jurisdiction if the Chief wants to delay notification of law enforcement authorities or request authorities not to take action.

Only after contacting the District Attorney shall the Chief of Police make the decision to delay such notification or make such request and continue the use of the informant.

39) In determining whether or not to delay notification of authorities, the Chief of Police or his designee shall consider:

Whether the crime is completed, imminent or just beginning;

The seriousness of the crime in terms of danger to life and property;

Whether the crime is a violation of federal or state law, and whether a felony or misdemeanor;

The degree of certainty of the information regarding the criminal activity;

Whether the appropriate authorities already know of the criminal activity and the informant's identity; and

The effect of notification on any regional "task force" investigative activity.

ccc. Under no circumstances shall any officer take any action to conceal a crime by an informant.

P. Dismissing Informants

30. If the behavior of an informant reduces his/her credibility or the informant does not meet performance criteria, the contact officer will notify the Informant Manager.

31. If the Informant Manager, in consultation with the contact officer, determines that the informant should no longer be used, a memorandum indicating the reason why the informant was deactivated will be placed in the informant's file and the informant will be deactivated.

32. The informant shall not be used again without the approval of the Informant Manager.

33. Any informant who has not supplied information for a one year period shall be considered inactive unless the Informant Manager specifically approves otherwise.

VICE, DRUGS & ORGANIZED CRIME

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.03	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 43.1.1; 43.1.2	EFFECTIVE DATE: _____
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I. GENERAL CONSIDERATIONS AND GUIDELINES

Vice, drugs, and organized crime are quality of life issues which can disrupt a neighborhood or an entire community. Police responses to such complaints may include direct patrol interdiction, relying on confidential informants, and assigning police officers as undercover agents.

Obtaining and documenting reports of such activity are important first steps in addressing such problems. The reports may begin an investigation or augment an existing investigation. The true value of such information may never be realized if it does not reach the investigator or entity that needs it.

The purpose of this policy is to provide guidance in reporting and forwarding such complaints.

II. POLICY

It is the policy of this department that reports of vice, drug and/or organized crime activities in this community shall be documented and forwarded to the investigative function for further investigation or intelligence purposes.

III. PROCEDURES

A. Vice, Drug and Organized Crime Complaints [43.1.1(a)]

1. RECEIPT [43.1.1(B)]

All vice, drug and organized crime complaints, including information conveyed by outside agencies, shall be provided with an incident number and recorded on the department's Stow Police Record Management System form whenever possible. [43.1.1(c)]

Telephone, mail, e-mail, and anonymous tips shall be provided with an incident number and transposed to a preliminary investigation form by the person taking the tip.

Any log entries accompanying the tip shall be entered with minimal information to avoid disclosing the name, address, or other identification of the target.

2. PROCESSING

Preliminary investigation forms shall be forwarded to The Chief of Police or his designee for review and a determination as to the immediate action to be taken.

Information which is found to be pertinent to another agency will be forwarded to the appropriate contact within that agency. [43.1.1(c)]

- a. The person disbursing such information shall include a record of such information in the incident report attached to the receipt of the information.
- b. Any other applicable logging of such information shall also be accomplished. See the department policies on **C.O.R.I** and **Criminal Intelligence** .

The Officer in Charge of Detectives shall keep the Chief of Police apprised of all active vice, drug, and organized crime investigations. [43.1.1(d)]

B. Records [43.1.2]

3. SECURITY: Access to records for active vice, drug and organized crime investigations shall be maintained apart from central records, and physically and digitally secured from unauthorized access.

Electronic files shall be secured by password or software privilege settings.

4. Access shall be limited to the following authorized personnel:

Chief of Police;

to designee in charge of Detectives and others assigned to the investigation;

CRIMINAL INTELLIGENCE

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.04	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 42.1.6	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

Intelligence is an activity principally concerned with collecting, processing, and disseminating information in specified problem areas. These areas typically include:

- A. Organized criminal activities;
- B. Subversive activities;
- C. Vice activities;
- D. Terrorism;
- E. Civil disorders.

The responsibility for the department's intelligence activities may be assigned to its criminal investigation function or its vice, drug and/or organized crime control function.

This policy addresses criminal intelligence. For information on terrorism intelligence, see the department policy on **Homeland Security**.

II. POLICY

It is the policy of this department that:

1. Intelligence gathering efforts shall not interfere with the exercise of constitutionally guaranteed rights and privileges; and
2. No intelligence information shall be gathered or retained unless it specifically relates to criminal conduct or to activities that present a threat to the community.

III. DEFINITIONS

- C. Criminal Intelligence: Information compiled, analyzed and/or disseminated in an effort to anticipate, prevent, or monitor criminal activity.
- D. Intelligence: For the purpose of this policy, intelligence refers to criminal intelligence unless otherwise noted.

- E. Reasonable Suspicion: Information which establishes sufficient facts to give a trained law enforcement employee a basis to believe that there is a reasonable possibility that an individual or organization is involved in criminal activity.
- F. Strategic Intelligence: Information concerning existing patterns or emerging trends of criminal activity designed to assist in criminal apprehension and crime control strategies, for both short- and long-term investigative goals.
- G. Tactical Intelligence: Information regarding a specific criminal event that can be used immediately by operational units to further a criminal investigation, plan tactical operations and provide for officer safety.
- H. Threshold for criminal intelligence: The threshold for collecting information and producing criminal intelligence shall be the "reasonable suspicion" standard in 28 CFR, Part 23, Section 23.3 c. See "**Reasonable Suspicion**" in these definitions.

IV. PROCEDURES

I. Intelligence Supervisor

- a. The Chief of Police shall designate an intelligence supervisor.
 - 1) The Intelligence Supervisor shall report directly to the Chief of Police on all matters relating to the intelligence function.
 - 2) [S]he shall be the designated intelligence liaison for joint efforts and information exchanges with federal, state and local law enforcement agencies.
 - 3) It is the responsibility of the Intelligence Supervisor to:
 - i. Ensure compliance with this policy.
 - ii. Evaluate raw data to determine:
 - a) If the data meets intelligence criteria for processing;
 - b) If there is any data of immediate value to the department operations;
 - c) If it should be processed further locally; and
 - d) If it should be forwarded to another intelligence-analyzing agency.
- b. The Intelligence Supervisor shall monitor the data gathering, local analysis, and storage processes to ensure that all information receives appropriate disposition and that only appropriate information is retained. [S]he shall be responsible for the security of all such data.
- c. The Intelligence Supervisor is responsible for disseminating intelligence information to appropriate department personnel so that investigations may be initiated when appropriate.

J. Gathering of Intelligence Information

- d. GATHERING INTELLIGENCE
 - 4) It is the responsibility of all officers to assist in the gathering of information on organized crime, subversive activities, vice activities, terrorism and civil disorders.
 - 5) The department will not knowingly collect intelligence data on any individual or group merely on the basis of:
 - iii. The individual's or group's support of unpopular causes;
 - iv. The individual's or group's race, color, religion, sex, national origin, or political affiliation; or

- v. The individual's or group's lawful habits and/or predilections.
- 6) Information that implicates or suggests implication or complicity of any public official in criminal activity or corruption shall be immediately reported to the Chief of Police.
- e. REASONABLE SUSPICION THRESHOLD: The threshold for criminal intelligence information shall be reasonable suspicion for at least one of the following criteria:
 - 7) Arrest, indictment, or outstanding warrant(s);
 - 8) Any individual identified as a perpetrator of a crime by a witness or competent evidence;
 - 9) Any individual who threatens violence towards persons or property;
 - 10) Any individual who has been or is engaged in or is conspiring to engage in criminal activity;
 - 11) Any information that depicts the extent or scope of organized crime activity;
 - 12) Any information relating to the identity of a victim, witness, or complainant of organized crime activity;
 - 13) Any information relating to organized crime related social, political, business, or professional associations where said information reasonably demonstrates to the Intelligence Records supervisor that a potential for future criminal conduct exists; or
 - 14) Any information concerning an individual's criminal activity that provides tactical and/or strategic intelligence.
- f. DATA GATHERING TECHNIQUES NOT LIMITED TO BUT INCLUDING:
 - o. Informants**
 - 16) Field Interview Cards
 - 17) Electronic Recording Equipment
 - 18) Surveillance Vehicles
 - 19) Night Vision Equipment
 - 20) Anonymous tips
 - 21) Information obtained by outside Law Enforcement Agencies or Fusion Centers including NESPIN.
- g. RETENTION BY INDIVIDUAL EMPLOYEES: Officers shall not retain official intelligence documentation for personal reference or other purposes but shall submit such reports and information directly to the Intelligence Supervisor.

K. Processing Intelligence Data

- h. GENERALLY
 - 22) The information gathered shall be subjected to review and analysis to derive its meaning and value.
 - 23) Information received from outside sources shall be recorded in the records management system of the department's computer files.
- i. RECEIVING DATA
 - 24) Information received from preliminary investigations or reports shall use the assigned incident numbers.
 - 25) If a record has not received an incident number, it will be assigned one prior to being submitted to the intelligence function.

- j. REVIEWING RAW DATA: The Intelligence **Supervisor or Detectives** shall review intelligence information to ensure that the criminal data collected and maintained is limited to criminal conduct and relates to activities that present a threat to the community.
[42.1.6(a)]
- k. EVALUATION FOR RELIABILITY: The Intelligence **Supervisor or detectives** shall evaluate all sources of information to determine which of the following applies to the source:
 - 26) Completely Reliable. No question as to authenticity, trustworthiness, or competency. Information supplied by a person has proven to be reliable in all instances.
 - 27) Usually Reliable. There may be some doubt as to authenticity, trustworthiness, or competency. However, information previously supplied by that source has generally proven to be reliable in a majority of cases.
 - 28) Fairly Reliable. There may be some doubt as to authenticity, trustworthiness, or competency. However, information previously supplied by that source has generally proven to be reliable in a moderate number of cases.
 - 29) Unknown Reliability. Information supplied by that source cannot be determined by either judged experience or investigation. There is no way of knowing authenticity, trustworthiness, or competency.
 - 30) Not Usually Reliable. There is doubt as to authenticity, trustworthiness, or competency. Information previously supplied by that source has not been reliable, although occasional valid reports had been submitted.
- l. All intelligence reports developed locally will indicate the source of information from which the data were obtained. The source will be evaluated as to its accuracy and validity. Attempts should be made to substantiate the information through other sources. For information from informants, refer to the department policy on **Use of Informants** .
- m. ANALYSIS
 - 31) Where possible, the above-described process should be accomplished by the Massachusetts State Police Fusion Center.
 - 32) Data will be analyzed for local criminal intelligence value.
 - 33) The information shall also be forwarded to other authorized organizations for analysis, which may include:
 - vi. Massachusetts Fusion Center: 978-451-3700; and
 - vii. New England State Police Intelligence Network (NESPIN): (508) 528-8200.
- n. DISTRIBUTION
 - 34) Analytic material (i.e., intelligence) shall be compiled and provided to authorized recipients as soon as possible where meaningful trends, patterns, methods, characteristics or intentions of criminal enterprises or individuals emerge.
 - 35) Intelligence received from other organizations will be processed through the intelligence function for distribution to affected personnel.
 - 36) Reports and other investigative material and information received by this agency:
 - viii. Shall remain the property of the originating agency, but may be retained by this agency.
 - ix. Shall be maintained in confidence, and no access shall be given to another agency except with the consent of the originating agency.

37) The person disseminating intelligence information outside of the agency shall record all information disseminated in a secondary dissemination file in the records management system.

o. REQUESTS FOR INTELLIGENCE

38) GENERALLY: All requests for intelligence information received by the department shall be forwarded to the Intelligence Supervisor.

39) VICE AND ORGANIZED CRIME: All requests for information concerning vice and organized crime control investigations received by the department shall be forwarded to the Investigations Supervisor [S]he shall be the designated liaison for joint efforts and information exchanges with federal, state and local law enforcement agencies.

40) Where applicable, all requests for information shall be processed in accordance with the Criminal Offender Records Information Act, M.G.L. c. 6 §§168 to 178B. See department policy on **Criminal Offender Record Information** .

L. Intelligence Records [42.1.6(b)]

- p. RECORDS FILING: All record files shall include the subject's name, address and an incident number and shall be so filed as to be retrievable by any of these data fields.
- q. HARD RECORD FILES: Because of the highly sensitive nature of these activities, records concerning active intelligence gathering and intelligence records shall be maintained separately from central records and central investigative records. These records shall be maintained in a secured file and shall be accessed only by the investigations Supervisor, the investigating Officer or the Chief of Police.
- r. ELECTRONIC FILES: Data processing systems used for these purposes shall be password-protected to limit access to authorized personnel only. Access authorization shall be controlled by the Intelligence Supervisor or his designee.

M. Review and Evaluation of Records [42.1.6(c)]

- s. All information retained shall be evaluated as to its continued relevancy and importance at least annually. The Intelligence **supervisor** shall ensure such review.
- t. The purpose of this review and audit shall be to determine:
 - 41) That no files are being kept which violate the substantive provisions of these procedures;
 - 42) That the department is following procedures which ensure that material retained is relevant to the department's mission; and
 - 43) That all outdated or irrelevant information is purged from the files. Such destruction shall be conducted under the direction of the Intelligence supervisor.

N. Destruction of Records

- u. All intelligence records shall be destroyed in such a manner as to make them unusable.
- v. Paper records and flexible media (CDs and DVDs) shall be shredded.
- w. Hard drives and other hard media shall be cleansed of data or destroyed. For further information, see the department policy on **Computers and Data Security** .

DOMESTIC VIOLENCE

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.05	ISSUE DATE: 9/11/14
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.2.5; 1.2.7; 11.4.5; 26.1.5; 41.1.2; 41.2.1; 42.1.4; 42.2.1; 42.2.2; 42.2.3; 42.2.2; 54.1.1; 55.1.1; 55.1.3; 55.2.1; 55.2.2; 55.2.4; 55.2.5; 74.1.1; 74.1.2; 74.2.1; 74.3.1; 81.2.4; 81.2.5; 81.2.6; 81.2.9; 82.1.1; 82.1.2; 82.2.1; 82.2.2; 82.2.4; 83.2.2	EFFECTIVE DATE: 1/1/15
	REVISION DATE: 1/28/20

POLICY

It is the policy of the Department to establish guidelines for law enforcement officers to respond to domestic violence calls. The primary focus shall be on victim safety, followed closely by offender accountability; accordingly, a proactive, pro-arrest approach in responding to domestic violence is a priority.

It is the policy of the Department that officer shall be expected to do the following:

- I.** Establish arrest and prosecution as a preferred means of police response to domestic violence;
- II.** Enhance the safety of victims, their children, and anyone else living in the home;
- III.** Take appropriate action for any violation of permanent, temporary, or emergency orders of protection;
- IV.** Promote the safety of law enforcement personnel responding to incidents of domestic violence. and;
- V.** Provide victims and witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment. Community stakeholders are individuals and entities in the community who work to foster effective intervention in and prevention of domestic violence. Entities include, but are not limited to, law enforcement agencies, 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
- VI.** Complete thorough investigations and effect arrest of the dominant aggressor upon establishment of probable cause.

PROCEDURES

A. DEFINITIONS

1. **Abuse:** is defined by G.L. c. 209A, § 1 as the occurrence of one or more of the following acts between family or household members:
 - a. Attempting to cause or causing physical harm;
 - b. Placing another in fear of imminent serious physical harm; or
 - c. Causing another to engage involuntarily in sexual relations by force, threat or duress.
2. **Family or Household Members:**
 - 1) For the purposes of this policy, for all portions EXCEPT the charge of Domestic Assault and Battery under G.L. c. 265, section 13M, the term “family or household member” shall include any of the following:
 - i. Persons who are or were married to one another;
 - ii. Persons who are or were residing together in the same household;
 - iii. Persons who are or were related by blood or marriage;
 - iv. Persons who have a child in common regardless of whether they have ever married or lived together; or
 - v. Persons who are or have been in a substantive dating or engagement relationship. This includes relationships involving an individual or individuals, who identify as gay, lesbian, bisexual, or transgender.
 - 2) For the purposes of this policy, for the charge of Domestic Assault and Battery under G.L. c. 265, section 13M ONLY, the term “family or household member” shall include any of the following:
 - a) Persons who are or were married to one another;
 - b) Persons who have a child in common regardless of whether they have ever married or lived together; or
 - c) Persons who are or have been in a substantive dating or engagement relationship. This includes relationships involving an individual or individuals, who identify as gay, lesbian, bisexual, or transgender.
- Important Note:** In essence, the broader G.L. c. 209A, section 1 is inclusive of all types of domestic violence including family, household members, and intimate partners. However, if charging “Domestic Assault and Battery” under G.L. c. 265, section 13M, it only applies to those persons who meet the “intimate partner” definition. All other domestic violence situations would be charged with a simple A&B, A&B DW, or whatever is appropriate given the circumstance.
3. **Firearms:** shall not be limited to its definition in G.L. c. 140, § 121, but rather shall include any of the following:
 1. Firearms;
 2. Rifles;
 3. Shotguns;
 4. Machine guns;
 5. Ammunition;

6. High capacity feeding devices; or
 7. Antique firearms.
4. **Harass:** as defined in G.L. c. 268, section 13B means 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.
 5. **Licenses:** as defined in G.L. c. 140, sections 122, 122B, 129B, and 131, shall include all of the following:
 1. Class A license to carry firearms;
 2. Class B license to carry firearms;
 3. Class C firearms identification card;
 4. Class D firearms identification card;
 5. License to possess a machine gun;
 6. License to sell firearms;
 7. License to sell ammunition; or
 8. License to perform as a gunsmith.
 6. **Serious Bodily Injury:** as defined in G.L. c. 265, sections 13A(b), 15A(b), and 15D(a), shall mean bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or creates a substantial risk of death.
 7. **Strangulation:** as defined in G.L. c. 265, section 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.
 8. **Suffocation:** as defined in G.L. c. 265, section 15D(a) shall mean the intentional interference of the normal breathing or circulation of blood by blocking, or "block of" the nose or mouth of another.

B. CIVIL LIABILITY

According to G.L. c. 209A, § 6: "No law officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a domestic violence incident for an arrest based on probable cause when such officer acted reasonably and in good faith and in compliance with this chapter and the statewide policy as established by the Secretary of Public Safety."

C. DISPATCHER RESPONSE

The likelihood of injury associated with domestic violence situations requires that officers immediately proceed to the place of the dispute.

- A. Whenever possible, two officers should be dispatched to the scene. [\[81.2.4 \(e\)\]](#)

B. Dispatch officers or call takers should do the following:

1. Assign a priority response to all domestic violence calls, whether or not the assailant is known to be on the premises, including those calls that involve or appear to involve a police officer of any department; [41.2.1 ; 81.2.6 (a)]
2. Immediately notify a supervisor of any domestic violence calls; [81.2.5 (a)]
3. Preserve documentation of the facts and circumstances of each call, including tapes, for use in potential administrative and criminal investigations;
4. Maintain current contact information of local domestic violence victim advocacy organizations for responding officers to provide to victims;
5. Attempt to elicit any and 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. Caller's and alleged assailant's description;
 - 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 scene because of this suspect;
 - k. Existence of a protection order currently on file against the suspect or caller (check BOP);
 - l. Outstanding warrants against the caller or assailant if any exist (check CJIS and Warrant Management System); [81.2.9]
 - m. Caller and alleged assailant's date of birth or social security number; and
 - n. Record of firearms identification cards and/or licenses to carry having been issued to resident(s).
6. Inform the caller of an approximate time of the officer's arrival;
7. Keep the caller on the telephone, if the caller is a victim or witness to a domestic violence incident in progress, in order to relay ongoing information provided by caller to the responding officers and remain aware of the victim's safety;
8. Make the safety of the domestic violence victim a primary concern;
9. 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;
10. Keep in mind the caller could be the victim or assailant; and

11. Do not cancel the original call for service if a subsequent request to cancel the original call 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.

D. POLICE RESPONSE

A. ON-SCENE CONSIDERATIONS

1. INITIAL OBSERVATIONS

- a. Upon arrival, responding officers should approach the scene with a high degree of caution. Upon approach, officers shall 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 photographically if appropriate. [\[42.2.1 \(a\)\]](#)

2. ENTERING A PRIVATE PREMISES

When investigating a report of domestic violence, officers should wait for a second officer unless exigent circumstances exist. Officers may enter private premises without a warrant in the following circumstances:

- a. at the request of someone in lawful control of the premises;
- b. Where there is imminent danger of violence that could result in death or serious physical injury;
- c. where a breach of the peace has been committed in an officer's presence;
- d. when a police officer has probable cause to believe a felony has occurred and is in fresh pursuit of the fleeing felon;
- e. in order to quell an ongoing disturbance and restore peace; or
- f. after repeated attempts to contact residences and contacting the patrol supervisor.

"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'S 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 defuse the situation.
- a. Upon entering, officers shall prevent the physical movement of the parties as much as possible and control their access to any potential weapons.

- b. Be cognizant that individuals under the influence of drugs or alcohol or suffering a mental health disorder may pose additional safety risks to themselves or others on scene. Special precautions and tactics may need to be implemented as learned through in-service training.
- c. Should an arrest be pending, attempt to remove children or the arrestee from the scene prior to affecting the arrest. Reinforce with the children that the incident was not their fault and that the police are there to help the family. If the child called 911, reinforce they did the right thing by calling the police.
- d. Additional layers of control and oppression experiences by individuals which can exacerbate their response to law enforcement may include, but not limited to the following:

- e. Immigration status;

VII. Language skills including English as a second language;

VIII. Cultural identity;

IX. Physical limitations and disabilities; and

X. Sexual orientation and gender identity.

XI. These individuals may fear the police and present angrily or as abusers themselves. It is important to be aware of and deter any biases. Statewide resources for these, and other special populations, can be found in the Appendix of this policy.

f. OFFICER'S RESPONSIBILITY ON SCENE

B. SEPARATE THE PARTIES

- 1. The responding officers must take immediate control of the situation and should separate the parties to prevent any further violent action. The parties should be interviewed independently. However, if there are two officers present at the scene, they should, if practical, remain within view of each other to enhance officer safety and to avoid any subsequent conflict.
- a. Throughout the investigation, the officers should allow each party to present his or her story individually, avoiding any unnecessary interruptions by the other party. Separating the parties also allows each to relate matters to an officer without being overheard, influenced or intimidated by the other party.

b. LANGUAGE BARRIERS

- 2. Officers should determine whether interpretative language services are needed and should seek out such services where available.
- a. The practice of using children or other family members as interpreters is strongly discouraged unless it is a medical emergency. Using family members as interpreters could prove dangerous to the child and/or adult victim. Officers can call **QWEST**, a multilingual communications network provided to assist the department at **(888) 892-2850** for interpretive language services 24 hours a day. [\[81.2.5 \(f\)\]](#)

b. REMAIN ON SCENE

Officers shall remain on the scene or present wherever the incident occurred as long as 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. Whenever any officer has reason to believe that a family or household member has been abused or is in danger of being abused, such officer shall use all reasonable means to prevent further abuse. Law enforcement officers should remain on scene for a “reasonable period of time” to prevent abuse. If the suspect has fled the scene, a reasonable period is the amount of time necessary:

3. To assess that the suspect has left the scene; and

XII. To carry out the responsibilities outlined in the remainder of this policy.

• MEDICAL TREATMENT

4. Officers shall assist the victim in obtaining medical treatment for any sustained injuries by arranging for appropriate transportation by ambulance to a health care facility. Officers should consider responding to the Emergency Room to properly document any sustained injury. In addition, consideration should be given to whether a sexual assault forensic exam needs to be completed. A list of MA Sexual Assault Nurse Examiner [SANE] sites may be found in the Appendix of this policy.
 - a. In cases of serious injury, the preferred method of transportation is via ambulance. **Officers are authorized by G.L. c. 209A, § 6 to transport victims of domestic violence** to the emergency room of the nearest hospital, or to arrange for appropriate transportation to a health care facility. Officers should receive approval from their supervisor prior to transporting a victim of domestic abuse in a cruiser, except in an emergency.

b. INTERVIEWING WITNESSES [42.2.2]

Officers shall attempt to identify and interview the party who called the police, neighbors, and other potential witnesses. All parties 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.

5. GATHER INFORMATION FROM THE SCENE [42.2.2]

Officers shall attempt to obtain the following information at the scene. If that is not possible, obtain the information during the follow-up investigation:

6. 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.

XIV. If children are present,

XV. record their names and dates of birth;

- check on the children to ascertain whether or not they have sustained an injury;

- unless it involves a medical emergency or safety concern, consider conducting a “minimal facts” interview on scene if appropriate; and
 - if the child needs a more comprehensive interview, contact the District Attorney’s Office/Children’s Advocacy Center to schedule a forensic interview.
- Obtain at least two phone numbers where the victim can be reached. Include a cell phone number, a daytime phone number, or the number of a close relative or friend. Include these numbers in the incident report so the bail bondsperson or court personnel may inform the victim of the abuser's release on bail. [55.2.5]

XVI. Inform the victim that if they intend to leave the residence, and wish to be informed of the abuser's release, the victim must inform the police department of a number where they may be reached, or where a message may be left safely. [55.2.5]

XVII. Consult with the victim whether their phone number should remain confidential and take steps to ensure that it is, if necessary.

XVIII. Do not rely on prior phone numbers in your in-house system, as they may be outdated.

XIX. Obtain information about the suspect's ownership of, presence of, or access to firearms, and their location.

XX. Officers should gather information regarding suspect's past behavior/dangerousness. This information should be documented in an incident report and/or high risk assessment worksheet (See Appendix of this policy) and provided to the Bail Commissioner in determination of bail and to the Prosecutor for use at arraignment. That information includes but is not limited to the suspect's:

XXI. Criminal history;

- History of abusing the current victim;
- History of abusing other victims;
- History of non-fatal strangulation;
- History of forced sex;
- History of extreme possessiveness or jealousy;
- Possession of weapons;
- History of use of/or threats with a weapon;
- Use of weapons in prior abuse of the victim;
- Past threats against or abuse of pets;
- Past attempts or threats to kill;
- Past attempts or threats to commit suicide; and
- Current or past vacate, restraining, no-contact or other protective orders, including those held against the suspect by someone other than this victim.

- After ascertaining past reported and non-reported criminal history, seek appropriate criminal action for current and prior incidents.

XXII. Refer victims to appropriate resources listed in the Appendix of this policy.

- **INFORMATION DOCUMENTATION** [42.2.2]

7. Officers shall properly document important information, i.e., spontaneous utterances (direct quotes) by the victim, the suspect, children, and other witnesses.
 - a. In collecting evidence of domestic abuse, officers should use photographs to document injuries sustained by the victim and the condition of the crime scene.
 - b. Contemporaneous records of injuries and crime scene condition are critical to the prosecution of alleged abusers:
 - c. When documenting the scene photographically, officers are reminded to take both close-up and full-scene pictures. Follow-up photographs of injuries should be taken 2-3 days after the incident to document progression of injuries;
 - Collect physical evidence (including weapons used, even when simple household item) and document collection in the incident report.
- If the incident involves strangulation, the officer shall complete a strangulation worksheet. (See Appendix of this policy) [42.2.3]
- d. Officers shall complete a High Risk Assessment Worksheet (see Appendix of this policy) where there is a current or previous relationship between the parties and the responding officer:

e. Believes a violent incident may have occurred,

XXIV. Senses the potential for danger is high,

XXV. Is responding to repeat names or location, or

XXVI. Simply believes one should be conducted.

XXVII. In cases where a domestic violence arrest has been made, copies of all worksheets will be submitted with the arrest packet for use by the Bail Commissioner for bail purposes, the District Attorney and Probation Department for use at the detainee's arraignment and prosecution. [82.2.1 (d) ; 82.2.1 (e) ; 82.2.4]

f. GETTING TO A SAFE PLACE

8. Officers shall 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 emergency shelter or a family member's or friend's residence (or a similar place of safety). The officer shall consider the victim's preference in this regard and what is reasonable under all the circumstances. [55.2.5]
 - a. The location and street addresses of all domestic violence programs are absolutely confidential and shall not be required to be revealed in any criminal or civil proceeding. See G.L. c. 233, section 20L. For the purposes of this provision, a domestic violence program is defined as any refuge, shelter, officer, safe home, institution, or center established for the purpose of offering assistance to victims of abuse through crisis intervention, medical, legal or support counseling. See G.L. c. 233, section 20K. [54.1.1 (d) ; 54.1.1 (e) ; 55.1.3 (b) ; 82.2.1 (c)]

- b. If a report is made at a domestic violence program, the incident occurred at that program or an officer transported someone to a program, the officer shall not include this address in the incident report. **Under no circumstances should a law enforcement officer release information to the public or otherwise regarding the location of a domestic violence program.**

c. **NOTICE OF RIGHTS**

Officers shall give abuse victims immediate and adequate notice of rights by handing to them and reading them their rights (see Appendix of this policy). This form should be signed by the victim. Where the person's native language is not English, the statement shall be provided in said person's native language whenever possible. [55.1.1 ; 55.1.3 (a) ; 55.1.3 (b) ; 55.2.1 (a) ; 55.2.1 (b)]

9. ACTIVATING THE EMERGENCY JUDICIAL RESPONSE SYSTEM

Officers shall 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. [55.2.2]

Note: 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. A representative may appear in court on behalf of the victim to seek an emergency or temporary order. Officers shall advise a victim that a representative may appear on their behalf.

10. ISSUANCE OF AN ABUSE PREVENTION ORDER

Upon issuance of any applicable order under 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.

11. 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, which stems from the possession of firearms, weapons, or licenses.

- If after your assessment, the situation does not meet the substantive dating relationship, consider if the facts and circumstances apply regarding a 258E protection order.

• **SUBSTANTIVE DATING RELATIONSHIPS**

12. Officers will gather information to determine whether or not a substantive dating relationship exists. Officers will examine the same factors which the courts review when making this determination:

- a. the length of time of the relationship;
- the type of relationship; and
- the frequency of interaction between the parties.

- This includes the interaction between the parties through the use of technology; and, if the relationship has been terminated by either person, 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.

d. RESPONSIBILITIES OF THE ON-DUTY SUPERVISOR

A. RESPONSE

1. The on-duty supervisor shall ensure that all provisions of G.L. c. 209A, other related statutes and this policy are fully adhered to.
 - a. The on-duty supervisor shall be responsible for monitoring all domestic violence calls.
 - b. Whenever possible, the on-duty supervisor shall respond to the scene for the purpose of providing advice or any other assistance.

c. ASSURANCES FOR PRACTICE [82.2.1 (e)]

Supervisors will ensure that the provisions of all applicable laws and this policy are adhered to. Specifically, supervisors will ensure that:

2. Dispatch logs will be reviewed to ensure that an incident report has been filed, even in cases where no arrest was made. Calls, which are received as allegations of domestic violence or a domestic disturbance, will not be reclassified because no probable cause to arrest existed. Incident reports will be filed in those cases.
 - a. A supervisor, or a specially trained domestic violence investigator within the department, will review incident and arrest reports, in order to ensure compliance with the provisions of G.L. c. 209A and this policy. 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 this policy.
 - b. Whenever a domestic violence incident is identified as posing a significant danger the case should be assigned for follow-up, presented at roll call and forwarded to a "High Risk Team", if applicable.
 - c. Whenever a supervisor identifies a particular defendant as being high risk to the victim or the public, the case should be promptly referred to the District Attorney's Office. [41.1.2]
 - d. Whenever a dual arrest is 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.

e. REFERRALS

3. Supervisors shall ensure that the appropriate and mandated reports are filed for children, persons with disabilities, and the elderly.
- a. Supervisors shall ensure proper safety plans are in place for the survivor and other family members. These measures shall be in place immediately enabling those affected to make informed decisions.
- b. The safety plan may include all, some or additional items:
 - c. Drive-bys
 - XXVIII.** Welfare spot checks
 - XXIX.** Arresting the abuser
 - XXX.** Serving 209A orders
 - XXXI.** Assisting in obtaining 209A order
 - XXXII.** Arranging transportation for medical, shelter, or other locations
 - XXXIII.** Referral to a Domestic Advocate

• FOLLOW-UP INVESTIGATIONS

Supervisors shall:

4. Determine if a follow-up is needed;
 - a. Ensure it is conducted in a complete and thorough fashion; and
 - b. Review and ensure proper charges are filed whenever appropriate [42.1.4]

c. ARREST GUIDELINES [74.3.1]

V. THE DECISION TO ARREST

A. GENERALLY

1. The safety of the victim, children, and other family members shall be paramount in any decision to arrest.
 - a. As in other types of criminal investigations, uncorroborated statements by a victim can constitute probable cause that the crime occurred.
 - b. The decision to arrest must be based on whether probable cause exists that the crime occurred, not on whether or not the victim wishes to seek complaints or wishes to testify at a future date. [1.2.7]

c. SUBSTANCES ABUSE AND/OR MENTAL HEALTH ISSUES

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.

2. ARREST: MANDATORY OR PREFERRED [74.3.1; 1.2.7]

An officer's authority or mandate to arrest is set forth in G.L. c. 209A, section 6(7).

3. 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. G.L. c. 209A, section 7.

a. Preferred:

When there is no outstanding restraining order, arrest shall be the preferred response whenever officers witness or have probable cause to believe that a person:

b. Has committed a felony;

1. **Aggravated Assault and Battery c265, §13A(b)**
 - Assault and Battery By Means of a Dangerous Weapon c265, §15A
 - Assault and battery upon an Elder or a Person with a Disability c265, § 13K
 - Assault and Battery on a Family or Household Member, Subsequent Offense Only c265, §13M(b)
 - Assault by Means of a Dangerous Weapon c265, §15B
 - Intimidation of a Witness c268, §13A
 - Kidnapping c265, §26
 - Stalking c265, §43
 - Strangulation or Suffocation c265, §15D

- Has committed a misdemeanor involving abuse, as defined in G.L. c. 209A

2. **Assault and Battery on a Family or Household Member c265, §13M(a)**
(see definition)

• IF THE SUSPECT HAS FLED THE SCENE

B. GENERALLY

1. 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 in efforts to locate and arrest the suspect.

- a. 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.
- b. 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 G.L. c. 209A.
- c. 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 his or her own.

d. THE MASSACHUSETTS PROBATION SERVICE ELECTRONIC MONITORING (ELMO) LAW

- 2. Enforcement agencies (i.e. local and state 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".
 - a. In the interest of public safety, if a Law Enforcement agency makes an urgent request (i.e. AMBER Alerts, Major/Catastrophic events, and requests for real time locations of specific monitored offenders for the purpose of serving a warrant or effectuating an arrest) and provides verifiable credentials such as the main phone number of the requesting agency, the officer's badge number, contact information, and that the Officer is currently assigned to investigate the matter at hand, information for investigative purposes may be provided immediately.
 - b. If an agency is requesting a point tracking search (Crime Correlation) for a particular location, this request should include a defined period of time and should disclose for what purpose the request is being made.
 - c. 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.

d. DUAL ARRESTS / DOMINANT AGGRESSOR

- C. Dual arrests, like the issuance of mutual restraining orders, are strongly discouraged because they trivialize the seriousness of domestic abuse and increase the danger to victims.
 - 1. Officers should attempt to identify the dominant aggressor and take action based on that determination. In the majority of cases, an effective investigation will reveal the dominant aggressor.
 - 2. Officers should be aware of the difference between offensive and self-defensive injuries. The use of force used must be "reasonable" given the nature of the threat and surrounding circumstances and, if warranted, may even 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 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 take action considering the totality of the circumstances including:
 4. The relative severity of the injuries and fear inflicted in this incident;
 5. The use of force and intimidation in this incident;
 - a. Prior incidents involving either party; or
 - b. The likelihood of either party committing domestic violence in the near future.
 - c. 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 are encouraged to consult with a supervisor prior to arrest.
 - d. 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.

6. ARREST OF A CARETAKER

7. In cases involving abuse of a child, an elder or a person with a disability, officers must address the issue of whether or not the victim can be left alone safely if the abuser is arrested.
- D. If the child, the elder or the person with a disability cannot be left alone, the appropriate protective agency must be contacted, in order to arrange for temporary care. 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 what is happening and the reason for calling a protective agency.

1. BAIL

2. A person, who is 18 years or older, shall not be bailed sooner than 6 hours after arrest from a police station if under arrest for the following crimes:

E. A Restraining Order Violation under G.L. c. 208 or 209;

1. Any act that would constitute abuse, as defined in G.L. c. 209A, section 1; or

XXXV. A violation of G.L. c. 265, sections 13M or 15D.

XXXVI. When a juvenile is properly charge with intimate partner violence, the 6-hour bail hold **does NOT apply** - All juveniles are exempt from this hold:

XXXVII. Circumstances which warrant a charge of G.L. c. 265, section 13M upon a juvenile, would be those cases of violence perpetrated against someone with whom the juvenile once married, has a child in common, has been in a "substance dating relationship," or are engaged to be married. In such case, as 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.” See G.L. c. 276, section 58.

2. Officers should therefore follow the typical protocol for arresting a juvenile. Officers are required to contact the juvenile probation officer on call and the juvenile’s legal guardian (G.L. c. 119, section 67) when an arrest has been made of a juvenile. 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.

XXXVIII. A person shall NOT be bailed from a police station if under arrest for the following crimes:

XXXIX. A Restraining Order Violation under G.L. c. 208 or 209A; or

3. Any act that would constitute abuse, as defined in G.L. c. 209A, section 1 WHILE A RESTRAINING ORDER IS IN EFFECT.

XL. 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 to notify the victim of the defendant’s release by the arresting police department.

XLI. Under G.L. c. 276, section 58A, a defendant may be held without bail if a court determines that a defendant is a danger to the victim or the public. The responding officer’s actions and behavior at the scene form the basis for this determination by the prosecuting agency and/or Court. Officers should ensure that the proper documentation is done in a timely manner and forwarded to the appropriate officer to be brought to Court and the prosecuting agency. In the event that an officer believes that a defendant is a 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.

4. NOTIFICATION TO THE VICTIM IN CRIMINAL CASES

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. See G.L. c. 276, sections 42A, 57, and 58 (as amended by Act sections 28, 31-32). [55.2.5]

5. INFORMATION PROVIDED TO DEFENDANT

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 certified batterer’s intervention programs. See G.L. c. 276, sections 42A, 57, and 58 (as amended by Act sections 28, 31-32).

F. PROBABLE CAUSE STANDARD

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

G. FINGERPRINTING OF DEFENDANTS

Officers shall take fingerprints and photographs of all criminal defendants in domestic violence cases. Fingerprints should be forwarded to the State Police for entry into the Automated Fingerprint Identification System (AFIS) system. This will greatly improve the detection and prosecution of other offenses, such as breaking and entering and stalking. When any defendant is arrested and charged with a felony, copies of fingerprints shall be forwarded to the colonel of state police per G.L. c. 263, section 1A. [[1.2.5 \(b\)](#) ; [1.2.5 \(c\)](#) ; [82.1.2 \(b\)](#)]

H. REFERRALS

- I. Officers shall 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 District Attorney's Office Victim Witness Advocacy Program. (See Appendix of this policy). [[55.2.1](#) ; [55.2.4 \(e\)](#)]
- J. The referral information will be preprinted so that it can be distributed with the Abused Person’s Notice of Rights card. The referral information may be typed directly onto the card to staple to it. 209A Victim Rights Form provides initial referral information preprinted, so that it can be distributed along with the abused victim’s Notice of Rights Form. Officers may also distribute information related to Victim Compensation through the Attorney General’s Office.

1. INCIDENT REPORTS

2. Incident reports will be filed whether or not an arrest is made. They will be made available to the victim at no cost, upon their request to the investigating department. (Since the initial investigation should determine the existence of any history of abuse, that information must be included within the report.). [[82.2.1 \(a\)](#) ; [82.2.1 \(b\)](#) ; [82.2.1 \(c\)](#) ; [82.2.2 \(c\)](#) ; [82.2.2 \(d\)](#)]
- K. Officers shall indicate in the incident report whether the offense, alleged offense, or arrest involved abused as defined in G.L. c. 209A. See G.L. c. 41, section 98G, and G.L. c. 22C, section 49.

1. CONFIDENTIALITY OF REPORTS [[82.1.1 \(c\)](#)]

2. The following records shall not be considered to be public records, and shall not be disseminated, except pursuant to this policy:
 - L. Any information concerning responses to reports of domestic violence, rape or sexual assault;
 1. 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 in G.L. c. 209A, § 1; and

- a. All reports of rape and sexual assault or attempts to commit such offenses, all reports of abuse perpetrated by family or household members, as defined in G.L. c. 209A, § 1, and all communications between police officers and victims of such offenses or abuse.
- b. The above records may only be released to the following:
 - c. the victim, the victim's attorney, others specifically authorized by the victim to obtain such information;
 - 2. prosecutors;
 - a. victim-witness advocates as defined in G.L. c. 258B, § 1, if such access is necessary in the performance of their duties;
 - b. domestic violence victims' counselors as defined in G.L. c. 233, § 20K, if such access is necessary in the performance of their duties;
 - c. sexual assault counselors as defined in G.L. c. 233, § 20J, if such access is necessary in the performance of their duties;
 - d. law enforcement officers, district attorneys or assistant district attorneys; and
 - e. all persons authorized to admit persons to bail pursuant to G.L. c. 276, § 57.

f. POLICE DEPARTMENT LOG

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:

- g. Any entry which pertains to those who are handicapped, confined to a wheelchair, bedridden, or required to use of a device designed to provide in mobility.
- M. Any information concerning the response to reports of domestic violence, rape, sexual assault.
- 1. 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 Chapter 209A Section 1.

2. MANDATORY REPORTING

- 3. A report will be filed with the **Department of Children and Family Services** (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 G.L. c. 119, § 51A. If a child has witnessed abuse, this could be "neglect" for purposes of mandatory filing. During office hours, contact the local DCF officer. After hours, call the hotline at: **1-800-792-5200**. 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.

- N. A report will be filed with the **Disabled Persons Protection Commission** whenever the officer has reasonable cause to believe that a caretaker has abused / neglected a person with a disability between the ages of 18 and 59, in accordance with G.L. c. 19C, **§ 10. An immediate report should be filed by calling the hotline at: 1-800-426-9009** . If an officer intends to file a report, he/she should tell the person with a disability who is the subject of the abuse.
1. 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 / neglected, in accordance with G.L. c. 19A, §§ 14-26. **An immediately call shall be placed to the 24-hour hotline at: 1-800-922-2275** . If an officer intends to file a report, he/she should tell the elder person who is the subject of the abuse.

2. FIREARMS

3. GENERALLY

When a firearm or other weapon is present at the scene of a domestic violence situation, officers shall:

- VI. Seize the weapon as evidence of the crime, if the responding officers are informed that a firearm or weapon has been involved in the dispute.
- A. If the weapon is not reported to have been involved in the dispute:
1. Request that the firearm or weapon be placed in their custody temporarily to alleviate the threat of serious violence;
 2. Search for and take custody of the firearms or weapon if a party, who lawfully resides there, requests the officer do so. A consent search is allowed in areas where the victim has access to, including areas of joint access with the suspect;
 - a. Determine whether a firearm is lawfully possessed before returning the same.
 - b. If the officer determines that the weapon cannot be seized, the following actions can be taken:
 - c. a judge can order the defendant to surrender firearms and licenses; and
 3. the chief who issued a license to carry may revoke or suspend such license.
 - a. In all domestic violence cases, the investigating department shall advise the licensing authority that the subject of the license is suspected of abuse.

b. STORAGE OF FIREARMS

4. 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.

- B. In cases involving police officers that are defendants in Abuse Prevention Orders, the defendant shall immediately surrender all firearms, including departmental weapons and licenses, to the department serving the order.

