I. PURPOSE
   A. The purpose of this directive is to set forth the policies and procedures of the East Haven Police Department regarding response to domestic violence complaints.

II. POLICY
   A. It is the policy of the East Haven Police Department (EHPD) that officers treat domestic violence as violent criminal behavior and that officers comply fully with the State of Connecticut Family Violence and Response Act.

   B. It is the policy of the Department that officers shall make arrest decisions in domestic violence cases in accordance with traditional probable cause standards and existing state statutes.

   C. Officers shall protect victims of domestic violence and provide them with relevant information regarding the availability of community services and support.

III. DEFINITIONS
   A. Domestic violence crime means an incident resulting in physical injury or assault, or an act of threatened violence that constitutes fear of imminent physical injury, actual physical injury or assault between family or household members or dating couples.

   1. Verbal abuse or argument shall not constitute domestic violence unless there is present danger and the likelihood that physical violence will occur. (CGS § 46b-38a(1))
2. A Domestic violence crime does not include acts by parents or guardians disciplining minor children unless such acts constitute abuse. (CGS § 46b-38a(3))

3. The term Domestic Violence and Family Violence are synonymous and shall be deemed to mean the same thing when the terms are referenced in any of the Department’s policies and procedures.

B. Family or household member means one of the following.
   1. Spouse or former spouse.
   2. Parents and their children.
   3. Persons of any age related by blood or marriage.
   4. Persons presently residing together or who have resided together, i.e. roommates.
   5. Persons who have a child in common regardless of whether they have been married or have lived together at any time.
   6. Persons in, or have recently been, in a dating relationship (CGS § 46b-38a(2)).

C. Self-defense: the law in Connecticut recognizes that the use of physical force upon another person which would otherwise constitute a criminal offense is justifiable and therefore not criminal in certain circumstances. CGS § 53a-19 is applicable in the context of domestic violence crime and addresses such circumstances.
   1. This statute provides in part that “a person is justified in using reasonable physical force upon another person to defend himself or a third person from what he or she reasonably believes to be the imminent use of physical force, and he may use such degree of force which he reasonably believes to be necessary for such purpose.

   2. There are, of course, exceptions to the use of such physical force in defense of a person. For example, “a person is not justified in using physical force when he or she knows that he or she can avoid the necessity of using such force with complete safety (1) by retreating, except that the actor shall not be required to retreat if he or she is in his or her dwelling . . .”
      a. Essentially, the statute requires that, before a person uses physical force in self-defense or to defend a third person, he or she must have two "reasonable beliefs."
         1) The first is a reasonable belief that physical force is being used or about to be used upon themselves or another.
         2) The second is a reasonable belief that the degree of force they are using to defend themselves is necessary for that purpose.

D. A Safety Plan is a plan developed between an advocate/counselor or a police officer and a victim that contains specific activities for a victim to be safe from an offender. Safety planning is an essential step to be completed with all survivors of domestic violence. It allows individualized planning for situations the survivor and children or family may encounter regardless of what the survivor decides to do about the relationship with
the abuser. Appropriate Safety Planning is also important for child survivors/witnesses of domestic violence.

1. A Short-Term Safety Plan is an immediate plan developed at the time of the report. A responding police officer should remain on scene and assist the victim with this plan. Some of these steps could include but are not limited to the following.
   a. Ensuring that the victim and any children have the ability to call 9-1-1.
   b. Ensuring that the victim can get to a safe location.
   c. Calling a friend, family member or advocate for support.
   d. Going to a safe place for the night.
   e. Creating a plan as to what to do next.

2. A Long-Term Safety Plan is a plan developed with an advocate which allows individualized planning for situations the survivor and children or family may encounter regardless of what the survivor decides to do about the relationship with the abuser.

E. Trauma Informed Care. By law, police officers and domestic violence intervention unit counselors must give domestic violence victims contact information about counselors who are trained to provide trauma-informed care. Existing law describes this as services directed by a thorough understanding of the neurological, biological, psychological, and social effects or trauma and violence on a person. The act adds that the services be delivered by a regional family violence organization that employs or provides referrals to counselors who:
   1. Make available to family violence victims resources on trauma exposure and its impact on treatment.
   2. Engage in efforts to strengthen the resilience and protective factors of victims of family violence who are affected by and vulnerable to trauma.
   3. Emphasize continuity of care and collaboration among organizations that provide services to children.
   4. Maintain professional relationships for referrals and consultations with programs and people with expertise in trauma-informed care.

F. Advocacy means collaboratively working with, and in support of, a survivor that keeps with a survivor-centered, empowerment-based, and self-determined approach. Both in person or phone advocacy and support are provided by the program’s qualified staff and volunteers to domestic violence clients.

G. Domestic Violence Victim Advocate - DVVA is a nonprofit advocate who is a certified domestic violence counselor trained in providing trauma-informed care. He/she provides individual, fully confidential counseling, safety planning and other outside services to the victim and her/his family. Statewide Automated Victim Information and Notification
SAVIN is a service that includes application for crime victim’s compensation and registering for electronic victim notification. She/he will inform the crime victim of her/his constitutional rights as a victim, explain what to expect during the criminal case, and help her/him navigate through the court system. She/he provides information about the court case, including protective orders and restraining orders, to help victims make informed decisions. The DVVA can let the court know what the victim wants to have happen in the case she/he is involved with. The DVVA also provides information and referrals regarding available community services, and will help the victim develop a long-term safety plan.

H. ORDERS OF PROTECTION (OOP)

1. Conditions of Release Order – A conditions of release order is an order issued for family violence and should be set by Law Enforcement or Bail Commissioner upon release from custody, and remains in effect until the arrested person has been presented before the Superior Court (CGS § 54-63c(b)). For Law Enforcement specifically, in addition to completing the JD-CR-146, the duty supervisor shall ensure that the conditions and restrictions are entered into COLLECT and NCIC as a File 20 with restrictions.

