



MEMORANDUM

LEGISLATIVE REFERENCE BUREAU

WWW.MILWAUKEE.GOV/LRB

To: Ald. Milele A. Coggs
From: Dana J. Zelazny, Legislative Reference Bureau
Date: April 7, 2017
Subject: SURVEY OF POLICE DEPARTMENT POLICIES RELATING TO OFFICER-INVOLVED DOMESTIC VIOLENCE

This memo is in response to your request of March 20, 2017, regarding the policies in place in other cities relating to officer-involved domestic violence. Many cities, including Cincinnati, Minneapolis, Newark, St. Louis and Toledo, do not specifically address employee-involved domestic violence in their policy and procedure manuals. However, other cities, including Boston, Chicago, Cleveland, Columbus, Denver, Las Vegas, Omaha, Philadelphia, Pittsburgh, Seattle and St. Paul, have published their police department's policies concerning employee-involved domestic violence. These policies are discussed in detail below.

Boston, MA

The Boston Police Department (BPD) has a comprehensive policy in place to address how 911 operators, responding officers and supervising officers should respond to an officer-involved domestic violence incident, when firearms should be seized and how internal investigations are to be conducted.

If a BPD 911 operator determines that a domestic violence call involves a BPD employee, a patrol supervisor is automatically dispatched along with standard responding officers. BPD 911 operators are not allowed to cancel or recall such a dispatch without giving a specific, documented reason. Likewise, responding officers are forbidden from terminating their response and investigation of an employee-involved domestic violence incident without giving a specific, documented reason. Whenever an employee-related domestic violence call does not result in an arrest or a warrant is not sought, the patrol supervisor must submit a written administrative report explaining why an arrest was not made or a warrant was not sought.

If the patrol supervisor has a reasonable belief that there is evidence of physical abuse or that the threat of physical abuse exists, and the employee is a member of the BPD or any other police department, the person's department-issued firearm is seized and the person is asked to surrender all personally-owned firearms. The patrol supervisor will request consent from the parties involved to search the incident scene for the purpose of removing all privately-owned firearms present. If privately-owned firearms cannot be removed at the time of the incident, the patrol supervisor shall request that any application for a restraining order contain a provision for the surrender of all firearms.

BPD conducts separate, parallel administrative and criminal investigations of all employee-involved domestic violence incidents. If the facts of the case indicate that domestic violence has occurred or any departmental policies have been violated, administrative action is taken separate from any criminal proceedings and independent of the outcome of any criminal case. Administrative sanctions for domestic violence may include removal of badge or weapon, reassignment, leave with or without pay and termination.

Chicago, IL

The Chicago Police Department's (CPD) policy relating to officer-involved domestic violence is limited to dispatching a supervisor to the scene of such incidents. The Independent Police Review Authority (IPRA), which is external to CPD, serves as the intake agency for all complaints of police misconduct, including domestic violence. While the IPRA's internal policies have not been publicized, the organization was the subject of an investigation and published report by the U.S. Department of Justice (DOJ).

IPRA employs a staff of roughly 80 civilian investigators, supervisory investigators, attorneys, and support staff. Misconduct complaints that do not fall within IPRA's jurisdiction are referred to CPD's Bureau of Internal Affairs. Accordingly, IPRA handles roughly 30% of all complaints of misconduct filed against CPD officers. In 2015, IPRA intake totaled more than 5,000 cases, which were predominantly complaints filed by community members or other officers within CPD.

In 2011, Chicago began a pilot mediation program in which IPRA would be intentionally lenient in exchange for an officer agreeing to mediation. According to the DOJ report, by December 2012, a year after an IPRA mediation pilot program began, IPRA investigators were told to attempt mediation in every case. This included cases that were facially inappropriate for mediation, such as allegations of excessive force and domestic violence by officers. From 2013 through 2015, mediations accounted for approximately 65% of all of IPRA's sustained cases. Approximately 50% of the mediations from 2013-2015 were for domestic violence or a full range of excessive force claims.

Following serious criticism of IPRA by the DOJ, Chicago has announced the creation of a Civilian Office of Police Accountability, which will replace IPRA in 2017.

Cleveland, OH

The Cleveland Police Department's policy concerning employee-involved domestic violence is to request a ranking supervisor and the internal affairs unit to respond to the scene of an incident. The internal affairs unit investigates the incident and is responsible for initiating any disciplinary action. Police department employees are required to notify their supervisors if the employees are suspects in a domestic violence incident, and the internal affairs unit monitors investigations originating outside of the City of Cleveland.

There is no policy in place concerning removal of department-issued or personally-owned firearms or discipline arising from incidents that take place outside of Cleveland.

Columbus, OH

Columbus Police Department policy when called to the scene of an employee-involved domestic violence incident is to dispatch a ranking supervisor and an officer from the Internal Affairs Bureau. If a sworn employee is arrested, the employee's department-issued firearm is removed. When a police department employee is arrested, charged or is involved as the alleged offender in a domestic violence situation, the Internal Affairs Bureau conducts a follow-up administrative investigation of the alleged offense unless otherwise directed by the Chief of Police.

All Columbus Police Department employees are required to notify the department if they know of or have probable cause that another department employee or law enforcement officer from another jurisdiction has committed a domestic violence offense or made a threat of domestic violence within the City of Columbus. However, Columbus Police Department policies concerning employee-involved domestic violence apply only to complaints of domestic violence that occur within the City of Columbus. No policy concerning notification, investigation or discipline is set forth for employee-involved domestic violence incidents that occur outside of Columbus.

Denver, CO

The Denver Police Department's policy concerning employee-involved domestic violence is to first determine whether probable cause exists to believe an incident of domestic violence involving a Denver Police Officer has occurred. If so, a command officer from the Internal Affairs Bureau is notified immediately.