1. FEDERAL FIREARMS PROVISIONS

Although officers cannot enforce Federal provisions, the chief should be notified whenever an officer identifies a case involving the following circumstances, because there may be Federal action that can be taken:

2. **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.
- C. **Federal law** prohibits any person subject to a qualifying order of protection from possessing firearms and ammunition. See 18 USC § 922(g)(8).
 1. **Federal Felon in Possession of a Firearm** : Under 18 U.S.C. § 922(g)(1), "Felon in possession of a firearm," 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.
 2. **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 possesses guns (including handguns, rifles, and shotguns) or ammunition that traveled in interstate commerce.
 3. **Misdemeanors** are excluded from consideration if they are punishable by a term of two years or less. Therefore, misdemeanors that are punishable by a term of imprisonment of more than two years fall within that provision.

4. PROPERTY

5. VACATE ORDERS AND COURT ORDERS TO RETRIEVE BELONGINGS

- VII. Once a vacate, no contact, stay away or refrain from abuse order is issued, officers shall not accompany a defendant to the property for any reason without specific judicial authorization.
- A. The defendant in the vacate order is allowed to retrieve his or her 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, and shall remain with the defendant, throughout the process.

- a. The victim must have prior notice by the police department, and must agree to the timing of the retrieval.
- b. The defendant must not be allowed to use this as a means of harassing the victim.
- c. The defendant may retrieve personal property including clothing, shoes, personal care items, etc. 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.
- d. When a court order exists allowing for a victim to return to the defendant's residence in order to retrieve his or her belongings, the police shall accompany the victim to ensure the order is executed, and that the victim is able to follow the order free from harassment or abuse by the defendant.

e. REMOVING OR DESTROYING PROPERTY

When a 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.)

1. CMAST HIGH RISK TEAM (CENTRAL MIDDLESEX ASSESSMENT FOR SAFETY TEAM)
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B. GENERALLY

High-risk teams build upon the work of risk assessment by providing systematic responses to monitor offenders and enhance safety for victims. These teams are made up of multiple agencies and provide a vehicle for communication among the different disciplines involved in the domestic violence response system.

Ideally, high risk teams are focused equally on offender accountability and victim safety. Teams pool information on high-risk cases and create individualized intervention plans, provide ongoing risk management, and track case dispositions and victim safety. Teams are made up of victim advocacy organizations, law enforcement, probation, parole, prosecutors, Intimate Partner Abuse Education Programs (formerly known as “Certified Batterer’s Intervention Programs”), and health care. Other members could include the Disabled Persons Protection Commission, Department of Transitional Assistance (DTA), Department of Children and Families (DCF), educational institutions, correctional facilities, as well as organizations that will ensure cultural sensitivity and representation.

Team members are well trained in domestic violence dynamics and risk assessment. They work together to leverage all possible safety options for victims at highest risk.

VIII. CRITICAL ELEMENTS OF THE HIGH RISK TEAM

- A. Train law enforcement and first responders in risk assessment, strangulation, and the high-risk model (ideally from a training team made up of an advocate, officer, and prosecutor).

- B. Sign a memorandum of agreement that outlines each other's roles, responsibilities, and accountability practices.
- 1. Create and adopt high risk assessment protocols in each member's organization.
- 2. Include victim advocacy organizations in the leadership of the team to ensure that victim safety remains paramount.
- 3. Ensure quality, comprehensive, and adequately funded victim services.
- 4. Utilize all effective and appropriate pre-trial containment options, including GPS and electronic monitoring, dangerousness hearings, and pre-trial conditions of probation.
- 5. Coordinate efforts to contain and monitor the offender through pre-trial detention, dangerousness hearings, GPS monitoring, and/or batterer's intervention.
- 6. Engage the community in the formation process and establish support from the top management of partner organizations.
- 7. Address and correct systemic gaps that are uncovered through case management.
- 8. Track and evaluate effectiveness and provide a yearly outcome report to the community.
- 9. Ensure funding is in place for the lead organization to sustain the efforts.

10. LAW ENFORCEMENT RESPONSE

- 11. The Chief of Police shall appoint at least one member of this department to serve as the law enforcement liaison to the High Risk Team.
- C. Officers of this department shall complete the High Risk Assessment Worksheet in those situations described in this policy.
- 1. Copies of all completed High Risk Assessment Worksheets shall be forwarded to this department's law enforcement liaison to the High Risk Team.

2. SERVICE OF ORDERS

3. IN-HAND SERVICE [74.2.1]

- IX. Service of orders shall be made in-hand unless otherwise ordered by the court. Chapter 209A, § 7 requires that "the law enforcement agency shall promptly make its return of service to the court."
- A. Orders shall be served promptly upon receipt. If service is initially unsuccessful, the 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.

1. Service of orders may compromise victim safety. The victim's safety should be considered in the timing of the service of the order. Officers should encourage the victim to contact an advocate (either through the D.A.'s Office, SAFEPLAN or the local domestic violence program) in order to develop a safety plan around the service of the order. [74.2.1]

2. RECORD OF SERVICE [74.1.1; 74.1.2; 74.2.1; 74.3.1]

The Department must keep a record of all attempts at service. Computer records and service/attempted service forms shall contain the following information, if appropriate: [74.2.1]

3. Date and time received; [74.1.1 (a)]
- B. Type of legal process (civil or criminal); [74.1.1 (b)]
 1. Nature of document (warrant, summons, default, capiases, etc.); [74.1.1 (c) ; 74.3.1]
 2. Source of document (issuing court, etc.); [74.1.1 (d)]
 3. Name /address of plaintiff, defendant, complainant, or respondent; [74.1.1 (e) ; 74.1.2 (c) ; 74.1.2 (e)]
 4. Officer assigned for service; [74.1.1 (f) ; 74.1.2 (b)]
 5. Date/time of assignment and date/time service was executed/attempted; [74.1.1 (g) ; 74.1.2 (a)]
 6. Court docket number (warrant, restraining order number, etc.); [74.1.1 (h)]
 7. Date of service due; [74.1.1 (i)]
 8. Offense; and
 9. Method of Service/Reason for Nonservice/Disposition (mailed, served, faxed, recalled, returned or unserviceable). [74.1.2 (d)]

10. RETURN OF SERVICE

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

11. ORDERS DISSEMINATED TO THE DEPARTMENT

The Court is responsible for sending the order to the appropriate law enforcement agency for service on the defendant. In the event that the plaintiff brings an order to the police department for service, officers should ensure that the department's responsibilities under G.L. c. 209A and this policy are met.

C. FIREARMS [1.2.7]

Upon service of the order, police shall immediately take possession of all firearms, rifles, shotguns, machine guns, ammunition, and 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. G.L. c. 140, §§ 129B, 131.

D. NOTICE TO PLAINTIFFS

When assisting plaintiffs with emergency abuse prevention orders, officers should provide guidance to the plaintiff as to the exact terms of the order sought.

E. OUT OF STATE ORDERS OR VIOLATIONS

F. **A protective order issued in another jurisdiction (as defined in G.L. c. 209A, § 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 protective order as written by the issuing jurisdiction.

G. 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. [74.2.1]

1. 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:

2. A copy of the order, by any source; and
3. A statement by the victim that such order remains in effect.

a. An order of protection is presumed valid if it gives the names of the parties involved, contains the date of 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.

b. Violations of out of state orders or Massachusetts orders violated in another state may be charged criminally as contempt of court (G.L. c. 220, section 14), in the Commonwealth of Massachusetts. [74.3.1]

4. NOTICE TO DEFENDANTS

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. See G.L. c. 209A, section 7. (See Appendix of this policy).

5. THIRD-PARTY CONTACT

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, consider taking out charges against the third party or defendant for violation of a restraining order or intimidation of a witness, depending on the appropriate circumstances.

H. ALLEGATIONS AGAINST LAW ENFORCEMENT PERSONNEL

Law enforcement personnel, whether sworn or civilian, are not immune from committing or being a victim of domestic violence. Although no person is exempt, whatever their occupation, the dynamics change when law enforcement personnel are involved.

The following procedures and protocols are critical components to the integrity of the law enforcement profession and the trust of the community.

When responding to a domestic violence incident involving law enforcement personnel, all of the previously outlined protocol apply. However, the additional protocols described in this section also apply.

I. DISPATCH AND OFFICER RESPONSE

- X. The dispatcher / communications officers shall immediately notify the on-duty commanding officer of all domestic violence involving law enforcement personnel.
- A. The responding officers shall take immediate action to ensure the safety of the victim and all parties present.
 - 1. A supervisor of higher rank than the officer involved must respond to the scene.
 - 2. The responding officers will remain on the scene until relieved by the responding supervisor.
 - 3. The responding officers shall document, in a report, their actions and complete such report prior to the end of their tour of duty.

4. ON-SCENE SUPERVISOR RESPONSE [81.2.4 (f)]

- 5. The supervisor shall proceed to the scene of the incident and conduct a thorough investigation;
- B. The supervisor shall assess the actual and potential harm to the victim, children and others present, and ensure their safety;
 - 1. 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, that supervisor shall seize and take into custody, all department-issued firearms, licenses and equipment in possession of the officer, and shall further conduct a check of all firearms databases and request the officer surrender all personally-owned firearms and licenses;

2. If the suspected officer does not have their department-issued firearm(s) on his/her person or under his/her control at the time of the incident, that supervisor shall accompany the officer to the location where the firearm(s) are located and take custody of those firearm(s), licenses and any other weapons;
3. **The supervisor shall ensure enforcement of G.L. c. 208, 209, 209A, 209C, c. 140, § 129B, court orders, all policies, procedures and rules and regulations of the Department;**
4. The supervisor shall ensure that 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 employee involved;
5. The supervisor shall submit, through the department's appropriate chain-of-command, a written report detailing his/her assessment of the incident and action taken before the end of that supervisor's tour of duty; and

6. ON-DUTY COMMANDING OFFICER'S RESPONSE

The On-Duty Commanding Officer shall:

7. ensure the on-duty supervisor has responded to the scene and initiated an investigation;
- C. ensure the safety of the victim, children or others present at the scene.
1. **ensure enforcement of all provisions of G.L. c. 208, 209, 209A, 209C c. 140, § 129B, court orders, all policies, procedures and rules and regulations of the Department;**
2. ensure reports and proper documentation of the facts and circumstances of the incident and the action taken are submitted through proper channels in accordance with Department procedures;
3. ensure that appropriate mandatory notifications are made in accordance with Department procedure and chain-of-command, including notifications to the following:
 4. Chief of Police; [11.4.5]
 5. Employee's Division Commander
 - a. Employee's Shift Commander (if applicable)

b. ADDITIONAL CONSIDERATIONS

- c. When responding to a domestic violence complaint involving a police officer from another jurisdiction, all responding officers, investigators, supervisors, and commanding officers shall follow the same procedures that are to be followed in responding to a domestic violence complaint regarding an officer from their own department.
- D. In the event that the reported incident involves the chief, director, superintendent or commissioner of the department, the commanding officer shall notify the individual in the government who has direct oversight for the chief, director, superintendent or commissioner.

1. In responding to an incident where the victim is a police officer, standard domestic violence response and investigation procedures should be followed.
2. In responding to domestic violence incidents where the parties 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.

3. INVOLVED OFFICER/EMPLOYEE RESPONSE

Any officer or employee of the Department who has either been: (i) served with a restraining order; or (ii) named as a defendant in a restraining order or complaint involving domestic abuse; or (iii) is arrested for any crime involving abuse, shall:

4. immediately provide oral notification to the on-duty Commanding Officer at the time of the domestic incident or becoming aware that a court order has been issued or is in existence against them; and
- E. within 24 hours provide written notification to his/her respective Commanding Officer of his/her permanent assignment, including a copy of the restraining order or other court document; and
1. Upon being served with a restraining order, the officer shall immediately surrender his or her License to Carry a Firearm / FID Card, department-issued firearm and any personal **firearms in compliance with G.L. c. 140, § 129B to his/her Commanding Officer. The** officer may file an affidavit with the District Court that a firearm is necessary for employment and request an expedited hearing on the suspension and surrender order. If the officer is allowed to retain his department-issued firearm by the Court, the Chief of Police may impose certain conditions (such as on-duty use and secured at the department during off-duty hours). [\[26.1.5\]](#)

2. CHIEF OF POLICE RESPONSE

The Chief of Police, or his/her designee, upon being notified that an employee under his/her command has been served with a restraining order and/or involved in a domestic incident, shall:

3. take steps to ensure the safety of the victim and all parties;
- F. ensure that all appropriate notifications are made and that required documentation is completed and reviewed;
1. if applicable, request an investigator conduct a follow-up investigation;
2. determine if an internal affairs investigation should be conducted; [\[26.1.5\]](#)
3. determine the employee's work status and if applicable, any appropriate disciplinary action. Pending a determination regarding the employee's fitness for duty, it may become necessary to place the involved officer or employee on Administrative Leave or Administrative Duty; and

4. ensure all completed investigatory reports have been submitted directly to the Chief of Police for his/her final approval, or continued investigation.

APPENDIX INDEX

- 6. RELEVANT STATUTES
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APPENDIX A

RELEVANT STATUTES

The following is a list of common domestic violence related statutes:

K. Physically Assaultive Crimes

L. Assault/Assault and Battery on a Family or Household Member c265m §13M(a)

1. Assault/Assault and Battery as defined by c265 s.13A, and
 - a. The Assault and Battery took place between:
 - 1) Persons who are or were married to one another;
 - 2) Persons who have a child in common regardless of whether
 - a) they have ever married or lived together; OR
 - b) Persons who are or have been in a substantive dating or engagement relationship.
 - c) **Subsequent Offense c265 §13M(b)**

d) Aggravated Assault and Battery c265 §13A(b)

- 3) Assault/Assault and Battery as defined by c265 s.13A, and
 - a. One of the additional Aggravating Factors were present:
 - 1) The defendant's act caused serious bodily injury; OR
 - 2) The defendant committed the act upon the complainant who was pregnant at the time of such assault, knowing or having reason to know she was pregnant, OR
 - a) The defendant committed the act upon the complainant who had an outstanding temporary or permanent restraining order at the time of the assault.

b) Assault and Battery by Means of a Dangerous Weapon c265 §15A(b)

- c) Assault/Assault and Battery as defined by c265 s.13A, and
 - a. The touching was done with a dangerous weapon.
 - 1) **Aggravated Assault and Battery c265 §15A(c)**
 - 2) Assault/Assault and Battery as defined by c265 s.13A, and
 - 3) The touching was done with a dangerous weapon.
 - a) One of the additional aggravating factors were present:
 - b) The defendant's act caused serious bodily injury; OR
 - c) The defendant committed the act upon the complainant who was pregnant at the time of such assault, knowing or having reason to know she was pregnant, OR

- i. The defendant committed the act upon the complainant who had an outstanding temporary or permanent restraining order at the time of the assault.
- i. The defendant is 18 years of age or older, and committed assault and battery upon a child under the age of 14.

ii. Strangulation c265 §15D(b)

iii. Strangulation or Suffocation as defined below.

a. **Aggravated Assault and Battery is under c265 §15D(c)**

1) Strangulation or Suffocation as defined below.

2) One of the additional Aggravating Factors were present:

- a) The defendant's act caused serious bodily injury; OR
- b) The defendant committed the act upon the complainant who was pregnant at the time of such assault, knowing or having reason to know she was pregnant, OR
- i. The defendant was previously convicted of the crime of strangulation or suffocation; OR
- ii. The defendant committed the act upon the complainant who had an outstanding temporary or permanent restraining order at the time of the assault.

iii. Assault and Battery upon an Elderly or Disabled Person c265 §13K

iv. Other Crimes

a. Violation of a Restraining Order c209A §7

1. There was a Restraining Order which ordered the Defendant to

a. refraining from abusing,

1) vacate and remain away, OR

a) refrain from contacting the complainant;

b) Such order was in effect at the time of the violation;

c) The defendant knew of the pertinent terms of the order;

2) The defendant violated the order by:

3) abusing,

4) failing to vacate, OR

a) contacting the complainant.

b) Jurisdiction is given to the police department for either where the violation occurred or where the restraining order was obtained.

- c) Any protection order issued by another jurisdiction shall be given full faith and credit throughout the Commonwealth and enforced as if it were issued in the Commonwealth for as long as the order is in effect in the issuing jurisdiction.

5) **Stalking c265 §43(a)**

- 6) The defendant knowingly engaged in a pattern of conduct or series of acts directed at the complainant (at least 3);
 - a. The acts would cause a reasonable person to suffer substantial emotional distress;
 - 1) The acts caused the complainant to become seriously alarmed or annoyed;
 - 2) The defendant committed the acts willfully and maliciously; and
 - 3) The defendant also made a threat with the intention of placing the complainant in imminent fear of death or bodily injury.
- 4) **Stalking in Violation of a Restraining Order c265 §43(b)**
 - 5) Stalking as defined by c265 s.43(a)
 - 6) The acts were committed in violation of a temporary or permanent restraining order.
- a) **Stalking Subsequent Offense c265 §43(c)**
 - b) Stalking as defined by c265 s.43(a)
 - 7) The defendant was previously convicted of the crime of stalking.
- a) **Lesser Included Crime of Criminal Harassment c265 §43A(a)**
 - b) The defendant knowingly engaged in a pattern of conduct or series of acts directed at the complainant (at least 3);
 - 8) The acts would cause a reasonable person to suffer substantial emotional distress;
 - a) The acts caused the complainant to become seriously alarmed or annoyed;
 - b) The defendant committed the acts willfully and maliciously;
- c) **Criminal Harassment Subsequent Offense c265 §43A(b)**
 - d) Criminal Harassment as defined by c265 s.43A(a)
 - e) The defendant was previously convicted of the crime of criminal harassment.
- i. Jurisdiction is given to the police department(s) where any one of the elements occurred.

ii. **Intimidation of a Witness c268 §13B**

- 9) The defendant, directly or indirectly, willfully, did
 - a. Threaten OR
 - 1) Attempted to cause physical injury, emotional injury, economic injury, or property damage to; OR
 - a. Conveyed a gift, offer, or promise of anything of value to; OR

- b. Mislead, intimidated, or harassed a person who was:
 - c. A witness or potential witness at any stage of a criminal investigation or other criminal proceeding; OR
 - d. A person who was or is aware of information, records, documents, or objects that relate to a violation of a criminal statute, or a violation of conditions of probation or bail; OR
 - i. A person who is furthering a civil or criminal proceeding, including criminal investigation, grand jury proceeding, trial, other criminal proceeding of any type, probate and family proceeding, juvenile proceeding, housing proceeding, land proceeding clerk's hearing, court ordered mediation, or civil proceeding of any type; OR
 - ii. A person who is or was attending or had made known his intention to attend a civil or criminal proceeding, including criminal investigation, grand jury proceeding, trial, other criminal proceeding of any type, probate and family proceeding, juvenile proceeding, housing proceeding, land proceeding clerk's hearing, court ordered mediation, or civil proceeding of any type
- iii. With the intent to impeded, obstruct, delay, harm, punish or otherwise interfere thereby, or did so with reckless disregard
- iv. A prosecution under this section may be brought in the county in which the criminal investigation, grand jury proceeding, trial or other criminal proceeding is being conducted or took place, or in the county in which the alleged conduct constituting an offense occurred.

2) Kidnapping c265 §26

- 3) The defendant had no lawful authority;
- b. The defendant forcibly (either physically or constructively) or secretly confined the complainant; and
- 1) It was done against the complainant's will.

APPENDIX B

VICTIMOLOGY

Police can be agents of change—fulfilling a mandate to intervene, holding batterers 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. A sensitive response to a domestic violence call is essential due to the complex nature of these crimes and their devastating effects.

Domestic violence victims can display a variety of behaviors, and officers should understand and be prepared for a range of possible responses. Note that some responses, though frustrating, may allow victims and their families to feel safer once law enforcement has left the scene or the perpetrator is released from custody.

Remember, anyone can be a victim; anyone can be an offender regardless of gender and/or sexual orientation. Always consider who is the dominant aggressor and make that determination based on the totality of the facts and circumstance, not on the victim/offender's gender, size etc.

- 2) It is crucial for law enforcement officers to be familiar with the dynamics of domestic abuse. "Dynamics" refers to how an abuser may act towards their victim and how the victim may react towards the abuser. A lack of understanding of the complexities of these dynamics may result in blaming the victim for the violence and manipulation of the criminal justice system by the abuser.
- 3) Law enforcement officers arriving at an incident are likely to find 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 their right to "no contact" orders, choose not to obtain a restraining order, bail the abuser out of jail, or recant in court—accusing the officer of lying. Officers should be aware that victims may act this way in an attempt to keep themselves and their children safe. (NACDV: Dynamics page <http://ncadv.org/learn-more/what-is-domesticviolence/dynamics-of-abuse>).

XLII. It is critical for officers to understand that when an abuser believes they are losing control over the victim, the risk to the victim of serious injury, sexual assault, stalking, and homicide increase.

XLIII. Many victims of domestic violence never file a report with law enforcement, get a restraining order/injunction, or connect with a domestic violence program. Numerous victims don't call 911 for many of the same reasons that they find it difficult to leave their abusers (fear, cultural beliefs, immigration ramifications, and economic concerns). 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, defense attorney fees, embarrassment for having to publicly testify to the abuse, and pressure to recant.

XLIV. 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 minimize those risks.

XLV. Be aware that trauma may influence a victim's interactions with law enforcement officers responding to domestic violence calls. Do not assume a victim is uncooperative. Violence can be very traumatizing and each victim responds differently. It is of great assistance to Law Enforcement to be familiar with and work with the domestic violence programs in their area. Encourage victims to use all available services and, when available, utilize the domestic violence advocates who can greatly assist the victim with this safety planning process.

(see paper copy of policy for Appendix C - K)

BIAS CRIMES

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.06	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy is designed to assist officers in identifying crimes motivated by bias toward an individual's race, religion, ethnicity, handicap, sexual orientation or gender and to define appropriate steps for assisting victims and apprehending suspects.

The key to a successful law enforcement response to bias crimes is building a partnership with victimized communities. Citizens need to be encouraged to come forward whenever a hate crime occurs and to have confidence that the police will handle these matters with the seriousness and concern they deserve.

Also, recognizing the particular fears and distress typically suffered by victims of these crimes, the potential for reprisal and escalation of violence, and the possible far-reaching negative consequences of these acts on the community and the department, particular attention shall be given to addressing the security and related concerns of the immediate victims as well as their families and others affected by the crime. See departmental policy on **Victim/Witness Assistance**.

II. POLICY

It is the policy of this department that:

- A. All personnel are committed to safeguard the state and federal civil rights of all individuals irrespective of their race, religion, ethnicity, handicap, sexual orientation or gender;
- B. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes that are designed to infringe upon every person's civil rights will be treated seriously; and
- C. Bias crimes are viewed very seriously and will be given high priority. The department will use every necessary resource rapidly and decisively to identify the perpetrators, arrest and prosecute them, and take vigorous enforcement action.

III. DEFINITIONS

1. **Advocacy Organization:** Any non-profit or not-for-profit group which represents or serves constituencies targeted in hate crimes motivated by the forms of bias enumerated at 501 CMR

4.02(3); or gathers information relating to the incidence, circumstances, patterns, causes, or nature of hate crimes or incidents or any specific type(s) of hate crime or incidents.

2. **Bias Indicators:** Objective facts, circumstances, or patterns attending a criminal act(s) which, standing alone or in conjunction with other facts or circumstances, suggest that the offender's actions were motivated, in whole or in part, by any form of bias enumerated at 501 CMR 4.02.
3. **Bias Motive:** Hatred, hostility, or negative attitudes towards, or prejudice against, any group or individual on account of race, religion, ethnicity, handicap, gender or sexual orientation, which is a contributing factor, in whole or in part, in the commission of a criminal act. A bias motive can be inferred from the presence of one or more bias indicators. A bias motive may also consist of intent to interfere with, disrupt, or deprive another person(s) of his/her constitutional rights by threats, intimidation, harassment, or coercion. The specific forms of bias covered by the Hate Crime Reporting Act are:
 - a. **Racial/Ethnic/National Bias**
 - 1) Anti-Black
 - 2) Anti-White
 - 3) Anti-Asian
 - 4) Anti-Hispanic
 - 5) Anti-Arab
 - 6) Anti-Other Racial/Ethnic/National Group
 - b. **Religious Bias**
 - 7) Anti-Jewish
 - 8) Anti-Catholic
 - 9) Anti-Protestant
 - 10) Anti-Islamic (Moslem)
 - 11) Anti-Other Religion
 - c. **Sexual Orientation Bias**
 - 12) Anti-Gay (Male)
 - 13) Anti-Lesbian (Female)
 - 14) Anti-Other Sexual Orientation
 - d. **Handicap Bias**
 - 15) Anti-Person with AIDS
 - 16) Anti-Physically Disabled
 - 17) Anti-Mentally Disabled (i.e., mental illness, mental retardation)
 - e. **Gender Bias**
 - 18) Anti-Male
 - 19) Anti-Female
 - 20) Anti-Transgender Bias (as further defined by the Governor's Task Force on Hate Crimes).
6. **Crime Reporting Unit:** A joint project of the state police and the Criminal History Systems Board responsible for collecting incident reports submitted by law enforcement

authorities and disseminating periodic reports analyzing and interpreting crime rates and trends in the Commonwealth.

7. **Hate Crime: Bias Crime** - Any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender or sexual orientation prejudice, or which otherwise deprives another person of his/her constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation; and also includes violations of:

21)M.G.L. c. 265, §37 (Violations of Constitutional Rights);

22)M.G.L. c. 265, §39 (Assault or Battery to Intimidate);

23)M.G.L. c. 266, §127A (Destruction of Place of Worship); or

24)M.G.L. c. 272, §92A (Advertisement, Book, Notice or Sign Relative to Discrimination).

4. **Hate Crime Report:** An account of a hate crime from a law enforcement source received or collected by the Crime Reporting Unit.
5. **Hate Group:** An organization, formal or informal, which promotes bias, animosity, hostility, or malice against persons belonging to a racial, religious, ethnic/national origin, handicap, sexual orientation or gender group (e.g., the Ku Klux Klan, American Nazi Party, etc.).
6. **Hate Incident:** Any act whether consisting of conduct, speech or expression, to which a bias motive is evident as a contributing factor, without regard for whether the act constitutes a crime.
7. **Hate Incident Report:** An account of a hate incident from a civil rights agency or advocacy organization received or collected by the Crime Reporting Unit.

IV. BIAS INDICATORS AND FACTORS

H. Bias Indicators

- h. **GENERALLY:** The following criteria can assist law enforcement officers in determining whether a particular crime should be classified as a bias crime. These criteria are not all-inclusive, and each case must be examined on its own facts and circumstances. Common sense judgment should also be applied in making the determination whether a crime should be classified as a bias crime.
- i. **RACIAL, ETHNIC, GENDER AND CULTURAL DIFFERENCES**
- 25)The offender and the victim were of different racial, religious, ethnic/national origin, handicap, sexual orientation or gender groups. For example, the victim was black and the offenders were white.
- 26)The victim is a member of a racial, religious, ethnic/national origin, handicap, sexual orientation or gender group which is overwhelmingly outnumbered by members of another group in the area where the victim lives and the incident took place.
- 27)The victim was engaged in activities promoting a racial, religious, ethnic/national origin, handicap, sexual orientation or gender group. For example, the victim is a member of the NAACP, participated in gay rights demonstrations, etc.
- 28)The incident coincided with a holiday relating to the victim's group (e.g., Martin Luther King Day, Rosh Hashanah, Gay/Lesbian Pride Day, etc.).

29) A historically established animosity exists between the victim's group and the offender's group.

30) The victim, although not a member of the targeted racial, religious, ethnic/national origin, handicap, sexual orientation or gender group, is a member of an advocacy group supporting the precepts of the victim group, or is friendly with members of a victim group.

i. COMMENTS, WRITTEN STATEMENTS AND GESTURES: Bias-related oral comments, written statements, or gestures were made by the offender which indicate his/her bias. For example, the offender shouted a racial or anti-gay epithet at the victim.

ii. DRAWINGS, MARKINGS, SYMBOLS AND GRAFFITI: Bias-related drawings, markings, symbols, or graffiti were left at the crime scene. For example, a swastika was painted on the door of a synagogue.

j. ORGANIZED HATE GROUPS

31) Certain objects, items, or things which indicate bias were used (e.g., the offenders wore white sheets and white hoods) or left behind by the offender(s) (e.g., a burning cross was left in front of the victim's residence).

32) There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active in the neighborhood.

k. PREVIOUS EXISTENCE OF BIAS CRIME/INCIDENTS

33) The victim was visiting a location where previous hate crimes had been committed against other members of his/her racial, religious, ethnic/national origin, handicap, sexual orientation or gender group and where tensions remain high against his/her group.

34) Several incidents have occurred in the same locality, at or about the same time, and the victims are all of the same racial, religious, ethnic/national origin, handicap, sexual orientation or gender group.

35) The victim has received harassing mail or phone calls or has been the victim of verbal abuse based on his/her affiliation with a targeted group.

l. VICTIM/WITNESS PERCEPTION: Victims or witnesses perceive that the incident was motivated by bias.

m. MOTIVE OF SUSPECT

36) The offender was previously involved in a similar bias crime or is a member of, or associates with, an organized hate group.

37) The victim was in or near an area or place commonly associated with or frequented by a particular racial, religious, ethnic/national origin, handicap, sexual orientation or gender group (e.g., a gay bar).

38) The victim was in the company of, or married to, a member of a targeted group.

39) The victim was perceived by the offender as violating or breaking from traditional conventions or working in a nontraditional employment.

n. LACK OF OTHER MOTIVES: There was no clear economic or other motive for the incident.

I. Factors to Aid in Identifying Possible Bias Crimes/Incidents

o. Officers must attempt to determine whether a particular crime or incident should be classified as a Bias Crime/Incident.

- p. Officers must, therefore, evaluate the presence of the following factors:
- 40) The crime/incident involves an act, threat or attempt:
 - iii. That constitutes an expression of racial, religious, ethnic, or sexual orientation hostility; or
 - iv. To injure, intimidate, interfere with or oppress any person or group in the free exercise or enjoyment of any right or privilege secured to him/her by the constitution or laws of the Commonwealth or the United States;
 - v. Against the person or property of another;
 - vi. By an individual or a group.
 - 41) The crime/incident involves:
 - vii. Telephone calls or writings that contain racial, religious, ethnic/national origin, handicap, sexual orientation or gender slurs or epithets;
 - viii. Assaults or vandalism attributable to the victim's race, religion, ethnicity, handicap, sexual orientation or gender group; or
 - ix. Symbolic gestures, drawings, markings, or graffiti with racial, religious, ethnic/national origin, handicap, sexual orientation or gender connotations.

V. PROCEDURES

J. Patrol Officer Responsibilities: When an officer at the scene of an incident believes that it may have been motivated by racial, religious, ethnic/national origin, handicap, sexual orientation or gender bias, the officer shall take any preliminary actions necessary, such as:

- q. Determining whether any perpetrators are present and, if so, taking appropriate enforcement measures;
- r. Restoring order to the crime scene and taking any necessary actions to gain control of the situation;
- s. Responding in a courteous, respectful and professional manner to the needs of the victim (see department policy on **Victim/Witness Assistance**);
- t. Identifying any injured parties and taking steps to provide medical assistance;
- u. Identifying any witnesses or others who have knowledge of the crime;
- v. Protecting the crime scene;
- w. Summoning a patrol supervisor to the scene; and
- x. Conducting the preliminary investigation of the incident (see department policy on **Preliminary Investigations**), and filing a complete and detailed report according to department procedures.

42) Note any information that may indicate that it was a bias crime.

43) Note specifically in the title of the report that the incident appears to be a possible bias crime.

K. Patrol Supervisor Responsibilities: Upon responding to the scene of the incident, the patrol supervisor shall:

- y. Confer with the initial responding officer;
- z. Take measures to ensure that all necessary preliminary actions have been taken and inform his/her immediate supervisor of the incident;

- aa. Request any appropriate additional personnel necessary to complete the preliminary investigation and begin the follow-up investigation;
- bb. Provide immediate assistance to the crime victim(s), allowing them a period of time in which to express their feelings;
- cc. Assist the victim in identifying or contacting individuals or agencies that may provide support and/or assistance, such as family members, friends, clergy, and/or community service agencies;
- dd. Provide security and precautionary advice to the victim;
- ee. Supervise the preliminary investigation to include preliminary interviews of the victim and any witnesses to the incident; and
- ff. Review incident and/or arrest report and make an initial determination as to whether the incident should be classified as a bias crime.

L. Investigator Responsibilities

- gg. When responding to the scene of an alleged bias crime and/or incident, investigators shall assume control of the follow-up investigation and shall:
 - 44) Ensure that the scene is properly protected, preserved, and processed and that all physical evidence of the incident is photographed, collected, labeled, and submitted according to current departmental procedures;
 - 45) Confirm that if evidence of an inflammatory nature cannot be physically removed (e.g., painted words or signs on a wall), the owner of the property shall be contacted to remove such material as soon as possible once it has been photographed;
 - 46) Conduct a comprehensive interview with all victims and witnesses at the scene, or as soon as possible thereafter, and canvass the neighborhood for additional personal sources of information;
 - 47) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense, and its potential inflammatory and related impact on the community;
 - 48) Work closely with the district attorney's office to ensure that a legally adequate case is developed for prosecution;
 - 49) Coordinate the investigation with other appropriate law enforcement agencies in an effort to obtain an analysis of any discernible patterns, organized groups, and/or suspects potentially involved in the offense;
 - 50) Make the final determination as to whether the incident should be classified as a bias crime or incident; and
 - 51) Complete any reports necessary to comply with statistical reporting requirements for Hate Crimes.
- hh. Investigative officers shall also take the lead role in providing ongoing assistance to the crime victim, to include:
 - 52) Providing ongoing information to the victim about the status of the criminal investigation; and,
 - 53) Contacting the victim periodically to determine whether [s]he is receiving adequate and appropriate assistance.

M. Community Relations and Crime Prevention

- ii. Hate crimes and incidents are viewed in the community not only as crimes against the targeted victim, but also as a crime against the victim's racial, religious, ethnic/national origin, handicap, sexual orientation or gender group as a whole.
- jj. Working constructively with segments of this larger audience after such incidents is essential to help reduce fears, stem possible retaliation, help prevent additional bias crimes and/or incidents, and encourage any other previously victimized individuals to step forward and report those crimes.
- kk. Towards this end, the department's community relations function, shall take the following steps as appropriate:
 - 54) Meet with neighborhood groups, residents in target communities, and other identified groups to allay fears, relay the department's concerns over and response to this and related incidents, reduce the potential for counter-violence and provide safety, security, and crime prevention information;
 - 55) Provide direct and referral assistance to the victim and his/her family;
 - 56) Conduct public meetings on racial, religious, ethnic, and sexual orientation threats and violence in general, and as they relate to specific incidents;
 - 57) Establish a liaison with formal organizations and leaders;
 - 58) Expand, where appropriate, existing preventive programs such as anti-hate seminars for school children; and
 - 59) Create Memoranda of Understanding with community civil rights organizations and advocacy groups.

N. Reporting

- ll. It shall be the responsibility of **Chief of Police designee** to ensure that all bias crimes are properly reported to the Crime Reporting Unit on a monthly basis.
- mm. The Massachusetts Hate Crime Reporting Form shall be used to report Hate Crimes to the Crime Reporting Unit.
- nn. If additional information becomes available, an amended report or additional data or information shall be submitted to the Crime Reporting Unit.
- oo. Names of victims and perpetrators of bias crimes should not be reported to the Crime Reporting Unit on the prescribed form. Crimes shall be referenced and identified by the case number, the time and date of the incident, and other particularized information deemed relevant by the Crime Reporting Unit.

SEXUAL ASSAULT INVESTIGATIONS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.07	ISSUE DATE: 9/11/14
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE: 1/1/15
	REVISION DATE: 1/28/20

POLICY

The policies and objectives of the Department in responding to a report of sexual assault are as follows:

- I.** To minimize the traumatic experience suffered by the victim;
- II.** To ensure the speedy apprehension and conviction of the rapist;
- III.** To reduce the opportunity for the crime of rape to occur by educating the public in preventive measures;
- IV.** To cooperate with local social service and non-profit agencies, schools, hospitals, and community groups in rape reporting and prevention programs; and
- V.** To impress upon the public that the role of the police in investigating reports of rape or attempted rape is to provide a professional response with concerned and competent attention to the needs of the victim.

PROCEDURES

A. DISPATCHER RESPONSE

1. Communications personnel play a critical role in obtaining important information from the reporting party. The information obtained is pivotal in determining the initial police response and ensuring the appropriate personnel are dispatched. The dispatcher should respond in a calm and supportive manner while simultaneously obtaining, at a minimum, the following information:
 - a. Name, address, and telephone number of the reporting party;
 - b. If reporting party is not the victim, obtain the name, address and phone number of the victim, his/her current location, and status (safe, injured, alone, etc.);

- c. The caller's relationship to the victim and the caller's basis of knowledge;
- d. Whether a weapon was used during the assault. If yes, what type;
- e. The suspect's current location and status (safety issues, aware of police involvement, etc);
- f. Detailed information regarding the identity and/or description of the suspect (e.g. name, gender, physical description, clothing, vehicle description);
- g. The relationship between suspect and victim (if any);

2. Dispatchers shall:

- 1) Dispatch immediate medical assistance if needed;
- 2) If it's determined to be an "active" scene, promptly dispatch patrol officers to the victim's location and to the crime scene (if different);
- 3) If, in the dispatcher's assessment, the victim is in imminent danger, advise the victim to move to a safe location (e.g. to the home of a neighbor or family friend, a police station, a church) as long as relocating can be accomplished with minimal risk;
- 4) If the assailant has fled the scene, broadcast as much identifying information as quickly as possible;
- 5) Furnish the responding officers with any available information with special consideration given to:
 - i. dangerousness of the offender;
 - ii. specifics about the incident;
 - iii. past domestic violence events and/or assaultive behaviors (prior criminal history, other relevant sources); and
 - iv. if in possession of a firearms license.
- 6) If possible, remain on the line with the victim until patrol officers arrive on scene;
- 7) If, for some reason communications cannot be maintained, tactfully advise the victim against bathing, douching, eating, drinking, changing clothes, or touching anything at the scene. The victim of the assault is now analogous with a crime scene;
- 8) If the victim has changed clothes, advise them not to wash the clothes and to leave them as they are;
- 9. **NOT** cancel a law enforcement response to a complaint of sexual assault, regardless of a request to cancel;
- 10) If a request to cancel is made during the initial response, advise the responding officers of this request; and
- 11) Record and preserve the victim's "excited utterances" and 911 tapes for evidentiary purposes.

B. POLICE RESPONSE

a) GENERALLY

1. What occurs during the initial stages of an investigation is critical to the success of the investigation and cannot be overstated.
2. The initial responder's primary areas of responsibilities are:
 - VI.** Victim/witness safety;
 - VII.** Crime scene preservation;
 - VIII.** Minimal facts interview;
 - IX.** Identifying and locating witnesses and suspects;
 - X.** Documentation of initial response and observations; and
 - XI.** Support service notification.
3. The medical treatment and well-being of the victim should be the first priority. The lapse of time between the sexual assault and the report of the sexual assault will potentially impact the likelihood, type and quality of evidence recovery from the body of the victim and/or perpetrator. If the assault occurred within five days (120 hours) of the report, an evidence collection kit should be collected. In addition, depending on the facts of the assault, there may be additional evidence which can be obtained.
4. In keeping with a trauma-informed approach, be professional, empathetic, and patient when interacting with the victim.
5. If the victim is alone, inquire if there are family, friends, or a rape crisis counselor/advocate they want contacted. If the victim's clothing needs to be seized as evidence, attempt to arrange for a fresh set of the victim's own clothes to be made available.

b) VICTIM / WITNESS SAFETY

As part of the emergency response, officers shall:

1. Request an ambulance for transport to a hospital if there is observable injury to the victim or if the victim is complaining of injury;
2. Strongly encourage a sexual assault exam be conducted by a Sexual Assault Nurse Examiner (SANE) and advise the victim of their rights under G.L. c. 209A and 258E, if appropriate;
3. Arrange for medical exams, if possible, at an identified SANE site;
4. Show understanding, patience and respect for the victim's dignity and attempt to establish trust and rapport;

5. Evaluate the scene for suspects, vehicles, or objects involved, as well as for possible threats;
6. Initiate a search for the suspect when appropriate;
7. Be cognizant of the victim's concerns for safety/threats and be reassuring and comforting;
8. Communicate all vital information to the Patrol Supervisor and other responding officers, including any possible communication barriers or special circumstances; and
9. Notify appropriate protective service agency (DCF, DPPC, Elder Affairs, DPH) if abuse is suspected.

c) MINIMAL FACTS INTERVIEW

1. Sexual assault investigations involving adult victims will typically include, at a minimum, a preliminary interview and a subsequent, in-depth interview. The primary purpose of the preliminary interview is to establish whether a crime has occurred. The interviewing officer should conduct a minimal facts interview and obtain basic information similar to investigating any other offense (e.g. who, what, where, when, how).
2. During the initial interview with adult victims, the responding officers should:
 - a. Ensure victim's safety and provide appropriate referrals (e.g. rape crisis/medical services);
 - b. Establish the elements of the crime(s);
 - c. Identify any and all witnesses and suspect(s);
 - d. Identify possible locations of evidence and crime scene(s);
 - e. Identify additional interviews to be conducted; and
 - f. Advise a supervisor of additional resources and/or personnel needed (e.g. crime scene services, crime lab, etc.).
3. A victim of a sexual assault may bond with the responding officer. If the responding officer intends to request assistance from a sexual assault investigator (as directed by departmental protocol), the officer should explain his/her role as the first responding officer to the victim. It is important for the initial officer to further explain what the victim may expect from the responding investigative team and to assist with that transition.

d) CRIME SCENE PRESERVATION

1. Responding officers should assume the existence of multiple crime scenes. It is the responsibility of the responding officer to elicit information from the victim as to the location of the primary, secondary, and possible tertiary crime scenes. Once identified, this information should be communicated to a supervisor to ensure that any additional crime scenes are secured and steps are taken to prevent evidence from being lost, altered, destroyed, or contaminated.
2. Responding officers should also identify, if possible, the first person the victim told about the sexual assault. This person will eventually need to be contacted and interviewed by the officer in charge of the investigation.

e) IDENTIFYING AND LOCATING WITNESSES AND SUSPECTS

Questioning the victim about the assault, the description of the suspect(s), and the details regarding the assault should be limited. Responding officers should only question the victim enough to obtain a complete description of the suspect(s), whether or not a weapon was used, vehicles used, direction of flight, and names, addresses and telephone numbers of other potential victims/ witnesses.

f) LANGUAGE / COMMUNICATION BARRIERS

If the victim(s), witness(es) or suspect(s) do not speak English, avoid using children or other interested parties as interpreters unless there is an emergency. Officers can call **QWEST**, a multilingual communications network for use by police departments at **888-892-2850** for interpretive language services 24 hours a day.

g) DOCUMENTATION OF INITIAL RESPONSE

1. Responding officers should document the initial police response, the information communicated by witnesses, who processed the scene(s), and who seized evidence.
2. During the initial documentation of witness statements, specifically the victim's statements, responding officers should attempt to conduct a minimal facts interview. If the victim begins to provide details of the assault, officers should capture the exact words used by the victim to describe the assault. Also, officers should specify the sexual acts which occurred and with which body parts or objects.
3. When there is no opportunity to interview witnesses, contact information should be obtained so the witness can be contacted and interviewed at a later date. Consider audio recording the interview(s); however, audio recorded statements should be in accordance with the Department policy and the District Attorney's Office. Having witness write out their statement is strongly discouraged.
4. Be sure to consider and preserve all forms of evidence that is not directly elicited from a statement such as 911 calls, public video surveillance systems, spontaneous utterances, etc.

h) INVESTIGATION SUPPORT SERVICES

1. Once the responding officer has assessed the victim's safety, preserved the scene(s), transmitted any relevant information for immediate broadcast, conducted a preliminary interview, established that a crime has been committed, identified other victim/witness or possible suspects, and identified the potential crime scenes, the responding officer must then ensure that the Sexual Assault Investigator and/or a detective is requested to process any potential crime scenes.
2. It is recommended that the State Police is contacted to assist in processing any potential crime scene.

i) ADDITIONAL CONSIDERATIONS OF RESPONDING OFFICERS

1. As the responding officer, in making the decision to arrest, the level of exigency and the probable cause to arrest should be assessed. Whenever possible, all officers are encouraged to consult with a representative of the District Attorney's Office prior to making felony arrests.
2. The responding officer should:
 - a. Ensure that mandated reporters adhere to required protocol and file reports of suspected abuse, when applicable.
 - b. Remember his/her obligations surrounding domestic violence and be sure to advise a victim of his/her rights under G.L. c. 209A.
 - c. For sexual assault committed by a non-intimate partner (i.e. classmate, coworker, neighbor) advise the victim of his/her rights under G.L. c. 258E;
 - d. If necessary, activate the Emergency Judicial Response System (EJRS); and
 - e. If called to an emergency room, first consult with hospital staff to determine the victim's status, how the report came in, and other relevant information. If the victim traveled to the hospital by ambulance, obtain the names of the ambulance and staff in case future interviews are needed.