2. Ex Parte Restraining Order - An ex parte restraining order is an order issued by the family court when someone has completed the restraining order application. The judge has reviewed the application and affidavit, and issues a temporary ex parte restraining order. A hearing date is scheduled and the respondent must be notified. Generally speaking, this order is good for fourteen (14) days or until the date of the hearing (hearings can be scheduled before the fourteen (14) day time limit).

3. Restraining Order - A restraining order is issued by a judge of the civil court against a person who is a family or household member, usually after a hearing, but the court may issue the order immediately upon application by the victim as en “ex parte” order to remain in effect until the hearing. In the restraining order, the judge can order the abuser not to hurt or harass the victim. The judge may also order the abuser to move out of the home and order the victim to have temporary custody of the children.

4. Protective Order - A protective order is issued by a criminal court judge and is directed against a defendant who has been arrested for a domestic violence crime or whenever a protective order is an appropriate remedy in a criminal case.
   a. In a domestic violence case, the family violence intervention unit makes a recommendation to the prosecutor who then asks the judge to issue the order.
   b. The defendant or the attorney representing the defendant can argue against the order being issued. The victim or a family violence victim advocate may also address the court regarding whether the order should be issued.
   c. The judge will make the final decision after hearing from the parties involved. If the order is issued, the order will be made a condition of the defendant's release.
   d. Pursuant to CGS § 53a-223, no person who is listed as a protected person in any order of protection may be liable for:
      1) Soliciting, requesting, commanding, importuning or intentionally aiding in the violation of the order or
2) Conspiracy to violate such order

5. Standing Criminal Protective Order – A standing criminal protective order is an order that is issued usually at the end of a criminal case. These are lifetime orders and remain in effect until further order of the court. This order type is generally issued when it is a more severe criminal case. A person is guilty of criminal violation of a standing criminal protective order when an order issued pursuant to subsection (a) of section 53a-40e has been issued against such person, and such person violates such order.

6. Foreign Order of Protection – A foreign order of protection means any protection order, as defined in 18 USC § 2266, a restraining or protective order issued by a court of another state, the District of Columbia, a commonwealth, territory or possession of the United States or an Indian tribe.

7. Civil Protection Order- A civil protection order means any protection issued by a civil court to protect an applicant who has been the victim of stalking, sexual assault and/or sexual abuse that is not related to family or domestic violence.

8. Possess - per CGS § 53a-3(2), means to have physical possession or otherwise to exercise dominion or control over tangible property.

9. The comparison orders of protection chart can be found in Appendix A of this directive.

IV. PROCEDURES
A. Dispatch, upon receipt of a call for service involving domestic violence, shall do the following.
   1. Dispatch unit(s) to the scene.

   2. Check the Connecticut Protective Order Registry – File 20 and relay any information to the responding officer.

   3. Attempt to obtain, record, and relay to the responding officer(s) the following information.
      a. The caller's name and relationship to the offender.
      b. The victim's name and the offender's name, and their relationship to each other.
      c. The nature of the abuse, or suspected or sustained injuries.
      d. Previous complaint history.
      e. Whether a court order of protection is in place.
      f. Whether children are involved.
      g. Whether there is a presence of alcohol, drugs, or mental illness.
h. Whether there are any weapons involved and/or present.

i. The call taker shall provide domestic violence victims with the incident case number and contact information for the Department, in order to allow them to obtain periodic updates as to the offender’s incarceration status.

B. Responding Officers.

1. Treat all domestic violence calls as potentially “high risk.” When possible briefly listen at the door and observe the involved parties through a window prior to entry. This may assist in the determination of the existence of probable cause for arrest.

2. Use forced entry when necessary. An officer may force entry into a premise when the officer reasonably believes an occupant is in need of immediate medical attention or is in danger of suffering physical injury, and after complying with the knock and announce rule in the absence of imminent peril.

3. Ask who is present in the household and for all to come forward.

4. Ask whether there are firearms in the house.

5. Ask if children are present and complete the following as necessary.
   a. Ensure the safety of children and determine whether they need medical attention.

   b. Interview children as witnesses.

   c. Make arrangements for care, if dual custodial arrests are made.

   d. If child abuse is suspected, report to Department of Children and Families (DCF) by phone. (DCF - 136. CGS § 17a-101(c)).

6. Identify the relationship between the victim(s) and the accused to determine family and/or household member status.

7. Inquire about any current protective orders, and/or restraining orders, or ex parte restraining orders and determine whether such an order is on file within the COLLECT and/or NCIC system.

8. Assess and define the nature of the problem by talking to parties separately.

9. Provide emergency care and intervention to defuse and stabilize the immediate situation.

10. Assist the victim(s) in obtaining medical treatment, if needed. (CGS § 46b-38b(d)).

11. Report suspected abuse of any person with intellectual disability between the ages of 18 and 60 to the Abuse Investigation Division of the Office of Protection and Advocacy by phone and Form PA-6. (CGS § 46a-IIb).
12. Report suspected abuse, neglect, exploitation, or abandonment of any elderly person by phone to the Regional Ombudsman and on Form A-500 to the Department of Aging. (CGS § 17b-451).

13. Officers at the scene upon being informed that the perpetrator of domestic violence is in possession of firearms may seize such firearms to help ensure the safety of potential victims.

14. Give the victim(s) a “Victim of Crime Card” containing information about victims’ rights and phone numbers for services; [CGS § 46b-38b(d)] (FYI-CGS § 54-216 was amended by Sec. 6 of PA 11-152 to permit victims of domestic violence to obtain restitution services from the Office of Victim Services.)