The Internal Affairs Bureau conducts any criminal investigations of officer-involved domestic violence incidents within the City and County of Denver. If an alleged incident of domestic violence involving a Denver Police Officer occurs outside the City and County of Denver, the Internal Affairs Bureau will assist the outside investigating agency and will also initiate an internal investigation regarding possible administrative charges associated with the alleged incident. Department employees are obligated to report an employee-involved domestic violence incident that the employee witnesses or has first-hand knowledge of, regardless of jurisdiction.

There is no policy in place concerning the removal of department-issued or personally-owned firearms from an employee involved in a domestic violence incident.

Las Vegas, NV

In terms of reporting, notifications and internal investigations, Las Vegas Police Department policy is to follow the same general procedures when an employee is involved in a domestic violence incident as when an employee is involved in any other

type of criminal activity. The Internal Affairs Unit is responsible for conducting an administrative investigation separate from any criminal investigation. However, Las Vegas applies different administrative sanctions arising from domestic abuse by employees than for other types of criminal activity due to the availability of court-referred treatment programs. If a domestic violence internal affairs complaint is sustained against the employee, the department will determine if the employee is agreeable to a court-referral action, such as treatment, counseling, or training, and will contact the City's Employee Assistance and Wellness Program to determine if the employee meets the criteria for the court-referred action. The successful completion of a treatment program may give consideration to the reduction of disciplinary sanctions. The department will determine a range of discipline for the employee in the event a court referral is not available for the offense, not offered to the employee, declined by the employee, not satisfactorily completed or completed, but with accompanying discipline.

Officers subject to an order for protection for domestic abuse may continue to carry department-owned firearms while in the performance of their duties. There is no policy in place for removing department-issued firearms in the absence of a protection order or for removing personally-owned firearms.

Omaha, NE

The Omaha Police Department (OPD) claims to have a zero-tolerance policy for employee-involved domestic violence. OPD policy is to screen out job applicants with a history of perpetrating domestic violence and that failure to disclose domestic violence conduct may result in discipline up to and including termination. Employees that fail to report knowledge of domestic violence incidents involving another employee may be subject to sanctions. Supervisors are responsible for identifying and reporting instances where employees may exhibit signs of possible domestic violence-related problems. If an employee is arrested for a domestic violence crime, department-issued firearms as well as any firearms involved in the incident will be removed.

Alleged incidents of employee-involved domestic violence are investigated both criminally and administratively by the OPD. The Domestic Violence Squad is responsible for the criminal investigation of all reports of employee-involved domestic violence, while the administrative investigation is handled by the Internal Affairs Unit. Regardless of the outcome of any criminal investigation, the Internal Affairs Unit may make decisions about the employee's status based on the administrative investigation. An OPD officer convicted of misdemeanor or felony domestic violence will be terminated from employment.

Philadelphia, PA

When responding to a domestic violence incident involving a police officer, the Philadelphia Police Department's policy is to request that a lieutenant be dispatched to the scene. The Internal Affairs Division investigates officer-involved domestic violence incidents and tracks and records all off-duty domestic violence incidents. Once an

officer has been notified that they are the defendant in any type of restraining order, the officer must surrender his or her department-issued firearm and is reassigned to administrative duties.

Pittsburgh, PA

Pittsburgh has codified the City's officer-involved domestic violence policy, and requires the Chief of Police to adopt internal departmental policies that meet the standards set forth by the ordinance. As these internal departmental policies are not publicly available, this summary is based on the City's ordinances. The Pittsburgh Police Department (PPD) must review the records of all employees to determine whether convictions for qualifying misdemeanor crimes of domestic violence or valid protection orders exist. If an employee is found to have a misdemeanor crime of domestic violence or is the subject of a qualifying protection order, the Chief of Police and other City officials are consulted immediately regarding continued employment or duty assignment.

A disclosure on the part of any officer, intimate partner or family member to any member of the department that an officer has personally engaged in domestic violence is investigated both administratively and criminally. A Domestic Violence Review Board reviews all officer-involved domestic violence-related incidents. While the Board may make recommendations, the final discretion as to these recommendations remains with the Chief of Police. However, PPD policy is to terminate the employment any officer found guilty of a qualifying domestic violence crime through criminal proceedings.

Seattle, WA

Seattle Police Department (SPD) procedure for all domestic violence calls involving an employee of any law enforcement agency is an in-person response by a lieutenant. If an employee is arrested for a domestic violence crime, the employee's department-issued firearm and badge are removed. If a non-SPD law enforcement employee is involved in a domestic violence incident, SPD will contact the appropriate law enforcement agency. Any employee who learns of a domestic violence incident involving another SPD employee must notify an on-duty lieutenant.

There is no policy regarding removal of personally-owned firearms, how criminal or administrative investigations take place, sanctions or to address employee-involved domestic violence incidents that take place outside of Seattle.

St. Paul, MN

If a St. Paul Police Department employee is on scene and the supervising officer determines there is probable cause to believe the employee committed an offence considered to be domestic abuse, the employee will be relieved of his or her weapon and placed under arrest. Upon completion of the investigation, all cases of this nature will be presented to the Ramsey County prosecuting authority for review. If a decision not to prosecute the matter criminally is determined, the incident will be referred to

Internal Affairs to determine whether any administrative rule was violated. All police personnel are required to notify their supervisors immediately in writing if they are being investigated for criminal activity by another law enforcement agency. Depending on the circumstances, an officer who has been arrested or has charges pending for a domestic abuse offense may be assigned to desk duty and his or her firearm may be ordered held until such time that the officer is cleared to return duty.

If you have any other question related to this matter, please let me know.

LRB 167980