C. THE ROLE OF THE SEXUAL ASSAULT INVESTIGATOR

A. GENERALLY

1. **Specific to sexual assault investigators, pursuant to G.L. c. 41, § 97B, officers** conducting sexual assault investigations SHALL have completed a course of training as prescribed by the Municipal Police Training Committee.
2. The sexual assault investigator will have primary control over the case and will be responsible for ensuring that a complete and comprehensive investigation is conducted.
3. Upon being assigned the case, the investigator should accomplish the following initial tasks:

XII. Speak with the responding officer(s) to obtain a baseline story and determine what has been completed;

XIII. If the victim has not yet received medical treatment, make appropriate arrangements as needed and assure appropriate support referrals have been made;

XIV. Ensure steps have been taken to preserve any crime scenes and/or evidence;

XV. If there are unprocessed potential crime scenes, determine if a search warrant is needed prior to processing any crime scene;

XVI. Coordinate the dispatch of support services such as crime scene services;

XVII. Obtain the names and contact information of any possible witnesses;

XVIII. Ensure all interviews are conducted in a timely manner, including the suspect interview;

XIX. Ensure proper documentation of the investigation is completed and that all reports are complete and free of judgment and opinion.

B. VICTIM INTERVIEW

1. PRACTICAL ASPECTS OF THE INTERVIEW

It is strongly discouraged that friends or family be present during the victim interview. The presence of an advocate should be determined on a case-by-case basis or as determined by the victim.

2. LOCATION OF THE INTERVIEW

The interview should be conducted in a comfortable room where there will be minimal interruptions or distractions. If the ideal is not possible, the investigator should attempt, at a minimum, to ensure the victim's comfort. This can be accomplished by the simplest means, such as providing reassurance, even in the worst physical surroundings.

3. GENDER OF INTERVIEWER

If the victim requests to speak with an interviewer of a different gender, every effort should be made to accommodate them and provide the requested gender interviewer. Do not assume a police officer who is the same gender as the victim is automatically the best person to conduct the interview.

4. DOCUMENTING THE VICTIM INTERVIEW

a. There is no "best" method of documenting the victim interview; however, the following factors should be considered:

XX. The District Attorney's Office of jurisdiction and your police department's policy;

XXI. The victim's preference (i.e. the victim may be uncomfortable with the statement being recorded); and

XXII. Physical/linguistic/cultural limitations of victim.

b. It is recommended that the statement be documented by either the officer actively asking questions or the second officer in the room. The practice of having the victim manually write out their own statement is strongly discouraged as it may lead to statements which are generally insufficiently detailed and/or incomplete. If the victim does choose to write out his/her own statement, the interviewing officer should review the statement with the victim to assure accuracy of detail and resolve any inconsistencies or unanswered questions.

5. CONDUCTING THE INTERVIEW

a. Two officers should conduct the interview, if possible.

- b. The tone of the interview should be reassuring and poised.
- c. Officers conducting the interview should take an inventory of any personal bias, nervousness, or barriers they may have which might inhibit their ability to conduct the interview. If a bias is recognized, discuss the issue or concerns with a supervisor for resolution.
- d. When conducting an interview of a victim, the manner of questioning should be in an open-ended format as much as possible. The information sought should include questions regarding the following:

XXIII. Name, date, time of interview;

XXIV. Description of the offense (details);

- When the offense occurred (establish time line-- details of dates, months or significant events);
- Details of the sexual assault and acts (use quotations, victim's own words/language);
- Physical description of offender including identifying body marks, freckles, tattoos, scars, birth marks;
- Smells such as cigarettes, cologne, body odor, something else;
- Did the victim describe the "feelings" they experienced during the sexual assault (pain, worry, sadness, scared, nothing or something else);
- Manner used to complete the crime (hand, fingers, penis, mouth, object, something else);
- Information about how the assault ended and what caused it to end;
- Any conversation, communication, or statements by the perpetrator either before, after, or during the assault;
- The degree of force, threat, coercion if any used to effect the assault; Weapons used (describe weapon, brought to scene or picked up there); Manner which weapon was used during the sexual assault;
- What the victim and offender did after the assault

XXV. Relationship between the victim and suspect if any (in detail; may explain a delay in disclosure);

XXVI. Identify any and all witnesses and suspect(s);

XXVII. Identify additional interviews to be conducted as the investigation develops; and

XXVIII. Other relevant information that might assist in bolstering the victim's veracity.

6. SAFETY, LEGAL, AND OTHER CONSIDERATIONS

- a. During the interview process, be aware of safety considerations for the victim, any children, or potential secondary victims/witnesses.
- b. In addition to safety considerations there are circumstances which may legally require law enforcement officers to act. These may include:
 - Advising the victim of his/her rights pursuant to (G.L. c. 209A and 258E); and

- Mandatory referrals.
- c. The victim should be made aware of the community-based services, rape crisis centers, and court services which may be available to the victim.

7. CONCLUDING THE INTERVIEW

- a. Once the victim's safety is assured, the interview is concluded, and support services have been recommended and/or obtained, the final interaction with the victim is extremely important. Explain to the victim what they can expect next from the criminal justice system. Be honest about the court process, potential police action, and what the victim's needed participation may be in the future.
- b. Explain to the victim that if, after the interview, they remember something, it is perfectly normal and okay. The investigator should provide the victim with a mechanism to contact him/her with future information or questions. The investigator should also ensure that the victim has someone available for support. The investigator should explain to the victim about the role of the victim/witness advocate and how they can assist the victim, as well as potential victim compensation resources available through the Attorney General's Office.

D. IDENTIFYING AND INTERVIEWING WITNESSES

A. WITNESS INTERVIEW - OVERVIEW

1. Upon arriving on scene, officers should obtain the names and contact information of potential witnesses. Officers should take detailed, concise statements which capture basic information. The statement should be in either a written report or audio/video recorded and pursuant to the Department's protocols for such statements or those of the District Attorney's Office.
2. As with victim statements, it is recommended that the witness NOT be left to write out his/her own statement. If the witness does write out his/her own statement, the officer conducting the interview should review the statement with the witness to assure accuracy of detail, resolve any inconsistencies, or unanswered questions. Any witness statements should be signed and dated by the witness providing the statement.
3. In concluding the interview with the witness, explain to them that, if after the interview, they remember something that it is perfectly normal and okay. Officers should provide the witness with a mechanism to contact them with future information or questions.

B. FIRST COMPLAINT WITNESS

1. Under the **First Complaint** doctrine, the first person told by the victim of an alleged sexual assault may testify about the fact of the "first complaint" and the circumstances surrounding the making of that first complaint, including the following:

- XXIX.** Observations of the victim during the complaint;
- XXX.** Events or conversations that culminated in the complaint;
- XXXI.** Timing of the complaint;

XXXII. Other relevant conditions that might help a jury assess the veracity of the victim's allegations or assess specific defense theories as to why the complainant is making a false allegation.

XXXIII. When speaking with a first complaint witness, attempt to video and/or audio record the interview. Be sure to include the following:

1. Name, date, time of interview;

XXXIV. Circumstances under which the complainant first reported the sexual offense;

XXXV. Events/conversations that culminated into disclosure;

XXXVI. Other potential witnesses or persons present during the offense (details);

XXXVII. Description of where offense occurred (details);

XXXVIII. When the offense occurred (establish time line-- details of dates, months or significant events);

XXXIX. Details of the sexual assault and acts (use quotations, if applicable);

XL. Describe the demeanor of the victim during their disclosure/recounting of the event (tone, emotions etc.);

XLI. Did the victim describe the "feelings" they experienced during the sexual assault (pain, worry, sadness, scared, nothing or something else);

XLII. Manner used to complete the crime (hand, fingers, genitals, mouth, object, something else);

XLIII. Information about how the assault ended and what caused it to end;

XLIV. What the victim and offender did afterwards and why;

XLV. Any conversation or communication which occurred between the victim and the perpetrator either before, after or during the assault;

XLVI. Weapons used (describe weapon, brought to scene or picked up there);

XLVII. Manner in which the weapon was used during the sexual assault;

XLVIII. The degree of force, threat, coercion if any used to effect the assault;

XLIX. Relationship between the victim and suspect if any (nature in detail; may explain a delay in disclosure);

L. Circumstances in which the first complaint was made;

LI. Other relevant information that might assist in bolstering the victim's veracity; and

LII. Information on why the victim decided to tell the person, at that time and place.

- LVIII.** If possible, officers should document the exact words spoken by the victim to the first complaint witness communicating the assault. It is recommended that when possible, the interview should be videotaped and/or audiotaped.

2. CHILD WITNESS

- C. Sexual assaults are very personal and can often involve other family members as direct or indirect witnesses. Do not dismiss or overlook the child witness when investigating sexual assaults. Not only can the child witness be an important source of information but there may be other safety and well-being needs that should be considered.

1. The preferred method of interviewing a child witness is at a Child Advocacy Center (CAC) by a forensic interviewer. However, if circumstances don't allow for that arrangement, the following protocols should be adhered to:
 2. Conduct a "minimal facts" interview to determine probable cause or safety issues;

LIV. Avoid using a child as an interpreter unless it is an emergency and no alternative exists;

LV. Provide referrals for appropriate services; and

LVI. Make all necessary filings and referrals pursuant to G.L. c. 119, § 51A, to the Department of Children and Families (DCF).

LVII. SUSPECT INTERACTION

V. DECISION TO ARREST OR NOT ARREST

- A. The safety of the victim or other potential victims should be paramount in any decision to arrest. Additionally, officers should take into consideration the risk of flight by the suspect and the safety of officer(s), as well as any mandatory obligations required under the Department's policy on **Domestic Violence** and G.L. c. 209A.
1. 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 the crime occurred, not on whether the victim wishes to seek complaints or wishes to testify at a future date.
 2. If the above issues are not present or manageable, do not feel obligated to rush or make an immediate arrest just because you have probable cause to do so. Look at the specific circumstances of the case and consider conducting a non-custodial interview of the suspect prior to any warrant or arrest.

3. INTERVIEWING THE SUSPECT

- B. ALWAYS attempt to interview a suspect even if the suspect is likely to be uncooperative or deny the allegations.
1. When conducting any suspect interview, it is strongly recommended that two officers are present and that the interview is conducted in a setting where they will not be disturbed. The best practice and preferred method is to audio and/or video record the interview.

2. Officers should refer to the Department's policy on **Interrogating Suspects and Arrestees** as need be.

3. CRIME SCENE MANAGEMENT AND EVIDENCE COLLECTION

VI. GENERALLY

- A. Given the critical role physical evidence can play in any criminal investigation, especially sexual assault investigations, proper documentation, collection and preservation of physical evidence is essential.
 1. Two of the most critical steps in any criminal investigation are the management of the crime scene and the collection and preservation of physical evidence. To identify a starting point, investigators must rely on their own observations in conjunction with victim and witness statements. These sources serve as a road map to navigating the crime scene(s).

2. CRIME SCENE MANAGEMENT

- B. In reported sexual assaults, investigators must immediately consider the existence of, at a minimum, three crime scenes:

1. The victim;

LVIII. The locations where the assault occurred; and

LIX. The offender.

LX. In addition, investigators must consider other possible locations where other types of evidence or "transfer evidence," may be found. This often results in additional locations being processed as crime scenes. Documentation of evidence and the crime scene can take on many forms but of critical importance is the written report describing the condition of the scene upon discovery. It should be noted if any items were moved or altered and by whom. Documenting the reason for the contamination and by who will help preserve the integrity of the remaining scene and any additional evidence that is located.

2. Once the crime scene(s) have been identified, they must be secured. This will preserve the integrity of the evidence, and allow time for appropriate personnel to arrive on-scene for processing.
3. Crime scenes should be photographed and potentially diagramed as found and at the time of discovery, especially if there is risk of destruction or disturbance. Pictures bring an image and corroborative element to the case which can never be as effectively communicated by words alone.
4. Although many of the reported sexual assaults are delayed disclosures, investigators should never discount the possibility of recovering physical evidence. Sexual assault evidence, by its nature, has a higher likelihood of remaining intact for extended periods of time (e.g. fluids, DNA, etc.).

5. CONSIDERATIONS BEFORE PROCESSING THE SCENE

C. There are a number of things to consider before processing a crime scene. These include:

1. Is a search warrant/consent needed? If yes, be aware of the necessary language required to obtain appropriate forensic evidence.

LXI. Is there an external exigency such as weather or rapid deterioration which requires immediate documentation/collection?

LXII. Notification of crime scene and lab services.

LXIII. Additionally, while processing the scene, protective gear should be worn to preserve the integrity of the evidence (e.g. booties, gloves). A single officer should be assigned to identify and record anyone who enters an active scene in a Crime Scene Log.

2. FUNDAMENTALS OF PROCESSING A CRIME SCENE

D. DOCUMENTATION OF THE CRIME SCENE

The most effective method of documenting the crime scene as discovered is through photographs and video. An overall depiction of the scene should be documented prior to any evidence being tagged or removed. When photographing evidence be sure to include established points of reference, and some mechanism of measure, to give context to the observer of the photograph at a future date. Another method of providing context is to diagram evidence in accordance with fixed points of reference so the location can be recreated if necessary.

1. TYPES OF EVIDENCE - CONSIDERATIONS

2. The decision to seize items as evidence should be guided by the investigation, investigator's observations, legal authority and the victim/witness statements.
 - a. Though physical evidence, especially from sexual assault crime scenes can take many forms, the following list is provided as an example of items investigators might consider during the course of their investigations:
 - b. Bedding/bath;
 - Clothing/Material;
 - Swabbings/fluids (vaginal, rectal, oral, digital, penile, etc.);
 - Hairs/fibers;
 - Fingerprints;
 - Impressions (tire/footwear);
 - Digital evidence
 - Electronic communications including social media;
 - Writings/recordings;
 - Cell phones/communication devices;
 - DNA reciprocals (drinking glasses, toilet, sinks, tissues, toothbrushes, etc.);

- Restraints/Inserted objects; and
- Condoms/Tampons.

- **CLOTHING / MATERIAL AS EVIDENCE**

3. The victim's and assailant's clothing and any bedding or items where the assault occurred can frequently contain important physical evidence since garments/materials are absorbent surfaces, or surfaces which traces of foreign matter may be deposited or cling. Items such as blood, semen, saliva, hairs, or textile fibers may be transferred to the victim during physical contact. While foreign matter can be washed or worn off the body of the victim, the same substances may be found intact on clothing or material for a considerable length of time following the assault.
 - a. Damage in the form of rips, tears, or other destructive characteristics to clothing/material may also be significant. Those items may be evidence of the use of force or resistance.
 - b. Collected materials can also serve as a standard for comparing trace evidence retrieved from other evidentiary items, thereby connecting the suspect, victim and crime scenes.

- c. **CONDOM TRACE EVIDENCE**

4. Today's high-level awareness of the spread of various sexually transmitted diseases coupled with the media attention to the ever-improving use of DNA in identifying perpetrators of unsolved crimes has increased the use of condoms by sexual assault offenders.
 - a. Although the use of condoms may significantly reduce the chance of retrieving seminal fluid, there are other types of equally important trace evidence that may be recovered. Condoms are made from a variety of synthetic and natural materials. Latex rubber is the most popular. Condom manufacturers add particulates (powders), lubricants, and spermicides to their products. Residues of those substances are referred to as condom trace evidence. Condom trace evidence can be recovered from sexual assault victims during the medical examination process.
 - b. The identification of condom trace evidence may assist investigators and prosecutors in proving penetration, even in the absence of seminal fluids. To assist the forensic laboratory in the analysis of condom trace evidence, investigators should make every effort to collect all condom-related evidence including, but not limited to:
 - c. Used condoms;

- LXIV. Unused condoms;
- LXV. Condom wrappers;
- LXVI. Partial or empty boxes of condoms;
- LXVII. Tissues from the trash;
- LXVIII. Lubricants; and
- LXIX. Evidence inside/outside of condom.

- **PACKAGING**

5. The manner in which evidence is packaged is critical because it can directly affect the degradation or preservation of the evidence. If the evidence is not properly packaged and protected from contamination, it can be rendered virtually useless even if the best identification and collection practices have been adopted.
 - a. Investigators should adhere to the following with respect to the packaging of evidence:
 - b. Each item should be packaged separately;
 - Hairs, fibers, or other trace evidence, should be placed in a paper envelope and sealed with evidence tape; and
 - Clothing and other evidence specimens must be sealed in paper or cardboard containers as the use of plastic could result in the destruction of evidence.
 - All evidence packaging must be properly sealed with evidence tape.
 - At a minimum, all evidence should be labeled identifying the content, date and time located, date collected and by whom, agency and case number.
 - c. If the clothing/material/tampons/condoms are wet, the items should be air dried before being packaged. When transporting such evidence to a secure, drying location, placing it temporarily in plastic bags is acceptable practice. The container or bag used to transport the wet evidence to the drying location, as well as the drop cloth placed under the wet evidence, should also be submitted for processing.
 - d. Careless packaging can result in one garment/item accidentally contaminating another potentially making it impossible for the examiner to accurately interpret the findings. To prevent cross- contamination, each garment must be placed in a separate paper bag.

- d. **CHAIN OF CUSTODY**

It is critical to document the chain of custody of all evidence identified and collected. This is accomplished by completing an evidence log upon the collection of evidence and any time it is moved or it changes possession from the date and time of collection. The evidence log should contain, at a minimum, the date and time it was collected/transferred, the name of the person who both took and lost possession of the evidence, a description of the evidence and a department name and case number. This documentation practice must be adhered to each time the evidence is handled or it may result in loss of evidence at trial.

- 6. **MASSACHUSETTS SEXUAL ASSAULTS EVIDENCE COLLECTION KITS (MSAECK) AND THE SEXUAL ASSAULT NURSE EXAMINER (SANE)**

7. The victim's body may have both observable and unobservable evidence. This critical evidence is best collected in a hospital by a Massachusetts Sexual Assault Nurse Examiner (SANE) utilizing the Massachusetts Sexual Assault Evidence Collection Kit (MSAECK).
 - a. SANEs undergo specialized training, providing them with advanced skills in sexual assault patient care, forensic exam assessment, and evidence collection. Although

SANEs are not in every Massachusetts hospital, SANEs are positioned widely throughout the Commonwealth and usually work in high volume hospitals/medical centers.

- b. Police officers should refer sexual assault victims to SANE sites to access specialized services whenever possible. SANEs are available 24 hours a day, seven days a week to designated SANE sites and will respond when a sexual assault patient presents at an emergency department within five days (120 hours) of the assault. All hospitals across the Commonwealth are given SANE Protocols to follow when collecting evidence in the event a SANE is not available.
- c. If the victim seeks care at a SANE site before contacting the police, the SANE will ask the patient if they wish to make a police report. In these instances, the SANE may initiate police contact to facilitate the patient's report of the crime. SANEs' specialized and unique training make them a valuable resource to the investigator and can often facilitate the victim's reporting of the assault within the emergency department. A best practice, if timing allows, is for the SANE and the investigating officer to obtain a history of the assault from the patient together. This practice will decrease the number of times a victim will have to recount their experience.
- d. The average SANE exam will take approximately three to four hours and cannot be interrupted once the evidence collection is started. SANEs obtain written consent from victims for every step of the evidence collection process using six detailed MSAECK forms.
- e. As of April 2015, there are 17 MSAECK steps to the evidence collection process. Comprehensive toxicology testing may take place if appropriate based on the case facts and circumstances of the case. Also completed is a physical assessment (including a pelvic exam), evidence collection, forensic photography, medication education and administration, and the coordination of discharge and follow-up care.
- f. Time is important in sexual assault evidence collection:
 - g. Investigators should attempt to collect a known DNA standard from any consensual partners from the 5 days (120 hours) prior to collection of the MSAECK.
 - Evidence on a patient aged 12 years and older can be collected up to 5 days (120 hours) after the assault. Evidence can be collected even if the victim has bathed and or showered since the assault.
 - In addition to the Sexual Evidence Collection Kit, toxicology samples are packaged in the Massachusetts Comprehensive Toxicology Kit and turned over to law enforcement with the MSAECK for transport to the Massachusetts State Police Crime Lab. It is imperative that kit pickup and transport occur as soon as possible to maintain evidence integrity.
- h. If there is suspicion that a drug was used to facilitate the commission of a sexual assault, specific toxicology testing is available to victims, with their consent, within 96 hours of the assault. The collection of urine and/or blood through the use of a Comprehensive Toxicology Kit, as a part of the MSAECK, is available at most hospital emergency departments.

- i. Victims can have toxicology testing completed even if they do not report the assault to the police. In these circumstances, toxicology results will be made available through a phone system which the victim is given access to at discharge. The victim can call the provided number to obtain the results approximately six weeks after collection. After receiving the results, the victim may then decide to initiate a police report.
- j. In addition to the collection of valuable forensic evidence, victims may also be concerned about potential medical risks. Prompt medical attention provided in the emergency department is critical to the victim's health and wellbeing. Medications can be prescribed to prevent pregnancy, HIV, and other sexually transmitted illnesses from occurring.

k. INTERVIEWING MEDICAL PERSONNEL

- 8. Medical personnel and Sexual Assault Nurse Examiners (SANEs) may have important information to share related to the assault and medical assessment of the victim post examination. However, federal and state law may require the victim to provide explicit consent in order for the attending medical personnel/SANE to disclose any information.
 - a. The role of the medical provider/SANE conducting a forensic examination is to document the patient's account of the assault and any physical findings. This may also include photo-documentation of non-genital injuries.
 - b. Medical providers/SANEs collect forensic evidence by swabbing areas of the victim's body, often based on history as reported by the victim. Such evidence is often not visible to the naked eye. It is important to recognize that for a variety of reasons, the majority of sexual assaults do not result in physical injury and the lack of observable trauma does not mean that an assault did not occur.
 - c. Furthermore, in assaults in which physical trauma is reported, injuries may not be observable to the medical personnel/SANE at the time of their examination. Victims who report their assault to law enforcement should be encouraged to notify law enforcement if injuries become visible in the following days. Follow-up photographs may be obtained by the appropriate LE photographer at that time. Medical providers/SANEs do not conduct forensic testing or analysis of any evidence collected.
 - d. If a victim is transported by ambulance, investigators are encouraged to obtain copies of the run sheets and interview ambulance personnel as appropriate.

e. EVIDENCE IDENTIFICATION

All collected evidence from the MSAECK and Massachusetts Comprehensive Toxicology Kit is identified with one specific kit number whether the case is reported by the victim to the police or not. This kit number identifies the victim's evidence collection encounter and is how the evidence kit(s) are tracked. If the victim chooses to directly report the incident to the police, his/her name is noted on the kit. In cases when evidence is collected, but not reported to the police, a kit number will be the only identifier. In this circumstance, there should be no victim name on the kit. The victim is provided the kit number upon discharge and is instructed that the kit number identifies the kit and the evidence collected.

9. DISPOSITION OF THE MASSACHUSETTS SEXUAL ASSAULT EVIDENCE COLLECTION KIT

10. Following the collection of medical evidence, the sealed MSAECK(s) are refrigerated and any clothing or other evidence is bagged and stored separately at the medical facility. The hospital will contact the police department of jurisdiction to facilitate the transfer of the kit and other evidence from the medical facility to the crime lab.
 - a. It is the responsibility of the investigator to deliver the kit and other evidence to the nearest Massachusetts State Police Crime Laboratory as soon as possible to avoid the destruction of vital evidence. The investigator must ensure that the kit is refrigerated and that the chain of custody is maintained.
 - a. Evidence must be collected even if the patient decides not to report the sexual assault to the police.
 - b. It is the responsibility of the police department of jurisdiction where the assault occurred to pick up and transport the evidence to the crime lab, in a timely fashion, whether or not the case is reported at the time of the exam.
 - c. If there are extenuating circumstances associated with the investigation or legitimate reasons the local police cannot transport the sexual assault kit and/or evidence, the Massachusetts State Police should be contacted for the transport of evidence.
 - d. Unreported cases may be reported at a later date. MSAECKs are retained for fifteen (15) years, during which time the victims may decide whether they want to report the assault to the police and have the evidence analyzed.
 - e. In the event the alleged sexual assault occurs out of state but the forensic exam is performed in Massachusetts, the closest Massachusetts State Police barracks should be contacted for the transportation of the kit and any associated evidence to the crime lab.

f. SUSPECT EVIDENCE COLLECTION

- g. Through arrest, consent, or search warrant, investigators may have an opportunity to collect evidence and/or biological specimens from the suspect's body or clothing. If performed before the degradation of biological material, the examination may link the suspect to the crime. Through accurate documentation and collection of blood, hair, nails, wounds, body fluids or other evidence, examination of the suspect may corroborate the victim's account of the assault.
11. If the suspect voluntarily consents to a forensic examination, the appropriate consent forms should be signed. If the suspect does not voluntarily consent to such an examination, a search warrant/court order may be necessary and should specify all the evidence to be collected. A copy of the search warrant/court order needs to be present and submitted to the technician prior to the collection of evidence. A copy of the order/search warrant must be shown to the suspect at the time the search is conducted and the suspect should be given an opportunity to read it. A supervisor and/or the District Attorney's Office should be consulted to ensure proper legal requirements have been met.

- a. Genetic material from the victim detected on the suspect's body or clothing may also corroborate allegations that a sexual assault occurred. Additionally, a swabbing of the suspect's penis may retrieve secretions from the mouth, vagina or rectum of the victim. In cases involving digital penetration, swabbing of the suspect's fingers or scrapings/clippings of the suspect's fingernails may retrieve secretions originating from the various body cavities of the victim. In addition, don't overlook the possibility of swabbing less obvious areas of the body which may have been handled (e.g. legs, wrists, neck, etc.).
- b. Photograph the suspect, naked if necessary. If seizing the suspect's clothing, be sure to first photograph him/her fully clothed then photograph each item of evidence separately once removed. Be respectful and provide the suspect with appropriate clothing or cover once done. The facts and circumstance of the case will impact which evidentiary items are relevant for seizure. Be sure to consider any legal restrictions and/or requirements prior to seizure of evidence to minimize the chance of suppression at trial. Ensure proper packaging and chain of custody procedures are adhered to.
- c. Regardless of what facility is used for evidence collection, the suspect and victim should never encounter one another. The security and safety of the victim and potential medical technician/examiner should also be taken seriously. Law enforcement should be present during the suspect's entire examination and processing for evidence collection.
- d. The officer should expect that only the evidence listed on the search warrant will be collected. In the event that additional evidence is identified during the course of the forensic evaluation, an additional search warrant may be required and then served prior to the collection of that evidence (e.g. not in plain view). In the event this occurs, contact the District Attorney's Office for consultation; however, it may be permissible to detain the suspect while the second search warrant is obtained.
- e. A Sexual Assault Evidence Collection Kit should never be used when collecting evidence from sexual assault suspects. The kits are for the collection of evidence from victims ONLY and do not provide for the collection of all the necessary specimens from sexual assault suspects.
- f. It is the responsibility of the investigating law enforcement agency to ensure that the evidence is collected in a proper manner and that it's delivered to the crime laboratory in a timely fashion.

g. CHAIN OF CUSTODY

To prevent the loss, or misplacement of evidence at the time of kit pick-up, officers should expect hospital emergency staff to ask for identification for documentation purposes. Police officers picking up evidence should be prepared to provide hospital staff with their name and identification/badge number. This practice is to protect the integrity of the chain of custody and is to comply with evidence transport guidelines.

h. COMBINED DNA INDEX SYSTEM (CODIS)

12. The nation-wide standardization of forensic DNA analysis provides the ideal platform for crime labs to share DNA information derived from evidence and sexual offenders. Using the Federal Bureau of Investigation's Combined DNA Index System (CODIS), DNA profiles obtained from body fluids, stains, or other evidentiary sources of DNA with unknown offenders may be linked to other cases or known offenders. This has allowed crime labs to scientifically document known sex offenders.
13. A DNA profile derived from evidence may lead investigators to the identity of a single assailant, multiple offenders, or link multiple cases. The information obtained from a CODIS report serves as an invaluable investigative tool lead helping direct investigator to potential offenders.
- a. DNA profiles must meet eligibility requirements before being submitted to CODIS.

b. ADDITIONAL INVESTIGATIVE TOOLS AND RESOURCES

c. ELECTRONIC EVIDENCE

VII. In any investigation, investigators must consider all electronic media and storage devices as potential sources of evidence and insight into the circumstances of the case. In doing so, the investigator should consider the following:

A. Is digital evidence potentially involved in the crime?

1. Survey the scene for digital evidence, including phones, cameras, computers, thumb drives and other external storage devices.

LXXI. If there a question as to the location of the suspect or victim at the time of the crime, and they routinely carry their cell phone on their person, cell site location information (CLSI) can be gained with a search warrant.

- Interview victim/witnesses as to the use of these devices. Text or social media communication between victim and suspect, before and after the crime has occurred, can carry evidentiary value.
- Identify all locations of potential digital evidence:
 - On-scene (e.g. phones, computers, data storage devices)

LXXII. On-line (e.g. Internet Service Providers, "cloud" storage services)

- Other locations (e.g. in possession of victim or suspect)
- Determine search authority:
 - Consent, plain view, search warrant, exigency, etc.

LXXIII. Electronic Communication Privacy Act (ECPA)

- The digital crime scene may include information stored by service provider and may require a Preservation Order followed by a search warrant.
- Always be cognizant of the fact that some devices can be erased or otherwise tampered with from remote locations. Care should be taken to protect devices from any incoming signals (e.g. use of a Faraday bag or switching of the device to "airplane mode").

LXXIV. There can often be technological nuances and search warrant requirements associated with electronic storage devices and evidence recovery. Therefore, it is strongly recommended that a computer forensic unit and/or the District Attorney's Office is consulted prior to handling or seizing such evidence.

- ELECTRONIC MONITORING - PROBATION

2. The Massachusetts Probation Service Electronic Monitoring (ELMO) provides a critical level of services designed as an alternative to incarceration. Law Enforcement agencies may request ELMO information, by submitting a written request to Elmo.Inforequests@jud.state.ma.us from a verifiable Law Enforcement agency email address. Probation typically responds within 24 to 48 hours. Please note that ELMO will supply GPS information "For Investigative Purposes Only".

B. IMMEDIATE NEED: In the interest of public safety, if a Law Enforcement agency makes an urgent request (i.e. AMBER Alerts, Major/Catastrophic events, and requests for real time locations of specific monitored offenders for the purpose of serving a warrant or effectuating an arrest) and provides verifiable credentials (such as the main phone number of the requesting agency, the officer's badge number, contact information, and that the Officer is currently assigned to investigate the matter at hand) information for investigative purposes may be provided immediately.

1. If an agency is requesting a point tracking search (Crime Correlation) for a particular location, this request should include a defined period of time and should disclose for what purpose the request is being made. 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.

2. COURT ORDERS / GRAND JURY SUBPOENAS

In certain circumstances such as obtaining financials, phone records, medical records, or other documentation, court orders and/or grand jury subpoenas may be necessary. These requests must be coordinated with the District Attorney's Office.

3. POLYGRAPH EXAMINATIONS

- C. The use of polygraph examinations can be an effective and reliable tool to include or exclude an individual as a suspect in criminal investigations. The use of polygraph examinations for victims is strongly discouraged except in cases where there is a reasonable basis to believe the victim is making a false claim or report. In addition, the use of or the suggested use of a polygraph examination should not be used as a condition of proceeding with an investigation, charge, or prosecution of an offense.
- D. In Massachusetts, the results of polygraph exams are inadmissible in criminal trials and may not be used for any purpose or in any capacity for criminal prosecution. In addition, the submission to, or failure to submit to, a polygraph examination is inadmissible in court.

1. SEX OFFENDER REGISTRY BOARD (SORB)

The Sex Offender Registry Board (SORB) is the state agency responsible for compiling and maintaining a database of convicted sex offenders and classifying each offender. The SORB is an important partner with local law enforcement to ensure sex offender registration and compliance enforcement. The SORB is also an excellent resource for law enforcement offering investigative support. They have access to records and information regarding

offender histories which may not be available through traditional data base searches (e.g. Triple III, BOP etc.).

2. OUTSIDE DOCUMENTATION

E. The use of outside agency documents and reports can be powerful circumstantial evidence to corroborate your investigation. Consider checking the following sources for information regarding the suspect or possible suspects:

F. Board of Probation record (BOP);

1. Interstate Identification Index (III) (federal Criminal History Record Information);

LXXVI. Incident reports from other arrests and/or law enforcement involvements;

LXXVII. Field interrogations reports (FIO reports);

LXXVIII. Employment records;

LXXIX. Military records;

LXXX. Educational documents;

LXXXI. Passports and travel documents;

LXXXII. Probation/Parole records;

LXXXIII. Financial records;

LXXXIV. 911/Turret tapes;

LXXXV. Outside video;

LXXXVI. Professional boards (e.g. medicine, education);

LXXXVII. Department of Transitional Assistance;

LXXXVIII. Department of Children and Families;

LXXXIX. Disabled Persons Protection Commission;

XC. Rental information; and

XCI. GPS, and electronic monitoring transponders.

XCII. The above is not an exhaustive list. The limits and constraints of investigative tools and resources are only as limited as an investigator's imagination, so utilize all available resources. Assemble as comprehensive and professional investigative package as possible.

XCIII. OTHER INVESTIGATIVE CONSIDERATIONS

2. HIGH PROFILE INVESTIGATIONS

Sexual assault investigations cross all social, economic, and professional boundaries. Because of these intersections, an investigator may be placed in delicate or difficult situations. The investigator's job is to investigate and report the facts as they are found. The investigator's ability to be impartial and ensure the victim is treated fairly and with dignity is paramount. If an investigation creates a real or perceived conflict, the best practice may be

to have the case handled by an independent and detached party. Consult the Department policy, supervisor, and/or the District Attorney's Office when such situations arise.

VIII. MEDIA RELATIONS AND INTERACTION

- A. When addressing the media regarding any criminal investigation or pending criminal case, it is recommended that the investigator consult the Department's policy and guidelines and ensure that the information contained in the log is appropriate for public dissemination. Coordinate any press releases with the District Attorney's Office where warranted or as prescribed by the Department policy.
 - B. Aside from the legal restrictions that prohibit the release of information regarding victims of sexual assault, there are often a myriad of other issues and concerns which may be present for the victim. These include the ongoing threat of and/or risk of continued domestic and sexual violence or retaliation. Safety risks may require additional layers of protection and precaution by law enforcement to protect the identity and location of the victim.
1. There are several Massachusetts General Laws which impact public dissemination and **media disclosure**. The **primary statute which affects law enforcement is G.L. c. 265, § 24C**. This statute states that the portion of records of any court or any police department in the Commonwealth or any of their political subdivisions which contain the name of a victim in an arrest, investigation, or complaint for rape or assault with intent to rape, shall be withheld from public inspection, except with consent of a justice of such court where the complaint or indictment would be prosecuted. Said portion of the court record or police record shall not be deemed to be a public record. In addition to the above, it is also important to be cognizant of the added legal restrictions surrounding the release of information regarding juveniles.

2. TRAINING

All sworn and communications personnel shall be trained in this policy, and shall review and refer to **Training Bulletin 2.06** relative to Sexual Assault Investigations for additional training and guidance.

APPENDIX INDEX

- 3. JANE DOE, INC. MAP OF VICTIM RELATED SERVICES
 - I. NETWORK OF SEXUAL ASSAULT & DOMESTIC VIOLENCE SERVICE PROVIDERS IN MASSACHUSETTS
 - A. SEXUAL ASSAULT NURSE EXAMINER SITES

(See printed copy of policy for Appendix A - C)

SEXUAL ASSAULT INVESTIGATIONS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.07 Training Bulletin	ISSUE DATE: 1/28/20
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	REVISION DATE: _____

DYNAMICS OF SEXUAL ASSAULT

Anyone can experience sexual violence and it occurs in all social, cultural, economic, religious, professional and educational communities. Yet, rape is the most underreported crime in the US; 63% of sexual assaults are not reported to police. The majority of sexual violence is committed by offenders known to the victim. These offenders are often not just familiar to members of a victim's community but are often trusted and held in high regard such as an employer, landlord, teacher, coach, family friend, or even a spouse or significant other. As a result, following a sexual assault, a victim's physical, emotional, professional, educational, financial or housing stability and well-being may be jeopardized. Additionally, serious privacy concerns for a victim may arise.

When responding to reports of sexual assaults, investigators should be mindful of the numerous complex and unique factors that surround sexual assaults. These events and circumstances may influence a victim's decision to report the offense, as well as the timing of when it is safe to do so. A victim's past experience, current circumstances, and at times their legal status may contribute to potential barriers in reporting the offense. Also, the existence of ongoing emotional and environmental factors may impact a victim's ability to participate fully in an investigation, if at all.

The role of the investigator is critical. Their immediate response and recognition of the seriousness of the incident reported impacts a victim's sense of safety and confidence in involvement with the criminal justice system. Regardless of whether a report ultimately moves forward legally, the investigator's demeanor and genuinely sympathetic interaction with a victim can dramatically impact the long-term psychological well-being of the victim and their willingness to seek additional assistance and support.

Acknowledging the difficulty of reporting such a personally invasive crime and reassuring the victim that the complaint will be taken seriously can enhance a victim's ability to fully participate in the investigative process. A meaningful understanding of common sexual violence trauma reactions will provide law enforcement professionals with the necessary tools to effectively and appropriately respond to victims.

Neurobiology of Trauma

Investigators should develop a working understanding of how the brain is programmed to react during a traumatic event (physiological response). A traumatic event is an experience that causes physical, emotional, psychological distress or harm. It is often perceived and experienced as a threat to one's safety or to the stability of their world. A traumatic event may include: rape, sexual abuse, and sexual harassment.

Victims may describe how they instinctively reacted or didn't react, and are unable to fully explain why certain actions were or weren't taken. A response such as freezing or dissociating is a normal reaction by a brain experiencing intense fear that is interpreted as life threatening. The brain's fear circuitry dominates and the prefrontal cortex can be severely impaired, and all that's left may be reflexes and habits.

Investigators are encouraged to learn more about the neurobiology of trauma and can begin to do so by reviewing "The Impact of Trauma on Brain, Experience, Behavior and Memory" by Jim Hopper, Ph.D. 2016.

http://www.jimhopper.com/pdf/Handout_for_Interviewers.pdf

Impact of Trauma on Memory and Recollection

While conducting interviews, investigators may observe that a victim's memory of the incident reported is fragmented, contains gaps of time, or is clearer in the second or third interview. These fragmented memories are normal in relation to traumatic events. The fear and trauma experienced during a sexual assault shape how memories are stored, and thus, impact how a victim may recall a memory of the incident.

Without an understanding of how traumatic memories are retained, investigators may question a victim's credibility and victims may feel shame or self-doubt because of their fragmented or incomplete memories. It is crucial that investigators are knowledgeable on the implications of trauma on memory and recall and utilize effective methods to address these implications when interviewing a victim.

How Do People Respond to Trauma?

After experiencing a traumatic event, people may experience a range of reactions. There is no wrong way to feel after a traumatic experience like sexual violence. First responders can expect virtually any type of emotional reaction by the victim. The demonstrated behaviors by the victim may appear counter-intuitive but should not influence law enforcement's treatment of the victim or their believability. Responding professionals should not make assumptions about a victim's credibility simply because their reaction differs from another victim's reaction or from what one perceives as an "appropriate" response.

All victims experience an emotional reaction to being assaulted. These reactions are all normal responses to abnormal events. Individual emotional responses will vary from person to person depending upon such factors as:

- Age;
- Coping skills;
- Previous exposure to crime or violence;
- The crime's significance to the victim;
- The extent of the availability and effectiveness of the victim's support system;
- Being a member of a vulnerable and/or marginalized community;
- Previous experience with traumatic events and loss; and
- Previous experience/exposure (good or bad) to the criminal justice system.

It is important to note that the severity of the crime, such as an Indecent Assault and Battery versus a rape, may or may not influence a victim's traumatic response or presenting affect. For example, if a victim has experienced prior sexual violence, the current incident may trigger pre-existing trauma symptoms, compounding the impact of the recent violation regardless of its legal "severity". Investigators should never solely rely on a victim's emotional response when determining the validity of a report.

VICTIMOLOGY

Common Reactions to Trauma

The following list, while not exhaustive, includes some of the more common responses to victimization and trauma:

- I. Denial: "I'm OK." "It wasn't anything, really." "I overreacted." This is also sometimes expressed as a desire to "put this behind me," "move on" or "get over this." Questioning of the assault, "I don't know if I was really sexually assaulted."
- II. Shock: Immobilized, stunned, disbelief, unable to remember what happened during the crime, unaware of events that occurred during the crime, or of others involved.
- III. Overwhelmed/disorganized: Unable to remember information or understand explanations, a need to have things repeated, being forgetful of appointments, losing papers, etc. This disruption in memory function can be indicative of trauma and may explain why a victim's story appears inconsistent at times.
- IV. Frightened: This may be expressed verbally or through actions such as not reporting the crime, delayed reporting, refusing to testify, or not responding to calls and letters.
- V. Fearful of seeing defendant and of retaliation: Afraid the perpetrator will cause further harm to self or others, afraid to report or give name and address, being startled when seeing someone who resembles the perpetrator.
- VI. Feeling vulnerable: Having trouble concentrating on their job or going about daily routines because of constant fear for safety. A sense of needing to constantly look over one's shoulder or hide changing their phone number or moving.
- VII. Guilt/Shame: "I shouldn't have...", "If only...", "I should have known better," and "It must be my fault."
- VIII. Why me?: Although we all know crime exists, we are likely to believe it will be someone else who is victimized and that we can take care of and protect ourselves.
- IX. Embarrassment: "I was stupid to have...", or "I should have fought harder." Withholding information that is perceived to be embarrassing or humiliating or pertaining to something personal/private is common.
- X. Sense of loss and subsequent grieving: Loss of belongings, money, or property. Loss of physical mobility and dexterity due to injury, loss of sense of security and trust, loss of person to death, loss of relationships because of an inability to relate to others in the same way as before the crime. If the criminal justice system does not meet expectations, there is a loss of a sense of justice, loss of a belief in the fairness and "justness" of the world.
- XI. Altered perception of safety and control: Difficulty trusting others, anxiety about safety of self and others -- "if it happened once, it will happen again" or "it happened to me, it could happen to others I love." A need for additional security in home, car, etc.

Hyper-vigilance and extreme or minor, modifications in daily routine intended to assure safety.