15. Conduct a Lethality Assessment Screening (LAP) with the victim(s) consistent with Policy and Procedures #441.

C. Supervisory Responsibilities.

1. A supervisor shall conduct a probable cause review at the scene (when necessary) and/or at booking and review all arrests, dual arrest situations and self defense issues.

2. A supervisor shall ensure that all reports, including the DPS-230-C are properly completed and submitted to the Records Division.

3. The shift supervisor shall ensure that follow-up investigative responsibilities and victim safety and offender release considerations are coordinated to allow for shift changes and/or referral to specialized units.

4. The shift supervisor shall expedite the arrest warrant execution upon approval from the court.

5. The officer in command shall ensure that, under CGS § 54-63 c(a), any offender arrested who has used or has threatened to use a firearm not be released on a promise to appear in violation of CGS § 54-63c(a).

6. Conditions of release for domestic violence shall be set by the officer in command or the bail commissioner. Either the officer in command or the bail commissioner should enter a File 20 into NCIC, with restrictions.

7. The officer in command is responsible for setting bail after arrest. In any instance in which a Bail Commissioner reduces the bond set by law enforcement the officer in command who has concern for the safety of the victim may contact the State’s Attorney within the jurisdiction, to override the Bail Commissioner’s recommendation.

8. EHPD shall designate one supervisor to review and oversee the Police Response to Crimes of Domestic Violence Model Policies, Procedures, and Guidelines and to enhance such agency’s response to victims, community, and court personnel with
respect to domestic violence. The supervisor shall submit a report annually on compliance to the Chief.

D. Arrests
Whenever an officer determines upon speedy information that a domestic violence crime, as defined in CGS § 46b-38a(3), has been committed within such officer's jurisdiction, such officer shall arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime(s). [CGS § 46b-38b(a)]
1. Officers shall make arrests for all domestic violence offenses consistent with CGS § 54-1f.

2. Officers shall not notify the alleged offender of a pending arrest or offer voluntary surrender. Voluntary surrender should only be offered where there are concerns for officer safety, concern for victim safety or unusual circumstances that would warrant the voluntary surrender.

3. The Family Violence Prevention and Response Act does not alter standards for arrest. Constitutional standards and Connecticut General Statutes, Section 54-1F Guidelines should direct decisions and procedures for effecting and processing domestic violence arrests. An officer must determine that probable cause exists for any charge that forms the basis for an arrest.

4. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether probable cause to arrest exists. (CGS § 46b-38b(b)).

5. When two or more parties make complaints of violence, the officer should consider whether either party acted in self-defense.

6. Notwithstanding the provisions of CGS § 46b-38b(a), when a peace officer reasonably believes that a party in an incident of domestic violence has used force as a means of self defense, such officer is not required to arrest such party under this section.

7. No officer investigating an incident of domestic violence shall threaten, suggest or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement by any party. (CGS § 46b-38b(b)).

8. An officer should emphasize to the parties the criminal nature of domestic violence and that the criminal action is being initiated by the state, not the victim.

9. An officer can choose to make a custodial arrest, a summons arrest, or may apply for an arrest warrant. Determination of which type of arrest to pursue should include careful consideration of imminent safety concerns for the victim and her or his children, and after consulting with the on-duty supervisor.

10. The decision whether to arrest shall NOT be influenced by the following.
   a. The specific consent or request of the victim (CGS § 46b-38b(a)).
b. The relationship of the parties. The seriousness of crimes committed between family or household members is not mitigated because of the relationships, living arrangements, or genders of those involved (CGS § 46b-38b(a)).

c. The fact that civil proceedings such as separation, divorce, or custody disputes are pending. A pending civil action does not preclude a thorough investigation and arrest if probable cause exists. Officers should not assume parties are using claims of domestic violence to gain advantages in civil actions. It is well documented that violence escalates when victims make efforts to leave a violent relationship and/or take steps to seek protection.

d. The victim’s previous unwillingness to participate in the complaint or arrest process. Often, victims may be immobilized by fear. Officers should treat each incident with equal importance. There is no way to tell, for example, which time a victim may be in more danger or when an abusive partner may become violent.

e. The number or frequency of calls for police assistance at a particular location. It is well documented that the level of violence increases over time and escalates significantly when a victim seeks assistance.

f. Assurances from the offender that the violence will cease.

E. Officer Involved Domestic Violence Incidents

1. Refer to EHPD Policy & Procedures #416 involving sworn personnel from within EHPD and sworn personnel from an outside agency.

F. Jurisdiction

1. Misdemeanor Summons Arrests.
   a. If the domestic violence crime does not involve a felony, and if the officer reasonably believes there is no risk or injury to a family or household member, the officer may affect a misdemeanor summons arrest (CGS § 54-1h).

   b. For further guidance on these types of arrests, reference Policy and Procedure #424 – Misdemeanor Summons Arrest.

2. Felony Warrant Arrest.
   a. If the suspect cannot be located within a reasonably short time following the crime, the investigating officer shall prepare an application for an arrest warrant. All crimes for which probable cause exists should be charged and the facts supporting each charge, including violence or threats of violence, must be detailed in the warrant.

3. No Arrest
   a. When choosing not to affect an arrest, the officer should explain that an arrest cannot be made without adequate factual basis establishing probable cause. The officer should explain alternate remedies and avenues of assistance and protection.
G. Warrantless (On-Site) Arrest Considerations
   1. Connecticut General Statutes section § 54-1f authorizes an officer to arrest, without
      previous complaint and warrant, any person for any offense (felony or misdemeanor) that
      occurred within his/her precinct, when the person is taken or apprehended in the act or on
      the speedy information of others.

