

<b>East Haven Police Department</b>  	<b>Type of Directive:</b>		<b>No. 415.7</b>
	<b>Policies &amp; Procedures</b>		
	<b>Domestic Violence</b>	<b>Subject/Title:</b>	<b>Issue Date:</b>
			February 25, 2020
	<b>Issuing Authority:</b>	<b>Effective Date:</b>	
	Honorable Board of Police Commissioners	March 16, 2020	
<b>References/Attachments:</b> Policies & Procedures #: 303, 416, 424, 441 Connecticut General Statutes § 46b-38a and § 46b-38b Connecticut Public Act: 19-189 Federal Violence Against Women Act (VAWA)		<b>Review Date:</b>	<b>Rescinds:</b>
		<b>Annually</b>	415.6
			<b>Amends:</b>
			N/A

## 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 Prevention 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. **Advocacy:** Characterizes the work of a certified domestic violence advocate, working for a designated domestic violence organization who is working with, and in support of, a survivor that keeps with a survivor-centered, empowerment-based, and self-determined approach.
- B. **Child and Family Advocate:** A person who is working within and supervised by a domestic violence organization whose primary role is to provide services, support and

advocacy to sheltered and non-sheltered child, adolescent and teen victims of domestic violence and their families.

- C. Dominant Aggressor: The person who poses the most serious ongoing threat in a situation involving the suspected commission of a domestic violence crime.
- D. Family or household member: Any of the following persons regardless of the age of such person as defined in Connecticut General Statute (CGS) § 46b-38a(2).
  - 1. Spouses or former spouses.
  - 2. Parents or their children.
  - 3. Persons related by blood or marriage.
  - 4. Persons who have a child in common regardless of whether they have been married or have lived together at any time.
  - 5. Persons in, or have recently been, in a dating relationship.
  - 6. Persons presently residing together or who have resided together.
    - a. This does not include persons who are attending an institution of higher education and presently residing together in on-campus housing or in off-campus housing that is owned, managed, or operated by the institution of higher education or its agent, provided such persons are not family or household members (PA 19-189).
    - b. This also does not include persons presently residing in a dwelling unit, as defined in CGS § 47a-1, and making payments pursuant to a rental agreement provided such persons are not family or household members (PA 19-189).
- E. Domestic Violence: An incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical injury, bodily injury or assault, including, but not limited to stalking or a pattern of threatening, between family or household members. 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 and/or Connecticut General Statutes.
  - 1. Verbal abuse or argument does not constitute domestic violence unless there is present danger and the likelihood that physical violence will occur in accordance with CGS § 46b-38a(1).
  - 2. A domestic violence crime refers to a crime as defined in CGS § 53a-24, other than a delinquent act as defined in CGS § 46b-120, which, in addition to its other elements, contains an element thereof an act of domestic violence to a family or household member. A domestic violence crime does not include acts by parents or guardians disciplining minor children unless such acts constitute abuse in accordance with CGS § 46b-38a(3).
- F. Family Violence Victim Advocate - FVVA: A person who is employed by and under the control of a direct service supervisor of a domestic violence agency; who has undergone

a minimum of twenty (20) hours of training which shall include, but not be limited to, the dynamics of domestic violence, crisis intervention, communication skills, working with diverse populations, an overview of the state criminal justice and civil family court systems and information about state and community resources for victims of domestic violence; who is certified as a counselor by the domestic violence agency that provided such training; and whose primary purpose is the rendering of advice, counsel and assistance to, and the advocacy of the cause of, victims of domestic violence.

- G. Possess: To have physical possession or otherwise to exercise dominion or control over tangible property (CGS § 53a-3(2)).
- H. Safety Plan: 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.
- I. Self-Defense: The State of Connecticut recognizes 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/she reasonably believes to be the imminent use of physical force, and he/she may use such degree of force which he/she 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.

J. Trauma Informed Care: Pursuant to CGS § 46b-38b(f), police officers and domestic violence intervention unit counselors must inform domestic violence victims of services available, including providing the victims with contact information for a regional domestic violence organization that employs, or provides referrals to, 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 of trauma and violence on a person. The Act adds that the services be delivered by a regional domestic violence organization that employs or provides referrals to counselors who:

1. Make available to domestic violence resources on trauma exposure and its impact on treatment.
2. Engage in efforts to strengthen the resilience and protective factors of victims of domestic 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.