- XII.** Anger: Anger directed towards the perpetrator, anger or frustration towards the "system" -- want immediate action, want wrong to be righted. Anger about the adaptations in lifestyle made because of the crime. Self-directed anger -- "Why did I do this?" "Why didn't I do that?" "Why am I reacting this way?" "I don't want to feel like this." Anger is sometimes closely related to feelings of fear and vulnerability.
- XIII.** Conflict over dependence /independence: Should I "give in" and alter my lifestyle and give up some of my independence and (thereby suffer another loss) so that I feel safer? Or should I refuse to let the crime and criminal "get to me" and continue to feel anxious and unsafe?
- XIV.** Protective of family and friends: "I can't tell them everything that happened if they know everything, they will get too upset or they will never let me go anywhere alone" or "I can't tell them about my nightmares, they are already so worried about me."
- XV.** Fear of victim blaming: "Why did you walk home that way?" "Why were you carrying so much money?" "Why did you go out with him?" Sometimes victims blame themselves or perceive that others blame them and become defensive or more sensitive to this.
- XVI.** Fear of Criminal Justice system: Fear and/or perceptions about the police and courts based on media portrayals and stereotypes. Fear of harassment by defense attorney. Belief that "nothing will be done anyway" or "the defendant will just get a slap on the hand."

In addition to the above, victims may experience sleeping and/or eating disturbances and somatic complaints such as headaches, stomach problems, nausea, insomnia, self-injury, and/or suicidal tendencies. Behavioral changes may include withdrawal, isolation or, paradoxically, engaging in risk-taking behavior. There may be a change in a victim's use of alcohol or drugs as they seek some relief from the disruption and the pain they are experiencing. Relationships may change resulting in increased difficulty in maintaining social or intimate relationships. They may feel as though they are going "crazy" which is frightening on its own.

Secondary Victims

"Secondary victims" may have similar reactions to the events as the primary victim. Examples include witnesses to the crime, friends and family of the victim, those who respond to the crime scene or assist the victim (including law enforcement), and others who feel connected in some way to the crime. This is particularly true if the crime occurs within their neighborhood, community, workplace, or school, or if the victim is someone well-known or prominent, or someone they identify with, for any reason.

Although concerned for the victim, the secondary victim's own emotional reaction may make it difficult for them to respond to the victim in ways they would expect of themselves. Specific challenges may include:

- Separating fear or anger towards the victim;
- Assuming that the victim will react in a certain way and then being judgmental if they do not; Becoming overly protective or accusatory towards the victim in an attempt to gain control over the situation;
- Preventing future victimization or explain away a past one; and
- Feeling helpless and unsure of what to do.

Friends and family of a victim may need support and an opportunity to talk about their experience, just as victims and witnesses do and can access free confidential services through rape crisis centers.

POLICE RESPONSE TO SEXUAL ASSAULT

What occurs during the initial stages of an investigation is critical to the success of the investigation and cannot be overstated. The first responding officer sets the tone of the investigation which can directly impact the victim (positively or negatively) and the likelihood of an arrest and conviction.

The initial officer needs to be thorough but prepared, in all likelihood, to pass off the investigation to a certified sexual assault officer. The initial responder's primary areas of responsibilities are:

- Victim/witness safety;
- Crime scene preservation;
- Minimal facts interview;
- Identifying and locating witnesses and suspects;
- Documentation of initial response and observations; and
- Support service notification.

In keeping with a trauma-informed approach, be professional and empathetic when interacting with the victim. Remember that sexual assaults, whether by a stranger or a known assailant, are the most personal type of violation a victim can suffer. Be patient with the victim and aware that all victims exhibit or react differently so do not judge or dismiss the victim's credibility based on the external behaviors and emotions exhibited. Be cognizant that a victim may not be ready to speak with law enforcement about the incident. This is especially prevalent in cases where a third-party has reported

the incident to the police (i.e. parent, friend). Good rapport built at this stage may impact the victim's willingness to report at a later time.

If the victim is alone, inquire if there are family, friends, or a rape crisis counselor/advocate they want contacted. If the victim's clothing needs to be seized as evidence, attempt to arrange for a fresh set of the victim's own clothes to be made available.

SEXUAL ASSAULT INVESTIGATIONS PRIMER

As previously stated, each case is markedly different and presents its own circumstances and challenges. Remember, as an investigator your resourcefulness and ability to identify, locate, and retrieve witness statements and evidence is only as limited as your imagination, so follow up every possible lead and suspicion. You never know what evidence you may recover unless you try.

Categorization of Investigations

Most sexual assault investigations can be classified into two categories: consent or identity cases. Of additional importance is whether the assault was facilitated by some type of intoxicating substance.

A. "Lack of Consent" Cases

In the majority of sexual assault cases, the victim knows the identity of the assailant. That prior contact with the offender can often become a major factor in the case and significantly impact the victim's mental health, their willingness to report, and how the system(s) respond. In such cases, investigating officers should take particular note of:

- Any physical or verbal resistance on the part of the victim;
- Any victim injury, no matter the location on the body (remember to keep in mind obligations under G.L. c. 209A and 258E);
- The victim's thoughts just prior to and during the assault with an emphasis regarding any fear that the victim may have had surrounding the assailant, environment, or situation;
- Nature of relationship between victim and perpetrator
- Alcohol or drug use by the victim; and
- If the victim was unconscious or incapacitated at the time of the assault.

B. "Unknown Identity" Cases

An identity case, where the victim does not know the identity of the assailant is less common and often is a stranger on stranger type of assault. In these cases, the primary

challenge is identifying the perpetrator. Explicit details from the victim regarding the description, manner, and communications from the assailant are of particular importance. The assailant may have been previously arrested or may have committed similar crimes in the same fashion (Modus Operandi or MO in the past). Investigators should focus on obtaining as much information about the assailant as possible. Officers should:

- Obtain a detailed physical description of the offender including identifying marks such as tattoos, clothing, and any other distinctive characteristics (e.g. odors, tattoos, accents, teeth);
- Document the exact words used by assailant and assess the crime scene to determine if this particular assault is consistent with M.O. of a suspect previously arrested for a similar crime or an on-going series of assaults;
- Identify and collect any forensic evidence; and
- Utilize available DNA samples to identify suspects
- Vehicle description/ registration information

C. Substance Facilitated Sexual Assault (Consent)

Research indicates that non-stranger offenders often target intoxicated victims and that a high percentage of victims are intoxicated on alcohol when they are assaulted. These types of cases have a high prevalence on college campuses. The use of drugs/alcohol does not mitigate criminal culpability nor should the victim's sobriety be used as a reason to disbelieve the victim's report of the sexual assault. Additionally, a victim's alcohol/drug use should not be used to discredit and discourage the victim from reporting the assault. The priority is to conduct a thorough investigation of the sexual assault rather than focusing on any misdemeanor, substance abuse violations by the victim.

Although alcohol remains the primary means used to lower victim's inhibitions various drugs can also be mixed with the alcohol or other beverages without the intended victim's knowledge, ultimately resulting in their incapacitation. Often, the narcotic substances used to subdue the victim are odorless, colorless, and tasteless making it difficult for the victim to detect the presence of the drug when covertly slipped into a drink. Although the drugs may be fairly short acting, they can provide a skilled perpetrator with more than sufficient time to persuade an already intoxicated victim to leave a public area for a more private location. Once at a private location, the unsuspecting and incapacitated target can easily fall victim to a sexual assault.

In addition to the alcohol and/or narcotics impacting the victim's ability to consent to the sexual act, often the effects of the drugs can induce what is known as retrograde amnesia. This condition often makes it difficult for a victim to recall the assault specifics, how or when the victim was drugged, or even that an assault occurred at all.

These cases tend to be challenging to investigate and prosecute because of:

- The victim's apparent lack of physical resistance to the assault;
- Sometimes inconsistent statements by the victim;
- Memory blackouts or no concrete memory of the assault at all ;
- The victim is unaware of their movement/ walking, etc; and
- Possible delays in reporting.

In cases involving drug-facilitated assaults, prompt testing is required to determine and document the presence of narcotics - since degradation of those substances occurs rapidly.

Reporting Challenges

As with many crimes, the successful prosecution of a sexual assault is often predicated on the victim's willingness to report the crime to provide enough detailed information for the case to be fully investigated. This detailed information about the offense establishes the foundation and framework for the investigation.

One crucial obstacle to overcome is the ability to get detailed information while minimizing trauma to the victim. Often times, subjecting victims to duplicative detailed interviews may be necessary during the investigation. However, this must be balanced with the knowledge that multiple interviews may exacerbate victims' insecurities about being believed, potentially re-traumatize them, and may result in conflicting or inconsistent statements which could potentially undermine the victim's credibility in the ensuing prosecution. It is important that investigators are mindful of the dynamics of sexual violence as well as the systemic, cultural, and social barriers that may discourage a victim from reporting or continuing involvement with an investigation following a report.

Sexual assault is prevalent in all communities but is a crime that often goes unreported. In addition to the shame and stigma which prevents many victims from reporting, some victims face extraordinary barriers that officers should be aware of. Individual factors and circumstance such as age, gender, culture/ethnicity, disability, sexual orientation, immigration status, and prior criminal involvement are only some potential unique obstacles. Special sensitivity to victims who need to overcome added barriers when reporting sexual assaults will set a positive foundation for all subsequent law enforcement interactions.

Even with a relatively straightforward allegation of sexual assault, investigators may face some challenges including:

- Gender Bias;
- Anonymous reporting;
- Recanting;
- Unfounded reports
- False reports;

- Immigration status;
- Military personnel; or
- Jurisdictional Issues

Gender Bias

Gender bias, both internally and externally, is a form of discrimination which may result in Law Enforcement agencies providing less protection to certain victims on the basis of gender, failing to respond to crime that disproportionately harm a particular gender, or offering less robust services due to gender stereotypes.

In December, 2015, the Department of Justice produced new guidance to help Law Enforcement agencies better address gender bias in their response to sexual assault and domestic violence. They identified eight key principles to lessen gender bias by law enforcement and the agencies they represent.

EIGHT KEY PRINCIPLES:

1. Recognize and address biases, assumptions and stereotypes about victims.
2. Treat all victims with respect, and employ interviewing tactics that encourage a victim to participate and provide facts about the incident.
3. Investigate sexual assault or domestic violence complaints thoroughly and effectively.
4. Appropriately classify reports of sexual assault or domestic violence.
5. Refer victims to appropriate services.
6. Properly identify the assailant in domestic violence incidents.
7. Hold officers who commit sexual assault or domestic violence accountable.
8. Maintain, review and act upon data regarding sexual assault and domestic violence.

Anonymous Reporting:

The decision by a victim not to report a sexual assault, or to file an anonymous report with law enforcement, may occur for a variety of reasons.

Pursuant to G.L. c. 112, § 12A½, regardless of the victim's decision to report the assault to law enforcement, when a victim seeks medical treatment, the hospital is required to report the assault to the law enforcement entity of the jurisdiction using a Provider Sexual Crime Report (PSCR) without reference to the patient's name or address.

Victim Recantation:

Recantations include a retraction or withdrawal of a reported sexual assault. They are routinely used by victims to disengage the criminal justice system response and are therefore not, by themselves, indicative of a false report. Victims may not realize the toll that a criminal investigation and trial will take on them mentally, emotionally, physically, and financially. As a result they may want their involvement in the process to end. Moreover, since most cases of sexual assault are committed by someone known to the victim, pressure from the offender or concern for the offender's well-being may also be a factor.

Even in situations where the decision is made not to pursue a criminal complaint, victim referrals for medical and emotional services should be made and/or recommended. In many instances, an officer with insight, awareness and sensitivity can uncover the catalyst for the victim's recantation and assist the victim in deciding whether or not to go forward with the case.

As stated above, if the only indication that the victim may not have been truthful is that their story has been recanted, the investigator should not automatically conclude that the initial report was false. Recantation does not mean that the allegations made in the initial disclosure never occurred. There may be numerous reasons a victim recants their original statement.

Unfounded or Baseless Report:

One in which a reported sexual assault does not meet the elements of the crime. It is critical to recognize that a report determined to be unfounded is not synonymous with a false allegation or report. This is often an error of law meaning that the reporter believed that they were the victim of a crime but, based on the elements of the statute, they were not.

False Reports:

The prevalence of false reporting of sexual assault is between 2% and 10%. This statistic is comparable to other major crime reports. Investigators must always conduct a thorough, evidence based investigation. Only when sufficient evidence is established that a sexual assault did not happen should a report be determined to be false.

This is consistent with guidance provided by the FBI Uniform Crime Report (UCR) on methods for clearing cases. Specifically, the UCR Handbook states that a case can only be unfounded if it is "determined through investigation to be false or baseless. In other words, no crime occurred".

If a situation does arise where all parties involved; police, prosecutor, and victim witness advocate, agree that sufficient evidence exists to judge the report as unfounded or false, the reporting party should be informed of the outcome of the investigation in a manner consistent with department protocol.

Immigration Implications:

A survivor of sexual assault who has unstable immigration status faces additional barriers to reporting. Perpetrators of sexual assault prey on a variety of vulnerabilities of a victim including unstable immigration status -- often by making threats to have the victim turned over to immigration authorities should the victim report the crime to law enforcement. Additionally, shame surrounding the victimization and/or fear of rejection by a cultural community coupled with realities in a victim's home country where reports of sexual assault or domestic violence may not be taken seriously all exacerbate a victim's reluctance to report.

Victims who are undocumented overwhelmingly report the strong fear of deportation as a primary barrier to reporting crimes. Reassuring a victim that reporting to law enforcement will not trigger adverse immigration enforcement can alleviate this barrier. Officers should be aware of appropriate protocols for interviewing and assisting non-English-speaking victims. Undocumented victims of crimes may have relief available to them under immigration law.

Military Personnel:

If, during the course of your investigation, it becomes apparent that the victim is a member of any branch of the military, it is recommended that you provide the victim with the contact information for the Department of Defense's Safe Helpline (1-877-995-5247 or <https://www.safehelpline.org/> . If, during the course of your investigation, it becomes apparent that the subject is a member of any branch of the military, it is recommended that his or her Sexual Assault Response Coordinator or Judge Advocate General be informed. Sexual Assault is a punishable offense in the military and, in addition to being held accountable by the civilian law enforcement system, offenders may be subject to penalties enforced by the Department of Defense.

Jurisdictional Issues/Courtesy Reports

As with any reported crime, one of the first facts an investigator must determine is if the reporting party is in the correct jurisdiction. If it becomes apparent to the investigator that the sexual assault occurred outside their jurisdiction, the receiving department should take the initial report (minimal facts interview) and assess the victim's safety. The officer should also offer the victim all the support services and referrals afforded to any victim that would be

reporting an assault in their own respective jurisdiction. After taking the initial report, the investigating officer should notify and make a soft hand-off to the department of jurisdiction and help coordinate the transition to the other jurisdiction.

Considerations for Victim Interviews

Police officers are often confronted with less than ideal circumstances and have to adapt to the conditions presented. In keeping with a trauma-informed approach, deliberate consideration and decisions about the practical aspects of the interview cannot be overstated. It is strongly discouraged that friends or family be present during the victim interview. The presence of an advocate should be determined on a case-by-case basis or as determined by the victim. The hardest part of the interview will be building trust and rapport with the victim; however, developing both will make the victim more comfortable and the interview easier.

The ideal number of police officers conducting the interview is two. One is less than preferable for a variety of reasons, the least of which is officer protection. More than two is strongly discouraged. Asking the victim to recount details of an assault is difficult enough but to ask him/her to do so in front of numerous people will only act as an inhibitor and detract from the interview.

The tone of the interview should be reassuring and poised. Officers should be aware of their body language and how it can impact the comfort level of a victim (e.g. an exposed weapon may create discomfort for the victim).

Officers conducting the interview should take an inventory of any personal bias, nervousness, or barriers they may have which might inhibit their ability to conduct the interview. If a bias is recognized, discuss the issue or concerns with a supervisor for resolution.

Be cognizant of the framework in which the questions are asked. The “why” types of questions, although sometimes important, may feel judgmental to the victim. Either consider rephrasing the question or explain to the victim the need to ask the questions and why that specific information is being sought.

Considerations for Suspect Interviews

The goal of the interview should be to get at least a baseline statement from the suspect. Officers should let the suspect relate his/her entire statement before shifting to an interrogation style, if the shift occurs at all.

It is important that the suspect's statement about the sexual assault and the circumstances surrounding the entire occurrence and relationship be obtained and documented carefully. Very often the criminal prosecution of a sexual assault hinges on the victim's word against the suspect's word. The tipping point in successful prosecutions can often be the corroboration of the more benign details of the victim's statement which brings credibility and credence to their entire statement. Small corroborations often end in big results.

FIRST COMPLAINT WITNESS

- a. One unique element in dealing with witnesses in sexual assault cases is the ability to use the testimony of "first complaint" witnesses. Under the "first complaint" doctrine, a witness to a sexual assault victim's "first complaint" of the crime may testify about:
 - The facts of the first complaint;
 - The details of the crime; and
 - The circumstances surrounding the disclosure of the first complaint.
- b. First complaint testimony may only be used for a limited purpose to assist the jury in assessing and determining the victim's credibility about the alleged sexual assault. The testimony may not be used to prove the truth of the allegations.
- c. Law enforcement officials, investigators, medical personnel, social workers, dispatchers and civilians may all qualify as "first complaint" witnesses if they are the first person the victim told about the assault.
- d. An officer should not discount other witness statements which fail to meet the legal definition of a "first complaint" witness. Their information may be equally relevant and useful during the investigation and/or at trial in another capacity. There are a number of exceptions which may permit someone other than the "first complaint" witness to testify including:
 - 1) Original first complaint witness is unavailable;
 - First person told is incompetent;
 - First person told is too young to testify meaningfully;
 - First encounter that the victim has with the first person does not amount to a complaint; and
 - There is a complaint, but the listener has an obvious bias or motive to minimize or distort the victim's remarks.
- e. Documenting the exact words spoken by the victim to the first complaint witness communicating the assault is critical. Remember, what may seem to be inconsequential information at the time of the interview may prove to be crucial information at a later time and help portray a full and complete picture. It is also recommended that when possible, the interview should be videotaped and/or audio taped.

CROSSOVER OFFENSES

Human Trafficking

In 2012 the Commonwealth passed Anti Human trafficking legislation in efforts to better address all forms of Human Trafficking. In particular, Sex Trafficking is prevalent in Massachusetts and can often intersect with other offenses including sexual assault, domestic violence. The statute defines adults as over 18 and children as under 18. Anyone who is a mandated reporter and who suspects a child is the victim of Child Sex Trafficking is required to file a (51A) report with DCF.

Sex traffickers often use violence, threats, lies, debt bondage, and other forms of coercion to compel adults and children to engage in commercial sex acts. Many victims become romantically involved with someone who then coerces or manipulates them into sexual conduct for a fee. Others are lured in with false promises of a job, such as modeling or dancing and, once indoctrinated into performing sexual conduct for a fee, find it very difficult to get out due to a variety of reasons.

Victims of trafficking may be involved in a trafficking situation for a few days or weeks, or may remain in the same trafficking situation for years. Victims of sex trafficking can be U.S. citizens, foreign nationals, women, men, children, and LGBTQ individuals. Vulnerable populations are frequently targeted by traffickers, including runaway and homeless youth, as well as victims of domestic violence, sexual assault, war, or social discrimination.

Sex trafficking occurs in a range of venues including fake massage businesses, online ads, escort services, residential brothels, on the streets or at truck stops, or at hotels and motels.

Victims of trafficking often do not self-identify as victims and may be at high risk for retaliatory violence from their trafficker. The degree of victimization often suffered by victims of trafficking can be extensive and are best addressed through a multidisciplinary approach. Officers who become involved with a victim/ investigation involving sex trafficking are encouraged to contact their local District Attorney's Office, the AG's Office, or the State Police High Risk Victim Unit for assistance.

Domestic Violence

There will be times when sexual assault investigations may involve an intimate partner relationship. This can add another layer of challenges for the victim. Some emotions may

include shame, embarrassment and fear, all of which can play a major role in completing your investigation.

It is crucial for law enforcement officers to be familiar with the dynamics of domestic abuse. Specifically, how an abuser acts toward their victim and how the victim reacts to their abuser. A lack of understanding of the complexities of these dynamics frequently results in blaming the victim and manipulation of the criminal justice system by the abuser.

Law enforcement officers arriving at an incident are likely to find 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 their right to no contact, bail the abuser out of jail or recant in court, accusing the officer of lying. Victims may do these things in an attempt to keep themselves and their children safe.

Another critical component to protecting victims and investigating domestic abuse is to understand that when an abuser believes they are losing control over the victim, the risk of serious injury, sexual assault, stalking and homicide increases.

In situations such as these, it is recommended you refer to the 2017 Domestic Violence Guidelines.

Strangulation and Sexual Assault:

There is a strong correlation between strangulation, sexual assault, and intimate partner violence. Strangulation is one of many tools an offender can use against their victim. When strangulation is used to control or subdue a victim it increases the possibility of lethality. Victims who report being strangled should be strongly encouraged to seek a medical exam. Although they may not exhibit immediate visible physical signs, there may be internal trauma which requires both treatment and documentation.

Many times offenders get aroused from the strangulation of their victim, therefore, essentially torturing the victim bringing them in and out of consciousness.

Strangulation is clearly one of the significant dangerousness factors that is often misunderstood or misidentified.

Strangulation and Choking are not the same:

Despite the high fatality risk of strangulation, it is often mistaken for something less serious. The word 'choking' minimizes the severity of strangulation for victims, abusers, law enforcement, and court personnel.

Choking is when a food object lodges in a person's throat while they are eating and temporarily stops the person's breathing.

Strangulation is when a person constricts the neck or throat of another person in order to block their air flow. Victims may have no visible injuries whatsoever, yet because of underlying physiological dangers, it is very important that the victim receives medical attention. Victims may have serious internal injuries which could lead to death hours, days, or even weeks later.

In order 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 occurred.

The general clinical sequence of a victim who is being strangled is:

- Severe pain
- Followed by unconsciousness
- Followed by brain death.

The victim will lose consciousness by any one or all of the following:

- blocking of the carotid arteries (depriving the brain of oxygen);
- blocking of the jugular veins (preventing deoxygenated blood from exiting the brain);
- And closing off the airway, causing the victim to be unable to breath.

Physical Symptoms of Victims:

- Spots around eyes or face from a ruptured capillary
- Bruising
- Impression marks, rope or cord burns
- Swelling of the neck
- Loss of bodily functions
- Ringing ears or light-headedness, raspy voice
- Difficulty talking, breathing, or swallowing
- Sore throat, bleeding from the mouth
- Fainting
- Petechiae behind ears; bleeding from ear canals

Physical Evidence on Perpetrator:

- Scratches or cuts
- Bite marks on the arms, hands, or chest
- Finger impressions on hands or arms

Lethal Progression:

- 10 Seconds: pass out
- 20 seconds: should bounce back on own
- 30 seconds: need to revive if they don't bounce back
- 50-100 seconds: point of no return
- 4 minutes (or less): brain death

VICTIM SUPPORT SERVICES

Massachusetts Rape Crisis Counselor

Rape crisis centers offer assistance to victims of sexual assault, their significant others, professionals, and community members. Although rape crisis centers in Massachusetts may vary in the services available, all rape crisis centers offer crisis intervention services. Services may include a 24-hour hotline, legal advocacy, clinical services, and community outreach and education. All services are free and confidential.

Hospital personnel may directly contact community-based rape crisis counselors in addition to contacting a Sexual Assault Nurse Examiner (SANE). A rape crisis counselor may also be specifically requested by the victim. Although law enforcement can also directly contact a rape crisis counselor to respond to an emergency department, this is not a recommended procedure because of victim privacy concerns. Instead, it is recommended that law enforcement ensure that hospital staff and the victim are aware of the contact information for local rape crisis services.

In the immediate aftermath of an assault, victims must make decisions impacting their medical care, safety, and legal options. An advocate can provide information to assist the victim (and her/his family) in making the best decisions for themselves and their families.

Counselors, sometimes referred to as “counselor” or “advocate,” provide compassionate and knowledgeable support to victims and their families in hospital emergency departments. Counselors can accompany the victim throughout the entire forensic exam if the victim chooses. Counselors can also be helpful with safety planning, arranging transportation, and service referrals.

Rape crisis counselors are part of the system of support that helps victims get through the medical/evidence collection process and understand future options. They are not there to hinder law enforcement's efforts and ability to obtain information and/or evidence.

Under G.L. c. 233, § 20J, information transmitted in confidence by and between a victim of sexual assault and a certified rape counselor (no third parties present) is considered a confidential communication and is legally protected. Even though a victim may have shared relevant information with the rape crisis counselor about the assault, unless the victim gives the counselor express permission to share that communication with law enforcement, the advocate is under a legal obligation to hold that information confidentially and not disclose any privileged information.

The Victim Witness Advocate (Office of the District Attorney)

Pursuant to G.L. c. 258B all District Attorney's Offices must have a victim witness assistance program. Victim witness advocates (VWAs) provide immediate crisis assessment and intervention services with victims, witnesses, and their families. Advocates make initial contact with victims on behalf of the District Attorney's Office and help them to assess their most immediate needs—for safety, counseling, medical care, and emergency financial assistance. Additionally, VWAs facilitate referrals to services in the community.

The VWA is responsible for ensuring victims are afforded their rights under G.L. c. 258B including explanations about: the court process, the victim's role in it, what is expected of them, court hearings and any changes in scheduling. VWAs keep victims and witnesses apprised of the status of the case involving them, provide information about how to be notified of an offender's release from custody, and how to access local support and services. VWAs support victims in their right to give input into sentencing including: plea and sentence recommendations from the prosecutor and victim impact statements to the court.

The VWAs work together with prosecutors to prepare victims for testifying, answering questions, accompany the victim in court, and assist victims with applying for Victim of Violent Crime Compensation assistance.

Victims of Violent Crime Compensation

Since law enforcement is often a victim's first interaction with the criminal justice system, police should be familiar with Victims of Violent Crime Compensation, a state program created by G.L. c. 258C and administered through the Attorney General's Office Victim Compensation and Assistance Division. Police officers should adopt a routine practice of advising victims of violent crimes about this potential and critical financial assistance and of other important available resources.

Victims who may be eligible for Victim Compensation:

- Victims of a violent crime that occurred in Massachusetts;
- Dependents and family members of homicide victims; and
- Any person responsible for the funeral expenses of a homicide victim.

Direct Billing of Forensic Sexual Assault Exam Expenses:

Under the federal Violence Against Women Act (VAWA), states are now required to develop a process to cover the full out-of-pocket costs for sexual assault forensic medical exams and ensure that a victim is not billed for any services provided within the emergency department.

Specifically, the state must coordinate with healthcare providers to ensure that victims are aware that medical forensic examinations are available free of cost, and that a patient will not be required to participate in any way in the criminal justice system or cooperate with law enforcement as a condition of receiving these services. All expenses that occur from the moment the survivor comes to an emergency department (ED) through their discharge from the ED or a transfer to an inpatient or other level of care can be covered by direct billing of these expenses from the hospital/clinic to the Victim Compensation Program. This includes:

- Physician fees that are part of or assigned to the facility and included in the overall facility fee
- Facility fees
- Room and Board, Ancillary services (labs, tox screens, etc.), Imaging services, and Medications (e.g., starter pack of prophylactic medications including Truvada, Flagyl, HIV meds, etc.) provided during treatment and prior to discharge.

Criteria for Payments:

- The assault occurred in Massachusetts
- A Forensic Sexual Exam Kit was administered
- Invoice submitted directly to VCAD within 90 days from the date of service or receipt of an insurer's Explanation of Benefits (EOB)
- Survivor may elect to use their insurance benefits, but are not required to do so
- Compensation Requirements:
- Hospital directly submits an itemized bill
- Must include "Attachment B" that outlines: incident location, name of treating facility, date of treatment, patient information, and forensic kit number.

Massachusetts Forensic Sexual Assault Post Exam Expense Application Requirements:

- Forensic Sexual Assault Kit must be administered
- Crime must have occurred in Massachusetts and does not require a police report
- Claim must be submitted within three years from the date of the crime
- Requires a completed Victim Compensation Forensic Sexual Assault Post Exam application (provided to the survivor at the time of the administration of the kit), a copy of the Treatment and Discharge Form with the kit number, and any copies of bills or receipts related to the exam
- Covers any aftercare (medical treatment or medications), counseling, lost wages, replacement bedding/clothing costs (if seized as a result of a criminal investigation), security measures, and professional crime scene cleanup costs deemed medically necessary as a result of the sexual assault.

Massachusetts Application for Crime Victim Compensation Requirements:

- The violent crime must have occurred in Massachusetts and have been reported to police within five days unless there is good cause for delay. Sexual assault is exempt from this requirement. (Note: A Sexual Assault survivor, who has not had a forensic

sexual assault kit administered, must still file a police report for the purposes of their Victim Compensation application)

- Completed application must be submitted within three years from the date of the crime
- A completed application entails copies of bills, receipts, pay stubs and any other documentation of applicable expenses incurred as a result of the crime, but these additional supporting documents are not required when a survivor initially submits their application to the division.

Financial expenses that may be compensated:

- Medical, dental, counseling, and funeral/burial expenses
- Victim's lost wages
- Loss of financial support for dependents of homicide victims and homemaker expenses

Applications are available at: <http://www.mass.gov/ago/public-safety/resourcesforvictims/victims-of-violent-crime/victim-compensation.html>

Additional questions or training requests can be directed to the Division at VCCorrespondence@state.ma.us or by phone to 617-963-2160.

MA Office for Victim Assistance (MOVA) / Victim Witness Assistance Board

The Massachusetts Office for Victim Assistance (MOVA) is an independent state agency established to uphold and advance the rights of crime victims. While MOVA primarily administers victim service program funding, offer training and education opportunities, and advocate for policy change they do offer some direct referral assistance to crime victims. Victim service staff are available during normal business hours and can connect victims to services across Massachusetts. Victims can call MOVA at 844-878-6682. MOVA also administers a website specifically for victims of violence seeking assistance. www.AskMOVA.org allows victims to input their zip code, crime type impacting them and their service need to gain information about the free victim service providers in their area.

For more information about MOVA including: training opportunities, funded programs and policy/legislative initiatives to advance victim rights go to www.mass.gov/mova

Victim Notification Registry for Law Enforcement Agencies

The Victim Notification Registry (VNR) is an internet application maintained by the Department of Criminal Justice Information Services (DCJIS) and provides the ability to register victims for notification of an offender's release from incarceration or for access to an offender's Board of Probation (BOP) record.

Access to the VNR can be granted to personnel at any qualified law enforcement agency.

To obtain VNR access, please call the DCJIS Victim Services Unit at 617.660.4690.

SEXUAL ASSAULTS AT COLLEGES & UNIVERSITIES

Overview

Sexual assault on college campuses is a widespread, growing problem. According to the 2014 White House Task Force report on the issue of campus sexual assault in the United States, one in five women who attend a college or university will become a victim of sexual assault. Issues pertaining to the institution's legal requirements, physical environment, and campus culture can present unique challenges for the criminal investigation.

Procedurally, investigators need to be aware of legal requirements that colleges and universities are bound by when they become aware of complaints of sexual assault. The Jeanne Clery Disclosure of Campus Security Policies and Campus Crime Statistics Act (Clery Act), the Violence Against Women Reauthorization Act of 2013 (VAWA), and Title IX of the Educational Amendments of 1972 (Title IX), all contain requirements for certain actions, such as notice to the campus community and sometimes even a concurrent, judicial investigation, that need to be undertaken by the institution in response to these complaints. Becoming familiar with and understanding these requirements can help prevent conflict between the criminal investigators and the school administration.

Environmentally, a college or university can be very different from the city or town where it is located. On-campus residence halls and buildings are typically high-density areas which can increase the likelihood of locating witnesses. Many campuses also utilize technology such as surveillance cameras and access-control devices which can contain data useful to the investigation. In addition, the campus environment is likely to provide robust support resources for the victim/survivor, therefore, a working knowledge of these resources can help the investigator to assist the victim/survivor through the investigation process.

Culturally, the campus environment has a typically youthful population, many of whom are just learning to live day-to-day without direct parental supervision. This adjustment often leads to high-risk behaviors such as increased substance abuse, a high susceptibility to peer pressure, and an over willingness to trust other community members. Substance-facilitated sexual assaults occur at an alarming rate at colleges and universities with approximately half of all rapes experienced by college students involve alcohol use knowingly or unknowingly consumed by perpetrator or victim.

Jurisdiction/Collaboration

The structural makeup of Law enforcement at colleges and universities can take many forms. Some campuses maintain their own police departments with full-time, fully-sworn officers who are trained and equipped to handle incidents of sexual assault. Others will maintain a security department that will provide a presence to protect the campus, but will rely on the municipal police or the Massachusetts State Police to conduct criminal investigations. It is essential for

investigators to know exactly where the jurisdictional boundaries for each incident lie and who will be the lead in the investigation.

It is recommended that the local police departments establish a Memorandum of Understanding (MOU) with the colleges/universities in their area. The purpose of these MOUs is to clearly establish expectations and responsibilities between the campus administration, campus law enforcement, and city/town/state law enforcement. An MOU regarding sexual assault investigations should include, but not be limited to the following:

- A clear definition of jurisdictional boundaries
- An established system of information sharing between the involved entities regarding reports of sexual assault
- A response plan for incidents of sexual assault, including identifying the primary responders as well as expectations for assistance
- A plan for providing/obtaining support resources for the victim

Having a clearly-established plan beforehand reduces the likelihood of conflict between the criminal investigators and the institution and will facilitate a smoother investigation.

Institutional Responsibilities

Federal Laws such as The Jeanne Clery Disclosure of Campus Security Policies and Campus Crime Statistics Act (Clery Act), the Violence Against Women Reauthorization Act of 2013 (VAWA), and Title IX of the Educational Amendments of 1972 (Title IX), are what establish best practices and responsibilities for colleges and universities when dealing with reports of sexual assault. Failure of the institution to comply with these laws can result in hefty fines and loss of federal funding.

Among the many requirements set forth by these laws are:

- Timely notification to the community if the reported crime is believed to cause an ongoing risk.
- In cases where the suspect is a student or employee of the institution, the institution is obligated to take immediate mitigating action to protect the victim and any other member of the community. This can include re-location, suspension, or expulsion.
- A resolution process must be established for investigation and adjudication of offenders by the rules of the institution. This will include a hearing process during which both suspect and victim may be interviewed regardless of the status on any ongoing criminal investigation.
- Yearly requests for local police departments to provide crime data on a variety of specified crimes, including sexual assault.

Some of these requirements pose unique circumstances for investigators. For example, there can be several legitimate reasons to control the disclosure of information related to ongoing investigations, yet federal law requires the institution to inform their community (see above). It can also be challenging for police to get a statement from suspects who feel that they are already being “punished” by being relocated from their residence hall or suspended from their institution.

These challenges can often be overcome by establishing a cooperative relationship with the institution (and the establishment of MOUs as discussed in the preceding section). An investigator must be aware that reports of sexual assault will trigger mandatory responses from

colleges and universities and it is best for the victim and the investigation to avoid conflict whenever possible. Working with the institution, it can be possible to satisfy the Federal requirements without negatively impacting the investigation.

Potential Advantages of the College/University Environment

Despite the aforementioned challenges that can come with conducting a sexual assault investigation on a college campus, there can also be a variety of advantages to conducting an investigation within that environment. Knowledge of these can assist both the investigator and the victim during the investigative process.

If your victim is a student at a college/university, the institution will be able to offer them assistance in coping with the assault. Some of the resources available to students can include:

- No-contact orders
- Counseling services
- Re-location from their current residence hall
- Academic accommodations, such as a change of classes or re-scheduling of tests
- Ability to temporarily withdraw from the institution, without penalty, while under the stress of the investigation/prosecution

Each institution should have a staffer assigned as their “Title IX Coordinator”, as well as an office that oversees the campus resolution. These are the offices that will be assisting victims of sexual assault; they should be included in any MOUs and would be the people who your victim would most likely be in contact with to obtain services through the institution.

In addition to having the ability to directly provide resources to the victim, the college campus can typically offer advantages to an investigator in terms of information and technology. Among these may be:

- Biographical/contact information for involved parties, including local addresses, cell phone, and email contact
- Vehicle information if one of the involved parties has a vehicle with an on-campus parking pass
- Video surveillance systems
- Access control systems that can indicate who/when gained access to a building or area

Campus “Culture”: Considerations for the Investigator

The average campus environment consists of a resident student population that is predominately between the ages of eighteen and twenty-two. Many of these students are living away from their parents or guardians for the first time. These factors, especially when combined with stereotypes of campuses as a “party” atmosphere, can lead to high-risk behaviors concerning substance abuse and sexual activity.

Investigators who are involved with sexual assault cases on college campuses should be aware that the following factors may come in play:

- Roughly half of all rapes experienced by college students involve alcohol use knowingly or unknowingly consumed by perpetrator or victim. If the perpetrator or victim report having attended a social event or party prior to the criminal act, the investigator should consider questioning others who were at that event in regards to what

beverages/substances were provided to patrons, and if anyone reported unusual circumstances as a result of consumption.

- The intentional use of drugs or alcohol to impair the victim's ability to consent is a practice that is utilized during both stranger and acquaintance assaults. If the investigation reveals, in a timely manner, that the victim may have ingested a substance that contributed to the assault, the investigator should consider requesting a drug screening.
- Drinking games, commonly played at social events on college campuses, can be a way for victims to consume more alcohol than they can handle without realizing it. Games such as "beer pong", "quarters", "flip cup", and "King's cup", among many others, can contribute to rapid intoxication and impair a victim's capacity to give consent. These games can also be used by more experienced drinkers to incapacitate those who have a lower tolerance for alcohol.
- Colleges and universities typically foster a strong "community" atmosphere which can lead to a false sense of security. Leaving doors and windows unlocked, allowing strangers access to a room, etc. can be seen as "irresponsible" behavior but are often common practices when students feel that they can trust others simply because they are fellow students.

Colleges and universities can prove to be challenging places to conduct a sexual assault investigation, especially when not prepared for the nuances of the environment. Gaining knowledge of the institution's legal and procedural requirements, as well as an understanding of the institution's resources and aspects of student life, can help navigate this environment and improve the chances for a successful investigation. This knowledge is best gained beforehand; opening channels of communication with the institution and establishing a well-written Memorandum of Understanding should be a priority for police agencies who will conduct investigations within the campus environment.

MISSING PERSONS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.08	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 41.2.5, 41.2.6	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

A missing person is one who is absent with no apparent reason or under circumstances which may indicate involuntary disappearance. It should be remembered that missing persons are not fugitives and often have voluntarily left home for personal reasons, of which the person making the report may be reluctant to inform the police. Despite limited resources and the fact that many of these reports may be unfounded or unnecessary, the department cannot ignore such reports and must be prepared to respond to all missing persons reports.

II. POLICY

It is the policy of this department to:

- A. Ensure that reports of missing persons are promptly recorded, assessed, and investigated.
- B. Ensure that response to calls for missing children shall be given a priority, and great care shall be exercised in investigating any missing child case, as all missing children must be considered at risk until circumstance prove otherwise.[41.2.6(a)]

III. DEFINITIONS

C. AMBER Alert : (America's Missing: Broadcast Emergency Response) - A voluntary, cooperative effort involving the Massachusetts Chiefs of Police Association, State Police, MEMA, and local broadcasters. Radio, cable and television stations statewide will receive a child abduction alert message and may broadcast it every thirty minutes for up to four hours to solicit the public's assistance in recovering an abducted child and quickly apprehending the suspect.

IV. PROCEDURES

D. Missing Persons, Initial Response

1. CALL TAKER

- a. Upon receipt of a missing person complaint, the call taker shall log the call and screen the incident for an appropriate initial police response.

- b. The dispatcher shall immediately ascertain:
 - 1) The age of the person;
 - 2) Circumstance under which [s]he was discovered missing;
 - i. Missing from home;
 - ii. Missing from a public place;
 - iii. Missing for several days;
 - iv. Runaway; or
 - v. Overdue.
 - 3) Endangerment (medical condition, handicap, clothing, abduction).
- c. If the call is a report of a missing child or any person considered to be in immediate danger, the call shall be considered high priority and the dispatcher shall:
 - 4) Immediately dispatch two patrols to respond to the scene (if a second patrol is available);
 - 5) Notify the supervisor; [42.2.6(b)]
 - 6) Notify the on-duty detective or Investigations Supervisor.
- d. For all other missing person calls, the dispatcher shall dispatch an officer to take a report and begin a preliminary investigation.
- e. Officers should patrol local locations where the missing person may be located, if circumstances permit.
- f. The dispatcher shall obtain other information, if possible, to relay to responding officers to aid them.

2. PRELIMINARY INVESTIGATION [41.2.5(A)]

- g. An officer shall be assigned to assess the situation and conduct a preliminary investigation.
- h. As much of the following information as possible shall be obtained:
 - 7) A description of the missing person, including:
 - vi. Name;
 - vii. Age;
 - viii. Gender;
 - ix. Physical description;
 - x. Clothing description;
 - xi. Details of any known mental, emotional or physical impairment and any medications. If medications are required,
 - a) The type,
 - b) Frequency, and
 - c) Last administration should be ascertained, if possible;
 - 8) Time and place at which the person was last seen;
 - 9) Names and relationships of anyone who may be with the person;
 - 10) Any likely destination;

- 11) The name and address of the person making the report and his/her relationship with the missing person;
 - 12) The extent of any search already performed by the caller or other parties, including a list of friends, coworkers, and associates who have been contacted and a list of any who have not been reached;
 - 13) Whether the person has ever been reported missing on previous occasions;
 - 14) Other information that may be useful in locating the person (for example, particular habits or personal interests, places frequented, location of out-of-town relatives or friends, etc.) and determining whether the person is a potential victim of foul play;
 - 15) Whether the person is drug dependent (prescribed medication, or user's habit); and
 - 16) The reason for any delay in reporting the person missing.
- i. Appropriate steps shall be taken if the missing person is considered to be "at risk," including juveniles, the elderly, the mentally impaired or the suicidal. Further information is available in **Special Considerations** in this policy.
3. DISSEMINATION OF MISSING PERSON INFORMATION [42.2.5(B)]
 - j. CJIS Entry: The dispatcher shall enter the missing person into the CJIS Missing Persons data base. If appropriate, an administrative message may also be sent regarding the missing person. For further information, see the department policy on **Communications** . [42.2.5(c)]
 - 17) Missing Person Under 21: Immediately upon notification of the incident by the reporting party, even if a written report has not yet been completed.
 - 18) Missing Person 21 or Older: Immediately once a missing person report has been completed and signed by the reporting party.
 - k. The dispatcher shall broadcast to all personnel on duty all information necessary for the recognition and identification of the missing person.
 - l. If appropriate, the dispatcher may broadcast the missing person information to other government departments (highway and water departments, etc.) and other police agencies (neighboring police, State Police).

E. Missing Children, Initial Response

4. The initial response to missing children complaints shall include the procedures outlined in the previous section, and in addition, the following procedures as well.
5. FIRST ARRIVING OFFICER
 - m. The officer taking the report for the preliminary investigation shall quickly evaluate the situation, and seek consent (if necessary) for police to conduct an immediate hasty search of the area where the child was last seen (including the home).
 - n. The officer shall notify the supervisor if the circumstances appear to meet the criteria for an AMBER Alert.
 - o. The reporting officer shall obtain the following mandatory information for entry into CJIS: [41.2.6(c)]
 - xii. Date of birth;
 - xiii. Date of emancipation (age 18);
 - xiv. Date of last contact;
 - xv. Eye color;

- xvi. Hair color;
 - xvii. Height;
 - xviii. Name;
 - xix. Race;
 - xx. Sex; and
 - xxi. Weight.
- p. The officer shall determine other relevant information, such as:
- 19) Whether the child's absence is a significant deviation from established patterns of behavior and cannot be explained;
 - 20) Whether the child may be with adults, including parents and other relatives, who may endanger the welfare of the child; and
 - 21) The name of the school the child attends and, if relevant, the name of the person who was supposed to pick up the child.