   2. Speedy Information is information received during the course of or promptly after the
      commission of the crime and is of such character that the officer has reasonable grounds
      to accept it as true. Whether such information constitutes speedy information depends on
      two considerations:

   3. How proximate in time the information is to the crime; and whether the officer was
      justified in accepting the information and relying on it. (It is the officer's responsibility to
      check the truthfulness, reliability, and basis of knowledge of the person providing the
      information)

H. Warrant Arrest Considerations
   1. In domestic violence cases, an arrest warrant should be sought only in limited
      circumstances.

   2. When further investigation is needed to establish probable cause.

   3. When the offender cannot be located pursuant to speedy information.

   4. For a misdemeanor arrest when there is no speedy information.

   5. For a felony arrest when there is no speedy information, unless there is a concern for
      safety and/or flight.
   a. A criminal violation of an order of protection is a felony crime and should be
      deemed to impact the safety of the victim.

   6. Once an officer has determined that probable cause exists, an arrest warrant should be
      sought as soon as possible.
   a. If a warrant must be sought in any incident involving the use or threatened use of
      a weapon (electronic defense weapon or firearm), an officer should expedite the
      application for an execution of the arrest warrant.
   b. All crimes for which probable cause exists should be charged and the facts
      supporting each charge, including violence or threats of violence, should be
      detailed in the warrant and at the next day court presentation.

I. Dual Complaints
   1. The Family Violence Prevention and Response Act (CGS § 46b-38a) requires officers
      to make an arrest if there is probable cause to believe a domestic violence crime has
      been committed. This "mandatory arrest" part of the law may be confusing in at least
      two situations: first, in incidents where there is probable cause to arrest both parties,
      and second, when one of the parties may have been acting in self-defense.
a. The Family Violence Prevention and Response Act requires that where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately (CGS § 46b-38(b)).

b. Each complaint must be carefully and thoroughly investigated prior to making arrest decisions to ensure that a victim will not be unnecessarily re-victimized by the legal system, or made to fear police intervention. An arrest itself can be particularly traumatic for victims of domestic violence.

c. Dual arrests should be made only when probable cause exists to charge each party with a crime. In some instances, there may be probable cause to arrest one party for a domestic violence crime and the other on a non-domestic violence charge, such as interfering with an arrest.

2. Officers should be aware that, given the nature of domestic violence, a victim may be afraid to make true and accurate statements regarding the incident due to fear of further violence from a battering partner.

J. On-Scene Investigative Procedures.
   1. In the report carefully document the scene, evidence present, witnesses and any other relevant information.

   2. When possible, photograph the scene and any visible injuries on the victim(s).

   3. Ask the victim for a written statement.

   4. Notify the victim(s) of his or her right to file an affidavit or warrant for arrest (CGS § 46b-38(d)).

   5. Identify all applicable penal code violation(s), including an ex parte restraining order, a restraining order, a protective order, a standing criminal protective order, or a foreign order of protection and record facts of violence or threat of violence.

   6. If a custodial arrest is not made, and officers believe a risk of danger exists, officers shall remain at the scene until in their judgment the likelihood of further imminent violence has been eliminated (CGS § 46b-38b(d)).

   7. Provide the victim(s) the card containing information and phone numbers for victim's rights and services (CGS § 46b-38b(d)). Also, provide them with the case number and the investigating officer's name and badge number.

   8. Before leaving the scene, help the victim to develop a short-term safety plan which may include planning what to do next, contacting a friend or family member for support, and/or going to a safe place for the night (i.e. family, friends, shelter).

   9. Explain to the victim the process for arrest, arraignment and bond and include the following.
a. The assailant might not be held overnight, but may be released within hours of the arrest.

b. The assailant will be arraigned the following court day.

10. When an officer arrests any person for a domestic violence crime, he or she must inform the defendant of the next day that court is open for an appearance date. If court is in session at the time of the offense, that person should be arraigned at that time if court is willing to accept the defendant on the same day.

11. Prior to arraignment, the victim can meet with or call a victim advocate whose phone number is listed on the card under Domestic Violence Programs. The phone number for Victim Services is 800-822–8428. The 24-hour DOMESTIC VIOLENCE HOTLINE is 203–789–8104 or 888-774-2900.
   a. The victim advocate will provide the victim with accurate information regarding the court process. The victim advocate will provide information and referrals regarding available community services, and will help the victim develop a long-term safety plan.

12. For any cases of arrest for domestic violence, complete a Family Violence Offense Report, DPS-230-C, to be turned in with all other completed paperwork regarding the incident.

K. Self-Defense.

1. When attempting to determine whether or not a person was justified in using self-defense and therefore not subject to the mandatory arrest provisions of the law, the responding officer must make his or her own judgments about the reasonableness of the subject’s “beliefs,” as defined above in II-C. In making these judgments the officer must first consider the following:
   a. The situation from the perspective of the person acting in self-defense; that is, what did the person actually believe, and - because statute requires that the defendant's belief be reasonable, and not irrational or unreasonable under the circumstances, and whether a reasonable person in the defendant's circumstances could have reached that belief.

2. The analysis can be broken down into 4 steps or elements.
   a. That the actor actually believed that someone else was using or about to use physical force against him or a third person.

   b. That such belief was reasonable because a reasonable person in the actor’s circumstances would have shared that belief.

   c. That the actor actually believed that the degree of force (he/she) used was necessary to repel the attack.

   d. That such belief was reasonable because a reasonable person in the defendant's circumstances, viewing those circumstances from the defendant's perspective, would have shared that belief.
L. Incident Reporting and Documentation.
   1. Whenever an officer determines that an allegation of a Domestic Violence Offense has occurred between members of the same family and/or household, as defined herein, a case incident report must be prepared whether or not an arrest is made.