K. 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 on-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 an “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 of protection issued by a criminal court judge at the time of an offender’s sentencing. These orders can remain in effect for a significant duration of time – previously known as a Standing Criminal Restraining Order prior to October 1, 2010 with no expiration date.
  - a. This order type is generally issued when it is a more severe criminal case.
  - b. 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. The comparison orders of protection chart can be found in Appendix A of this directive.

#### **IV. PROCEDURES**

- A. The East Haven Public Safety Communications Center (EHPSCC) personnel, 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 the victim has a current order of protection.
    - g. Whether children are involved.
    - h. Whether there is a presence of alcohol, drugs, or mental illness.
    - i. Whether weapons were implied, involved and/or present.
    - j. EHPSCC personnel or a sworn member of the Department 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. EHPSCC personnel shall assist domestic violence victims who make such inquiries as to the defendants who remained incarcerated at the Department.
- B. Responding Officers and On-scene Investigative Procedures
  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. Force 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. Assess and define the nature of the incident by talking to parties separately, where it is safe and practical, and not in view of one another.
6. If informed that the perpetrator of domestic violence is in possession of firearms, officers may seize such firearms to help ensure the safety of potential victims.
7. Assist the victim(s) in obtaining medical treatment, if required/needed. (CGS § 46b-38b(d))
8. 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. Consider a trauma informed (forensic interview) when necessary.
  - d. When possible and appropriate, work cooperatively with the Child and Family Advocate at the regional domestic violence provider or other mental health and child welfare agencies to identify opportunities to more fully offer children trauma informed services and a response at the scene of a domestic violence incident and develop strategies that measure impact.
  - e. When Appropriate, consider utilizing the Emergency Mobile Psychiatric Services (EMPS) at the scene by calling 211.
  - f. Make arrangements for care, if dual custodial arrests are made.
  - g. If child abuse and/or neglect is suspected, report to Department of Children and Families (DCF) by phone (CGS § 17a-101b) and complete Form DCF-136 (CGS § 17a-101(c)).
  - h. Do not use children to serve as an interpreter for the adult unless there is an immediate emergency and only until an Authorized Interpreter can respond to the scene.
9. Identify the relationship between the victim(s) and the accused to determine family and/or household member status.
10. When complaints of domestic violence are made by two (2) or more opposing persons, officers are not required to arrest both persons. Officers shall evaluate each complaint separately to determine which person is the dominant aggressor (CGS § 46b-38a(b) as amended by PA 18-5).

11. Document the scene, evidence present, witnesses and any other relevant information.
12. When possible, photograph the scene and any visible injuries on the victim(s).
13. Ask the victim for a written statement, and when appropriate, obtain a signed medical release form with the victim's consent.
14. 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.
  - a. Determine whether the offender is the subject of any order of protection or conditions of release that includes "no contact with the victim" or "no use or possession of dangerous instrument or possessing any deadly weapons".
  - b. Verify whether the order of protection or conditions of release apply to the involved victim and offender.
15. Identify all penal code violations.
16. Provide the victim(s) with the case number and the investigating officer's name and badge number.
17. Provide assistance to the victim regardless of the victim's race, age, gender, religious beliefs, immigration status, ethnicity, disability, sexual orientation, gender identity, or gender expression. Pursuant to CGS § 46b-38b(d), such assistance shall include, but not limited to the following.
  - a. Notify the victim of the right to file an affidavit for a warrant for arrest.
  - b. Inform the victim of services available by providing the victim with the contact information for Connecticut Safe Connect, which provides the means to contact a certified domestic violence counselor for help (1-888-774-2900 or [www.ctsafeconnect.org](http://www.ctsafeconnect.org)). Help may be accessed through Connecticut Safe Connect via telephone call, live chat, text, or email with a connection to a local domestic violence organization.
  - c. Remain at the scene for a reasonable time until, in the reasonable judgment of the officer, the likelihood of further imminent violence has been eliminated.
18. Conduct a Lethality Assessment Screening (LAP) with the victim(s) in accordance with Policies and Procedures # 441 – Domestic Violence Lethality Assessment.
19. Officers shall provide assistance in accordance with the uniform protocols for treating victims of domestic violence whose immigration status is questionable. Officers are strongly discouraged from requesting information about or otherwise investigating or assisting in the investigation of citizenship or residency status of any victim, unless such an inquiry or investigation is required by statute, ordinance, federal regulation, or a court decision.