6. ADDITIONAL OFFICERS

- q. If a young child is reported to be immediately missing, the second (and subsequent, if necessary) officer will conduct a hasty search of the area in which the child was last seen, to include the child's home and the curtilage of the home. Children, though missing, are often discovered to be hiding or sleeping.
- NOTE: In order to enter private property in search of a missing person, ordinarily a search warrant is required. However, in a true emergency situation, there is no need for a warrant to enter premises where the officer has reason to believe the missing person is located.
- r. If the child is reported missing from a public area, such as a store or mall, additional resources must be brought to bear quickly. Such resources may include:
- 22) Additional police;
 - 23) Store employees;
 - 24) Mall security; and
 - 25) Other government employees.
- s. If the child is missing in a rural area, conduct a hasty search. See **Search and Rescue** in the department policy on **Special Operations**.
- t. A permanent record shall be made of what activity is undertaken to locate the child.

7. "AMBER" ALERT [41.2.6(D)]

- u. Criteria for Alert: The AMBER alert system may be activated providing:
- 26) The child is age 17 or younger;
 - 27) The police believe the child is in danger of serious bodily harm or death; and
 - 28) There is enough descriptive information about the child, abductor, and/or the suspect's vehicle to believe the immediate broadcast alert will help.
- v. An AMBER alert is not appropriate in cases where:
- 29) No foul play is suspected;
 - 30) The child is a runaway;

- 31) The child is missing as a result of a custodial dispute and the child is not considered to be at risk of bodily harm or death; or
- 32) An adult is missing.
- w. A supervisor may authorize a request for an AMBER alert.
 - 33) An AMBER Alert activation request form should be completed prior to making such request. A current photo of the child, suspect, and/or suspect vehicle, should be provided if available, preferably in electronic format.
 - 34) The request shall be reviewed by a supervisor to ensure that, in the supervisor's opinion, the criteria for such an activation request have been met and that such an activation is appropriate.
 - 35) The request shall be made either:
 - xxii. Orally by telephone by calling the State Police Communications Section 508-820-2121; or
 - xxiii. By faxing an AMBER Alert activation request, 508-820-2150.
 - 36) The request will be screened by a State Police AMBER Alert Activation Officer. The supervisor shall be prepared to confirm the information with the State Police AMBER Alert Activation Officer.
- x. Termination: The State Police Communication Section shall be notified immediately in the event that the child is found or recovered, or if the circumstances no longer meet the activation criteria.

F. Follow-Up Investigation [41.2.5(e), 41.2.6(f)]

8. INVESTIGATOR

- y. The investigating officer should interview the person who reported the person missing to verify information already available and to obtain further facts which may be helpful to the investigation.
- z. Where appropriate, police records should be consulted for any further information about the missing person.

9. ADDITIONAL MATERIALS

- aa. The investigator shall request written authorization for the release of medical and dental records. (See Release Form.)
- bb. The investigator may request additional materials for investigative purposes, as appropriate:
 - 37) Photographs of the victim for disbursement to police patrols, the media, and other organizations supporting the search or investigation;
 - 38) A DNA kit (if available) or a toothbrush, brush, or other source of cells for DNA testing; and
 - 39) A copy of the missing person's fingerprints, if available.

10. INVESTIGATOR NOTIFICATIONS

- cc. The District Attorney's office (CPAC) may be notified.
- dd. The Massachusetts Missing Persons Clearing House should be notified:
Commonwealth Fusion Center, 124 Acton Street, Maynard, MA, 01754, Voice (978) 451-3700, FAX: (978) 451-3707.

ee. In cases of apparent stranger abductions, the FBI field office should be contacted
[Boston Office 617-742-5533]

11. MISSING CHILDREN NOTIFICATIONS

ff. MANDATORY: The last known elementary or secondary school where the child was enrolled shall be notified in accordance with Massachusetts law.

40) Such schools are required to mark the records of missing children and report any requests for such records to police.

41) Upon finding the child, the school shall be notified in order to remove "lost child" markings.

gg. National Center for Missing and Exploited Children HOTLINE: Report missing children, 1-800-THE-LOST (1-800-843-5678).

12. MEDIA NOTIFICATION: Notification of the general public through any of the news media can be valuable in locating a missing person.

hh. A decision to use the media shall be made after approval by the Chief of Police and consultation with the family of the missing person.

ii. Considerations should be made for "at risk" missing persons.

13. CONTACT WITH REPORTING PARTY: Investigators assigned to a missing person case should maintain contact with the family members and/or the reporting party. A follow-up report shall be filed within ten (10) days of the filing of the missing person report, with additional reports on the status of the investigation filed at least every month for as long as the case remains open.

G. Special Considerations

14. VOLUNTARILY MISSING (RUNAWAY) JUVENILES

jj. A voluntarily missing case investigation focuses on the family, friends, school, and lifestyle of the missing juvenile.

kk. In determining whether a juvenile is voluntarily missing, officers should consider whether the juvenile took any items to which [s]he has a particular sentimental attachment.

ll. Other units in the department and nearby jurisdictions should be informed of the case and provided with pictures of the missing juvenile.

mm. The officer should instruct the parent(s) to secure a Child in Need of Services (CHINS) warrant from the juvenile court as soon as possible to aid in the recovery of the juvenile.

42) The CHINS warrant will be entered into WMS by the court.

43) An officer may arrest a runaway child without a CHINS warrant if the officer has probable cause to believe that the child has run away from the home of his/her parents and may not respond to a summons (will run away again).

nn. Any indication of neglect or abuse in the family should be considered, and upon recovery of the missing juvenile, appropriate follow-up action shall be taken by the investigating officer where appropriate, including filing a neglect and abuse report with the Department of Social Services.

15. PARENTAL KIDNAPPING

oo. A non-custodial parental kidnapping case requires a thorough investigation, as the abducting parent is in violation of the law, and the juvenile abducted by a parent may be

in serious danger. The investigation focuses on the abductor parent, his/her friends and relatives, and on the needs of the juvenile for public care.

pp. A thorough check of bank records, employment, labor unions, credit bureaus, and any other governmental agencies should be made in an attempt to locate the abductor.

44) Child Support Enforcement, Massachusetts Department of Revenue: 1-800-332-2733

45) Federal Parent Locator Service: (202) 260-7855 FAX: (202) 401-5647

qq. If friends or relatives are thought to be in contact with the abductor through the mail, the postal inspector's office may be asked to place a "cover" on that individual's mail.

rr. When sufficient supporting data is provided, criminal charges should be filed against the abductor parent and an arrest warrant obtained.

46) The District Attorney's office should be notified in noncustodial parental kidnapping cases to expedite court procedures.

47) In certain cases, the District Attorney's office may seek a Federal Unlawful Flight to Avoid Prosecution Warrant through the United States Attorney's office.

16. STRANGER ABDUCTION OF JUVENILES

ss. Stranger abduction cases require that the juvenile be considered in extreme danger and, therefore, every available resource of the department shall be utilized to find the juvenile and ensure his/her safety.

tt. A command post should be set up away from the juvenile's home. An officer should be stationed at the house to maintain communication between the command post and the parents.

uu. The District Attorney's office and State Police Missing Persons Unit should be notified in all stranger abduction cases. The FBI should also be informed of the abduction.

17. JUVENILES MISSING FOR UNKNOWN REASONS: Juveniles missing for unknown reasons shall be assumed to be kidnapped and investigated aggressively.

18. ALZHEIMER'S DISEASE

vv. When a person with Alzheimer's is reported missing, an investigation shall be initiated immediately, as such persons are considered at risk.

ww. The officer taking the missing person report or dispatcher shall telephone **Safe Return** at 1-800-572-1122. **Safe Return** is a national Alzheimer registry available to law enforcement to help resolve lost elder cases. The Alzheimer's Association operates **Safe Return** twenty-four hours per day. It will issue a Fax Alert to area police departments, hospitals, shelters and elder service agencies and will follow up with the missing person's caregivers. The investigating officer shall notify **Safe Return** when the person is located.

xx. Patrol officers shall periodically recheck the area where the person was last seen. These individuals are usually found within a mile or two from where they disappeared. They will usually not respond to shouts nor will they cry out for help.

H. Recovery of Missing Person [41.2.6(f)]

19. REPORTED MISSING AND RECOVERED IN THE JURISDICTION OF THIS DEPARTMENT

yy. Whenever a missing person is located, officers shall ensure that medical attention is provided, if required.

zz. If the recovered person was reported missing to this department, the Officer-in-Charge shall ensure:

48) Notification of all of the agencies involved in the recovery effort, to include:

- xxiv. Law Enforcement agencies;
- xxv. AMBER Alert 508-820-2121, (FAX) 508-820-2150;
- xxvi. The last elementary school attended;
- xxvii. National Center for Missing and Exploited Children 1-800-THE-LOST (1-800-843-5678);
- xxviii. Missing Persons Clearing House (Fusion Center) Voice (978) 451-3700, FAX: (978) 451-3707; and
- xxix. Safe Return (Alzheimer's) 1-800-572-1122.

49) The removal of the information from CJIS; [41.2.5(c)]

50) That the investigating officer is notified that the missing person has been located.

aaa. When an adult missing person is located, the investigating officer shall notify the party originating the report of the status of the missing person, bearing in mind the missing person's right to privacy. [41.2.5(d)]

bbb. When a missing juvenile is found, the investigating officer shall notify the parent or legal guardian of the juvenile's location so that the parent or guardian may retrieve the juvenile. If the parent or guardian is unable to do so, the Department of Children and Families shall be notified in an effort to provide temporary custody for the child.

ccc. All missing persons, when found, shall be questioned as to their whereabouts and activities.

ddd. Officers should determine whether the missing person was the victim of any crime during the period of absence. Eliciting a full account of the missing person's whereabouts is essential to future corroboration of the missing person's story.

eee. Officers locating a missing person shall file a report detailing the circumstances surrounding the finding of the person, and note any particular difficulties encountered (for example, reluctance or refusal to return home), as this may signal neglect or abuse in the family. If there is any indication of neglect or abuse of a child, a report should be filed with the Department of Children and Families.. Any other appropriate follow-up action, including the filing of criminal charges, should be taken.

fff. If a missing person is found dead, see the department policy on **Dead Bodies** for further information.

20. REPORTED MISSING IN THIS JURISDICTION AND RECOVERED IN OUTSIDE JURISDICTION

ggg. Upon notification that a missing person has been found outside the department's jurisdiction, the Officer-in-Charge shall ensure:

51) Notification of all of the agencies previously notified or involved;

52) The removal of the information from NCIC; and [41.2.5(c)]

53) Notification of the investigating officer that the missing person has been located.

hhh. The investigating officer shall notify the party originating the report.

iii. The investigating officer shall file a report detailing the conclusion of the missing person's investigation in accordance with departmental procedures.

21. REPORTED MISSING OUTSIDE OF THIS JURISDICTION AND RECOVERED IN THIS JURISDICTION

- jjj. The jurisdiction shall be notified of the recovery, circumstances, and condition of the recovered missing person.
- kkk. The supervisor will ensure that any needed or requested investigative assistance is provided.
- lll. The department shall assist in arranging accommodations or contact DCF in the event that the person is a juvenile.
- mmm. Children: Transportation and Accommodations: The National Center for Missing & Exploited Children's (NCMEC) Hotline coordinates a program to assist families in the reunification process by arranging for transportation and lodging for families who cannot afford these costs when picking up their missing child once found: 1-800-THE-LOST (1-800-843-5678).

22. CHILD ABANDONMENT

- nnn. In cases where children have been reported to be, or appear to be abandoned, and an officer has reason to believe that such child is abandoned, the following procedure applies:
 - 54) Take the child into custody.
 - 55) Provide any medical assistance.
 - 56) Interview the child in an attempt to determine:
 - xxx. The identity of the caretaker(s);
 - xxxi. Relatives in the immediate area; and
 - xxxii. Circumstance of the abandonment.
 - 57) Notify the Department of Children and Families to transfer custody.
 - 58) Conduct an appropriate investigation to:
 - xxxiii. Locate the parent, guardian, or caretaker;
 - xxxiv. Determine the circumstance of the abandonment; and
 - xxxv. Identify any criminal violations.

23. RECOVERED UNIDENTIFIED PERSONS

- ooo. Follow the procedure above.
- ppp. Obtain information for entry into the CJIS Unidentified Persons File. Obtain appropriate data for the following mandatory data fields:
 - 59) Body parts status (if deceased);
 - 60) X-Rays available;
 - 61) Manner and cause of death;
 - 62) Date body found;
 - 63) Estimated year of birth;
 - 64) Eye color;
 - 65) Footprints available (mandatory in certain cases);
 - 66) Fingerprint classification (mandatory in certain cases);

67)Hair color;

68)Height;

69)Race;

70)Sex; and

71)Weight.

qqq. Complete instructions for CJIS entry are available in the CJIS Users Manual, Part 10, Unidentified Persons File.

rrr. Contact the National Center for Missing and Exploited Children: 1-800-THE-LOST (1-800-843-5678).

sss. The Massachusetts Missing Persons Clearing House should be notified: Commonwealth Fusion Center, Voice (978) 451-3700, FAX: (978) 451-3707.

Added on August 3, 2015 from CJIS

DCJIS Bulletin

2015-1

Changes to the Massachusetts Missing Persons Law (M.G.L. c.22A)

On January 7, 2015, Chapter 489 of the Acts of 2014 was enacted. Among other things, this new statute orders the DCJIS to “establish a statewide central register containing all necessary and available identifying information of a missing child”. This “central register” must be in place by August 1, 2015. While this is technically not a “new” requirement, the changes to c.22A require that the central register allow for the entry of specific data that is enumerated in the new statute.

The new law also places new requirements on local Police Departments with regard to children who are reported missing. Specifically, Federal law 42 USC Section 5780 is now incorporated by reference. This law identifies the minimum data which must be entered into the state and NCIC Missing Person files, requires that entries be made within 2 hours of report receipt, and requires that Missing Person records be updated within 60 days to include all additional data obtained on the missing individual, including medical and dental records, if available. The new law also states that missing person records may contain “(i) the missing child’s identifying marks; (ii) prosthetics; (iii) a photograph; (iv) a description of the missing child’s clothing; (v) items that might be with the missing child; (vi) reasons why the reporting person believes that the child is missing; (vii) circumstances that indicate the disappearance was involuntary; (viii) circumstances that indicate the missing child may be at risk of injury or death; (ix) the means of transportation of the missing person; (x) the missing child’s fingerprints; and (xi) the missing child’s blood type.” Finally, in those cases where a police department believes that a child has been abducted and that he/she may be “in serious danger of bodily harm or death”, a photograph of the child must be obtained.

The DCJIS will utilize the current CJIS Missing Person (MP) File to satisfy the requirements of the new law. The Missing Person functionality currently existing in the CJIS Messenger client allows for the entry of all the data required by the statute, so no modifications will be necessary. The data for which there is an actual corresponding MP File field is as follows:

Name	Height	Date of Last Contact	Fingerprint Classification
DOB	Weight	Missing Category	Blood Type
Sex	Eye Color	Identifying Marks	Prosthetics and Surgical Implants

In addition to the above, a photograph can be entered into the NCIC Image File, although this is technically not part of the MP file.

The following information does not have a corresponding MP File field, but can be recorded in the MIS field:

1. Location of the last known contact with the child
2. Description of the missing child's clothing
3. Items that might be with the missing child
4. Reason(s) why the reporting party believes that the child is missing
5. The circumstances that indicate the disappearance was involuntary
6. Circumstances that indicate the child may be at risk of injury or death
7. The means of transportation of the missing person (IMPORTANT: CJIS Messenger does allow for the entry of Vehicle and Registration information; these fields should be utilized if vehicle registration data is available)

Please note that there is a 500 character limit on the MIS field. Also note that dashes (-) should be used instead of periods (.), as a period indicates the end of a field; using periods will either cause a reject of the entry or will cause all information after the period to be truncated.

Finally, a mechanism to facilitate the required 60 Day review of Missing Person records is also already in place. The FBI automatically sends a \$.K. message to the entering agency 60 days after the date of entry, reminding them to review the record and to add any additional info that may have become available.

Should you have any questions about these new requirements, or about the CJIS Missing Persons File, please contact the CJIS Support Services Unit via phone at 617.660.4710 or via email at cjis.support@state.ma.us.

Chapter 489 of the Acts of 20124
An Act Relative to Missing Persons

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 1 of chapter 22A of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out the definition of “Director” and inserting in place thereof the following definition:-

“Director”, the commissioner of the department of criminal justice information services.

SECTION 2. Said section 1 of said chapter 22A, as so appearing, is hereby further amended by striking out the definition of “Person.”

SECTION 3. Said chapter 22A is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. The director, in consultation with the colonel of state police, through electronic data processing and related procedures, shall establish a statewide central register containing all necessary and available identifying information of a missing child in the commonwealth. The register shall include the same information required by 42 U.S.C. section 5780 and may include: (i) the missing child’s identifying marks; (ii) prosthetics or surgical implants; (iii) a photograph; (iv) a description of the missing child’s clothing; (v) items that might be with the missing child; (vi) reasons why the reporting person believes that the child is missing; (vii) circumstances that indicate the disappearance was involuntary; (viii) circumstances that indicate the missing child may be at risk of injury or death; (ix) the means of transportation of the missing person; (x) the missing child’s fingerprints; and (xi) the missing child’s blood type. The director may use existing data processing and data communications systems of the criminal justice information system.

SECTION 4. Said chapter 22A is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. The medical examiner shall promptly furnish the department of the state police with copies of fingerprints, personal descriptions and other identifying data, including the date and place of death, of all deceased persons whose deaths are in a classification requiring inquiry by the medical examiner where the deceased is not identified or the medical examiner is not satisfied with the decedent's identification. In any case where it is not physically possible to furnish prints of the 10 fingers of the deceased, prints or partial prints of any fingers with other identifying data shall be provided to the department of the state police.

Additionally, the medical examiner shall cause a dentist to carry out a dental examination in any case where the deceased cannot be identified. The medical examiner may forward the dental records to the department on a form supplied by the department of the state police for such purposes.

The department of the state police shall compare the fingerprints received from the medical examiners to fingerprints on file with the department of the state police to attempt to determine the identity of the deceased. Other descriptive data supplied with the fingerprints shall also be compared to records maintained by the department concerning missing persons. The department of the state police shall submit the results of the comparisons to the appropriate medical examiner and if a tentative or positive identification is made, to the law enforcement authority which submitted the report of the missing person.

SECTION 5. Section 1 of chapter 22C of the General Laws, as so appearing, is hereby amended by inserting before the definition of “Colonel” the following definition:-

“AMBER alert plan”, the America’s Missing Broadcast Emergency Response Alert Plan authorizing the broadcast media, upon notice from the department, to transmit an emergency alert to inform the public of a child abduction.

SECTION 6. Said chapter 22C is hereby further amended by adding the following section:-

Section 71. (a) The department shall establish and maintain an AMBER alert plan to assist in the recovery of abducted children under the age of 18 through notification to the general public and law enforcement agencies. The department shall establish protocols and procedures necessary for the operation of the plan and shall educate and inform law enforcement agencies and the public of its availability.

(b) If a law enforcement agency determines that a child has been abducted and that the circumstances of the abduction indicate that the child is in serious danger of bodily harm or death, the agency shall obtain

descriptive information for the AMBER alert plan and provide the descriptive information to the department. Thereafter, the law enforcement agency shall identify a point of contact within the agency capable of providing regular updates to the department about the abduction.

(c) The law enforcement agency reporting the abducted child shall obtain a picture of the child.

(d) The department may activate an AMBER alert plan, upon a determination that the following criteria have been met: (i) a child has been abducted; (ii) the child is in danger of serious bodily harm or death; and (iii) sufficient information exists to believe that activation of an AMBER alert plan may help locate the child.

(e) The department may notify appropriate state agencies and authorities, including, but not limited to, the Massachusetts Department of Transportation, Massachusetts emergency management agency, the state lottery commission, the Massachusetts Bay Transportation Authority and the Massachusetts Port Authority of the activation of the AMBER alert plan.

(f) The department shall notify the broadcast media serving the commonwealth of the establishment of a statewide AMBER alert plan and invite their voluntary participation. The department shall arrange for participating broadcast media to voluntarily agree, upon notice from the department, to transmit emergency alerts to inform the public of a child abduction that has occurred within their broadcast service regions. Information, material and records transmitted or maintained pursuant to an emergency alert under this section shall not, as a result of any such alert or transmission, be a public record in the custody of the department or other state agencies and authorities and such information, material and records shall not be disclosed except as provided by this section.

(g) The department shall enter all information required by the United States Department of Justice on said child into the National Crime Information Center of the United States Department of Justice.

(h) The AMBER alert plan shall remain activated until terminated upon the direction of the colonel.

(i) The AMBER alert plan shall not be activated for children considered to be runaways or incidents involving child custody disputes, except in cases of abduction if a threat of serious bodily harm or death exists against the child.

(j) The department may coordinate with the law enforcement agencies in jurisdictions outside the commonwealth, including the federal government, who are responsible for the recovery of abducted children.

(k) The department, in consultation with the state 911 department, shall establish training guidelines for 911 call takers and dispatchers on the AMBER alert plan.

(l) The colonel, in consultation with the secretary of public safety and security, shall adopt rules and regulations necessary to implement this section.

(m) The department shall prepare and publish information for law enforcement agencies relative to best practices for a report of a missing person. The department shall recommend procedures for law enforcement in responding to a report of a missing person, a report of a missing person who is under 18 and a person under 18 who has been abducted. The department may identify publications and training opportunities that may be available to law enforcement agencies concerning investigations of missing persons.

(n) The department shall prepare and publish information for law enforcement agencies relative to best practices for handling death scene investigations. The department shall recommend procedures for law enforcement in processing, preserving, storing and testing DNA samples from human remains and the processing of DNA samples in missing person cases. The department may identify publications and training opportunities that may be available to law enforcement agencies concerning the handling of death scene investigations.

(o) The colonel, the department and all department employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error or omission occurring or alleged to occur in connection with or pursuant to an AMBER alert plan under this section.

SECTION 7. Chapter 38 of the General Laws is hereby amended by striking out section 6, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 6. (a) It shall be the duty of a person who discovers unmarked human remains, or who knowingly causes human remains to be disturbed through construction or agricultural activity, to immediately notify the office of the chief medical examiner.

(b) The medical examiner shall make reasonable attempts to promptly identify unmarked human remains

including, but not limited to, obtaining: (i) photographs of the human remains prior to an autopsy; (ii) dental or skeletal X-rays; (iii) photographs of items found with the human remains; (iv) fingerprints from the remains, if possible; and (v) a sample of bone, hair or tissue for DNA testing.

(c) The office shall conduct an inquiry to determine whether the remains are suspected of being 100 years old or more and, if so determined, shall immediately notify the state archaeologist. The state archaeologist shall determine if the skeletal remains are Native American. If the remains are deemed likely to be Native American, the state archaeologist shall immediately notify the commission on Indian affairs which shall cause a site evaluation to be made to determine if the place where the remains were found is a Native American burial site.

SECTION 8. There shall be a task force to review and recommend policies and procedures for law enforcement in missing person cases. The task force shall be comprised of the secretary of public safety and security or a designee, who shall chair the task force, the colonel of state police or a designee, the commissioner of children and families or a designee, the chair of the board of the committee for public counsel services or a designee, a representative of the Massachusetts District Attorneys Association, a representative of the Massachusetts Chiefs of Police Association Incorporated and 2 persons to be appointed by the governor, 1 of whom shall be a family member of a missing person and 1 shall be a person with experience in the social, economic and public safety impacts of missing person cases.

The task force shall identify and review federal laws, General Laws, regulations, policies and procedures mandating or guiding the receipt, processing and investigation of missing persons reports by law enforcement agencies in the commonwealth, including persons under 18 years of age and persons who have been abducted. The task force shall identify, for the preceding 10 calendar years: (i) the number of missing person cases reported to law enforcement agencies; (ii) the number of investigations begun and the number of investigations still open after 30 days; and (iii) the number of instances when the person reported missing is under 18 years of age.

The task force shall recommend changes, if necessary, to such state laws, regulations, policies and procedures.

The task force shall file a report containing its findings, together with any recommended legislation, with the clerks of the house and senate and the joint committee on public safety and homeland security not later than May 25, 2015.

SECTION 9. Chapter 22A of the General Laws is hereby amended by striking out the title, as appearing in the 2012 Official Edition, and inserting in place thereof the following title:-

MISSING PERSONS.

SECTION 10. Section 3 shall take effect on August 1, 2015.

42 USC § 5780 - State requirements

Each State reporting under the provisions of this section and section 5779 of this title shall -

- (1) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;
- (2) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the removal of a missing person entry from its State law enforcement system or the National Crime Information Center computer database based solely on the age of the person; and
- (3) provide that each such report and all necessary and available information, which, with respect to each missing child report, shall include—

- (A) the name, date of birth, sex, race, height, weight, and eye and hair color of the child;
- (B) the date and location of the last known contact with the child; and
- (C) the category under which the child is reported missing;

is entered within 2 hours of receipt into the State law enforcement system and the National Crime Information Center computer networks and made available to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports; and

- (4) provide that after receiving reports as provided in paragraph (2), the law enforcement agency that entered the report into the National Crime Information Center shall—

- (A) no later than 60 days after the original entry of the record into the State law enforcement system and National Crime Information Center computer networks, verify and update such record with any additional information, including, where available, medical and dental records;
- (B) institute or assist with appropriate search and investigative procedures; and
- (C) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of information and technical assistance in the missing children cases.

DEAD BODIES

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.09	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

Death can be classified into five categories:

- A. Lawful homicide (lawful self-defense, by soldier in time of combat, etc.);
- B. Unlawful homicide (murder, if malice is present or legally inferable, manslaughter if the element of malice is not present; provocation is in no way the equivalent of justification, such as lawful self-defense);
- C. Suicide;
- D. Accidental death; and
- E. Natural death.

Although it is the function of the police to determine whether any crime may have been committed which caused or contributed to the death of a human being, the medical, scientific and forensic training and expertise needed to determine the cause of any death necessitate that the Medical Examiner play a major role in this process. The General Laws prescribe the duties and authority of the Medical Examiner in relation to taking charge of the body of the deceased, conducting searches and examinations and providing for the removal and disposition of the body. In addition, the same statute defines the role and responsibility of the District Attorney's office in these circumstances.

II. POLICY

It is the policy of this department to:

1. Preserve dead bodies until the Medical Examiner authorizes their removal, preserve surrounding environs for possible crime scene investigation, and make all appropriate notifications promptly; and
2. Diligently pursue all appropriate investigations into criminal activity surrounding a death.

III. PROCEDURE

C. Responding Officer

- a. An officer who discovers or is dispatched to the scene of an apparent or unattended death shall:

Immediately evaluate the victim and attempt resuscitation if there is any possibility of reviving the victim;

Request medical assistance to treat the victim or pronounce the victim deceased; and

Attempt to obtain a dying declaration if the person is near death or dying.

- b. If the person is obviously dead, the officer shall immediately:

Secure the scene.

Clear the largest area possible. The scene area can be contracted by investigators.

Secure and isolate the actual crime scene.

Secure a larger area for police personnel conducting the investigation.

Begin a "Crime Scene Sign-in Sheet," recording the name, agency, date and time of all persons entering the inner crime scene.

Notify the Officer-in-Charge.

Request a response from medics to examine the deceased and make a pronouncement of death.

Notify investigators to respond.

- c. Officers at the scene shall be observant for persons foreign to the scene or behaving in a suspicious manner.

- d. An officer shall obtain information for a preliminary investigation and report to provide to investigators upon their arrival.. Such information should include:

The date and time of his/her arrival;

Decedent's name, address and age;

Any known medical conditions;

Any known medications;

The date and time of the last interaction with others and the identity of last person to see or speak with the decedent;

Location and condition of the body;

Any unusual circumstances, body position, injuries, or articles in relation to the body;

Next of kin;

The names and addresses of witnesses;

The names and time of arrival of officials responding to the scene;

Any "Do Not Resuscitate" order (DNR);

If the death was anticipated or unexpected; and

Name and telephone number of the funeral home requested by family for when the body is released by the medical examiner.

- e. A police officer shall remain at the scene until relieved.

D. Investigation

- f. GENERALLY

Once the Medical Examiner arrives, [s]he has the lawful right to take charge of the dead body.

In cases of unnatural or suspicious death, the District Attorney or his/her representative shall have the authority to direct and control the criminal investigation of the death.

Officers shall cooperate and coordinate their efforts with those of the Medical Examiner and the District Attorney.

The Medical Examiner may take charge of any money or other personal property of the deceased found on or near the body, or may ask the department to take charge of the property.

Property of the deceased, which is not evidence, shall be delivered to the person entitled to its custody and possession (usually the next of kin or other appropriate person).

Property may be held in the event that it is required as evidence.

For further information, see the department policy on **Evidence and Property Control** .

g. ASSESSMENT: Detective(s) responding to the scene of a death shall:

Speak with the responding officer to obtain information about the deceased and the circumstances of death, if known.

Make observations of the scene for evidence that may indicate the likelihood that a criminal act resulted in the death.

Speak with friends, family, witnesses, or other involved persons.

h. NOTIFICATIONS:

Detectives shall notify:

The District Attorney's Office (CPAC); and

The Office of the Medical Examiner.

Detectives shall provide as much of the following information as is known at the time;

Deceased's name, address, and age;

Location where the body was found;

Any known medical conditions;

Likely cause of death if known;

If criminal activity is suspected or if the death was expected; and

Any other requested information, if known.

When the time is appropriate, ensure that notifications of the next-of-kin are made. See the department policy on **Death or Injury Notification** .

i. INVESTIGATION

District Attorney's Office Declines to Respond

In the event that the District Attorney's representative (CPAC) declines to respond, detectives shall conduct a complete investigation to include:

Photographs of the scene and the body;

Any evidence;

Observations of officers and detectives; and

Information on attempts to identify, locate, and interview all persons who had contact with the deceased person during the period immediately before his/her death or disappearance.

A copy of all reports and photos shall be forwarded to the District Attorney's representative. (CPAC)

District Attorney's Office Responds: In the event that the District Attorney's representative (CPAC) responds to the scene of the death, department detectives shall assist those investigators.

E. Moving Dead Bodies

j. GENERALLY

A dead body, regardless of the cause of death, shall only be moved at the direction of the Medical Examiner or District Attorney.

The Medical Examiner may require a specific funeral home to respond.

In the event that the body is released by the Medical Examiner, a funeral home of the decedent's family's choosing should be considered, if practical.

k. EXIGENCY:

A body may be moved by the police when one of the following circumstances exists:

A badly mangled body open to public view may be covered. Officers should consider the consequences of forensic contamination to the body prior to covering it.

If the death is due to a traffic accident and the remains create a traffic hazard, the body may be relocated to a nearby suitable site.

If the dead body is found in the water, it may be removed to the nearest suitable shelter.

The body may be moved when the Medical Examiner is unable to respond in an expeditious manner and after consultation with the District Attorney.

Before moving a body, the police personnel shall:

Document all facts relevant to the appearance, condition and position of the body;

Document facts and circumstances tending to show the cause and circumstances of death; and

If possible, the location shall be marked and the body and scene photographed prior to moving.

F. Statutory Provisions Relating to Dead Bodies

- l. If the Medical Examiner examines a dead body and is of the opinion that the death may have resulted from injuries sustained in a motor vehicle accident, and the death occurred within four hours of the accident, and the deceased was the operator and sole occupant of the motor vehicle, and no other individuals were involved in the accident, the Medical Examiner shall take a blood sample and submit it for analysis to the State Police laboratory.
- m. Transportation of bodies of persons who have died from any disease dangerous to public health must be in accordance with the rules and regulations of the Department of Public Health.
- n. An officer who has reasonable cause to believe that a child under the age of eighteen (18) has died as a result of abuse, including sexual abuse, or from neglect, including malnutrition or from physical dependency on any addictive drug at birth, shall report the death to the Department of Children and Families, to the appropriate superior officer, to the District Attorney for the county in which such death occurred, and to the Medical Examiner of the district of the county wherein the body lies.
- o. A search warrant may be obtained for the purpose of searching for the dead body of a human being.
- p. Officers should be aware that the following are crimes:

Unauthorized disinterring, removing or conveying of any human body or the remains thereof;

Buying or selling or possession with intent to sell any dead body of a human being;

Willfully destroying, mutilating, defacing or removing any tomb, monument, gravestone or other structure as a memorial to the dead;

Wantonly or maliciously disturbing the contents of any tomb or grave;

Unauthorized removal of gravestones and other memorials;

Other acts of desecration of any place of burial.

- q. The discovery of any unidentified dead body shall be reported to the Department of Public Safety, C.J.I.S., and N.C.I.C. It shall also be reported to the Colorado Bureau of Investigation (CBI) Unknown Dead File (via the National Law Enforcement Telecommunications System, Inc. - NLETS). Refer to operations manuals for C.J.I.S., N.C.I.C. and NLETS for input format and procedures. (See department policy on **Missing Persons.**)

BREAKING AND ENTERING

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.10	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

Burglars generally fall into two categories - the opportunist and the professional. The opportunist is the criminal who is always on the lookout for a place that is easy to break into with the least hazard of detection and where [s]he can obtain cash, jewelry, and portable items that have an immediate resale or pawn value.

The professional commits his/her break only after considerable planning. The thief usually has information on the valuable items to seize, knows the habits of the persons living or employed in the building selected, and has adequate tools to make his/her entry effectively.

The most important consideration in the prevention and control of burglary and related crimes is citizen cooperation. All citizens of the community should be encouraged to take necessary precautions to make their property secure by utilizing adequate locks, alarms, and lighting to deter criminals, and by marking their property with names, numbers or symbols which they can identify.

Citizens should be constantly encouraged to immediately notify the police when they observe suspicious persons or circumstances, even if their suspicions later prove to be unfounded.

II. POLICY

It is the policy of this department to:

- A. Respond promptly to all alarms and reports of possible or actual breaking and entering;
- B. Work with the public to educate citizens and businesses concerning ways to prevent crimes, especially those involving breaking and entering; and
- C. Investigate and prosecute all crimes, including those involving breaking and entering.

III. PROCEDURE

D. Responding to Burglaries in Progress

1. RESPONSE: Whenever an officer responds to a call for a burglar alarm or breaking and entering in progress, the officer shall minimize the use of sirens to avoid communicating his/her presence to suspects.

2. FIRST ARRIVING OFFICER

- a. The first arriving officer should park a short distance from the target building, approach unseen, and make visual and auditory observations of the building.
- b. The officer shall be observant of:
 - 1) Vehicles in the driveway or in the area near the building or fleeing from the area;
 - 2) Persons who seem suspicious or out of place; and
 - 3) Known criminals present in the area.
- c. Officers shall not enter the building without adequate assistance, unless some person lawfully therein is in immediate danger of physical harm from the intruder.

3. EXTERIOR OF BUILDING

- d. When the back-up officers arrive, they shall take strategic positions, observing all building exits and windows.
- e. They shall check for any visible signs of entry at the doors, windows or on the roof.
- f. They shall also check for the possibility that entry has been gained through the wall of an adjoining building, if possible.
- g. Officers should secure access to and from the building.
- h. Officers should stop and identify anyone leaving the building.

4. VOLUNTARY EXIT FROM THE BUILDING

- i. It is always preferable for the suspect to come out voluntarily and [s]he shall be given that opportunity, if possible. This will avoid the possibility of injury to a police officer or to other persons in the vicinity.
- j. Officers must exercise extreme caution to ensure that plain clothes officers arriving at the scene are properly identified as police officers, and not mistaken for criminals.
- k. If at all possible, the owner of the residence or the commercial establishment shall be contacted by the police, and the dispatcher shall relay to the officers at the scene such information as:
 - 4) The known or likely presence of any lawful occupants such as a family member, guest or babysitter;
 - 5) The known or likely presence in the building or on the grounds of any guard or watchman;
 - 6) The location of any safe or major valuables the robbers may be after;
 - 7) The location of any firearms on the premises; and
 - 8) The location of main power switches, particularly the location of electric light switches.

E. Entering a Building

5. GENERALLY

- l. Officers shall notify the dispatcher prior to entering the building.
- m. Police should normally announce their presence prior to entering a building to search. An exception may be appropriate in the case where officers need to maintain a tactical advantage.

6. CANINE SUPPORT

- n. If the services of a Canine Officer are available, [s]he may be called to the scene at the discretion of a supervisor,.
- o. If a Canine Officer is to conduct the search, officers should avoid entering the building prior to his/her arrival in order not to leave confusing scents and, in any event, all other officers should be withdrawn from the building before the police dog enters.

- p. The advice of the Canine Officer should be sought concerning recommended methods of conducting a building search with the use of the dog.
- q. For further information, see the department policy on ***Police Canine Operations***.
- r. If it becomes necessary to enter the building, the entering officers must work closely together, covering one another in the darkened interior. This will reduce the danger of one officer's injuring another accidentally.

7. POLICE OFFICER ENTRY

- s. Officers should enter the building tactically, stepping inside quickly to minimize exposure time in the doorway area (fatal funnel).
- t. Officers should use flashlights tactically to avoid drawing fire at the source of the light.
- u. Once inside, officers should wait a few moments to become accustomed to the darkness, and listen in an attempt to hear the suspect.
- v. Officers entering from multiple points of entry must coordinate their movements to avoid being mistaken for a suspect in the building.

8. SEARCHING THE BUILDING

- w. Carefully and methodically check the entire building to determine if a crime has been committed and if the suspect is still therein.
- x. Any place in the building that can provide a hiding place should be carefully checked.
- y. If a suspect is located, [s]he shall be carefully searched and handcuffed immediately. The officer should notify dispatch.
- z. It should not be assumed that the suspect is working alone. The search shall be continued until the entire building and its immediate vicinity have been thoroughly searched.
- aa. A thorough search of the premises shall be made for any weapon which the suspect may have discarded once [s]he realized [s]he would be apprehended.

9. CRIME SCENE

- bb. After the building has been searched and persons within located and apprehended, if appropriate, the scene may be a crime scene.
- cc. If the scene is to be processed by detectives, officers should:
 - 9) Secure the crime scene for investigators, if appropriate; and
 - 10) Conduct a preliminary investigation.
 - 11) For further information, see the department policy on ***Preliminary Investigations***.
- dd. The owner should be notified to secure the building and to provide police with a detailed list of any missing or damaged items.

F. Responding After the Suspect Has Departed

10. Preliminary Investigation

- ee. The officer shall obtain, as completely as possible, a description of:
 - 12) The suspect;
 - 13) Any vehicle used; and
 - 14) The direction of travel, if known.

- ff. This information shall be provided immediately to the dispatcher for the attention of all other on-duty officers. This information should be shared with area Law Enforcement in neighboring towns and a BOLO should be sent via the LEAPS system.
- gg. Officers should preserve the scene and conduct a preliminary investigation.
- hh. The officer making the preliminary investigation shall ascertain as accurately as possible and carefully note:
 - 15) The date and time the crime was committed;
 - 16) The point and method of entry;
 - 17) The method of exit;
 - 18) A description of any property taken, including its value and all identifying numbers or marks; and
 - 19) Any property damaged.

11. PROCESSING THE CRIME SCENE

- ii. The crime scene shall be secured until processed for forensic evidence.
- jj. The crime scene should be photographed.
- kk. Breaking and entering tools and evidence should be collected.
- ll. Investigators should check the scene and process as appropriate for:
 - 20) Latent fingerprints;
 - 21) Footwear impressions;
 - 22) Tool marks; and
 - 23) DNA.

12. NEIGHBORHOOD CANVASS

- mm. The investigating officer shall interview neighbors by canvassing door-to-door to determine whether anyone made observations of any suspicious conduct.
- nn. The investigator shall search for residences or businesses in the area for video that covers the building or approaches to or from the building.

13. PROPERTY SEARCH

- oo. Checks of local secondhand stores, pawn shops and other establishments, especially those known or suspected of dealing in stolen goods, may be a good source to locate stolen property.
- pp. On-line sources such as E-bay and Craig's List may reveal stolen property and those disposing of it.

G. Arrest of Suspect/Recovery of Stolen Goods

14. INTERVIEWING SUSPECT

- qq. Whenever any burglary (or receiving stolen goods) suspect is questioned, [s]he shall also be questioned with regard to any other burglaries in which [s]he or persons known to him/her participated.
- rr. [S]he shall also be encouraged to cooperate by revealing the identities of persons who received or "fenced" any items taken in the break.

15. RECOVERED PROPERTY

- ss. Stolen items shall not be immediately returned to their lawful owner unless authorized by a supervisor.
- tt. The property shall be:

- 24) Photographed;
- 25) Marked and packaged;
- 26) Logged into evidence; and
- 27) Submitted to the property and evidence function to be held as evidence.
- 28) The owner shall be notified that the items have been recovered. (See department policies on ***Collection and Preservation of Evidence*** as well as ***Evidence and Property Control***.)

16. CRIMINAL CHARGES

uu. Any person arrested for breaking and entering and in whose possession or under whose control stolen items are found shall also be charged with buying, receiving or concealing stolen goods. If prosecution of the breaking and entering should fail (due to unavailability of witnesses, etc.), a conviction for the lesser crime of receiving can still be obtained.

vv. When charging an individual with breaking and entering with intent to commit a felony or misdemeanor, the charge of criminal trespass must be included, or a defendant's verdict may be set aside.

H. Reporting

- 17. A report shall be made by the officer conducting the preliminary investigation in accordance with department procedures.
- 18. Assisting officers shall submit a supplemental report if needed of any pertinent observations or actions which are important to the case.
- 19. A detailed report shall be submitted by the investigating officer.

BANK ROBBERIES

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.11	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

Although this policy serves as a guide for police personnel in responding to bank alarms and reports of bank robberies, it is equally valid for responding to alarms and robberies at retail establishments.

Responding to an alarm of a bank robbery in progress requires the highest level of professional competence on the part of a police officer. [S]he must be keenly alert and prepared to meet a potentially dangerous situation.

The police are particularly concerned with the possibility of physical harm to innocent persons in a confrontation between police officers and armed robbers trapped inside a bank. The primary consideration in such cases shall be the safety of the hostages and of the police personnel and others present at the scene.

Even when a bank employee indicates in a verification call that the alarm is false, the department shall nevertheless respond to each and every bank hold-up alarm as if it were genuine, until officers have verified that the alarm was false.

When responding to robbery alarms at financial institutions, officers shall follow the procedures set forth in this policy in order to increase the possibility that the criminals are apprehended and to observe proper precautions for the safety of officers, bank employees and bystanders.

II. POLICY

It is the policy of this department to respond to all bank alarms.

III. PROCEDURES

A. Dispatcher/Desk Officer Responsibility

1. ALARM: Upon receiving a report of a bank hold-up alarm, the dispatcher must obtain information for responding officers prior to their arrival at the scene.
2. DISPATCH PERSONNEL TO SCENE:

- a. Advise officers to begin a response with the information available, and update responders as more becomes known.
 - b. Dispatch sufficient police personnel to the scene.
 - c. Notify the supervisor.
 - d. Even when it is stated that the alarm is false, the police shall nevertheless respond to each and every bank hold-up alarm as if it were genuine, until police have verified that the alarm was false.
3. VERIFICATION: The dispatcher, desk officer or the officer-in-charge shall telephone the bank and inform the answering bank employee that a hold-up alarm verification is being made by the police department and ask whether a robbery has occurred or is in progress.
- e. In such cases, a predetermined code word or phrase can be used to indicate a robbery in progress.
 - f. Alarm verifications should not be considered totally foolproof as the robbers may answer the telephone, or the answering bank employee may be under the direct control of the robbers.
 - g. If the answer received to an alarm verification call is that the alarm is false and that no robbery is occurring or has occurred:
 - 1) Ask to speak with the bank manager or supervisor.
 - 2) Instruct the bank manager to meet the responding officers outside of and away from the bank building.
 - 3) Obtain a description of the manager including a clothing description and advise responding officers.
 - 4) Stress the fact that the responding officers will assume that a bank robbery is in progress unless they are promptly met.
 - h. If an alarm verification call to the bank is not answered, it may indicate that a robbery is in progress and that the hold-up alarm may be valid. The dispatcher shall continue to call the bank to verify the status of the alarm.
 - i. The dispatcher or desk officer shall immediately notify the officers responding to the scene of any additional or supplementary information received, particularly any information as to the number of robbers, their description and whether they are armed.
4. PHONE REPORTS: If the dispatcher or desk officer receives a report of a bank robbery by telephone, [s]he should take the following action:
- j. The caller shall be kept on the line while officers are dispatched to the scene.
 - k. If the robbery is over and the robbers have left the scene, obtain the best possible description of the suspects, direction of flight, and vehicle description, and broadcast this information immediately to the responding officers.
 - l. If the robbery is in progress and the robbers are still at the scene, obtain the details quickly; notify the responding officers immediately; and dispatch sufficient backup officers and a superior officer to the scene.
5. **The dispatcher or desk officer shall be alert for the use of diversionary tactics by criminals planning a bank robbery who may falsely report the need for police assistance at a nonexistent accident, fire or other emergency in order to draw police units away from the scene of the planned robbery.**

6. Once it has been determined that the bank robbers have fled, notify adjacent police departments to cover all possible escape routes, in accordance with a prearranged mutual aid plan, and provide these police agencies with all available descriptive information for this purpose. Notifications should also be made to the State Police and the F.B.I.