M. Effect of Ex Parte Restraining Order, Restraining Order, Protective Order, Standing Criminal Protective Order, or a Foreign Order of Protection upon the Right to Possess and/or Carry firearms and/or ammunition.
   1. Any person who is subject to an ex parte restraining order, restraining order, protective order, standing criminal protective order, or a foreign order of protection in a case that involves the use, attempted use, or threatened use of physical force against another person, must immediately surrender any pistols, revolvers, or other firearms (CGS § 29-27), and ammunition in his possession no more than twenty-four (24) hours after becoming subject to the order. He/she is required to transfer or sell any possessed firearms or ammunition to a Federal Firearms Licensee (FFL), or surrender the firearms or ammunition to the Commissioner at a State Police troop (other than Headquarters) or a local police department (CGS § 29-36k(a)).
      a. An officer will obtain a sworn written statement or statement of compliance from the subject indicating they are aware they are ineligible to possess, and are currently not in possession of any firearms or ammunition.
      b. When a state marshal service receives an ex-parte order issued by the court that indicates that the respondent holds
         1) A pistol/revolver permit, an eligibility certificate for a pistol or revolver, a long gun eligibility certificate, an ammunition certificate or permit, and may possess one or more firearms or ammunition,
         2) The marshal service shall notify the agency for the town in which the service will take place, provide a copy of the application, the applicant’s affidavit, the ex-parte order, notice of the hearing, and the marshal may request an officer when the service is executed.

   2. A person may surrender his or her weapon(s) to the East Haven Police Department and the Department’s Evidence Officer should forward it/them to the Commissioner of the Department of Emergency Services and Public Protection (DESPP).

   3. Permit to Carry.
      a. The Department shall revoke any permit to carry a pistol or revolver or a pistol or revolver eligibility certificate, a long gun eligibility certificate, or an ammunition permit or certificate when
         1) He/she has been convicted of a felony or any misdemeanor disqualifiers (CGS § 29-32).
         2) He/she becomes subject to an ex parte restraining order, a restraining order and/or a protective order, a standing criminal protective order, or a foreign order of protection in a case that involves the use, attempted use, or threatened use of physical force against another person.
b. Within five days of receiving written notice that their permit has been revoked, the holder of the permit/certificate must surrender it to the Department. (CGS § 29-32).

c. The Records Division shall notify the Commissioner of DESPP of the revocation. Any revocation of a state permit of an East Haven resident by the Commissioner of DESPP requires notification of the Department (CGS § 29-32).

d. If an offender does not surrender the permit/certificate, he or she should be arrested for any of the below violations.
   1) Failure to Surrender Permit to Carry a Pistol or Revolver (CGS § 29-32).
   2) Failure to Surrender Pistol or Revolver Eligibility Certificate (CGS § 29-36i).
   3) Failure to Surrender Long Gun Eligibility Certificate (CGS § 29-37s).
   4) Failure to Surrender Ammunition Certificate (CGS § 29-38p).
   5) The permit/certificate should be confiscated and immediately forwarded to the Commissioner of the DESPP (CGS § 29-32, CGS § 29-36, CGS § 29-37, CGS § 29-38 inclusive as amended by P.A. 16-34).

4. Carrying Pistol or Revolver without a Permit.
   a. If officers find a pistol or revolver in the possession of a person involved in a domestic violence crime who is not in his dwelling house or place of business, and a determination is made that the person does not have a valid permit to carry such weapon, officers shall arrest the person for the crime of carrying a pistol or revolver without a permit, and shall seize the weapon as evidence of the crime. (CGS § 29-35(a)).

   a. Arrests for criminal possession.
      1) Any offender that knows that he/she is the subject of a restraining order, ex parte restraining order, a protective order, standing criminal protective order, or a foreign order of protection in a case that involves the use, attempted use, or threatened use of physical force against another person.
      2) Has been convicted of a felony.
      3) Has been convicted of a misdemeanor committed on or after October 1, 1994 (pistol and revolvers), or on or after October 1, 2013 (other firearms, ammunition, electronic defense weapons) as identified in CGS § 53a-217 and § 53a-217c.
      4) Is subject to any other firearms prohibitions as defined in CGS § 53a-217 and § 53a-217c.
5) Is in possession of any firearm, ammunition, electronic defense weapon, pistol or revolver.

6) Shall be arrested for Criminal Possession of a Firearm or Electronic Defense Weapon (CGS § 53a-217) and/or Criminal Possession of a Pistol or Revolver (CGS § 53a-217c).

7) The weapon(s) and/or ammunition should be seized as evidence of the crime.

6. Use or Threatened Use of Weapon in a Family Violence Crime
   a. In responding to family violence incidents, officers shall investigate and arrest in accordance with relevant Connecticut General Statute § 46b-38b. If an officer has probable cause to believe that a person used or threatened to use a weapon in the commission of any family violence crime(s) that person should be arrested for all appropriate crimes and the weapon should be seized as evidence of the crime(s).

7. Seizure of Firearms as Evidence of a Domestic Violence Crime
   a. Whenever an officer makes an arrest for a domestic violence crime, the officer may seize any firearm at the location where the crime is alleged to have been committed that is in the possession of the offender/suspect or that is in plain view. (CGS § 46b-38b(a)1) Amended by PA 02-120. Refer to CGS § 53a-3-Definition of Possession. Any firearm seized under this section must be returned in its original condition within seven (7) days to its rightful owner unless such person is ineligible to possess the firearm or unless otherwise ordered by the court. Any questions regarding the return of weapons seized under this section should promptly be directed to the state’s attorney.

8. Seizure of Firearms from Person Posing Risk to Self or Others
   a. A judge may issue a search and seizure warrant (Risk Warrant) to search for and take custody of any firearms when any two officers (or any prosecutor) complain on oath that there is probable cause to believe that (1) a person poses a risk of imminent personal injury to him/herself or to other individuals, (2) such person possesses one or more firearms, and (3) such firearm or firearms are within or upon any place, thing or person. [CGS § 29-38c(a)].
   b. Police officers should consider this option when investigating incidents of family violence.