20. Before leaving the scene, identify the local domestic service provider, and 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).
  - a. Provide the victim(s) a card from the Office of Victim Services containing information about victims' rights and phone numbers for services (CGS § 46b-38b(f)). (CGS §54-216 permits victims of domestic violence to obtain restitution services from the Office of Victim Services.)
  
21. Explain to the victim the process for arrest, arraignment and bond, and including the following:
  - a. The offender might not be held overnight, but may be released within hours of the arrest.
  
  - b. The offender will be arraigned the next available court day.
  
  - c. Prior to arraignment, the victim can call Connecticut Safe Connect at 1-888-774-2900 or go to [www.CTSafeConnect.org](http://www.CTSafeConnect.org) 24/7, 365 days/year for support, resources and safety planning, with a connection to a local domestic violence organization.
  
  - d. On the day of arraignment, the FVVA will provide the victim with accurate information regarding the court process and her/his constitutional rights as a crime victim. The FVVA will represent the victim's wishes to the court. The FVVA will provide information and referrals regarding available community services, register victims for CT SAVIN case notification, assist with applying for Victim Compensation and will help the victim develop a short/long-term safety plan.
    - 1) The FVVA will only disclose information as authorized by the victim - otherwise, any information given by the victim to the FVVA is confidential, or that which is required by law.
  
  - e. Victim(s) are to be encouraged to contact the investigating agency, at the number provided, for periodic updates as to the offender's incarceration status, as they deem appropriate.
  
22. When an officer arrests any person for a domestic violence crime, he/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.
  
23. For any cases of arrest or pending 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.
  
24. Report suspected abuse of any person with intellectual disability between the ages of eighteen (18) and sixty (60) to the Abuse Investigation Division of the Department of

Developmental Services by phone (1-844-878-8923) and submit Form PA-6. (CGS § 46a-11b)

25. Report suspected abuse, neglect, exploitation, or abandonment of any elderly person by phone to the Connecticut Department of Social Services (1-888-385-4225); or Form W-675 may be completed and forwarded to the Department of Social Services via fax (860-424-5091). (CGS § 17b-451)

#### C. Supervisory Responsibilities

1. A supervisor shall conduct a probable cause review at the scene (when necessary and feasible) and/or at booking and review all arrests, dual arrest situations and self-defense issues.
2. A supervisor shall ensure all reports, including the Family Violence Offense Report, are properly completed and submitted to the Records Division.
  - a. The Records Division shall forward all Family Violence Offense Reports to the Crimes Analysis Unit at the Department of Emergency Services and Public Protection on a monthly basis.
3. The shift supervisor shall ensure that follow-up investigative responsibilities, 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 on-duty supervisor shall ensure, under CGS § 54-63c(a), any offender arrested who has used or has threatened to use a firearm not be released on a promise to appear (PTA).
6. Conditions of release for domestic violence shall be set by the on-duty supervisor or the bail commissioner. Either the on-duty supervisor or the bail commissioner should enter an order of protection (“File 20”) into COLLECT/NCIC, with the appropriate conditions/restrictions listed.
7. The on-duty supervisor is responsible for setting bail after arrest. In any instance in which a bail commissioner reduces the bond set by law enforcement, the on-duty supervisor, who has concern for the safety of the victim may contact the State’s Attorney within the jurisdiction, who in turn may authorize the Department to delay release on the bail commissioner’s recommendation until the arraignment (CGS § 54-63d(d)).
8. The Department 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 of Police.

- a. A Survey to Determine Compliance with the State of Connecticut Family Violence Model Policy Form (DESPP-231-C) shall be completed by the Head of the Records Division annually by July 1<sup>st</sup> and submitted to the Crimes Analysis Unit at the Department of Emergency Services and Public Protection (DESPP).