B. Police Response

7. RESPONSE TO THE SCENE

- m. Officers responding to the scene of a reported bank robbery shall proceed to the location as quickly, directly and safely as possible, following all departmental instructions for safe driving procedures under emergency circumstances.
- n. Their approach to the immediate scene shall be as unobserved as possible to achieve the element of surprise.
 - 5) Minimize the use of the siren and emergency roof lights as they could alert the robbers of the presence of the police and create a possible hostage situation.
 - 6) While en route to the scene, officers shall be alert for:
 - i. Further information from the dispatcher;
 - ii. A possible getaway car traveling towards them;
 - iii. Suspects switching cars on a side street or in a public parking area; and
 - iv. The presence of a lookout or a possible getaway car in the vicinity of the bank.
 - 7) Every effort should be made to apprehend any such car and driver, taking all necessary safety precautions in so doing. (Pursuit, if any, shall be in accordance with departmental **Vehicular Pursuit** policy.)

8. UPON ARRIVAL

- o. All officers shall avoid the impulse to take immediate action, and no police tactics shall be initiated that might unnecessarily endanger their own safety or the safety of bank employees, customers and the general public.
- p. The first responding officer(s) should take a safe position, using any available cover to cover to observe the front entrance of the bank and:
 - 8) NOT approach the bank;
 - 9) Report observations to the supervisor, dispatcher, and other responding officer; and
 - 10) Await the assistance of backup officers.
- q. Additional responders should, unless otherwise directed by a supervisor:
 - 11) Take positions to observe the bank until all of the exterior exits and windows of the bank building are under police observation.
 - 12) Report any pertinent observations.
- r. Officers shall prevent entry of civilians into the bank.
- s. Persons leaving the bank shall be detained to ascertain if a robbery has taken place and, if they were involved, to identify them as potential witnesses, and to interview them for information on what is occurring in the bank.
- t. Police vehicles parked unattended at or near the scene should not be left with motors running or with keys in the ignition. Vehicles should be concealed, if possible.
- u. Unless the robbers attempt to flee from the bank, all officers at the scene should await the arrival of a superior officer who will take charge and evaluate the situation.

9. FALSE ALARM VERIFICATION: If the alarm is reported to be false, officers must verify the false alarm before entering the bank.
 - v. The bank manager or other employee will be directed by the dispatcher to meet an officer outside of the building.
 - 13) The officer meeting the manager should do so from a position that provides cover and cannot be observed from inside of the bank, if possible.
 - 14) The bank employee should approach the officer rather than the officer approaching the employee.
 - 15) Observe the employee, and compare the description and clothing of the employee with that described by the dispatcher.
 - w. Verify and report to dispatch the employee's name.
 - x. Ascertain if anything unusual is occurring in the bank.
 - y. Report findings to the dispatcher and advise the supervisor prior to accompanying the employee into the bank.
 - z. Remain vigilant upon entering the bank, observing the behavior of persons inside.
 - aa. Verify that all is well within the bank before leaving the bank.
 - bb. Report the bank status and officers' findings to other units and dispatch.
10. ROBBERY IN PROGRESS
 - cc. An efficient bank hold-up alarm system and a rapid response by police officers dispatched to the scene can result in trapping the criminals inside the bank. An armed confrontation of this kind should be avoided if at all possible.
 - dd. No police officer should enter the bank premises while the robbers are still inside, unless so directed by a superior officer.
 - ee. Officers should allow suspects to exit the bank and move to a location where they cannot retreat back into the bank before attempting to place them in custody.
 - ff. Every effort shall be directed towards apprehending the suspects after they have left the bank premises, with the least possible danger to the officers themselves or to the public.
11. BANK ROBBERY RESULTING IN HOSTAGES TAKEN
 - gg. See the department policy on **Hostage Negotiations** for more detailed information.
 - hh. Patrol units shall maintain security around the perimeter of the building, keeping the building exits and windows in observation.
 - ii. An outer perimeter shall be established, as directed by a supervisor.
 - jj. Officers should avoid taking any direct action until specially trained units arrive unless an active shooter situation develops. An active shooter situation requires an immediate police response.
12. ROBBERY AND SUSPECTS HAVE LEFT THE SCENE
 - kk. When it has been definitely determined that a bank robbery has occurred and that the perpetrators have left the scene, the dispatcher or desk officer shall be notified as soon as possible of the description of the suspects, their method and direction of flight, and all other pertinent information. This shall be immediately broadcast to:
 - 16) All police patrol units;
 - 17) Other area police departments; and

18) State Police.

ll. The dispatcher shall send out an administrative flash message over LEAPS to alert outlying police agencies.

mm. Officers conducting the preliminary investigation shall do the following:

19) Assess the situation inside of the bank.

20) Instruct bank employees to lock the bank doors and allow only authorized persons to enter or leave.

21) Report finding to other units.

22) Tend to any injured persons.

23) Separate witnesses to keep them from discussing the incident:

v. If such witnesses must be allowed to leave the scene because of medical needs, obtain their names, addresses and phone numbers for the follow-up investigation.

vi. If a particularly valuable witness is removed from the scene due to medical needs, assign one officer or investigator to accompany that witness, and obtain pertinent information from the witness as soon as it is safe to do so, given the witness' condition.

24) Preserve the crime scene and any areas involved from contamination.

25) Request copies of surveillance videos and still images of suspects for investigators.

26) Remain on scene until relieved by an investigating officer.

27) Prepare and submit a full report in accordance with department procedures.

28) For more detailed information, see the department policy on **Preliminary Investigations**.

C. Off Duty Police Officers

13. An off duty police officer in a bank during a robbery should avoid identifying him or herself or challenging the robber(s) unless it becomes necessary to protect the life of the officer or an innocent person.

14. Police officers should make a mental note of observations of the suspects and provide responding police officers with that information.

15. The officer may take charge of the bank after the suspects have left, securing the doors, protecting the crime scene, and separating witnesses.

IV. DISCUSSIONS WITH BANK OFFICIALS

D. Working with Bank Officials

16. The Chief of Police or other designated superior officers may establish a dialogue with bank officials for the purposes of addressing and responding to false alarms, deterring robberies (target hardening), and preserving evidence in the event that a robbery does take place. Banks can work toward these ends through equipment, practices and training.

E. Equipment

17. Install bullet-resistant, robbery deterrent barriers which provide for clear visibility but furnish protection for bank employees behind the teller counter and in office areas, and keep unauthorized persons from entering private bank areas.

18. Utilize high quality security cameras and digital video recorders.

- nn. Cameras should be positioned at entry and exit points to capture facial images of persons entering and exiting the bank.
 - oo. Area cameras should be set up to display the movement of persons who are not actually at the teller window, inside of the bank.
 - pp. Video should display in an occupied office in an area of the bank which is not readily accessible from the bank lobby, if available.
 - qq. Banks should consider a camera displaying the teller and customer areas that displays at the police station. This will give police the opportunity to see what is going on in that area of the bank in the event of an alarm or robbery.
19. Bank officials should be advised of the particular vulnerability to robbery of bank customers using automatic teller machines (ATMs). Bank officials and customers should be informed of crime prevention techniques and encouraged to report suspicious persons or circumstances involving ATMs to police.

F. Practices

- 20. Employ uniformed security guards or off-duty police officers as a robbery deterrent, especially in high crime areas.
- 21. Avoid any window displays, window signs, etc., which may block the clear view of the bank interior from the outside and enable robbers to operate without being publicly observed.
- 22. Utilize a team operation of at least two bank employees to open and close the bank premises, morning and evening, to avoid being surprised by robbers at these vulnerable times.
- 23. Conduct regular cleaning of counters and doors where customers conduct business to improve the likelihood of obtaining quality fingerprint evidence.
- 24. Encourage direct and obvious observation and interdiction of suspicious "customers" by bank managers, i.e., approaching a suspicious "customer" and asking if they need help.
- 25. Develop policies prohibiting the wearing of hoods, face masks, and other concealment clothing by customers.
- 26. Arrange a daily visitation to all banks by on-duty patrol officers, at varying times and with no set pattern, to discourage bank robberies. A log entry should be made of each bank visit. This practice can create a degree of familiarity and personal recognition between bank employees and police officers which can be most valuable in the event of a bank robbery emergency.

G. Training

- 27. All bank employees should be trained in methods and practices to discourage robberies from occurring, thereby minimizing any injuries to police, employees, and customers in the event that a robbery does occur, and to obtain and preserve evidence and witnesses after a robbery has occurred.
- 28. Alarm Operation
 - rr. False alarms should be immediately reported to a supervisor and the police.
 - ss. Supervisory employees should be trained in alarm verification procedures with police in the event of a false alarm.
 - tt. All bank employees should be trained in the proper operation of alarms in the areas where they work or supervise.

- uu. The bank hold-up alarm should be activated, as soon as it can be done safely, whenever it is known that a robbery is being attempted or is in progress.
- vv. Employees should carefully follow bank directives regarding the use of "bait money," "GPS tracking," and "red dye" devices.
- ww. Bank hold-up alarm drills should be conducted periodically, with the assistance of the police, to familiarize all bank personnel with their responsibilities and to minimize the human error factor.

29. Employee Vigilance

- xx. Any information regarding suspicious persons or suspicious activity observed in or around the bank building should be brought to the attention of a bank supervisor and the police.
- yy. Employees should be observant of persons inappropriately dressed for the weather, or excessively concealed by hats, glasses and other clothing.

30. Robbery Procedures

- zz. Victim resistance in a bank robbery can trigger sudden violence. Employees should not do anything that could endanger their own safety or the safety of others.
- aaa. They should follow the directions of the robbers carefully as any unexpected action on their part can precipitate violent action.
- bbb. They should carefully but cautiously observe the robbers and note:
 - 29) Their physical description (a physical description form should be filled out immediately while the incident is still fresh in the witness' mind);
 - 30) Voice identification;
 - 31) Method of operation;
 - 32) Names if mentioned; and
 - 33) Any other details that can aid in the police investigation.

31. Post-Robbery Procedures:

- ccc. Employees should remain in their places until certain that the robbers have left the bank premises and all danger has been removed.
- ddd. They should close and lock all bank entrances as soon as it is safe to do so.
 - 34) Robbery suspects may not re-enter the bank.
 - 35) Unauthorized persons may not enter.
 - 36) Customers, employees, and witnesses may not leave.
- eee. An employee should telephone all details of the robbery directly to the police department including, if possible, a description of the getaway car.
- fff. Employees should safeguard the crime scene and any possible physical evidence until the arrival of the police.

32. Alarm Procedures

- ggg. One of the most important considerations should be the assignment of a bank employee to leave the bank premises when a bank hold-up alarm has been activated, if this can be done safely, and to proceed to a predetermined location to meet the first police officer to arrive, and to notify that officer of the source and purpose of the alarm.

- hhh. If the robbery alarm is false, the officer can be quickly informed, and [s]he can then take appropriate police action to determine if it is in fact a false or needless alarm.
- iii. If it is an actual robbery alarm, the employee assigned to meet the police outside the bank can quickly alert the officer and furnish as much helpful information as possible.
- jjj. If a robbery alarm has been activated and there is no bank employee outside to meet the responding police officers, the officers will then have reasonable grounds to believe that a bank robbery may be in progress and can act accordingly.
- kkk. This procedure can save valuable time for the police in obtaining a quick description of the robbers, any vehicle used, the direction of flight, etc., so that pursuit can be initiated with as little delay as possible.
- III. It is the practice in certain banks for the bank employee assigned as above to display a distinctive flag or banner of a bright, predetermined color, to quickly alert the responding officers that a false or needless alarm has been activated or that the robbery is over and the robbers have left the scene.

MOTOR VEHICLE THEFT

POLICY & PROCEDURE NO. 2.12	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy applies to stolen motor vehicles as well as stolen vehicle registration plates.

Auto theft has become one of the most aggravating and, without doubt, one of the costliest crimes now confronting both the police and the public. The loss from auto thefts has traditionally been far greater than all other crimes against property combined. The related crime of using an automobile without the authority of the owner is also the cause of great public frustration and inconvenience.

For police purposes, auto theft and unauthorized use of motor vehicles can be divided into five categories: joy riding; use in the commission of a crime; stripping and "chop shops"; professional car theft; and defrauding the insurance company.

All citizens of the community should be constantly reminded to lock their vehicles, take their keys, and avoid leaving any valuables in open view in parked automobiles.

II. POLICY

It is the policy of this department to:

- A. Reduce the opportunity for the crime of motor vehicle thefts by being alert and patrolling areas where thefts are likely to occur;
- B. Ensure the speedy apprehension and conviction of criminals; and
- C. Educate citizens in crime prevention, especially ways to prevent motor vehicle theft.

III. PROCEDURES

D. Motor Vehicle Theft Related Crimes

1. Officers shall be familiar with the following common offenses related to auto theft and unauthorized use of motor vehicles:
 - a. Using motor vehicle without authority;
 - b. Larceny of a motor vehicle or trailer;

- c. Knowingly receiving, buying, maliciously damaging, possessing, concealing or obtaining control of a stolen motor vehicle or trailer;
- d. Stealing any parts or accessories from a motor vehicle taken without authority;
- e. False, altered, forged or counterfeit certificate of title and related offenses;
- f. Defacing identifying numbers of motor vehicle or trailer or any part thereof; selling or transferring motor vehicle or trailer or part thereof where identifying number is defaced; buying or receiving motor vehicle or trailer or part thereof with defaced identifying numbers;
- g. Making false written statement on form alleging theft or conversion of a motor vehicle, which form bears a notice of penalty of perjury;
- h. Making or causing to be made a false report of crime to police officers;
- i. Removal or concealment of a motor vehicle to defraud insurer;
- j. Sale of master keys;
- k. Failing to display valid plates;
- l. Operating an uninsured vehicle; and
- m. Refusal to stop and give information to a police officer.

E. Theft Reporting Requirements

2. REPORTING PARTIES

- n. Vehicles may be reported stolen by the owner, operator, or person in whose custody the vehicle was at the time of theft. The stolen vehicle report must be filed in the municipality in which the vehicle was stolen.
- o. Leased or rented vehicles shall be reported stolen by the owner (or owner's agent), or lessee. The stolen vehicle report may be filed in the municipality from which the vehicle was stolen or in the municipality from which the vehicle was rented or leased.
- p. If the party who stole the vehicle is known to the reporting party, the officer should:
 - 1) Advise the reporting party that the officer will seek criminal charges for larceny of a motor vehicle or using without authority, based upon the filing of the report;
 - 2) Advise the reporting party that [s]he should be available as a witness in the case; and
 - 3) Seek a show cause hearing or criminal complaint against the suspect based upon the report of the reporting party.

3. STOLEN VEHICLE REPORT

- q. In taking a stolen vehicle report or a report of a stolen registration plate, officers shall use the **[DEPARTMENT OR RMV]** Stolen/Recovered Motor Vehicle Report form.
 - 4) The officer shall require the reporting party to review and sign the stolen vehicle form under the pains and penalties of perjury. Any false statement made therein is a crime.
 - 5) If the person refuses to sign the report, the officer will submit an incident report only.
 - 6) The reporting party shall be advised that the vehicle will NOT be entered into CJIS as stolen, and no other police action, apart from the incident report, will be taken.

- r. In addition to the information on the Stolen/Recovered Motor Vehicle Report form, the officer should obtain other identifying characteristics that could lead to the recognition and recovery of the vehicle, which may include:
 - 7) Any unusual or unique markings or stickers;
 - 8) Any previous damage that would distinguish vehicle;
 - 9) Any special accessories that have been installed; and
 - 10) Descriptions of any items of personal property left in the automobile.
 - s. The vehicle identification number (VIN) and the registration number must be very carefully noted as any transposition or substitution of numbers or letters can create much confusion. If the vehicle reported stolen is or has recently been registered, the accuracy of such numbers can be checked against the RMV's vehicle registration database.
4. ENTERING STOLEN VEHICLES/REGISTRATIONS IN CJIS
- t. Stolen vehicles may be entered into the CJIS and NCIC Vehicle File when:
 - 11) The vehicle is reported stolen and an up-to-date theft report is on file; and
 - 12) A signed theft report has been filed.
 - u. A CJIS and CIC vehicle entry must be entered as soon as possible once the minimum data required for entry and the record documentation is obtained.
 - v. Mandatory Fields for a Stolen Vehicle Entry
 - 13) VYR = Vehicle Year;
 - 14) VMA = Vehicle Make;
 - 15) VST = Vehicle Style;
 - 16) VCT = Vehicle Category;
 - 17) DOT = Date of Theft ; and
 - 18) One of either of the following:
 - i. VIN = Vehicle Identification Number (When a VIN is not available at the time of entry, the VIN must be entered within 90 days or the stolen record will be automatically purged.); or
 - ii. LIC - License Plate Number, in which case all of the following information must be provided:
 - a) LIS = License State;
 - b) LIY = License Year; and
 - c) LIT = License Type.
 - w. Optional Fields
 - 19) Caution: Insert an "X" to indicate that the operator or occupant(s) are dangerous. The reason for caution must appear in the "Remarks" field.
 - 20) Remarks: Reason for caution or other free text information. Maximum 44 characters.
 - 21) Wanted: If the vehicle category is "3" (wanted) - the number "2" must be entered for a felony, or left blank.

F. Theft Prevention

5. Officers should be observant for suspicious activity in areas where large numbers of vehicles are parked and left unattended, such as malls, employee parking lots and apartment complexes, particularly during hours of darkness.
6. Traffic enforcement and the stepping up of traffic citations are a deterrent to car thefts. Such enforcement can serve to discourage young people from becoming involved, as it increases the chances that they will be stopped by the police.
7. Because active car thieves can steal scores of vehicles in a period of just a few weeks, the successful prosecution of just a few car thieves can contribute to a substantial drop in the rate of vehicle thefts.

G. Vehicle Recovery

8. RECOGNIZING STOLEN VEHICLES IN TRAFFIC
 - x. The recognition of stolen cars is a skill which should be acquired by every alert officer. Attention should be directed to the actions of the driver and the type of vehicles being sought, rather than just the observation of license numbers.
 - 22) Be alert for the reckless driver or the traffic violators.
 - 23) Note the overly cautious driver who appears to be avoiding undue attention.
 - 24) Observe the driver who does not seem familiar with the car. For example, [s]he may drive off without lights because [s]he cannot immediately find the light switch.
 - 25) Any extremes of driver behavior or unusual reaction of passengers should arouse suspicion of police.
 - 26) Note any damage to vehicles (e.g., broken vent windows, wired- on license plates).
 - 27) Watch for operation of vehicles by known thieves.
 - y. Officers using police vehicles equipped with MDTs should query all suspicious vehicles.
9. RECOGNIZING UNATTENDED STOLEN VEHICLES
 - z. Vehicles parked in unusual locations or at unusual times.
 - aa. Vehicles suffering damage to door locks or windows.
 - bb. Vehicle ignition “punched” or steering column cover damaged or removed.
 - cc. Vehicle registration not matching the registration number’s vehicle description.
 - dd. Registration plate loosely attached or held on by only one screw.
 - ee. Major vehicle parts (fenders, doors, tires, etc.) missing.

H. Handling Recovered Vehicles

10. RECOVERY: When a stolen vehicle is recovered, the following procedure shall be followed:
 - ff. Consider processing the vehicle for latent finger prints or other evidence that may identify the perpetrator.
 - 28) In some cases, vehicles may be processed at the scene of recovery.
 - 29) If the vehicle must be towed, tow the vehicle, if possible, without entering it. This is particularly important if the vehicle is to be processed for DNA, hairs, or fibers.
 - 30) If the vehicle must be entered, the tow operator should, at a minimum, wear gloves. In cases of serious crimes, consider providing the tow operator with Tyvek clothing, boot covers and hood as well, to avoid contaminating the crime scene.
 - 31) Avoid handling anything not absolutely necessary to affect the tow.

- gg. Impound the vehicle if it was used in the commission of a crime.
- hh. Methodically search the vehicle for evidence that may identify the perpetrator and evidence of other crimes.
- ii. Tow the vehicle in accordance with department procedures.
- jj. Complete the recovered motor vehicle portion of the Stolen/Recovered Motor Vehicle Report form. Be sure to include the recovery conditions.

11. NOTIFICATIONS

kk. Vehicles Stolen from This Department's Jurisdiction

- 32) If the recovered vehicle was stolen from this department's jurisdiction, the dispatcher shall notify the reporting party.
- 33) The stolen entry shall immediately be cancelled in LEAPS/NCIC.
- 34) The notification shall be noted on the recovery form and in the recovery log entry.

ll. Vehicles Stolen from Other Jurisdictions

- 35) If the recovered vehicle was stolen from another jurisdiction, the dispatcher shall notify the entering agency.
- 36) The dispatcher shall place a "Locate" on the stolen vehicle record.
- 37) The notification shall be noted on the recovery form and in the recovery log entry.

12. RELEASING THE VEHICLE TO THE OWNER

- mm. The vehicle owner shall not be allowed to take possession of the vehicle until all appropriate searches and examinations of the vehicle have been conducted, and only if the vehicle is not to be held as evidence.
- nn. The owner must provide identification and sign the vehicle recovery portion of the report form.
- oo. In the event of an arrest or anticipated prosecution, the investigating officer shall advise the owner of the recovered vehicle that [s]he may be needed to testify at court.

IDENTITY THEFT

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.16 MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 42.2.8	ISSUE DATE: 9/11/14
	EFFECTIVE DATE: 1/1/15
	REVISION DATE:

I. GENERAL CONSIDERATIONS AND GUIDELINES

Identity theft is the unlawful use of another person's personal information, such as name and date of birth, credit card numbers, Social Security number, or driver's license information, for the purpose of committing fraud or some other form of deception. It is one of the fastest growing forms of criminal conduct in the United States.

Although the unauthorized use of another person's identity is in itself a crime under federal and Massachusetts law, it is almost always a means of committing other crimes, such as bank fraud, check fraud, credit card fraud, Internet fraud, the fraudulent obtaining of loans, or the avoidance of criminal prosecution.

The first step in the compromising of a person's identity may be the theft of trash, the skimming of a credit card, the obtaining of information via the Internet, or some other technique that may not even be detected by the victim. In other cases, the theft of an identity may begin with the theft of a wallet or purse, or the interception of mail. Early detection of identity theft can minimize the amount of financial loss and the extent of damage done to the victim's credit.

The term "victim" in this policy refers to the person whose identity has been compromised, yet financial institutions, retail merchants and mail order companies often suffer greater financial loss than the citizen whose information has been unlawfully used.

II. POLICY

It is the policy of this police department to investigate instances where a citizen's identity has been compromised for an unlawful purpose.

- A. In each case of reported identity crime, whether the victim resides in this community or a fraudulent transaction occurs here, a police officer will conduct an investigation and immediately file a report.
- B. Officers investigating instances of identity theft will provide victims with information that will assist them in repairing their credit and diminishing the amount of theft.
- C. The department will refer to other law enforcement agencies' information about fraudulent transactions occurring in their jurisdictions.

- D. The department will seek to educate the public about the issue of identity crime, including methods for preventing it.

III. DEFINITIONS

- E. Personal Identifying Information: Any name or number that may be used, alone or in conjunction with any other information, to assume the identity of an individual, including any name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, credit card number or computer password identification.
- F. Victim: Any person who has suffered financial loss or any entity that provided money, credit, goods, services or anything of value and has suffered financial loss as a direct result of the commission or attempted commission of a violation of this section.

IV. PROCEDURES

G. Initial Investigation and Reporting

1. JURISDICTION: The jurisdiction for an identity theft victim to file a police report is very broad. A victim may file a police report:
 - a. In any county where the victim resides;
 - b. In any county where the victim's personal information is stored or maintained or the principal place of business of the entity that stores or maintains the data; or
 - c. In the county where the breach of security occurred in whole or in part.
2. IDENTITY THEFT AFFIDAVIT [42.2.8(B)]
 - d. Officers should recommend that victims use the Federal Trade Commission Identity Theft Affidavit.
 - e. The form's instructions contain valuable information to the victim and also provide for the capture of the information necessary to meet the requirements of an "Identity Theft Report" and for police to conduct a thorough investigation.
 - f. The victim should be encouraged to complete the form, have it notarized, and return a copy of the form to the investigating officer.
 - g. Officers can recommend the use of the Stow Police Identity theft flow sheet on the Stow Police website
 - h. A completed copy should be obtained and filed with the police report or the investigator's file.
 - i. Officers should forward the identity theft report with the Sergeant in Charge of Detectives for further followup, See Policy on Follow-ups
3. IDENTITY THEFT REPORTS [42.2.8(A)]
 - j. Police reports and incident numbers are critical documents for victims of identity theft to resolve issues with creditors and credit reporting agencies.
 - k. The report can be used to:
 - 1) Permanently lock fraudulent information that results from identity theft from appearing on the victim's credit report;
 - 2) Ensure these debts do not reappear on the credit reports;

- 3) Prevent a company from continuing to collect debts that result from identity theft, or selling them to others for collection; and
- 4) Allow a victim to place an extended fraud alert on his or her credit report.
- l. The report must contain details about the accounts and inaccurate information that resulted from the identity theft.
- m. A report will be filed prior to the end of the officer's shift, unless unusual circumstances cause it to be filed at a later date.
 - 5) The victim's copy of an Investigative Case Report Form will meet the time requirements for the purpose of reporting.
 - 6) The officer's report should also be submitted.
- n. A victim shall be provided a copy of the police report within twenty-four hours of its being requested.
- o. Financial institutions often require victims to forward a police report, so the filing of the report should never be delayed more than one tour of duty,.

H. Assisting the Victim [42.2.8(c)]

4. RESOURCES FOR VICTIMS

- p. Police officers investigating an identity theft must not only attempt to identify the subject(s) responsible, but also assist the victim in minimizing the damage done.
- q. An officer investigating an identity theft shall provide the victim with appropriate brochures, documents, other resources to assist the victim in stopping further victimization and correcting damage caused by the crime. In addition to victim brochures, these resources include:
 - 7) Dispute Letter for New Accounts;
 - 8) Dispute Letter for Existing Accounts; and
 - 9) Identity Theft Affidavit (Federal Trade Commission)].

5. VICTIM CONTACT WITH CREDIT BUREAUS

- r. Victims should be advised to contact one of the three major credit bureaus and place a fraud alert on their credit reports. As soon as the credit bureau confirms the fraud alert, the other two credit bureaus will automatically be notified to place fraud alerts. Once a fraud alert is placed, victims are entitled to order one free copy of their credit report from each of the three nationwide consumer reporting companies.
- s. The three credit bureaus are:
 - i. Equifax Credit Information Services
 (800) 525-6285
 P.O. Box 740241
 Atlanta, GA 30374-0241
 www.equifax.com
 - ii. Experian Information Solutions
 (888) 397-3742
 P.O. Box 9530
 Allen, TX 75013

www.experian.com

iii. TransUnion

(800) 680-7289

Fraud Victims Assistance Division

P.O. Box 6790

Fullerton, CA 92634-6790

www.transunion.com

6. NOTIFICATIONS TO FINANCIAL INSTITUTIONS: The officer should ensure that the victim notifies each financial institution where the victim has an account, so that those institutions can check the accounts for undetected fraud.
7. FEDERAL TRADE COMMISSION: The officer should advise the victim to contact the Federal Trade Commission and file a complaint. Complaints should be filed online at www.consumer.gov/idtheft.
8. COMPROMISE OF SOCIAL SECURITY NUMBERS: In cases where a victim's Social Security number has been compromised, the Social Security Administration should be notified at 800-269-0271, or at www.ssa.gov/oig.
9. DOCUMENTING CONTACTS: The officer should advise the victim to maintain a log detailing each instance where his/her identity has been compromised, and each contact [s]he makes with a financial institution, credit bureau, store, or law enforcement agency, using the flow sheet available on the Stow Police Department Website.
10. ID THEFT AFFIDAVIT: The victim should be provided a blank ID Theft Affidavit or Victim Statement Form, and be asked to provide the police department with a copy once it has been completed. Completed affidavits should be filed with the case. [42.2.8(B)]
11. INFORMATION SHARING: The officer should inform the victim that information about the case will be shared with the Identity Theft and Financial Crimes Task Force, and with bank security investigators that may be assigned to the case by the victim's bank.

I. Follow-up Investigation

12. INITIAL FOLLOW-UP

- t. Cases that require an in-depth investigation may be referred to the department's Detective Bureau for follow-up.
- u. Upon receiving the referral, the Detective Supervisor shall screen and evaluate the case for additional investigative resources.
 - 10) Cases that show little possibility of being investigated to a successful conclusion shall be closed.
 - 11) Cases which may be continued further by patrol personnel shall be returned to the referring officer for further investigation.
 - 12) Cases identified for further investigation shall be assigned to an investigator.
- v. Detectives assigned to investigate should follow up on promising leads which may include:
 - 13) Determining the point of compromise;
 - 14) Interviewing or causing to be interviewed employees of financial institutions and stores;

- 15) Securing and preserving images of the suspects;
- 16) Tracing goods fraudulently purchased;
- 17) Interacting with bank and credit card company fraud departments; and
- 18) Investigating instances where the victim's identity was used to avoid criminal prosecution.

- w. Investigations which lead to another jurisdiction shall be coordinated with the appropriate federal, state, or local law enforcement agency.
- x. Detectives must keep victims apprised of all significant developments in the investigation, and shall contact them in all instances where it is learned that their identity has been further compromised or used.

13. REFERRALS FROM OTHER LAW ENFORCEMENT AGENCIES [42.2.8(D)]

- y. Referrals of identity theft from outside agencies will normally be referred to the Detective Bureau.
- z. Upon receiving a referral, the detectives shall coordinate investigative efforts with the referring agency. This may include:
 - 19) Following-up on all leads as requested by the referring agency;
 - 20) Documenting all fraudulent transactions;
 - 21) Securing all available evidence, including photographs, stolen property, and relevant documents;
 - 22) Informing the referring agency, officer or agent of all significant developments in the investigation; and
 - 23) Preparing a comprehensive report of the follow-up investigation, and providing a copy to the referring law enforcement agency or official.

14. DISSEMINATION OF SURVEILLANCE PHOTOGRAPHS

- aa. Images of subjects conducting transactions related to identity theft may be shared with other agencies through:
 - 24) State and regional identity theft and counter crime taskforces;
 - 25) New England State Police Network; and
 - 26) MassMostWanted.org web site.
 - 27) MACrimeNET
 - 28) Fusion Center
- bb. The detective should also view images received from these and other sources to determine if a subject has committed crimes in other jurisdictions or suspects are known to the detective.

J. Prevention and Education [42.2.8(e)]

[IDENTITY THEFT MATERIALS ARE AVAILABLE TO DOWNLOAD FROM THE FEDERAL TRADE COMMISSION.]

- 15. The department will keep the public informed on the subject of identity fraud in general, and specifically about steps that the public can take to prevent becoming a victim.
- 16. BROCHURES: The department will make brochures relating to avoiding identity theft available to the public.

17. PUBLIC PRESENTATIONS: The department will maintain an education and prevention program available for presentation to civic groups by members of the department.
18. WEB SITE: The department web site will maintain links to sites that offer information about identity theft.
19. MEDIA: The department will utilize the media where appropriate to warn citizens about trends in identity crime.

ELECTRONIC RECORDING OF INTERROGATIONS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.17	ISSUE DATE:
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.2.3(b)	EFFECTIVE DATE:
	REVISION DATE:

1. GENERAL CONSIDERATIONS AND GUIDELINES

In *Commonwealth v. DiGiambattista*, 442 Mass. 423 (2004), the Supreme Judicial Court held that if the prosecution introduces a confession or statement that the police obtained during an interrogation of a defendant who was either in custody or at a “place of detention,” and the police did not electronically record the statement, the defendant is entitled to a cautionary jury instruction. Upon the defendant’s request, the judge must instruct the jury that “the State’s highest court has expressed a preference that such interrogations be recorded whenever practicable and . . . that, in light of the absence of any recording of the interrogation in the case before them, they should weigh evidence of the defendant’s alleged statement with great caution and care.” This jury instruction is required regardless of the reason that the police did not record the interrogation.

These procedures were adopted from the Massachusetts District Attorney’s Association’s recommended guidelines for recording interrogations.

2. POLICY

It is the policy of the department to electronically record all custodial interrogations of suspects or interrogations of suspects conducted in places of detention whenever practical.

3. DEFINITIONS

For the purpose of this policy, the following words and phrases are defined as follows:

- a. *Custody*: Circumstances in which a reasonable person would believe that his or her freedom of action has been curtailed such that he or she is not free to leave.
- b. *Electronic recording*: Preservation by analog (audio and/or VHS videotape) or digital (digital audio tape, CD and/or DVD non-rewritable discs) means through the use of audio or audio/video recording equipment.

- c. *Interrogation*: An interrogation occurs when a law enforcement officer's questions, actions or words (other than those normally attendant to arrest and custody), are reasonably likely to elicit an incriminating response from a suspect.
- d. *Place of detention*: A police station, state police barracks, prison, jail, house of correction, or a department of youth services secure facility where persons may be held in detention in relation to a criminal charge(s).
- e. *Suspect*: A person who has either been charged with a crime or a person for whom there is a reasonable basis to believe that [s]he may in the future be charged with a crime. Witnesses, victims and other persons who provide information to a law enforcement officer are not considered suspects unless and until there develops a reasonable basis to change their status.

4. PROCEDURES

F. Applicability: These guidelines require officers to record, whenever it is practical, two types of interrogations:

- 1) Custodial interrogations of suspects; and
- 2) Interrogations of suspects occurring at places of detention.

G. Wiretap Violations

- 3) The Massachusetts wiretap statute, G.L. c. 272, §99, generally prohibits anyone from secretly recording another person's oral statements.
- 4) Unless one of the narrow exceptions in the wiretap statute applies, a law enforcement officer who electronically records a suspect's interrogation must do either of the following:
 - i. Notify a suspect that his or her statements are being recorded; or
 - ii. Conduct the interrogation in such a way that it is obvious to the suspect that his or her statements are being recorded.
- 5) Once the suspect knows or reasonably should know that [s]he is being recorded, the law enforcement officer may record the interrogation without asking for or receiving explicit consent to do so.

H. Creating a Clear and Complete Record

- 6) To the extent it is practical; the officer should electronically record the entire interrogation of a suspect.
- 7) To assist in the creation of the record, officers should do the following:
 - iii. Start the recording device.
 - iv. Inform the suspect that [s]he is being recorded.
 - v. State the date, time, location and names of persons present. If a video recording device is used which imprints the time on the tape or disk, verify that the correct time is displayed.
 - vi. State the full name of the suspect.
 - vii. Execute appropriate departmental forms including, but not limited to, Miranda warning and waiver, and waiver of prompt arraignment (if applicable).
 - viii. If the officer must suspend the recording for any reason, [s]he should record the reasons for stopping (e.g., taking a break or a malfunction), the time the recording device is turned off, the time it is turned back on, and what transpired while the recording device was turned off.
 - ix. If the officer uses or refers to documents or other items during the interrogation, the officer should describe those documents or items on the record and mark them with a unique number (similar to an exhibit number at trial) and the officer's initials. If the officer is unable to write on the actual document

or item, the officer may write on a bag, envelope or case in which the document or item is placed or on a piece of tape attached to the document or item.

- x. Conclude the recording by stating the date and the time the interrogation is completed.

I. Suspect Refuses to be Recorded.

- 8) GENERALLY: If a suspect refuses to make a recorded statement, the officer should record the refusal (if it is practical) and document it on a refusal form. (A refusal form is attached hereto.)
- 9) SUSPECT REFUSES BEFORE RECORDER IS TURNED ON
 - xi. If the suspect refuses to be recorded before the recording device is turned on, the officer should, if it is practical, turn on the recording device to record the refusal.
 - a) The officer should identify himself or herself and the suspect; state the date, time and location; inform the suspect of any applicable rights (such as *Miranda*); and inform the suspect that there are potential benefits to recording the interrogation, including the fact that a recording will create a clear and complete record of what was said to the suspect, and what the suspect said during the interrogation.
 - b) The officer should then ask the suspect on the record if [s]he is willing to make an electronically recorded statement.
 - c) The officer should advise the suspect that if at any time [s]he changes his or her mind and decides that [s]he does want the interview to be recorded, [s]he should let the officer know, and the officer will turn on the recording device.
 - xii. If the suspect still refuses, the officer should turn off the device, execute a signed refusal form, and proceed with the interview.
- 10) SUSPECT REFUSES TO HAVE HIS OR HER REFUSAL RECORDED.
 - xiii. If the suspect objects to having his or her refusal electronically recorded, the officer may proceed without recording the refusal or the interrogation.
 - xiv. The officer should advise the suspect of the benefits of recording, execute a signed refusal form, and proceed with the interview.
- 11) SUSPECT REFUSES AFTER THE RECORDING DEVICE HAS BEEN TURNED ON.
 - xv. If, during the course of a recorded interrogation, a suspect decides that [s]he will no longer answer questions unless the recording device is turned off, the officer should again advise the suspect of the benefits of recording the interrogation.
 - xvi. If the suspect still refuses, the officer should turn off the recording device, execute a refusal form, and proceed with the interview.

J. Discretionary Decision Not to Record

- 12) An officer may decide not to record an interrogation, even where it is practical to do so, if that officer reasonably believes that recording the interrogation will jeopardize the safety of an officer, the suspect, or any other person.
- 13) If an officer decides, without conferring with the suspect, that it is unsafe under the circumstances to record the interrogation, the officer should document in his or her interview or case report the reason(s) why the interrogation was not recorded.
- 14) If, after conferring with the suspect, an officer decides that it is unsafe under the circumstances to record the interrogation, the officer should, nonetheless, advise the suspect of the benefits of recording the interrogation.
- 15) If the suspect still does not want the interrogation to be recorded, the officer should:

- xvii. Document in his or her interview or case report the reason(s) why [s]he did not record the interrogation;
- xviii. Execute a signed refusal form; and
- xix. Proceed with the interview.

K. Recording Devices

16) Officers should choose a digital recording device

17) RECORDING DEVICE MALFUNCTIONS

- xx. If the recording device malfunctions, the officer conducting the interrogation must make a decision whether and how to continue the interrogation and [s]he must document what occurred.
- xxi. If the recording device can be restarted, the officer should state on the record that the device malfunctioned, how long the device was not working, and whether or not the suspect made any statements that were not recorded.
- xxii. If the recording device cannot be restarted, the officer should include in his or her interview or case report the fact that the device malfunctioned and whether or not the suspect made any statements that were not recorded.
- xxiii. If the recording device cannot be restarted, the officer should ask the suspect whether [s]he wishes to continue the interrogation without a recording device, or whether [s]he wishes to suspend the interrogation until an operable recording device is available.
- xxiv. If the suspect consents to continuing the interrogation without a recording device, that consent and the interrogation should be documented in some manner, such as in a signed statement by the suspect or in the officer's interview or case report.

18) INOPERABLE OR UNAVAILABLE RECORDING DEVICE

- xxv. If there is no recording device available or the recording device is inoperable, the officer should defer the interrogation until an operable recording device can be obtained.
- xxvi. If it is impractical to defer the interrogation, and the suspect consents to continuing the interrogation without a recording device, that consent and the interrogation should be documented in some manner, such as in a signed statement by the suspect or in the officer's interview or case report.

L. Preservation and Copying of Original Recordings

19) COPYING

- xxvii. The officer who conducted the interrogation must take steps to preserve the original recording.
- xxviii. The storage medium should be removed from the recording device, clearly labeled, and appropriately stored.
- xxix. If the interrogation is recorded digitally, the officer should preserve at least one whole copy which must be clearly labeled and appropriately stored.
 - d) To the extent it is practical, statements from multiple suspects should not be recorded on the same tape or disk.
 - e) As soon as it is practical, an officer who records the statements of a suspect should create at least one exact copy of the original recording. The copy should be clearly labeled as a copy and appropriately stored.
 - f) Once the copy has been made, the copy, and not the original, should be used to make additional copies. Additionally, copies, and not the original, should be used to prepare a written transcript, to comply with discovery obligations, and for all other purposes.

20) STORAGE

- xxx. The officer who conducted the interrogation shall preserve in the original case file all written forms and notes or records of all statements by a suspect that were not electronically recorded.
- xxxi. All electronically recorded interrogations shall be preserved, according to the state records retention law and department policy, as criminal evidence.
- xxxii. The original storage device shall be labeled as such and any copies labeled as such.
- xxxiii. Each original and copy shall be authenticated by the interrogator with the following information:
- g) Date and time of recording;
 - h) Location of the interrogation;
 - i) Name of person interrogated;
 - j) Name of person(s) conducting the interrogation; and
 - k) Department assigned case number or incident report number.

ELECTRONIC RECORDING – REFUSAL FORM

Name: _____

Date of Birth: ____ / ____ / ____ Type of Recording Device: _____

Person(s) Present: _____

Date: _____ Time: _____ Location: _____

_____ I have requested that this interview **not** be recorded.

_____ I have requested that this interview **no longer** be recorded.

To be read to suspect: There are potential benefits to the electronic recording of interviews. For example, the electronic recording of this interview will create a complete record of what was said to you today and what you said in return.

As you know, we have a recording device available for the purpose of electronically recording this interview and are ready and willing to electronically record this interview.

At your request, we will conduct this interview without electronically recording (or any further recording of) your statements. If, at any time, you change your mind and decide that you do want to electronically record this interview, please let me know and we will turn on the recording device. I am going to ask you to initial and sign this form:

Do you understand the information that I have read to you?

YES NO

Do you still request that this interview **not** be recorded?

YES NO

Signature: _____

Date: _____

Witness: _____

ELECTRONIC RECORDING – REFUSAL FORM

Name: _____

Date of Birth: ____ / ____ / ____ Type of Recording Device: _____

Person(s) Present: _____

Date: _____ Time: _____ Location: _____

_____ I have requested that this interview **not** be recorded.

_____ I have requested that this interview **no longer** be recorded.

To be read to suspect: There are potential benefits to the electronic recording of interviews. For example, the electronic recording of this interview will create a complete record of what was said to you today and what you said in return.

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At your request, we will conduct this interview without electronically recording (or any further recording of) your statements. If, at any time, you change your mind and decide that you do want to electronically record this interview, please let me know and we will turn on the recording device. I am going to ask you to initial and sign this form:

Do you understand the information that I have read to you?

YES

NO

Do you still request that this interview **not** be recorded?

YES

NO

Signature: _____

Date: _____

Witness: _____

CHILD ABUSE INVESTIGATIONS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.18	ISSUE DATE:
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE:
	REVISION DATE:

I. GENERAL CONSIDERATIONS AND GUIDELINES

The purpose of this policy is to provide officers with guidelines for recognizing instances and accepting reports of child abuse and neglect and coordinating the investigation of such cases with appropriate child protective service agencies and prosecuting attorneys' offices.