9. Surrender of Firearms
   a. Upon the surrender of any firearms or ammunition or if the offender indicates that he/she is not in possession of, nor does he/she have access to, any firearms or ammunition and there is no other evidence to suggest the contrary, consider having the offender complete the Firearm and Ammunition Compliance Statement form (DPS-332C) indicating the same.
   b. If he/she completes the form and now reports a lost or stolen assault weapon and/or firearm, he/she must make a report and such report shall be forwarded to
the Commissioner of DESPP within (72) seventy-two hours. Failure to report a lost or stolen assault weapon and/or firearm is a violation of CGS § 53-202g.

10. Return of Surrendered or Seized Weapons
   a. A person who has surrendered a firearm to the Commissioner of DESPP pursuant to Connecticut General Statutes Section § 29-36K, may request in writing within one year after such surrender that the weapon(s) be transferred to a Federal Firearms Licensee (FFL). Within ten days of receipt of written notice of the transfer by both the owner and the designated receiver, the Commissioner of DESPP must deliver the weapon(s) to the receiver. (CGS § 29-36K(b)).

   b. Prior to the return of any seized or surrendered weapon, the agency must investigate to ensure that the person is eligible to possess the weapon(s), including the following.
      1) That the person is no longer the subject of an ex parte restraining order, restraining order, protective order, or standing criminal protective order.

      2) That the person would not otherwise be in violation of CGS § 53a-217(c).

      3) That the person has not been convicted of a misdemeanor or felony domestic violence crime.

N. Verification of a Court Order.
   1. When an officer is advised that a Ex Parte Restraining Order (EPRO) Restraining Orders (RO) and/or Protective Order (PO) and Standing Criminal Protective Orders (SCPO) against the suspect is in effect, the officer must attempt to verify that the order exists by any of the following methods.
      a. Ask the complainant to produce a certified copy of the order. The court provides certified copies at time of issuance.

      b. Access the COLLECT/NCIC system to verify whether a EPRO, RO, PO or a SCPO has been issued against a person.

      c. Ensure that both parties' names are on the order, and that the order has not yet expired.

      d. If an officer is unable to determine whether or not an order is still in effect, contact the Clerk of the Criminal Court to inquire about the status of a RO, PO, or a SCPO and for a EPRO contact the Clerk of the Civil Court.

      e. Determine what the exact terms of the order are for a particular individual at a particular location.

      f. In situations where there are multiple orders, officers should document the existence of and issuance date of all orders in the report and arrest for any and all valid violations of such orders.
O. Escorting Offenders to Retrieve Belongings.
1. When a court issues a EPRO, RO or PO, the offender may be told that he or she can return to the home in the presence of a police officer to gather personal belongings.
   a. Some court orders may only allow a one-time escort.
   b. All escorts will be documented in the CAD or an incident report supplement.
   c. Escorts shall only be provided one-time.
   d. In certain rare situations, the protected party may allow for an escort more than one time. At the sole discretion of the Department, a subsequent escort may be allowed provided it is not in violation of a court order.
2. Initiation of the retrieval is at the discretion of the Department at a time period that is reasonable and practical.
3. The officer is responsible for the following:
   a. Verify the order and its conditions.
   b. Confirm that if the order only allows for a one-time retrieval escort that it has not already be done by another officer.
   c. Contact the protected party to arrange a time for retrieval.
   d. If the officer is unable to make contact with the protected party or if children are present, then the retrieval should be scheduled for a later date/time.
   e. Escorting the offender for the purpose of preventing further disturbance, violence or damage to the belongings of the victim.
   f. For the safety of both the officer and the protected party, the officer shall ensure that the offender is not armed with any weapons and/or dangerous instruments while the retrieval is occurring.
   g. The officer is to accompany the offender throughout the entire retrieval process. If the protected party wishes to do so, they should be allowed to accompany the officer and offender during the retrieval.
   h. The retrieval should last no longer than 10-20 minutes, unless the protected party allows for a longer period of time. The offender is being escorted only to retrieve essential items such as clothes, toiletries, medication, or essential work items.
      1) Essential work items include tools, files, and work computers; specifically, if the offender works from home, is employed in the trades, is self-employed, or is required to use these items daily for their employment.
2) Other non-essential or valuable items used by the protected party and/or children such as groceries, electronics, jewelry, furniture, etc. are not to be removed from the dwelling.

i. The protected party must be given prior notice of the retrieval by the Department.

j. The offender must not use the retrieval process as a means to harassing the protected party.

k. If it is not practical or safe for the protected party to accompany the officer and offender during the retrieval process, then the officer shall review with the victim before the officer or the offender leave the premises what essential items the offender is removing from the residence.

P. Federal Domestic Violence Laws

   2. If an officer believes that a person may have violated a provision of the Act, he or she should indicate that fact in his/her incident report and notify his or her supervisor.

   3. The supervisor will forward copies of the case report and all supplemental reports to the Head of the Detective Division. If the Head concurs with the recommendation, he or she shall contact the United States Attorney's Office for review by an Assistant United States Attorney who will determine whether the situation warrants prosecution for federal charges.

      Chief, Criminal Division
      Office of the United States Attorney
      157 Church Street
      New Haven, CT 06508
      (203)-773-2108

   4. All officers shall be trained to recognize the possibility of a Federal VAWA violation and to make referrals for these violations.