Law enforcement and social welfare agencies share a responsibility in seeing that children do not become the targets of adult violence and parental neglect. Routine sharing of information by these agencies in a strategic manner, where permissible and appropriate, can often prevent child abuse or neglect from taking place.

II. POLICY

It is the policy of this police department that:

- A. Reports of child abuse and neglect shall be thoroughly investigated in accordance with this policy; and
- B. Appropriate measures shall be taken, consistent with state law, which will best protect the interests of the child.

III. DEFINITIONS

- C. *Abandonment*: Leaving a child alone or in the care of another under circumstances that demonstrate an intentional abdication of parental responsibility.
- D. *Abuse*: The non-accidental commission of any act *by a caretaker* upon a child under the age of eighteen (18) which causes or creates a substantial risk of physical or emotional injury, or constitutes a sexual offense under the laws of the Commonwealth, or any sexual contact between a caretaker and a child under the care of that individual. This definition is *not* dependent upon location (*i.e.*, abuse can occur while the child is in an out-of-home or in-home setting).
- E. *Caretaker*: A child's:
 - 1. Parent;
 - 2. Step-parent;
 - 3. Guardian; or
 - 4. Any household member entrusted with the responsibility for a child's health or welfare; or

5. Any other person entrusted with the responsibility for a child's health or welfare, whether in the child's home, a relative's home, a school setting, a day care setting (including babysitting), a foster home, a group care facility, or any other comparable setting. As such, "caretaker" includes (but is not limited to) school teachers, babysitters, school bus drivers, camp counselors, etc. The "caretaker" definition is meant to be construed broadly and inclusively to encompass any person who is, at the time in question, entrusted with a degree of responsibility for the child. This specifically includes a caretaker who is him/herself a child (*i.e.*, a babysitter under age eighteen (18)).

F. *Child*: A person who has not reached his/her eighteenth birthday, not including unborn children.

G. *DSS*: Department of Social Services.

H. *DCF*: Department of Children and Families

I. *Mandated Reporter*: A person mandated by statute and/or CMR to make a report to the Department of Social Services if the person has reasonable cause to believe that a child is suffering physical or emotional injury resulting from abuse inflicted upon him/her which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse, or from neglect, including malnutrition, or who is determined to be physically dependent upon an addictive drug at birth. Public safety personnel are mandated reporters.

J. *Neglect*: Failure by a caretaker, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care, provided, however, that such inability is not due solely to inadequate economic resources or solely to the existence of a handicapping condition. This definition is *not* dependent upon location (*i.e.*, neglect can occur while the child is in an out-of-home or in-home setting).

IV. PROCEDURES

K. Initial Complaint Response

6. REPORTERS

- a. Reports may be received from a variety of sources including:
 - 1) Family members;
 - 2) Neighbors;
 - 3) Department of Social Services;
 - 4) District Attorneys; and
 - 5) Anonymous sources.
- b. Statutory law requires that instances or suspected instances of child abuse or neglect be reported by public and private officials, such as physicians, dentists, school employees, clergy-persons and others. Officers shall record and respond to all reports of child abuse, neglect and abandonment, irrespective of the source or method of reporting. Police officers must report such abuse or neglect to the Department of Children and Families
- 6) Verbally, within twenty-four hours; and
- 7) In writing within forty-eight hours using the DCF reporting form accompanied by a copy of the incident report.

7. PRELIMINARY INVESTIGATION

c. Reporter Interview

- 8) A preliminary interview will be conducted with the reporting individual, when known, to determine the basis for the report, including the determination of such factors as:
 - i. The physical condition of the child;

- ii. A description of the abusive or neglectful behavior;
 - iii. Evidence of parental disabilities, such as alcoholism, drug abuse, mental illness or other factors that demonstrate or suggest their inability to care for the child;
 - iv. Description of suspicious injuries or conditions;
 - v. The nature of any statements made by the child concerning parental maltreatment; and
 - vi. Any evidence of parental indifference or inattention to the child's physical or emotional needs.
- 9) When the source of the report cannot be identified, officers must investigate to determine if cause exists for further investigation.
- d. Caretaker Preliminary Interview
 - 10) A preliminary interview of a caretaker alleged to be abusing or neglecting a child should be conducted where the abuse or neglect is taking place.
 - 11) Officers should be observant for physical signs of abuse or neglect. Such signs may include:
 - vii. Visible injuries on the child;
 - viii. The child clothed in dirty or ragged clothing;
 - ix. Home or facility in disarray;
 - x. Lack of food in the home, cabinets or refrigerator; and
 - xi. Signs of drug or alcohol abuse.
- e. Preliminary Report Findings
 - 12) Where such preliminary investigation leads the officer to believe that the report is unfounded or untrue, the officer shall note the findings in a report.
 - 13) Where reasonable suspicion exists to believe that a child is being abused or neglected:
 - xii. The officer shall file a verbal and/or written report with DCF and
 - xiii. A coordinated investigative effort should be undertaken with DCF
- f. Immediate action shall be taken by officers when:
 - 14) The complaint warrants arrest or criminal prosecution;
 - 15) Child protective personnel are not available, and time is of the essence;
 - 16) The child is in danger, and child protective personnel cannot enter the home;
 - 17) The suspected perpetrator may flee;
 - 18) Police presence is required to maintain order or to protect the safety of child protection officers; or
 - 19) When the child must be taken into protective custody against parental wishes.
 - 20) District Attorney Child Abuse Unit Should be contacted

L. Follow-up Investigation

- 8. BACKGROUND INVESTIGATIONS: The following sources may provide valuable information in conducting a child abuse or neglect investigation:
 - g. Check active or expired restraining or other court protective orders with regard to the child or other members of the family.
 - h. A criminal records check to include a local and Board of Probation check should also be performed on the suspect.

- i. Check the victim's medical records. Certain types of injuries are particularly characteristic of physical abuse and are most incriminating when they do not correlate with parental explanations of how they occurred. They include:
 - 21) "Pattern" injuries that may be linked to specific objects used in an attack, such as hot irons, coat hangers; fingertip marks caused by tight gripping; straight, curved or curvilinear or jagged lesions indicating whipping; bite marks; and scald or peculiar burn marks;
 - 22) Injuries to specific body parts, such as the genitals, buttocks or rectum, as well as trauma to the torso, upper arms and thighs in the absence of other common injuries often suffered by children in play accidents, such as skinned knees, elbows, and forehead;
 - 23) Signs of old injuries to various parts of the body in different stages of healing, particularly those that are not common to childhood;
 - 24) Bone fractures of small children and related injuries that are inconsistent with the child's level of maturity and risk of injury, such as spiral fractures (suggesting vigorous shaking), fractures to the rear and upper skull (suggesting blows to the head), subdural hematomas without scalp contusions (suggesting violent shaking with resultant head whiplash), and fractures of long bones and joints that are suggestive of violent pulling, twisting or jerking of the extremities;
 - 25) A history, pattern or extent of injury that does not correlate with the alleged cause of death or means of injury;
 - 26) Inordinate delay in seeking medical attention, evidence of administration of home remedies for relatively serious injuries, history of prior visits to different emergency rooms, frequent changes of physicians and prior diagnosis of "failure to thrive"; and
 - 27) At autopsy, the presence of old injuries or other internal injuries that were not detectable through external examination.
- j. Social welfare officers may provide information on family background, employment, economic and domestic stability and previous contacts with child protective service agencies.
- k. School teachers may also provide some insight through records of the child's attendance, grades, demeanor, socialization, motivation and perceived emotional stability. Several behavioral indicators are suggestive of child abuse, including:
 - 28) Recurrent injuries or complaints of parental physical mistreatment;
 - 29) Marked changes in the child's behavior or level of achievement;
 - 30) Strong antagonism toward authority;
 - 31) Exaggerated reactions to being touched;
 - 32) Withdrawal from peers, or assaultive or confrontational behavior;
 - 33) Delinquent acts, running away from home or truancy; and
 - 34) Refusal to dress for physical education or dressing inappropriately.
- l. Family members, neighbors, and other individuals who may have personal knowledge of the family situation may provide information.
- m. State Police Detectives may be contacted to assist.

9. ACCUSED CARETAKER/FAMILY INTERVIEW

- n. A DCF investigator should participate in the interview with the police investigator.
- o. The interview should be conducted in a non-accusatory, informal, fact-finding manner, and questions should be presented in an open-ended format to allow parents or caretakers complete latitude in responding.

- p. In determining whether to accept a parent's explanation, officers should consider the following questions. Findings consistent with those in parentheses may indicate a greater likelihood of abuse.
- 35) Is it reasonable to believe that the child's injuries were self-inflicted or accidental given the child's maturity, manual dexterity and ability to walk or stand? (No)
 - 36) Was the caretaker's story consistent with other evidence? (No)
 - 37) Do caretaker(s) claim ignorance of critical details of the incident? (Yes)
 - 38) Does the home or facility appear to be clean and well maintained? (No)
 - 39) Does the family live in a socially isolated environment without the support of neighbors, friends or family? (Yes)
 - 40) Do the parents appear to support one another in a positive home environment? (No)
 - 41) Do there appear to be frequent or ongoing crises in the family? (Yes)
 - 42) Does the child in question appear to be regarded by the care taker(s) in a negative way? (Yes)
- q. Some caretakers may explain or excuse the incident as a legitimate attempt to discipline the child. In order to be reasonable and acceptable, discipline should:
- 43) Be appropriate to the misbehavior involved but never involve serious bodily injury;
 - 44) Be consistent with the child's ability to understand its relevance to acts in question; and
 - 45) Be administered with prudence and caution rather than recklessly, brutally or without sufficient regard for the child's power of endurance.

10. INTERVIEWING CHILDREN

Before interviewing children, Officers must contact the Middlesex DA's Child Abuse unit for a forensically sound interview. Officers should not interview child unless specifically directed to by the DA's office.

- r. Officers conducting interviews with children in suspected child abuse cases should be familiar with the following special issues that arise when conducting these interviews:
- 46) Interview settings and method should be appropriate for the age of the child.
 - 47) Children should be interviewed separately from their parents.
 - 48) Repeated interviews with the child should be avoided whenever possible.
 - 49) Avoid questions that can be answered with a "yes" or "no" response. Use open-ended questions whenever possible.
 - 50) Sit with the child rather than across a table. Conduct the interview in a casual and non-threatening manner.
 - 51) Do not lead the child or suggest answers, probe or pressure the child for answers, or express concern, shock or disbelief in response to answers.
 - 52) Reassure the child that [s]he is not to blame and is not in trouble for what happened or for being asked questions.
- s. Multidisciplinary Team Interview (SAIN Interview)
- 53) An interview may be conducted by a Child Interview Specialist in a non-threatening setting. The interview is viewed by the police investigator, DCF investigator, assistant district attorney, and other appropriate participants.
 - 54) Participants may input questions to the interviewer to obtain a response from the child.
 - 55) Such an interview may minimize the trauma of these sessions to the child being interviewed.

56) A SAIN (Sexual Abuse Intervention Network) interview may be arranged through the District Attorney's office.

11. PHYSICAL EVIDENCE: Collecting physical evidence to document abuse is very important for prosecuting these cases. In this regard, officers should be aware of the following:

- t. Injuries should be photographed in color. Photos taken during medical examinations may be taken by medical personnel or by a same-sex officer. All injuries should be described in writing and diagrammed.
- u. X-rays should be taken if deemed appropriate by a medical doctor, and any that have been taken should be collected and preserved.
- v. Photographs of home conditions bearing on the child's maltreatment should be taken.
- w. Any instruments that were used in the physical attack should be identified and preserved, as well as any clothing that bears evidence such as blood or semen stains.
- x. Any other items that have bearing on the abuse or neglect, such as guns, knives, drugs, poisons or related items in possession of the suspected perpetrator, should be identified and collected.
- y. Evidence collected shall be documented and submitted to the property and evidence function. See the department policy on Collection and Preservation of Evidence.

M. Removal of Children

12. Children may be removed in the case of an emergency.

- z. Examples of such incidents are cases of abandonment or severe abuse or neglect, where the child is in imminent danger of death or serious bodily harm, and time is of the essence.
- aa. Parental permission should also be sought, but is not required in order to remove the child under emergency circumstances.
- bb. The assistance of the DCF shall be sought.

13. Police may remove children from a home in compliance with a judicial order.

- cc. In cases where protective custody is warranted and time permits, the DCF shall be notified and a court order for protective custody shall be sought prior to the child's removal.
- dd. Officers may accompany DCF workers and preserve the peace in support of a judicial order to remove children from a home.

POLICY & PROCEDURE NO. 2.19	DATE: _____12/31/2015_____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED:	EFFECTIVE DATE: __12/31/2015_____ REVISION DATE: __1/12/2022_____

POLICY

In accordance with the Americans with Disabilities Act, 42 U.S.C. §12101, et seq. (ADA), the Stow Police Department is committed to serving all individuals according to their needs. Recognizing that persons who are deaf or hard of hearing have may require auxiliary aids or services to ensure effective communication, the Department recognizes its obligations to provide necessary auxiliary aids or services and is committed to meeting those needs. Individuals who are deaf or hard of hearing are entitled to a level of service equivalent to that provided to other individuals without disabilities.

It is the policy of this police department that:

- Persons who are deaf or hearing impaired (hard of hearing) - whether they be victims, witnesses, or suspects - shall be treated with respect, and in any encounters with such individuals, an officer's conduct shall conform to applicable provisions of federal and state law and this policy.
- This department shall make available access to speech language interpreters as coordinated by the Office of Deafness.
- All calls from persons who are deaf or have hearing loss or speech impairments must be accepted through the department's enhanced 9-1-1 communication center.

DEFINITIONS

Auxiliary aids and services: Various types of communication aids that assist people who are deaf or hard of hearing to communicate effectively. Examples include qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers;

assistive listening devices or systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.

Deaf or Hard of Hearing: An individual who has or is regarded as having substantially limited hearing with or without assistance within the meaning of the ADA. This includes a person who does not hear well enough to rely on their hearing to process speech and language, even with the assistance of hearing aids

Lip Reading: (also referred to as speech reading): The ability to use information gained from movements of the lips, face, and body to increase understanding. It is important to note that while lip-reading may be effective for some individuals who are deaf or hard of hearing, for many it will be insufficient. Some assessments have determined that only one third of spoken words can be understood by speech or lip-reading.

Qualified Interpreter: An interpreter who, via a video remote interpreting service or an on-site appearance, is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include, for example, sign language interpreters, oral transliterators, and cued-language transliterators.

The Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH) is the state agency that determines who is qualified as an interpreter for Stow Police Department.

MCDHH - Executive Office
600 Washington Street, 3rd Floor
Phone: (617) 740-1600
Fax: (617) 740-1810
TTY: (617) 740-1700
Videophone: (617) 326-7546
Emergency / After Hours: (800) 249-9949
Online Requests may be submitted at
<https://www.mcdhh.net/request/>

Sign language: Communication through the use of standardized hand or finger signs or gestures. American Sign Language (ASL) is a form of sign language frequently used in the United States. Signs convey concepts or ideas, even though a sign may stand for a separate English word. Signing individual letters by finger spelling can supplement sign language. Just as there are regional variations (dialects) in spoken English, there are regional differences in sign language.

GENERAL CONSIDERATIONS AND GUIDELINES;

If a Stow Police Employee (Officer, Dispatcher, Civilian Employee, Volunteer) has any reason to believe that a person who has a need to communicate with the Department is deaf or hard of hearing, the employee must advise the person that appropriate auxiliary aids and services,

including interpreters, will be provided free of charge when necessary for effective communication. The employee will ensure that such aids and services including interpreters are offered, utilized, and documented. Primary consideration will be given to the auxiliary aid requested by the person who is deaf or hard of hearing unless there is another equally effective means of communication available. This means that, upon initiating contact, the employee should ask the individual who is deaf or hard of hearing about their preferred method of communication.

Employees encountering people they believe are deaf or hard of hearing should never assume that the person understands what is being communicated. This caution applies to all forms of communication, whether sign language, speech, writing, or reading.

Communication problems in police-public encounters may result in violations of an individual's civil rights, and provide the potential basis for misunderstandings, problems, frustration, and embarrassment. Therefore, it is important that employees are able to identify when they may be interacting with an individual who is deaf or hard of hearing in order to differentiate their actions and demeanor from other causes, and then take appropriate measures to facilitate effective communication.

Some deaf and hard of hearing persons have limited written language skills, particularly involving complex matters such as legal warnings and admonitions. Therefore, employees should not assume the effectiveness of this form of communication and should gain confirmation of a person's understanding whenever possible.

EMERGENCY CALL TAKERS AND DISPATCHERS

- The dispatch center is equipped to receive E9-1-1 calls from TDD/TTY and computer modem users. All certified E9-1-1 call takers are trained to communicate with callers using the systems TTY and TDD equipment.
- Upon receiving an E9-1-1 TTY call, dispatchers shall communicate using TTY communications procedures set by State 911.
- Dispatchers shall place a high priority on response to emergency calls for service from persons who are deaf or who have hearing impairment.
- The deaf and hearing impaired shall be provided with direct, equal access to all emergency services provided by this department.

ENCOUNTERING AND COMMUNICATION WITH DEAF OR HARD OF HEARING PERSONS;

Deaf persons may attempt to gain the attention of an employee by touching him/her when the employee is not facing them. This is how deaf and hard of hearing persons commonly gain the attention of others, so that they can see the other person's face and attempt to communicate. Employees should not interpret this touching alone as offensive or possibly threatening behavior unless additional factors suggest otherwise.

Employees should never assume that the person understands verbal communications until comprehension can be confirmed by appropriate

responses to questions or directives. Even where an individual may appear to be comprehending some portion of the communication, verbal communication should not be solely relied upon where an individual has indicated a need for auxiliary aids or services.

Employees should not assume that persons who wear hearing aids or cochlear implants (an electronic device that partially restores hearing) can hear and fully understand information that is verbally communicated. Some people use these devices to provide sound awareness rather than to increase speech understanding. Highly stressful situations, background noise, multiple speakers, and complex information and instructions can compromise the effectiveness of hearing aids and cochlear implants. Employees can assess comprehension by seeking appropriate responses to simple questions or directives as indicated above.

Once someone is identified as a deaf or hard of hearing person, employees should attempt to determine (by written or other forms of communication) the person's preferred means of communication (e.g., sign language, lip reading, reading and note writing, using a laminated communication card, or speech).

Deaf or hard of hearing persons may require additional time to respond to commands, instructions, and questions. Employees must be alert to indications that a person may be deaf or hard of hearing. Such indications may include, but are not limited to the following:

- The appearance of bumper stickers, rear window decals, or visor notices/symbols indicating the disability;
- Failure of persons to appropriately respond to spoken commands or signals;
- Use of signs, hand signals, or gestures in an attempt to communicate;
- Display of cards by the person noting his or her hearing disability;
- Inability or difficulty of a person to consistently follow verbal instruction or requests for information;
- A need to see the employees face directly, suggesting that the person is attempting to lip read;
- Evidence of assistive devices such as hearing aids, cochlear implants, or picture symbols; and
- Evidence of behaviors that indicate an individual is not receiving effective communication access such as increased agitation or irritability, low frustration levels, withdrawal, or decreased attention.

Employees should be cognizant of the fact that some persons who are deaf or hard of hearing may also suffer from inner ear impairments that can affect their balance, or speech may be slurred or otherwise difficult to understand.

LIP READING

Employees attempting to communicate with a person who can lip read should:

- Select a location that minimizes interference and distractions;
- Face the person so that eyes and mouth are clearly visible;
- Stand about three to six feet from the person;
- Avoid excessive body movement;
- Speak only after getting the person's full attention;
- Make questions and instructions short and simple;
- Speak clearly and slightly slower than usual;
- Be prepared to repeat oneself using different words to rephrase any question; and
- Recognize that lip reading is ineffective for most individuals, so be sure to inquire with the individual who is deaf or hard of hearing to determine whether they may need more effective auxiliary aids or services.

Employees should address all questions and directives to persons who lip read by facing them directly and speaking in a moderately paced conversational tone.

- Shouting or using exaggerated mouth movements interferes with the ability to lip read.
- Understanding can be further degraded by the presence of facial hair or items in the mouth such as chewing gum, etc.

SIGN LANGUAGE

Generally, employees should not rely on family members or friends for sign language interpretation due to their potential emotional involvement, conflict of interest, and legal requirements.

A family member or friend may only be asked to interpret for a deaf individual where there is an urgent need to communicate immediately and that is the only option.

In nonemergency situations, an adult family member or friend may interpret if the deaf person requests that arrangement, the other person agrees, and it is appropriate under the circumstances.

INTERPRETER REQUIREMENTS

G.L. c. 221, § 92A requires a police department to procure and pay for the services of a qualified interpreter for a deaf or hard of hearing person whenever such person is arrested. The Stow Police Department will make available access to speech language interpreters as coordinated by the Massachusetts Commission for the Deaf and Hard of Hearing.

Employees should be certain that when any deaf or hard of hearing person executes a waiver, such person does so knowingly, intelligently, and voluntarily. In fact, in the case of a waiver of an interpreter, the court must make a special finding that any statement made by such deaf or hard of hearing person was made knowingly, voluntarily, and intelligently.

In simple enforcement situations, such as traffic stops, driver's license checks, or consensual police-public encounters, a notepad and pencil may provide effective communication for any individuals who are deaf or hard of hearing. Employees should document the steps they took to provide effective communication with the deaf or hard of hearing individual.

During questioning or interrogation of a suspect in a criminal case, a qualified legal sign language interpreter.

FIELD RESOURCES

Examples of methods in the field that may be sufficient for transactions, such as checking a license or giving directions to a location, or for urgent situations such as responding to a violent crime in progress, may include simple actions such as:

- Hand gestures or visual aids;
 - Exchange of written notes or communications;
 - Verbal communication with an individual who can lip read by facing the individual and speaking slowly and clearly; and/or
 - Use of computer, word processing, personal handheld communication device or similar device to exchange texts or messages.
-

ARRESTS

Deaf and hard of hearing people may be subject to arrest like any person without a disability in situations where an officer has the right to make an arrest. Except in cases where arrest is mandated by law, given the

complexities associated with the arrest, booking, and housing of a deaf or hard of hearing person, employees should consider exercising discretion and utilizing alternatives to arrest that may include, but not be limited to, an application for a criminal complaint instead of making an arrest. This decision will depend on the facts and circumstances of the particular case and ultimately the arresting officer's discretion.

A qualified interpreter need not be available in order for an officer to arrest a subject where probable cause is established independent of interrogating the deaf or hard of hearing suspect.

If probable cause to make an arrest can only be established through questioning or interrogating a deaf or hard of hearing person, a qualified interpreter will be required except in emergency situations.

Some deaf and hard of hearing persons have limited written language skills, particularly involving complex matters such as legal warnings and admonitions. Therefore, employees should not assume the effectiveness of this form of communication and should gain confirmation of a person's understanding whenever possible.

All essential communication with the suspect should be completed prior to the application of handcuffs, if possible.

BOOKING

When booking a deaf or hard of hearing person, officers may communicate with the person being booked in order to obtain minimally necessary information required to complete the booking process through the following means:

- Written communications;
- Verbal communications (if possible);
- A companion of the suspect acting as an interpreter, if requested by the suspect;
- A non-certified interpreter; or
- A certified interpreter.

As noted in the "Arrests" section above, some deaf and hard of hearing persons have limited written language skills, particularly involving complex matters such as legal warnings and admonitions.

Rights: An officer should advise a deaf or hard of hearing person of his or her rights pursuant to Miranda and all other required rights, including 5a rights through a qualified interpreter to appropriately ensure that a waiver of those rights is deemed valid by a court.

Any statements made by a deaf or hard of hearing person, which are elicited without the use of a qualified interpreter, may be challenged in court.

FIELD SOBRIETY TESTING

Some deaf or hard of hearing persons have reduced verbal communication skills, and/or speech that may be incoherent or otherwise resemble intoxication. These individuals may also have difficulty with equilibrium, which would impact their ability to perform a balance test.

Officers should be aware of the following when administering the standardized field sobriety tests to such persons;

- Avoid using balance tests when equilibrium is an issue.
- Factor in speech impediments when evaluating a suspect's speech.
- Use the horizontal gaze Nystagmus test.
- Breathalyzer and/or blood alcohol measurements (PBTs) should be employed as alternative tests when available.

Officers administering standardized field sobriety tests should avoid any evidentiary questions during the testing process, as such questions may require an interpreter. Further, if applicable, officers must document in their reports these and any other extenuating circumstances that impacted the administration of field sobriety tests.

INTERPRETER CONTACT INFORMATION

In situations involving the need for an interpreter, a request shall be made through the Massachusetts Commission for the Deaf and Hard of Hearing.

The contact information is listed below:

MCDHH - Executive Office
600 Washington Street, 3rd Floor
Phone: (617) 740-1600
Fax: (617) 740-1810
TTY: (617) 740-1700
Videophone: (617) 326-7546
Emergency / After Hours: (800) 249-9949
Online Requests may be submitted at
<https://www.mcdhh.net/request/>

OFFICER-INVOLVED USE OF DEADLY FORCE INVESTIGATIONS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.20	ISSUE DATE:
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE:
	REVISION DATE:

I. GENERAL CONSIDERATIONS AND GUIDELINES

It is the purpose of this policy to provide guidelines for the investigation of officer-involved use of deadly force incidents.

Although, thankfully, very few officers become involved in deadly force situations, all officers should have an understanding of steps that must be taken following such an event and the impact it will have on those officers involved. The initial response of the involved officers and the steps taken thereafter by first responders, supervisory and investigative personnel may be critical in conducting an accurate and complete investigation.

The reputation and career of involved officers and the agency's reputation within the community depend upon a full and accurate investigation to determine the circumstances that precipitated the event and the manner in which it unfolded. The critical nature of these investigations is also underscored by the frequency with which these incidents result in civil litigation.

Failure to take appropriate measures can lead to the loss of indispensable evidence, inaccurate investigative findings, inappropriate assignment of responsibility or culpability for wrongdoing, and even the filing of criminal charges against officers who acted responsibly and lawfully.

II. POLICY

It is the policy of this department to investigate officer-involved deadly force incidents with the utmost thoroughness, professionalism and impartiality to determine if an officer's actions conform to the law and this agency's policy on use of force.

III. PROCEDURES

A. On-Scene Responsibilities

1. GENERALLY

For officers involved in a deadly force situation, there are four general areas of concern that should be addressed after the initial confrontation has been quelled:

The welfare of officers, innocents, and others at the scene;

The apprehension of suspects;

The preservation of evidence; and

The identification of witnesses.

The safety and well-being of the officer(s) and any innocent bystanders is the first priority.

2. ACTIONS IMMEDIATELY FOLLOWING AN OFFICER INVOLVED DEADLY FORCE INCIDENT

Eliminate Hostile Threats: Initially, the officer should ensure that the threat from the suspect has been terminated.

This includes but is not limited to handcuffing or otherwise securing the suspect.

If not handcuffed or otherwise secured during the application of emergency first aid, an armed officer must be present at all times and tasked with overseeing the security of the suspect and safety of emergency service providers.

One should never assume that because a suspect has been shot or otherwise incapacitated that he or she is unable to take aggressive action.

Secure and separate suspects.

Conduct a protective sweep of the scene.

Remove the suspect and others from the immediate crime scene;

If the suspect cannot be immediately removed and firearms or other weapons are in the vicinity of the suspect, they should be collected and secured.

Obtain Additional Assistance: Request a supervisor, additional back-up, and any other assistance required immediately.

Provide for Medical Attention to the Injured

If injured, administer emergency first aid to ones self first, if possible.

Administer basic first aid to suspects and others, as necessary, pending arrival of emergency medical assistance.

Summons medical assistance.

3. APPREHEND SUSPECTS: Relay information on fleeing suspects to the dispatch center and other field units and work with them to establish a containment area or locate and arrest suspects.

4. PRESERVE EVIDENCE

Assess the Situation: Take note of the time, survey the entire area for relevant facts, individuals who are present and who departed the scene, witnesses, potential suspects and suspect vehicles.

Firearms: Holster any involved handguns or secure them in place as evidence. Secure long guns in the prescribed manner or in place as evidence. Do not open, reload, remove shell casings or in any other manner tamper with involved firearms.

Secure the scene, establish a crime scene perimeter and limit access to authorized persons necessary to investigate the shooting and assist the injured.

Protect evidence from loss, destruction or damage that is likely to occur. Ensure that evidentiary items are not moved or, if moved, note the original location and position of persons, weapons, and other relevant objects and evidence.

For further information, see the department policy on ***Preliminary Investigations***.

5. IDENTIFY WITNESSES: Record the names, addresses and phone numbers of all witnesses and other persons present at the shooting scene and request that they remain on hand in order to make a brief statement whether or not they say they saw the incident.

B. Supervisory Responsibilities at the Scene

6. OFFICE-IN-CHARGE

The first supervisor to arrive at the scene of an officer-involved deadly force incident will normally be designated as the officer-in-charge (OIC) until such time as he/she is relieved from this responsibility by an investigator or other appropriate senior officer.

A superior officer shall be notified and shall assume overall command of the incident. This duty may be assumed by the Chief of Police.

An investigation supervisor shall respond to supervise the agency's investigative efforts and coordinate with outside investigative entities (District Attorney's Office, Medical Examiner, etc.).

A patrol supervisor, if available, shall coordinate patrol support of the investigation.

7. IMMEDIATE ACTIONS

Ensure that the scene is safe and secure from other hostile persons.

Determine the condition of officers and others at the scene.

Ensure that emergency medical care has been summoned if necessary and emergency first aid is being provided if needed in the interim.

Ensure that the crime scene has been protected and, to the degree possible, that it is kept intact and undisturbed until criminal investigators arrive.

Ensure that staffing is adequate to handle the incident and conduct the investigation. The supervisor may consider calling in off duty personnel or mutual aid, including additional dispatchers.

Ensure that those issues ordinarily addressed by patrol officers, if such officers at the scene were not able to do so, have been addressed.

Broadcast lookouts for suspects;

Request backup and related support services;

Identify persons who may have been at or within close proximity to the scene of the incident, as well as identify witnesses and request their cooperation.

8. NOTIFICATIONS: The on scene supervisor shall ensure that notifications are made as appropriate:

Shift Commander

Investigations Supervisor;

Patrol Commander

Chief of Police;

District Attorney's Office: The District Attorney or his/her representative shall have the authority to direct and control the criminal investigation of a death;

Internal investigations;

Chaplain or police advocate;

Legal advisor, if applicable.

Officer(s) Family: If a police officer has been shot or severely injured, the officer's family shall be notified. For further information, see the department policy regarding ***Line of Duty Death's and Serious Injuries***;

9. CARE OF INVOLVED OFFICERS

Officer Injuries

If an officer has been shot or severely injured, ensure that another officer accompanies the injured officer to the hospital and remains with the officer until relieved.

The accompanying officer shall be responsible for ensuring that the clothing and other personal effects of the injured officer are recovered and turned over to the police department as evidence.

Officers not Injured

Officer(s) should be moved away from the immediate shooting scene and placed in the company of a fellow officer, preferably a peer counselor, if available.

Ensure that all necessary steps are taken consistent with this agency's policy on ***Post-Traumatic Stress Procedures***.

10. INCIDENT COMMAND: Establish command and control.

Establish a command post if necessary.

Appoint command Post Staff.

Designate a recorder to make a chronological record of activities at the scene, to include:

persons present,

actions taken by police personnel; and

the identity of any personnel who entered the incident/crime scene, to include emergency medical and fire personnel.

For further information, see the department's ***All Hazard Plan***.

11. PRELIMINARY INVESTIGATION

Ensure that the incident scene has been secured and the size of the secure area is adequate for the investigation. Make necessary adjustments.

Begin a preliminary investigation. For further information, see the department policy regarding ***Preliminary Investigations***.

Create a preliminary diagram of the scene and photograph it if a camera is available.

Note the location of and ammunition casings.

Locate the suspect's weapon(s), ammunition and expended cartridges.

Do not disturb weapons, ammunition, or the crime scene pending the arrival of investigators.

Collect information about the suspect, including name, physical description, domicile and other pertinent information.

Locate and secure as evidence any clothing that may have been removed from the suspect by emergency medical personnel or others.

Determine the original position of the officer(s) and the suspect at time of shooting.

12. CHIEF OF POLICE

If the Chief of Police is not the officer-in-charge of the incident scene, **[Chief may delegate and perform other functions related to the incident]** the chief should be briefed on the incident. The briefing should include:

Status of police employees;

Status of suspect(s);

Status of any involved innocents;

Any arrests;

Circumstances surrounding the incident; and

Any other pertinent information.

The officer-in-charge of the incident scene shall provide the Chief of Police with periodic updates and keep the chief apprised of all developments.

13. MEDIA

The Chief should ensure that a press release or media statement is prepared outlining basic facts of the incident. See **Investigation Supervisor** in this policy.

Basic information concerning the incident should be provided to the press as soon as possible if it will not inhibit or undermine the department's investigative process.

Timely release of such information will serve to discourage the press from speculation or uninformed or misdirected commentary that could be harmful to the officers and the department.

The Chief may consider a review of the statement by the District Attorney's Office prior to release, particularly in the event that a death has resulted.

For further information, see the department policy regarding ***Police Media Relations***.

C. Investigation Supervisor 's Responsibilities

14. INVESTIGATIONS SUPERVISOR: Investigation of officer-involved deadly force incidents shall be the responsibility of this agency's investigations unit or as designated by Chief of Police

15. GENERAL RESPONSIBILITIES: The investigation Supervisor shall be responsible for:

Keeping the Chief of Police apprised of all developments and providing period updates, particularly during the early stages of the investigation;

Ensuring that the investigation is conducted in a careful and methodical manner;

Requesting adequate investigative resources including, as deemed necessary or required by law:

Additional department investigators;

Regional investigative personnel and specialists;

The District Attorney's Office;

Office of the Medical Examiner;

Crime Scene Services;

Forensic Chemists;

Crime Scene Mapping Personnel; and

Federal Bureau of Investigation.

Develop a statement of preliminary basic facts for the media to be delivered by the agency spokesperson in conformance with this agency's policy on media relations.

16. INVOLVED EMPLOYEES

Although the investigation of police involved deadly force incident is essential, for the employees directly involved, the investigation can be one of the more stress-provoking activities following such an incident.

Officers involved in these situations are acutely aware of how they are perceived, and the manner in which such investigations are conducted can heighten or diminish feelings of alienation and isolation.

Complete and professional investigation can be conducted while also showing consideration for an employee's emotional well-being.

It is not necessary to subject an officer to insensitive, non-supportive, or impersonal treatment.

17. UPON ARRIVAL AT THE INCIDENT SCENE

The investigations supervisor shall:

Be briefed by the supervisory officer regarding:

The nature of the incident;

Actions taken thus far;

Evidence located; and

Recommendations for actions yet to be taken;

Conduct a walk-through of the scene;

Assess the need for any search warrants;

Consult with assistant district attorneys as necessary;

Prepare a plan to process the crime scene and conduct the investigation; and

Assign investigators to investigative tasks and functions.

The investigation supervisor shall determine when and ensure that notification is provided to next-of-kin of injured or deceased suspects.

18. INCIDENT SCENE PROCESSING

Guidance for crime scene processing is available in the department policies regarding ***Follow-Up Investigations, Collection and Preservation of Evidence, Search Warrant Affidavits, and Executing Search Warrants.***

Prior to entering the scene, investigators should consider the need for a search warrant for searches of vehicles, containers and homes.

Investigators may take precautions to prevent contamination of DNA or trace evidence through the use of protective gloves, clothing, face masks and protective foot coverings.

The overall scene should be video recorded, if feasible, and photographed prior to being processed.

Any bodies should be video recorded and/or photographed and should not be moved until the area in which they are located is processed.

A diagram of the incident scene should be produced.

Evidentiary items should be identified, photographed in place, collected, packaged and documented in accordance with the department policy on ***Collection and Preservation of Evidence***.

19. POLICE WEAPONS

Secure officers firearms or other weapons if the use of such a weapon was involved.

Locate and secure loose weapons;

Collect involved officers' firearms and replace them with other firearms if feasible. Be sure to record the serial number of each firearm collected and the name of the officer from whom the firearm was collected; or

Order officers to secure firearms in their holsters and not to remove them unless :

Instructed to do so by a supervisor;

Instructed by an investigator tasked with inspecting the firearms; or

If needed for another deadly force situation.

Conduct an inspection of firearms only if it is not feasible to wait for the arrival of a ballistics investigator. In such a case a supervisor and an armorer, firearms instructor, or other designated person should conduct the inspection jointly and record:

The serial number, make, model and caliber of each firearm;

The officer having possession of the firearm;

The officer who had possession of the firearm during the incident;

The firearm status including:

Whether the firearm is cocked or un-cocked;

The position of any safety (on, off, burst, full-auto, etc).

If the slide is closed or locked open;

If the firearm was jammed, and if so, how;

Whether a magazine is present or not. If present, the number of rounds remaining in the magazine;

Whether a live round is in the chamber. In the case of a revolver, the cylinder should be opened carefully and a diagram made, if necessary, to show the location of live and fired rounds in relation to the position of the cartridge which was under the hammer when the cylinder was closed. This can be easily done by viewing the status of the primer in each cartridge, noting dented or undented primers.

Extra magazines, speed loaders, or other ammunition storage devices carried by the officer should be inspected and the number of live rounds noted.

If a firearm is know to have been discharged in the incident, or if it is believed to have been discharged, the firearm shall be seized as evidence and a replacement provided to the officer as quickly as possible, unless circumstances dictate otherwise.

20. CONDUCTING INTERVIEW AND INTERROGATIONS OF WITNESSES AND SUSPECTS

Guidance for these tasks is available from the following department policies: ***Interviewing Victims and Witnesses, Interrogating Suspects and Arrestees, Electronic Recording of Interrogations, Internal Affairs, and Eyewitness Identification.***

Obtain recorded statements from suspects.

Locate and identify witnesses.

Method of Documentation

An initial audio recorded interview is the preferred method, whenever possible.

Investigators may obtain a written statement or take notes if necessary, but all witnesses should have an opportunity to provide their version of the events as soon as possible.

If a witness states that he or she did not witness anything, that fact should be documented through recording or a written statement.

Interview Setting

It is preferable to transport eyewitnesses to the station where they can be interviewed by investigators.

Normally, detailed interviews with witnesses should not be conducted by supervisory personnel at the scene.

If witnesses are unwilling or unable to go to the station to make a statement, the general scope of their knowledge of the incident should be established and recorded together with a record of their identification for future contact by investigators.

First Responder Interviews: Record interviews with fire department personnel, emergency medical service providers and other first responders to the scene.

Employee Interviews:

Conduct a separate, recorded interview with each employee involved at the scene who was not immediately involved in the deadly force encounter.

A brief interview of the employee(s) immediately involved in the deadly force encounter may be conducted to obtain basic facts. A more detailed, recorded interview should be conducted later at an arranged time.

Be cognizant of symptoms of post-traumatic stress, particularly for those immediately involved in the deadly force encounter. Symptoms of post-traumatic stress include:

Time and space distortions;

Post-incident amnesia: This may result in the failure to remember the majority of the information observed in the incident;

Confusion;

Hearing and visual distortion; and

Emotional impairment, including shock.

Defer conducting audio recorded, in depth interviews if these symptoms are evident. A brief interview may be conducted to obtain basic facts. The employee will be better able to participate in a detailed interview after a healthy nights sleep.

Conduct the interview in a private location away from sight and hearing of agency members and others who do not have a need and a right to the information.

Advise the employees not to discuss the incident with anyone except his or her personal attorney, a department attorney, union representative or departmental investigator until the conclusion of the preliminary investigation.

21. INVESTIGATOR REPORTS

The investigation supervisor shall ensure that a final report is completed for presentation to the District Attorney's Office.

The final report should include reports of officers involved, investigators, laboratory analysis, evidence examinations, statements, interviews, photos and evidence from this department and other investigating agencies.

D. **Check-list of individual 's responsibilities**

22. PATROL OFFICERS CHECKLIST

Eliminate Hostile Threats

Secure Suspects

Protective sweep of incident scene

Request back-up

Additional patrols

Supervisor

Detectives

Administer first aid to yourself and others

Request emergency medical assistance

Broadcast B.O.L.O.'s

Secure your firearm

Secure the scene

Set up crime scene inner perimeter

Set up crime scene outer perimeter

Implement Crime Scene Access Log

Protect evidence

Identify persons at or leaving the scene

Identify witnesses and request cooperation

23. OFFICER IN CHARGE CHECKLIST

Ensure the scene is safe and secure from hostile persons.

Determine condition of officer and others

Ensure that medical support has been notified as necessary.

Ensure the crime scene is being protected and the perimeter is adequate.

Obtain additional staffing, as necessary

Patrol Officers

Additional Dispatchers

Ensure witnesses have been identified or detained.

Notify command/specialized units or personnel as appropriate:

Shift Commander

Investigations Supervisor

Patrol Commander

Chief of Police

District Attorney's Office

Internal Investigations

Chaplain or police advocate

Legal Advisor

Injured or Deceased Officer's Family.

Notify officer's family

Assign officer to family

If officer is shot, transport to hospital with support officer.

Collect officer's clothing and equipment as evidence

Move immediately involved officers away from the area

Don't release officer's name

Establish command post if required

Appoint a recorder to document police actions at the scene.

Appoint command post staff

Brief personnel

Investigations Supervisor

Chief of Police

Preliminary diagram and photograph overall scene

Locate and secure officer's weapons

Begin gathering information on incident

24. INVESTIGATOR'S CHECKLIST

Preliminary Assessment

On-Scene Supervisors Briefing

Nature of the incident

Actions taken thus far.

Evidence located

Recommendations for investigative action.

Incident scene walk-through.

Notifications

Additional department investigators

Regional investigative personnel and specialists

District Attorney's Office (Mandatory for Deaths)

Medical Examiner

Crime Scene Services

Forensic Chemists

Incident Scene Mapping

Federal Bureau of Investigation

Investigation

Assess need for search warrants

Consult with District Attorney's Office

Identify all police and emergency services personnel who were or are at the scene

Identify and interview witnesses and suspects

Interview employees and advise not to make public statements or discuss the incident

Formulate preliminary statement of facts

Establish chronology and conditions

Date and time call received

Names and rank of officers involved

Current assignment and detail

Uniform or plainclothes

Types of vehicles

Weather, lighting conditions

Describe and diagram scene including background

Position of officer(s)

Position of suspect(s)

Position of witnesses

Path of bullets fired

Scene Processing

Need for DNA or Trace Evidence Protective Clothing, gloves, mask.

Overall scene video or photographing

Video and or photographing of bodies

Incident scene diagram

Ensure location, photographing, collection, and documentation of evidence

Color photograph officer and injuries

Take involved officer weapon(s) into custody

Photographs and/or videotape items of evidence

Officer firearms and ammunition

Firearm: serial number, make, model, caliber, type holster

Ammunition: type, manufacturer, number of rounds fired

Suspect firearms and ammunition

Firearm: serial number, make, model, caliber, type holster

Ammunition: type, manufacturer, number of rounds fired

Collect expended bullets and cartridge casings

Suspect information

Description

Prior record

Parole/probation and related information

Complaint taker and dispatcher voice and data transmissions

MDT logs

Officer's and suspect's clothing

Vehicles

Description

Evidence booked

Post Investigation

Disposition, e.g. impound

Autopsy results

Brief prosecutor's office

Debrief senior staff

POST-TRAUMATIC STRESS PROCEDURES

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.21	ISSUE DATE:
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE:
	REVISION DATE:

I. GENERAL CONSIDERATIONS AND GUIDELINES

Law enforcement duties expose employees to mentally painful and highly stressful situations that cannot be resolved through normal stress coping mechanisms. Unless adequately treated, these situations can cause disabling emotional and physical problems. Deadly force encounters resulting in death or serious bodily injury to another person may precipitate such stress disorders. Exposure to deaths or accident scenes or a close encounter with death may also result in such a reaction. Persons who suffer more serious reactions, or do not receive proper assistance, may occasionally leave law enforcement in the aftermath, and may suffer from long-term consequences.

It is the responsibility of this department to provide personnel with information on stress disorders, train employees as to what to expect prior to, during, and after deadly force encounter and provide care and support following such an event.

The purpose of this policy is to provide guidelines that shall be uniformly applied following any officer-involved deadly force or other incident that has resulted in death or serious bodily injury, in order to minimize the chances that involved personnel will develop or suffer from post-traumatic stress disorder.

If an officer experiences post-traumatic stress, he or she may use sick leave, but without a physical trauma, the officer may not be eligible for injury leave.

II. POLICY

It is the policy of this department to take immediate action after incidents where:

1. A deadly force encounter causes death or serious bodily injury to an officer or another person to safeguard the continued good mental health of all involved personnel;
2. Police employees are involved with a particularly troubling death or serious injury to another person; or
3. A police employee is involved in a close encounter (close call) with death.

III. DEFINITIONS

- A. **Officer-Involved Deadly Force Incident:** A line-of-duty incident where a deadly force encounter causes death or serious bodily injury to an officer or other person.
- B. **Post-Traumatic Stress Disorder:** A category of stress disorder in which the symptoms last more than one month. This can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress.

NOTE: These are guidelines intended to help officers understand what is expected of them and are not intended as medical definitions or standards for disability determinations.

IV. PROCEDURES

A. Awareness of Post-Incident

1. Each officer experiences the emotional aftermath of a deadly force encounter in a personal manner that depends on many factors. These include:
 - a. The officer's perceived vulnerability during the incident;
 - b. The amount of control he or she had over the situation and the individual's ability to react effectively;
 - c. His or her expectations concerning combat situations and how closely those expectations correlated with what happened during the incident;
 - d. How close or far away physically the officer was from the suspect;
 - e. How bloody the encounter was;
 - f. The reputation of the suspect, for example, whether he or she was a murderer or a scared teenager;
 - g. The perceived "fairness" of the situation, for example, shooting a person who used the officer to commit suicide is perceived as unfair and may produce anger or other reactions in the officer;
 - h. Legal and administrative consequences of the officer's actions;
 - i. The amount of stress in the officer's life and his or her level of emotional adjustment;
 - j. Personal coping skills; and
 - k. Level of peer and family support.
2. The traumatic experience starts when a situation puts the life of an officer or another person in danger, and the officer makes the decision to use deadly force. Often, physical, psychological, and emotional phenomena may occur during the brief moments of peak stress, many of which may be confusing to the officer.
 - l. **Sensory reactions.** It is quite common to experience perceptual distortions of various types. It is important that supervisors at the scene and investigators assigned to the shooting know these sensory distortions are normal and common.
 - m. **Physical and emotional reactions.** The shock disruption phase starts when the shooting ends. An officer may experience a few minutes of shock symptoms such as tremors, shaking, crying, nausea, or hyperventilation among others. These are symptoms of the de-escalation of stress that sometimes occurs when a high-impact situation is over, and are not signs of weakness.
3. It is important to remember that the officer may be very sensitive to others' reactions, particularly in regard to whether the department will stand behind him or her.

B. Handling of Officers at Scene of a Deadly Force Incident

4. IMMEDIATE AFTERCARE

- n. A supervisor shall be dispatched to the scene of the incident, and shall ensure that involved personnel are cared for.
- o. The supervisor shall ensure that arrangements for all necessary medical treatment are made and that the involved officer(s) shall be transported to the nearest medical facility.
- p. During any period where involved employees are required to remain on the scene, but have no immediate duties to fulfill, they should remain in a quiet area away from the scene of the incident. Involved Officers should be removed from the scene to a medical facility at the earliest convenience.
- q. A peer counselor, union representative, supportive officer or friend should remain with the officer.
 - 1) They should be advised not to discuss details of the incident.
 - 2) They should attempt to be reassuring and supportive without being unrealistic.
- r. The supervisor should arrange for the officers directly involved in the incident to leave the scene as soon as possible, and be taken to a medical facility.
- s. No caffeine or other stimulants or depressants should be given to the officer unless administered by medical personnel.
- t. The officer should be given some physical space as soon as practicable so he or she may regain some composure and attempt to relax.

5. ON SCENE EMPLOYEE BRIEFING

- u. Where possible, the supervisor shall briefly meet with the involved employee(s).
- v. Only minimal, preliminary questions should be asked about the incident. The officer should be advised that a more detailed debriefing will be conducted at a later time.
- w. The investigative procedure concerning the incident should be discussed with the officer by a supervisor or union representative.
- x. The officer should be advised that he or she may seek union representation and/or legal counsel. The union crisis team shall also be notified immediately.
- y. The supervisor shall determine if the officer's firearm will be inspected or taken as evidence. Where the duty weapon is taken, the supervisor shall discretely:
 - 3) Take custody of the officer's weapon and...
 - 4) Replace it with another weapon immediately.
- z. The officers should be advised not to discuss the incident with anyone except a personal or Union attorney, union representative, or departmental investigator in the presence of legal council until the conclusion of the preliminary investigation.
- aa. Involved officers should notify their families about the incident as soon as possible.
 - 5) Where an officer is unable to do so, an agency official shall personally notify his family, and arrange for their transportation to the hospital.
 - 6) For further information, see the department policy regarding **Line of Duty Deaths and Serious Injuries** .
- bb. In order to protect against crank or abusive calls, officers should be advised to have phone calls answered by another person for several days if their names are released to the public.

- cc. At all times, when at the scene of the incident, the supervisor should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.

C. Post-Incident Procedures

6. DEBRIEFING

- dd. Debriefings shall be held as soon as possible after the incident.
- ee. The department shall ensure that there is a debriefer or team on call or on-duty at all times so that someone is available shortly after an incident. The Department shall use the Boston Police Department Stress Unit or the Massachusetts State Police Stress Unit with follow-up if needed at "On Site Academy" in Westminister, MA.
- ff. The debriefing shall include all persons immediately involved with the deadly force incident as well as support personnel to include:
 - 7) Police officers involved in the encounter;
 - 8) Police officers who immediately responded to the incident;
 - 9) Dispatchers on duty at the time of the incident;
 - 10) Supervisors who responded to the incident;
 - 11) Investigators; and
 - 12) Crime scene personnel (photographers, chemists, etc.)

7. REMOVAL FROM LINE DUTY ASSIGNMENT: Any employee, whose action(s) or use of force results in death or serious physical injury, shall be removed from line-duty assignment but shall remain available for any necessary administrative investigations. This is not a suspension and does not imply any wrongdoing. (See the department policy regarding **Use of Force Reporting**).

8. COUNSELING

- gg. All officers directly involved in the deadly force incident shall be required to contact a department designated specialist for counseling and evaluation as soon as practical after the incident.
 - 13) Involved support personnel (dispatchers, investigators, etc.) should also be encouraged to contact such specialists after a deadly force incident.
 - 14) The confidentiality of the counseling session will be respected by the department. The specialist shall only be required to advise the agency:
 - a) Whether it would be in the officers' best interest to remain on or to be placed on administrative leave or light duty, and for how long;
 - b) If the employee should be relieved of his or her duty weapon after an incident and, at what point it should be returned;
 - c) Recommendations for continued counseling.
- hh. The department strongly encourages the families of the involved officers to take advantage of available counseling services.

9. OTHER EMPLOYEES

- ii. The department should brief other employees concerning the incident so that rumors are kept to a minimum. Other Department members are prohibited from discussing the investigation with non department members or the media.

- jj. Department members are encouraged to show the involved officers their concern.
- kk. All personnel involved in a shooting incident should be advised that they are not permitted to speak with the media about the incident. Officers shall refer inquiries from the media to a designated agency spokesperson, unless otherwise authorized to release a statement pertaining to the incident. See departmental policy on **Police Media Relations**.

D. Signs of Post-traumatic Stress Disorder

10. Employees who have experienced a frightening or life threatening experience may conduct a self assessment by asking themselves:

- ll. Am I keeping my feelings hidden?
- mm. Am I minimizing what has happened?
- nn. Do I know all the facts?
- oo. What am I feeling?
- pp. Do I have a support System in place?

11. EMOTIONAL SIGNS OF TRAUMA

- qq. Anxiety or panic,
- rr. Survivors guilt,
- ss. Fear.
- tt. Denial,
- uu. depression,
- vv. Feeling hopeless, helpless, overwhelmed or numb,
- ww. Intense anger,
- xx. irritability, aggression, apprehension,
- yy. uncertainty,
- zz. Dwelling on details of the event,
- aaa. Suicidal thoughts, loss of belief in a higher being.

12. PHYSICAL SIGNS OF TRAUMA

- bbb. Fatigue,
- ccc. Chest pain, trouble breathing, high blood pressure, rapid heart rate,
- ddd. Stomach pains, indigestion, headaches,
- eee. Dizziness, vomiting, sweating, chills, diarrhea,
- fff. Muscle aches, weakness, trembling.

13. COGNITIVE SIGNS OF TRAUMA

- ggg. Confusion, disorientation, trouble making decisions,
- hhh. Hyper-alert, memory and concentration problems,
- iii. Dreams, nightmares, flashbacks of the event,
- jjj. Calculation problems, disruption in logical thinking,
- kkk. Slowed thinking,

III. Blaming others.

14. BEHAVIORAL SIGNS OF TRAUMA

- mmm. Hyper-vigilance,
- nnn. Restlessness,
- ooo. Change in speech patterns,
- ppp. Emotional outbursts, arguments, acts of violence,
- qqq. Withdrawal, suspicion, excessive silence, paranoia,
- rrr. Increase in consuming alcohol, tobacco, drugs, food,
- sss. Loss of interests,
- ttt. Disruption in eating habits,
- uuu. Gambling, buying sprees, promiscuity,
- vvv. Changes in work habits and interaction with others,
- www. Unexplained or prolonged crying spells.

15. EMPLOYEE SELF-HELP: Employees experiencing such symptoms following a frightening or traumatic event should seek professional intervention by speaking to their supervisor, through the Employee Assistance Program, or a mental health professional.

E. Role of Involved Employees Supervisor

- 16. Post-traumatic stress disorders may not arise immediately, or the employees may attempt to hide the problem.
- 17. Each supervisor must be aware of and monitor the behavior of department members for symptoms of post-traumatic stress disorder.
- 18. A supervisor may:
 - xxx. Suggest to an employee that the employee seek assistance or counseling from a mental health specialist; or
 - yyy. Recommend, upon a reasonable belief that stress may be disrupting the officer's job performance, through the chain of command, that an employee be referred by the department to assistance or counseling from a mental health specialist.
- 19. Supervisors are responsible for making information about the agency's peer counseling group and mental health services available to their department members.

F. Pre-Incident Training

- 20. Employees shall receive awareness training regarding this department's post-traumatic stress procedures at least biennially.
- 21. Such training shall include information and warnings about symptoms and results of traumatic stress exposure in a law enforcement setting, particularly involving a deadly force encounter:
 - zzz. Anticipated uncontrolled individual physiological response to anticipated combat:
 - 15) Increased heart rate;
 - 16) Increased respiration;
 - 17) Muscle tremors; and
 - 18) Anxiety.

aaaa. Anticipated uncontrolled individual physiological responses to combat:

- 19) Tunnel vision;
- 20) Auditory exclusion (tunnel hearing);
- 21) Loss of fine/complex motor skills;
- 22) Irrational behavior (unexplained risk taking to aid others, etc.);
- 23) Inability to think clearly;
- 24) Increased strength;
- 25) Uncontrolled evacuation of bladder or bowels; and
- 26) Increased respiration.

bbbb. Anticipated individual physical responses to a post-deadly force incident. See **Signs of Post-Traumatic Stress Disorder** in this policy.

cccc. Anticipated individual psychological responses to a post-deadly force incident. See **Signs of Post-Traumatic Stress Disorder** in this policy. These may include:

- 27) Emotional signs of trauma;
- 28) Cognitive signs of trauma; and
- 29) Behavioral signs of trauma.

dddd. Department response including:

30) It is the policy of this department to take immediate action after incidents where:

- d) A deadly force encounter causes death or serious bodily injury to an officer or another person to safeguard the continued good mental health of all involved personnel;
- e) Police employees are involved with a particularly troubling death or serious injury to another person; and
- f) A police employee is involved in a close encounter (close call) with death.

31) Any employee, whose action(s) or use of force results in death or serious physical injury, shall be removed from line-duty assignment (See the department policy regarding **Use of Force Reporting**).

32) Officers directly involved in a shooting incident shall be required to re-qualify with a firearm prior to returning to field duty.

33) If a firearm is involved, the employee can expect to be relieved of his or her firearm for evidentiary purposes. A replacement firearm will be provided or the firearm returned unless circumstances dictate otherwise (See the department policy regarding **Officer Involved Deadly Force Incidents**).

34) The department response shall include a review of the use of force (See the department policy regarding **Use of Force Reporting**).

35) The employee will be asked to provide a brief description of the incident. The employee may choose to have legal council with them during this brief description. A longer, more detailed interview will be arranged at a later time (See the department policy on **Post Deadly Force Incident Response**).

36) The officer should be advised that he or she may seek union representation and/or legal counsel.

- 37) The officers should be advised not to discuss the incident with anyone except a personal or agency attorney, union representative, or departmental investigator, until the conclusion of the preliminary investigation.

eeee. District Attorney's Office Response

- 38) The District Attorney's Office must be notified of all cases of un-natural deaths and has jurisdiction over the investigation.
- 39) The District Attorney's representatives (CPAC) will likely respond and investigate in conjunction with the department.

ffff. Possible Media Response

- 40) The employees should expect a media presence at the scene of the incident.
- 41) Employees should expect extensive coverage of the incident.
- 42) Media representatives are likely to attempt to make contact with individual employees, their families, and friends. Media inquiries should be politely referred to the Chief of Police or public relations officer.
- 43) Print and visual media reports may not describe the incident accurately.
- 44) Media coverage of the incident could become adversarial or hostile toward the employees involved.

gggg. Possible Public Response

- 45) Employees should expect a wide range of public responses, from support to accusations of wrong doing.
- 46) Agenda driven individuals or organizations may make false claims, ignore facts, and criticize the employees.
- 47) The employee's family members and close friends should expect to hear a variety of accounts of the incident and opinions about the officers' actions which are based on rumor or ignorance of the facts. Department members should limit their use of social media during the investigation.

In order to protect against crank or abusive calls, officers should be advised to have phone calls answered by another person for several days.

hhhh. Possible Legal Response

- 48) Civil action by the assailant or assailant's estate.
- 49) Criminal prosecution.

INVESTIGATIVE SPECIAL OPERATIONS

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.22	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 17.5.3; 43.1.4; 43.1.5	EFFECTIVE DATE: _____
	REVISION DATE: _____

A. GENERAL CONSIDERATIONS AND GUIDELINES

Police responses to situations involving vice, drugs, and organized crime often require the use of investigative and intelligence assets in order to obtain a successful prosecution. This may include the need to conduct investigative special operations, such as surveillance, decoy, or undercover operations.

The purpose of this policy is to provide guidance in planning, conducting and reporting investigative special operations.

B. POLICY

It is the policy of this department that reports of vice, drug and/or organized crime activities in this community shall be documented and forwarded to the investigative function for further investigation or intelligence purposes.

C. PROCEDURES

Operations [43.1.5]

ASSESSING NEED

When the need to conduct any surveillance, undercover, or decoy operation or raid has been determined, the supervisor shall take into consideration the following:

- A. The type of crime or activity;
- B. Known offenders:
 - A. Their criminal history and other background;
 - B. Methods of operation;
 - C. Weapons and potential for violence;
 - D. Vehicles used;
 - E. Other pertinent information; and

C. The targeted areas, hazards, access, and escape routes.

PLANNING AND CONDUCTING OPERATIONS

The supervisor or case officer will conduct a briefing with officers involved prior to beginning any operation. This briefing will include all pertinent information on suspect(s), locations and officer responsibilities by way of a tactical action plan.

Tactical action plans shall be discussed and shall include such items as:

- D. Personnel to be involved;
- E. The use of outside agencies **through mutual aid agreements and specialized units including but not limited to Law Enforcement Councils, State Police and Federal Agencies.**
- F. Selecting vehicles and equipment;
- G. Establishing means of routine and emergency communications;
- H. Providing protective back up of undercover operatives (if applicable), perimeter security and relief for officers;
- I. Determination of guidelines for observation and arrest(s) for the operation;
- J. Providing necessary investigative expense funds;
- K. Providing officers with false identification and necessary undercover credentials, if the Chief of Police authorizes undercover credentials;
- L. Making provisions for maintaining confidentiality of the undercover detective/officer's identity during extended investigations;
- M. Visual/Verbal Bust Signal and Visual/Verbal Distress Signal, which will be documented on the Tactical Action Plan; and
- N. Medical access, including the method for quickly accessing emergency medical assistance. High risk raids shall involve the staging of medical / ambulance personal in safe location near the scene for immediate response if needed.

Information shall be disseminated on a "need to know /right to know" basis to protect the confidentiality and identity of the undercover officers involved.

HIGH RISK OPERATIONS: High risk missions, arrests, and raids shall be planned and supervised prior to and during implementation. Planning shall include:

Designation of a single person as supervisor and coordinator of the operation and other function supervisors if appropriate;

Obtaining authorization for the high risk mission;

Advice from the District Attorney's Office if appropriate;

Initial briefing sessions and de-briefings;

Methods of selection, coordination, cooperation and communication with specialized support units, including notification of the Communications Center and Watch Commander;

The development of strategies and tactics for approaching, entering, securing and leaving the target;

Methods for making contact with or arresting the suspect; and

Methods for searching for, documenting, and seizing evidence.

Notes and Log Book

Since the activities observed during surveillance may later become part of the evidence in a trial, or perhaps become the basis of a subsequent interrogation, it is highly important that a record of observations should be made.

A surveillance log and a chronological record of the activities of both the officer and the target shall be made for each surveillance conducted. Such logs shall be filed with other investigative materials.

Surveillance Equipment [43.1.4]

Surveillance equipment is available from a variety of sources to support such operations. Sources include:

This department;

The New England State Police Network (N.E.S.P.I.N.);

CEMLEC; and The Massachusetts State Police and federal Agencies as needed.

Surveillance equipment maintained by this agency shall be maintained in operational condition, ready to be issued, by the custodian of such equipment. [17.5.3]

Surveillance equipment may be used if authorized by **the investigations supervisor.**

Equipment may be obtained by requesting same from **any authorized Law Enforcement Agency or council..**

Equipment may be used only for legitimate police purposes as authorized.

Equipment shall be used in accordance with manufacturer's instructions or as instructed by the equipment provider.

Reporting

The supervisor of each operation shall ensure that a report of each operation is filed as part of the case file.

Security of and access to such reports shall be controlled. For further information see the department policy regarding ***Vice, Drugs and Organized Crime.***

STRUCTURE FIRES

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.13	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

The role of the police at a fire scene is to support fire fighting operations by assisting in the preservation of life, protection of property, prevention of crime, establishment of fire lines, control of crowds and direction of vehicular traffic.

Because of the nature of their primary patrol function, especially during the nighttime and early morning hours, the police are often the first to discover a fire, the first on the scene and the first to alert and assist the occupants of a burning building.

Police officers, as part of their regular patrol duties, should note and report any conditions which could constitute a potential fire hazard to the fire department for necessary action.

II. POLICY

It is the policy of this department to:

- A. Support fire fighting operations by assisting the fire department in isolating access to the fire scene by bystanders and on-lookers, providing fire scene access to fire fighting personnel and equipment, establishing fire lines, controlling crowds, and directing vehicular traffic at fire scenes; and
- B. Cooperate fully and impartially with statutory authorities whose responsibility it is to determine the cause and nature of structure fires.

III. PROCEDURES

C. Fire Reporting

1. Each officer shall familiarize himself/herself with the municipal system for announcing the existence and location of fires
2. Employees shall also be familiar with the procedure by which railroad trains give notice of fire adjacent to their tracks (one long and three short whistle blasts). This requires the police to investigate and notify the fire department, if necessary.
3. Fires discovered by police officers shall be reported immediately to the fire department.

4. When a fire is reported, the dispatcher shall create and log an incident in the daily log to include:
 - a. The location of the fire; and
 - b. Any other matter of potential importance to units arriving on the scene.
5. If the police department is notified of a fire in person by a citizen, the officer receiving the notification shall:
 - c. Obtain the street location of the fire;
 - d. Request information on the nature of the fire (for example, "wooden dwelling house, upper floor");
 - e. Immediately notify the fire department and relay pertinent information; and
 - f. Request the identity of the citizen reporting the fire.
6. Upon notification of a fire by any means, the dispatcher shall notify the fire department and dispatch officers to the scene of the fire. For further information, see the department policy on **Communications**.

D. Responding to a Fire Scene

7. PRIOR TO ARRIVAL OF FIRE DEPARTMENT
 - g. **Do not block access of fire fighting equipment to the scene with parked police vehicles.**
 - h. Park police vehicles away from the immediate fire scene.
 - i. Take note of the following, as applicable, and notify the fire department:
 - 1) The part of the structure which is on fire and where flames are visible;
 - 2) The volume, color, and location of the heaviest smoke;
 - 3) The direction of the wind, if any;
 - 4) The presence of any odors which suggest gasoline, kerosene, paint thinner or other accelerants may be burning in the fire;
 - 5) Whether any signs of forced entry into the structure are present and whether any windows are broken or left open; and
 - 6) Any hazards which may inhibit access to the scene by firefighters or fire equipment, or best routes of access if known.
 - j. Warn inhabitants of any buildings involved by the fire and inform them of adjacent areas to escape and seek refuge. This may be accomplished by use of the siren and public address system in the officer's cruiser.
 - k. Do not attempt to enter a fire-involved building unless doing so is necessary to save human lives, and the risk to the employee's own life is not unreasonable.
 - 7) If the officer decides that entry of the building is necessary, [s]he should not open any door which is hot to the touch, as this indicates the presence of fire inside.
 - 8) Evacuees and the officer in smoky areas should keep their heads low, possibly by crawling on hands and knees, until they are outside the building, in order to avoid inhalation of smoke and toxic gases.
 - l. Prevent any person who has exited a fire-involved building from reentering the building.

- m. Take reasonable emergency measures to inhibit the spread of the fire without unnecessary risk to the employee, especially if human life is not presently endangered by the fire.
- n. Police officers must be aware of the possibility of arson and be observant for any person acting suspiciously at a fire scene. Officers should identify and interview:
 - 9) Anyone who arrived at the scene before the first police and fire units; and
 - 10) Anyone who makes mention of having observed any suspicious people in the vicinity.
- o. If personnel and equipment are available, an officer should videotape or photograph crowds and persons watching the fire and firefighting operations.

8. AFTER ARRIVAL OF FIRE DEPARTMENT

- p. The ranking firefighter at the scene will normally be the incident commander.
 - 11) The first police officer or unit arriving at the scene of the fire shall be in command of other police officers until the arrival of a higher ranking officer.
 - 12) The police commander shall remain accessible to the incident commander.
- q. After the arrival of fire department personnel, police officers shall not enter a burning building unless:
 - 13) It is absolutely necessary to do so to save a life; or
 - 14) A request to do so is made by a superior officer of the fire department for the performance of a proper police function.
- r. Cooperation with the fire department is essential. To this end, the police at the scene shall:
 - 15) Establish fire lines and maintain, extend or contract the lines as requested by the fire department, including the closing off of streets whenever necessary;
 - 16) Remove any vehicles within the lines which interfere with the movement of firefighters and their equipment;
 - 17) Ensure that access to hydrants is unobstructed at all times;
 - 18) Prevent vehicles from passing over fire hoses unless directed otherwise by a member of the fire department; and
 - 19) Provide other forms of assistance as requested.

9. CROWD CONTROL

- s. Crowds must be kept a safe distance from the fire. This will ensure the safety of the persons gathered and prevent interference with fire fighting equipment and personnel.
- t. Police officers shall not permit any person through the fire lines other than:
 - 20) Members of the fire and police departments;
 - 21) Emergency medical personnel;
 - 22) Clergymen whose services are needed within the lines; or
 - 23) Authorized members of the news media who provide proper identification. (See department policy on **Police Media Relations** .)

- u. Police officers shall take steps to safeguard fire and police apparatus at the scene. Persons interfering with apparatus or the extinction efforts shall be arrested, if necessary.

10. FIRE INVESTIGATION

- v. The responsibility for the investigation of fires of incendiary or suspicious origin is with the local fire department officials who may call the State Fire Marshall's Office or the police department for assistance.
- w. The local district attorney's office has jurisdiction for the investigation into any death resulting from a fire. See department policy on **Dead Bodies**.

11. POST-FIRE RESPONSIBILITIES

- x. Police officers shall remain at the building or dwelling until the fire is extinguished and the area is secured, consistent with their responsibilities to the rest of the community.
- y. Police may be required to remain at the scene:
 - 24) While a search warrant is being sought;
 - 25) Until hazardous situations have been mitigated; or
 - 26) Until the area is secured against looting.

DOMESTIC VIOLENCE BY POLICE EMPLOYEES

STOW POLICE DEPARTMENT POLICY & PROCEDURE NO. 2.15	ISSUE DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: none	EFFECTIVE DATE: _____
	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

As part of our commitment to earning the trust of the citizenry so essential to policing our community, it is essential that police professionals hold themselves to an exemplary standard in the area of domestic violence.

A pro-active approach must focus on victim safety. The touchstone must be a policy of “zero tolerance” of acts of domestic violence by members of this department.

While prioritizing the safety of victims, this policy is designed to address prevention through hiring and training practices, provide direction to supervisors for intervention when warning signs of domestic violence are evident, institutionalize a structured response to reported incidents of domestic violence involving employees, and offer direction for conducting the subsequent administrative and criminal investigations. Components of the policy include:

- A. Prevention and Training;
- B. Early Warning and Intervention;
- C. Incident Response Protocols;
- D. Victim Safety and Protection; and
- E. Post-Incident Administrative and Criminal Decisions.

II. POLICY

It is the policy of this department:

1. Not to hire or retain individuals that have a history or a documented propensity for domestic violence, elder abuse, child abuse, sexual assault or stalking;
2. To provide on-going training to every member on all forms of domestic violence and the department’s zero tolerance policy;
3. To thoroughly investigate all complaints of domestic violence allegedly committed by members of this department; and

4. To take disciplinary and criminal action for violations of this policy by department members where appropriate.

III. DEFINITIONS

- E. Domestic violence: An act or pattern of violence perpetrated by a police officer or other department employee, upon his or her intimate partner not done in defense of self or others, including but not limited to the following:
 - a. Bodily injury or threat of imminent bodily injury or death;
 - b. Sexual battery;
 - c. Physical restraint;
 - d. Property crime directed at the victim;
 - e. Stalking; and
 - f. Violation of a court order of protection or similar injunction\.
- F. Intimate Partner: Any person who meets one or more of the following criteria:
 - g. Is or was legally married to the employee;
 - h. Has a child in common with the employee;
 - i. Has or had a dating relationship with the employee;
 - j. Is specified as an intimate partner by state law; and
 - k. Is cohabitating or has cohabitated romantically with the employee.
- G. Protection Order: Usually referred to as a restraining order, 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:
 - l. Violent or threatening acts against another person;
 - m. Stalking or harassment of another person;
 - n. Contact or communication with another person; and
 - o. Physical proximity to another person.

IV. PROCEDURES

H. Prevention and Training

- p. PREVENTION THROUGH COLLABORATION
 - 1) The department shall train employees in order to enhance this agency's response to the needs of victims.
 - 2) The department shall, upon request, provide local domestic violence victim advocacy organizations copies of all domestic violence training curricula, protocols and policies for review and comment.
- q. TRAINING TOPICS: As part of our ongoing training, all employees shall receive periodic comprehensive instruction covering the following topics:
 - 3) Understanding Domestic Violence;
 - 4) Departmental Domestic Violence Response Protocol;

- 5) Warning Signs of Domestic Violence by employees;
- 6) Victim Safety; and
- 7) Domestic Violence Laws.
- r. ONGOING TRAINING: This department may use a variety of training techniques including in-service, roll-call, FTO, ride-alongs, and training bulletins to regularly reinforce standards of effective response protocol.
- s. PROGRAM EVALUATION: To enhance the effectiveness of the training, this department may work with internal or external research resources to evaluate the training and its impact.

I. Early Warning and Intervention

- i. PRE-HIRE SCREENING AND INVESTIGATION: This department shall conduct thorough background investigations of all employee candidates. For further information, see the department policy regarding **Recruitment and Selection** .
- ii. POST-HIRE INTERVENTION
 - a) When new employees are hired, the department shall reach out to their intimate partners and/or family members to introduce this policy and other relevant department policies.
 - b) This department will engage in periodic outreach to employees and their intimate partners and/or family members with information on this policy, the point of contact within the department and referrals for local support services. The message will include assurances that we take all complaints of domestic violence seriously, that we will investigate and take appropriate action, and that no special treatment or privilege will be extended to offenders that happen to be employed as law enforcement employees.

DEPARTMENT RESPONSIBILITIES

The department shall provide timely notification of a domestic violence incident involving a police employee and shall attempt to develop cross-jurisdictional protocols or even MOUs (Memoranda of Understanding) with area police departments to this end.

The department shall, either in response to observed warning signs or at the request of an employee, intimate partner, or other family member, provide non-punitive avenues of assistance before an act of domestic violence occurs.

The department shall inform employees of the procedure for seeking confidential referrals, either internally or externally, to confidential counseling services.

A disclosure on the part of any employee, intimate partner or family member to any member of the department that an employee has personally engaged in domestic violence will be treated as an admission or report of a crime, shall be reported to the appropriate department official, and shall be investigated both administratively and criminally.

SUPERVISOR RESPONSIBILITIES [35.1.9(D)]

Supervisors shall be cognizant of and document any pattern of abusive behavior potentially indicative of domestic violence including but not limited to the following:

Aggressiveness:

- a. Excessive and/or increased use of force on the job;
- b. Stalking and inappropriate surveillance activities;
- c. Unusually high incidences of physical altercations and verbal disputes;

- d. Citizen and fellow employee complaints of unwarranted aggression and verbal abuse;
- e. Inappropriate treatment of animals; and
- f. On or off-duty injuries.

Domestic violence-related issues:

- g. Monitoring and controlling any family member or intimate partner through such means as excessive phone calling;
- h. Stalking any intimate partner or family member; and
- i. Discrediting and/or disparaging an intimate partner.

Deteriorating work performance:

- j. Tardiness;
- k. Excessive absences; and
- l. Alcohol and drug abuse.

When the supervisor notes a pattern of problematic behavior (as detailed above), the supervisor shall:

- m. Address the behaviors through a review or other contact with the employee and document all contacts;
- n. Forward written reports capturing the behaviors to the chief through the chain of command in a timely manner to determine if intervention or discipline is warranted;
- o. Prepare and submit to the chief a written request for a psychological exam/ counseling by a psychologist/psychiatrist who is knowledgeable about domestic violence; and,
- p. When warranted, request the chief order an employee to seek assistance from a certified program for batterers, or a counselor knowledgeable about domestic violence, as determined by the Chief of Police.

POLICE EMPLOYEE RESPONSIBILITIES [35.1.9(B)]

Employees are encouraged to take personal responsibility in seeking confidential referrals and assistance from the department to prevent a problem from escalating to the level of criminal conduct against an intimate partner.

Employees who engage in the following actions will be subject to severe discipline up to and including dismissal:

Failure to report knowledge of abuse or domestic violence involving a fellow employee;

Failure to cooperate with the investigation of a police employee domestic violence case;

Interference with the investigation or prosecution of domestic violence cases involving themselves or fellow employees; and,

Intimidation/coercion of witnesses or victims (e.g., surveillance, harassment, stalking, threatening, or falsely reporting).

Employees who learn they are the subject of a criminal investigation, regardless of jurisdiction, are required to immediately make a report to their supervisor and provide notice of the

court dates, times, appearances, and proceedings. Failure to do so may result in severe discipline up to and including dismissal.

Employees who learn they are the subject of any protective order proceeding, whether or not the order is issued and regardless of jurisdiction, shall immediately notify their supervisor and provide a copy of the order, if issued. If subject to a protection order that includes an order that firearms and licenses be surrendered, the employee shall surrender all firearms and licenses immediately. Failure to do so may result in severe discipline up to and including dismissal. (Note: This will not preclude the department from adopting a policy allows for possession of the primary service weapon under certain conditions, subject to court approval.)

INCIDENT RESPONSE PROTOCOLS

DEPARTMENT-WIDE RESPONSE

The department shall accept, document, and preserve all calls or reports regarding domestic violence involving police employees, including those made anonymously, as “on-the-record” information.

All reports of possible criminal activity implicating police employees in domestic violence shall be documented in accordance with the policies governing the handling of reports of domestic violence involving civilians.

The on-scene supervisor shall forward a copy of the report alleging domestic violence by the employee to the chief through the chain of command.

All such incident reports shall be made available by the department to the victim without cost as required by law.

COMMUNICATIONS RESPONSE

Communications officers/dispatchers shall be instructed to assign a high priority to all domestic violence calls, including those that involve or appear to involve a police employee of any department.

Communications officers/dispatchers shall immediately notify the supervisor on duty and the dispatch supervisor of any domestic violence call received that involves, or appears to involve, a police employee, regardless of the involved employee's jurisdiction.

Communications officers/dispatchers shall prepare and preserve documentation of the facts and circumstances of the call, including the 911 tape, for use in potential administrative or criminal investigations.

Communications officers/dispatchers shall have available current contact information of local domestic violence victim advocacy organizations for on-scene supervisors to provide to victims.

PATROL RESPONSE

Upon arrival on the scene of a domestic violence call or incident involving a police employee, the primary patrol unit shall immediately notify dispatch and request a supervisor of higher rank than the involved employee report to the scene, regardless of the involved employee's jurisdiction.

The responding officers shall perform the following actions:

- Obtain any needed medical assistance for any parties involved;

- Address the immediate safety of all parties involved;

- Secure the scene and preserve evidence;

- Note all excited utterances, admissions and/or incriminating statements; and,

- Make an arrest if probable cause exists.

ON-SCENE SUPERVISOR RESPONSE [35.1.9(D)]

A supervisor of higher rank shall report to the scene of all police employee domestic violence incidents including a police officer, regardless of the involved employee's jurisdiction.

The on-scene supervisor shall assume command and ensure that the crime scene is secured and that all evidence is collected. Photographic and/or video documentation of the parties involved and scene shall be recorded where such resources are available.

The supervisor shall inquire as to the safety of all children present at the time of the incident and all children in the household. As appropriate and necessary, the children should be interviewed separately from other parties.

In cases where probable cause exists, the on-scene supervisor shall ensure an arrest is made.

If the alleged offender has left the scene and probable cause exists, the supervisor shall perform the following actions:

- Exhaust all reasonable means to locate the alleged offender;

- Ensure that an arrest warrant is sought, if unable to locate the alleged offender; and,

- Document all subsequent actions in a timely manner.

In the event that the victim has left the scene, the supervisor shall make every effort to follow through on the investigation and attempt to locate the victim.

Arrest of both parties involved in a domestic violence incident should be avoided. The supervisor shall ensure that a thorough investigation is conducted and an arrest of the dominant aggressor is made in accordance with state law.

Whenever an officer is arrested, the supervisor shall relieve the accused officer of all service weapons regardless of whether the officer is a member of the responding department.

The accused employee will be required to surrender all other firearms owned or at the disposal of employee for safety reasons. If the employee refuses to do so, available legal action should be undertaken, where appropriate.

The on-scene supervisor shall inquire whether the victim wants any firearms removed from the home for safekeeping by the department and make arrangements as necessary.

The on-scene supervisor shall ensure the victim is informed of the following:

- The judicial process and victim rights;

- The department's policy on police employee domestic violence, procedures and cross-jurisdictional responsibilities as they apply;

- The standard of probable cause for arrest;

- Procedures for obtaining protective orders;

- Victim compensation;

- The availability of an on-scene advocate;

- The availability of confidential transportation to a location that can provide improved victim safety;

- Community resources and local domestic violence victim service; and,

- The option to remove firearms for safekeeping.

Whenever a police employee involved domestic violence call does not result in an arrest or a warrant is not sought, the on-scene supervisor shall explain in a written report.

The on-scene supervisor shall notify the chief and the accused employee's immediate supervisor as soon as possible. In the event that the employee is from another jurisdiction, the supervisor shall ensure that the accused employee's chief is notified. All notifications, and attempts to notify, shall be fully documented.

ADDITIONAL CRITICAL CONSIDERATIONS

When responding to a domestic violence complaint involving a police employee from another jurisdiction, all responding officers, investigators, and supervisors shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an employee from this department.

In the event that the reported incident involves the chief of police [or commissioner], the supervisor shall immediately notify the District Attorney and the individual in government who has direct oversight for the chief, for example, the mayor, manager or chair of the board of selectmen.

In responding to domestic violence incidents where the victim is a police employee, standard domestic violence response and investigation procedures should be followed.

In responding to domestic violence incidents where the parties involved are both police employees, standard domestic violence response and investigation procedures should be followed. After probable cause and dominant aggressor are determined, an arrest should be made and all service weapons of any accused officer confiscated. **If a protective order is issued against an officer, additional firearm seizure may be required under c.209A.**

DEPARTMENT FOLLOW-UP

In a timely manner, the chief shall ensure that all officers who responded to a police employee domestic violence call are debriefed. The debriefing shall include the following:

- A review of department confidentiality guidelines;
- A direct order prohibiting discussion of the incident outside of the official inquiry;
- and,
- A clear delineation of assignments.

Follow-up investigators shall proactively seek out information on existing protective orders and, if found, shall enforce them and any applicable state and federal firearms laws and determine whether the employee violated department policy by failing to report the protective order.

Arrest warrants charging police employees with domestic violence and protective orders issued at a later time shall be served by no fewer than two officers, where possible, with at least one being of senior rank to the employee being served. In cases where firearms have not previously been seized, firearms shall be seized as allowed or required by law.

In the event the protection order expires or the victim asks that it be discontinued, the department shall still conduct a thorough administrative investigation. The voluntariness of any such request will be strictly scrutinized.

Following the reported incident, the department shall designate a member of the command staff to perform the following duties:

- Conduct a danger assessment of the accused employee to determine the potential for further violence and inform the victim of the possibility of danger regardless of the outcome of the assessment;

- Act as a principal point of contact to keep the victim apprised of all developments;

Ensure that safety planning and danger assessment is made available to the victim; and

Report the findings of the danger assessment to the chief who will make decisions concerning appropriate sanctions, administrative actions, and referrals for the accused employee.

VICTIM SAFETY AND PROTECTION

The department shall work with community resources and advocacy agencies to connect victims and their children with appropriate services.

The command staff member designated as the principal contact for the victim shall inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.

All employees shall be aware of possible victim/witness intimidation or coercion and the increased danger when the victim leaves an abusive partner. The designated principal contact shall assist the victim and children in safety planning and caution the victim to be alert to stalking activities.

If an officer suspects intimidation or coercion of the victim/witness is occurring, the officer shall prepare a written report to be delivered immediately to the investigator in charge of the case through the chain of command.

In order to determine whether the victim/witness is being intimidated or coerced, the investigator in charge shall seek out secondary sources of information.

Given the possibility that a victim will recant or choose not to participate in court proceedings, supplemental evidence shall be sought out and preserved.

POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

PARALLEL CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS

When possible, the department shall conduct separate parallel administrative and criminal investigations of alleged incidents of police employee domestic violence in a manner that maintains the integrity of both investigations and promotes zero tolerance.

Regardless of the outcome of the criminal case, if the facts of the case indicate that domestic violence has occurred or any department policies have been violated, administrative action shall be taken independent of any criminal proceedings as soon as practicable.

The department will adhere to and observe all necessary protocols to ensure an accused employee's departmental, union, and legal rights are upheld during the administrative and criminal investigations.

ADMINISTRATIVE INVESTIGATION

The responsibility to complete the administrative investigation of a police employee domestic violence incident shall rest with the Internal Affairs Supervisor (see the department policy regarding **Internal Affairs**).

The chief may ask an outside law enforcement agency to conduct the administrative investigation.

Regardless of whether an arrest was made on scene, the investigating official shall conduct an independent, comprehensive administrative investigation using standard elements of criminal investigations.

Victims and witnesses shall be re-interviewed and their statements recorded; crime scene evidence, photographs, and medical records accessed; and 911 tapes requested.

Where sufficient information/evidence exists, the department shall take immediate administrative action against the accused employee that may include removal of badge and service weapons, reassignment, sanctions, suspension, or termination. Placing an employee on administrative leave with pay is not disciplinary and is often appropriate while conducting an investigation.

When an investigation of an incident uncovers employees who had knowledge of violence on the part of another employee but failed to notify the department or engaged in actions intended to interfere with the investigation, the department shall investigate those employees and take disciplinary action and criminally charge as warranted.

The chief shall determine whether and when the accused employee should be issued an administrative order of protection.

If administrative policies and/or administrative orders of protection are violated or sufficient concern exists regarding a violation, the department shall initiate an independent administrative investigation, seize firearms as allowed under department policy as soon as practicable, and take disciplinary action up to and including dismissal.

In determining the proper course of administrative action, a department shall consider factors including the level of danger an employee poses as indicated by the outcome of the danger assessment of the employee, the employee's history of compliance with departmental rules, prior written or verbal threats, history of aggressive behaviors, and existence of an alcohol or substance abuse problem.

If the accused employee is assigned enforcement duties while the administrative and/or criminal investigations are under way, those duties should not include response to domestic violence calls.

If the department determines through an administrative investigation that the employee violated department policy, regardless of how the employee pleads in response to criminal charges, the department may employ the full range of administrative sanctions.

Any employee determined through an administrative investigation to have committed domestic violence shall be terminated from the department.

CRIMINAL INVESTIGATIONS AND DECISIONS

The responsibility to complete a criminal investigation of an incident of police employee domestic violence shall rest with the domestic violence unit of the department, or in the event that no such unit exists, the criminal investigations unit or detective division.

The chief may ask an outside law enforcement agency to conduct the criminal investigation.

The investigating official shall conduct criminal investigations as would be the case for any other criminal violation.

In accordance with the employee's and victim's privacy rights, the investigating official or agency shall conduct sufficient interviews (preferably taped) of family members, friends, neighbors, colleagues, and others who may have information regarding criminal charges.

Even though an initial report may already exist concerning a police employee, reports of any subsequent or additional criminal or non-criminal incidents, which may include fellow employees engaging in surveillance or intimidation of the victim, shall be documented in separate incident reports, assigned a case number, cross-referenced with the original case number and investigated thoroughly.

The department shall completely investigate the charges and, where warranted, seek prosecution even in cases where the victim recants.

The department shall establish a liaison to work with the prosecuting attorney for each case. This officer shall present all the information to the prosecuting attorney for action and ask that decisions about the adjudication of the case be made in a timely manner.

As with any other case for criminal prosecution, the investigating officer shall request filing of court papers/complaints.

Any employee convicted through criminal proceedings of a domestic violence crime shall be terminated from the department.

Termination Procedures

Upon the decision by the appointing authority to terminate an employee, the chief shall follow in accordance with department policy and state law.

Notify the employee, in writing, of the effective date of termination;

Inform the employee of available support services, to include counseling; and,

Ensure that the victim is notified in a timely manner and offered available assistance, to include safety planning.

Federal law prohibits anyone convicted of a misdemeanor domestic violence crime from possessing firearms. All sworn officers must, as a condition of employment, be able to lawfully carry a firearm. The department shall ensure compliance with federal law. Termination is required if an officer becomes barred from carrying a firearm.