Q. Summary of Applicable VAWA Sections
   1. Full Faith and Credit: Title 18 USC § 2265 and § 2266
      a. Requires states and Indian tribes to enforce orders of protection issued by foreign states and Indian tribes as if the orders had been issued by the non-issuing, enforcing state or Indian tribe.

      b. A valid order of protection is defined as an order of protection that was issued by a court with jurisdiction over the parties and matter under the laws of such state or Indian tribe and in circumstances where the defendant was given reasonable notice and the opportunity to be heard sufficient to protect the defendant's due process rights.
c. The provision applies to any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final protection orders issued by civil and criminal courts (other than support or child custody orders). In other words, it extends to temporary and final, civil and criminal orders of protection.

d. The provision states that officers should enforce out-of-state orders of protection that are presented to them if the order appears valid on its face, i.e., it contains both parties' names and has not yet expired. The provision further states that even if the out-of-state order is uncertified, it should be enforced if it meets the requirements of facial validity.

2. Disposal, Receipt or Possession of a Firearm: Title 18 USC § 922(d) and (g)
   a. Section 922(d)(8) prohibits the knowing transfer of a firearm to a person who is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child.

   b. Section 922(g)(8) prohibits the possession of a firearm by persons subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

   c. Section 922(g)(9) prohibits the possession of a firearm or ammunition by any person who has been convicted in any court of a family violence crime (a family violence crime that has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon), including a misdemeanor family violence crime.

3. Interstate Domestic Violence: Title 18 USC § 226(a)(1)
   a. Prohibits the travel across state lines or the leaving or entering of Indian territory with the intent (at the time of the crossing) to injure, harass, or intimidate a spouse or intimate partner. This provision is violated when a person, after the crossing, then intentionally commits a violent crime or causes a bodily injury.

4. Causing the Crossing of State Line by Force, Coercion, Duress, or Fraud: Title 18 USC § 2261(a)(2)
   a. Violation of this provision occurs when the defendant by force, coercion, duress or fraud, causes a spouse or intimate partner to cross state lines (or leave or enter Indian territory) and in the course or as a result of that conduct, intentionally commits a crime of violence. Bodily injury to the victim is also required.

5. Interstate Stalking: Title 18 USC § 2261A
   a. Prohibits travel across a state line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, when in the course of, or as a result of, such travel, the person is placed in
reasonable fear of the death of, or serious bodily injury to, that person or a member of that person's family.

6. Interstate Violation of a Protective Order: Title 18 USC § 2262
   a. This provision is violated when a person travels across state lines or leaves or enters Indian territory with the intent to engage in conduct that (A)(i) violates the portion of a PO that protects against credible threats of violence, repeated harassment, or bodily injury; or (ii) would violate subparagraph (A) if the conduct occurred in the jurisdiction in which the PO was issued; and (B) subsequently engages in such conduct.
## XI. COMPARISON OF ORDERS OF PROTECTION

*Revised October 2016*

No individual who is listed as a protected person on any order may be liable for: (1) soliciting, requesting, commanding, importuning, or intentionally aiding in the violation of the order; or (2) conspiracy to violate such order.

<table>
<thead>
<tr>
<th>Protective Orders and Restraining Orders</th>
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<tbody>
<tr>
<td><strong>Type of Order</strong></td>
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<tr>
<td>-----------------------------------------</td>
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<tr>
<td>Protective Order (PO)</td>
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<tr>
<td>(C.G.S. §46b-38c)</td>
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<td>(C.G.S. § 54-1b)</td>
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1 The orders outlined in this chart are not mutually exclusive. A family violence victim could have more than one valid order from the same category or more than one valid order from multiple categories in effect at the same time (i.e. two protective orders, a protective order and a restraining order, etc.). Law enforcement must enforce the strictest provisions of any and all valid orders.
| Restraining Order (RO) (C.G.S. §46b-15) | Victim files an “Application for Relief from Abuse” in the Family Division of Superior Court (civil court). | Ex-parte order lasts until day of hearing, which is within 14 days of date of issuance. |
| -------------------------------------- | Ex-parte order may be granted by judge. Hearing on order scheduled within 14 days. | 7 day hearing if firearms, permit, eligibility certificate disclosure. |
| Includes Ex-Parte order | Victim must ensure that offender is “served” with notice of hearing. | Marshal/PD service in hand when possible. |
| | Offender, not the victim, is responsible for upholding order. | At hearing, judge can extend the order for 1 year with possible extension beyond 1 year. |
| | There is no cost to the victim (for filing or service). | If victim wants to extend order beyond initial 1 year term, must file a motion at least 12 days prior to expiration. |
| | | Order will not end prior to the expiration date without the victim being notified. |
| | | Check with Protection Order Registry. |
| | Same provisions as in Protective Orders (above). | Criminal Violation of a Restraining Order (C.G.S. §53a-223b) (D Felony) |
| | May include custody orders. | Unless violation includes not staying away or contacting, imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation or attack of victim (C Felony). |
| | May include financial conditions for spouse (ex)/dependent children, living together (i.e. utilities, insurance, mortgage, rent, support). | Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.). |
| | No disposal of property, documents, keys, ID. | Criminal Trespass 1st [C.G.S §53a-107] if in violation of RO. |
| | Must surrender weapons immediately, but not later than 24 hours after notice. | Victim also can file a Motion for Contempt in court where order was issued. |
| | Must surrender permit/eligibility certificate within 5 days of notice. | Violation of financial conditions is NOT a criminal violation; explain option to file Motion for Contempt |
### Standing Criminal Protective Order

**SCPO**

(C.G.S. § 53a-40c)

**AKA:** Standing Criminal Restraining Order (pre-Oct. 1, 2010)

**Permanent Protective/Restraining Order**

- Issued by a criminal court judge at the time of sentencing.
- Can only be issued if offender is convicted of:
  - Violation of enumerated offenses; or
  - Any crime the court determines to be family violence; or,
  - Any other crime for good cause shown.
- No cost to victim.
- Victim may not want a SCPO or even know the SCPO has been issued.
- Orders issued prior to Oct. 2010 could last indefinitely.
- Orders issued post Oct. 2010 shall remain in effect for any duration specified by the court at the time of sentencing.
- Orders can be modified and/or terminated without notice to or consent of the victim.
- Offender not to threaten, harass, assault, molest, sexually assault or attack the protected person (partial/limited order).
- Offender must stay away from the protected person's home (full/residential stay-away order).
- Offender to have NO CONTACT with victim.
- Offender to remain 100 yards away from victim.
- Order may extend to victim's minor children, but will usually not include custody orders.
- Any other orders the court deems necessary to protect the safety of the victim and dependent children.
- Criminal Violation of a Standing Criminal Protective Order (C.G.S. §53a-223b) (D Felony)
- Unless the violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation, or attack of victim (C Felony).
- Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).
- Criminal Trespass 1st [C.G.S. §53a-107] if in violation of SCPO.

### Foreign Orders of Protection

(C.G.S. § 46b-15a)

- Entitled to enforcement in Connecticut where:
  - Issued by courts of: (1) another state; (2) District of Columbia; (3) U.S. commonwealth, territory or possession; or (4) Indian tribe.
- Presume an order is valid if the content and form appear to be authentic (Full Faith & Credit).
- The order does NOT have to be a certified copy.
- May be criminal or civil. Conditions vary by issuing entity.
- Must surrender weapons immediately but not later than 24 hours after notice.
- Must surrender permit/eligibility certificate within 5 days of notice.
- A person may register a foreign order of protection in Connecticut, but is NOT required to do so, and law enforcement cannot refuse to enforce an order because the order does not appear in COLLECT, NCIC or the Protection Order Registry.
- Criminal Violation of a Foreign Order of Protection (C.G.S. § 53a-223b) (D Felony)
- Unless the violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation, or attack of victim (C Felony).
- Arrest for all other crimes for which there is probable cause (e.g., criminal
### Conditions of Release (COR)

**C.G.S. §§ 53a-222, 53a-222a, 54-63c, 54-63d**

- A person charged with a family violence crime can be released with non-financial conditions of release** by:**
  - Law enforcement;
  - Bail commissioner;
  - A judge.

- To verify:
  - Check File 20;
  - Contact clerk of court in JD/GA where order issued;
  - Contact bail commissioner who released offender;
  - Contact police department who released offender.

- COR imposed by bail commissioner or law enforcement remain(s) in effect until offender is presented to a judge at arraignment.

- COR imposed by a judge remain(s) in effect for the duration of the case or until further order of the court.

**Law Enforcement:**

- Comply with specified restrictions on travel, association, or place of abode;
- Not engage in specified activities, including use/possession of dangerous weapon, intoxicant, or controlled substance;
- Avoid all contact with alleged victim.

**Bail Commissioner**

- Any of the above; plus
- Remain under supervision of designated person or organization;
- Any other condition reasonably necessary to ensure appearance of the person in court.

**Note:**

1. No person shall be released upon the execution of a written promise to appear or the execution of a bond without surety if the person is charged with the commission of a family violence crime and in the commission of such crime used or threatened the use of a firearm (C.G.S. § 54-63d).

- If released on a felony charge: violation of conditions of release in the first degree (C.G.S. § 53a-222a). (D Felony)
- If released on a misdemeanor charge: violation of conditions of release in the second degree (C.G.S. § 53a-222a). (A misdemeanor)
- If, in the course of violating a COR, a person commits any other crime (i.e. threatening, intimidating a witness, assault, etc.), that person should be arrested for any other appropriate crime(s).
### Civil Protection Order (CPO)

<table>
<thead>
<tr>
<th>Type of Order</th>
<th>How the Order is Made</th>
<th>How Long the Order Lasts</th>
<th>Provisions that May Be Included</th>
<th>Violations</th>
</tr>
</thead>
</table>
| **Civil Protection Order (CPO)** *(CGS 46b-16a)*  **New 2015** | ➢ Not for DV Cases  
➢ Issued by civil judge.  
➢ Victims of stalking, sex assault, sexual abuse.  
➢ Service by marshal.  
➢ Hearing within 14 days. | ➢ Lasts up to one year.  
➢ Victim requests order.  
➢ Cannot have a PO for same incident before CPO.  
➢ If victim wants to extend beyond one year, must file a motion at least 3 weeks prior to expiration. | ➢ Offender not to impose restraint on the person or their liberty, threaten, harass, assault, molest, sexually assault or attack the protected person.  
➢ Offender cannot enter dwelling of protected person. | ➢ Criminal Violation of a Civil Protective Order *(CGS 53a-223c) (D Felony)* |

### Other Orders

<table>
<thead>
<tr>
<th>Type of Order</th>
<th>How the Order is Made</th>
<th>How Long the Order Lasts</th>
<th>Provisions that May Be Included</th>
<th>Violations</th>
</tr>
</thead>
</table>
| **Family Court Orders** | ➢ Where custody/divorce actions are pending, the Family Court may issue orders that, while not a restraining order or protection order, will often mirror traditional provisions of those orders of protection, such as: kick out orders and/or stay away orders, orders | ➢ Family Court orders, unless they contain an expiration date, are valid until further order of the court. | ➢ The victim should have a copy of the relevant order.  
➢ Such orders may include, but are not limited to:  
  ➢ Exclusive possession of an identified premises;  
  ➢ Limitations on when and how one party may contact the other;  
  ➢ Stay away orders – from a particular party or location. | ➢ Officers can, in some cases, make an arrest for the “behavior” targeted by the Order, such as an arrest for trespass, harassment, custodial interference, etc. |
around exclusive possession of the home. While these orders are not technically Orders of Protection, they are valid orders of the court and govern the conduct of the relevant parties.