#### D. Arrests

1. Except as provided in subsection (c) and (d) of this section, 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 suspected of its commission and charge such person with the appropriate crime(s). (CGS § 46b-38b(a))
  - a. Officers shall make arrests for all domestic violence offenses consistent with CGS § 54-1f.
    - 2) The Family Violence Prevention and Response Act (FVPRA) requires officers to arrest a person only if there is probable cause to believe that person committed a domestic violence crime, and it does not alter standards for an arrest. Traditional constitutional and statutory standards, including CGS § 54-1f guidelines, should direct decisions and procedures for making and processing domestic violence arrests. An officer must determine that probable cause exists for any charge which forms the basis for an arrest.
  - b. 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.
  - c. When complaints of domestic violence are made by two (2) or more opposing persons, officers are not required to arrest both persons. Officers shall evaluate each complaint separately to determine which person is the dominant aggressor (CGS § 46b-38a(b) as amended by PA 18-5).
    - 1) In determining which person is the dominant aggressor, officers shall consider the need protect victims of domestic violence and the following.
      - a) Whether one (1) person acted in defense of himself/herself or a third person.
      - b) The relative degree of an injury.
      - c) Any threats creating fear of physical injury.
      - d) Any history of domestic violence between such persons if such history can reasonably be obtained by the officer.
    - 2) An officer shall arrest the person he/she believes to be the dominant aggressor.
  - d. If an officer believes probable cause exists for the arrest of two (2) or more persons, in lieu of arresting or seeking a warrant for the arrest of any person determined not to be the dominant aggressor, the officer may submit a report

detailing the conduct of such person during the incident to the State's Attorney for the Department's Judicial District for further review and advice. The provisions of this section shall be construed to discourage, when appropriate, but not prohibit, dual arrests.

- 1) For a secondary arrest review by the State's Attorney, the report detailing the incident and the Request for Review and Advice Form must be completed and submitted to the State's Attorney by the next business day.
- e. Section "I" of this policy further highlights dual complaints and the dominant aggressor.
  - f. No officer investigating an incident of domestic violence shall threaten, suggest or otherwise indicate the arrest of all persons for the purpose of discouraging requests for law enforcement by any party. (CGS § 46b-38b(b)).
  - g. 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.
  - h. An officer can choose to make a custodial arrest, a summons arrest, or, in limited situations, 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 his/her children, and after consulting with the on-duty supervisor.
  - i. Whether an offender posts bond, he/she shall be scheduled for arraignment before the superior court on the next regularly scheduled day of court business. (CGS § 54-1g)
  - j. If an arrested person is hospitalized, or has escaped or is otherwise incapacitated, the person shall be presented, if practicable, to the next available court date after return to police custody.
  - k. Pursuant to CGS § 46b-38b(a), the decision whether to arrest shall NOT be influenced by the following.
    - 1) The specific consent or request of the victim.
    - 2) The relationship between persons suspected of committing a domestic violence crime. The seriousness of crimes committed between family or household members is not mitigated because of the relationships, living arrangements, or genders of those involved.
    - 3) 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.

- 4) 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.
  - 5) 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.
  - 6) The victim's wishes to not have the offender arrested. Officers should emphasize that criminal action is being initiated by the State, not the victim.
  - 7) Assurances from the offender that the violence will cease.
2. The provisions of CGS § 46b-38b shall not apply to persons who are, attending an institution of higher education and presently residing together in on-campus housing or in off-campus housing that is owned, managed, or operated by the institution of higher education or its agent, provided such persons are not family or household members; or persons presently residing in a dwelling unit, as defined in CGS § 47a-1, who are making payments pursuant to a rental agreement provided such persons are not family or household members provided such persons are not in a dating relationship, (PA 19-189).
  3. Pursuant to PA 19-43, law enforcement agencies shall redact the name, address or other identifying information of any victim of sexual assault, voyeurism, injury or risk of injury, or impairing of morals, or family violence, or witness thereof, as defined in section 46b-38a, or of an attempt thereof, from any arrest record released to the public.

#### E. Officer Involved Domestic Violence Incidents

1. Refer to Policies and Procedures # 416 – Domestic Violence Involving Department Personnel regarding the handling of domestic violence involving personnel from the Department and domestic violence involving sworn personnel from an outside agency.

#### F. Jurisdiction

1. Misdemeanor Summons Arrests.
  - a. An officer may arrest for misdemeanor crimes only within the geographical boundaries of the territory covered by the Department, with the following two exceptions.
    - 1) An officer may arrest outside of his/her jurisdiction anywhere within Connecticut if there is probable cause based on "speedy information" that the crime(s) occurred within his/her jurisdiction and the officer is in immediate pursuit of the suspect. (CGS § 54-1f(c))
    - 2) An officer may arrest anywhere within Connecticut if his/her department holds a valid arrest warrant for the accused.

- b. 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).
  - c. For further guidance on these types of arrests, reference Policies and Procedures # 424 – Misdemeanor Summons Arrest.
2. Felony Warrant Arrest
- a. An officer may arrest anywhere within Connecticut if he/she has probable cause to believe the suspect has committed a felony.
  - b. “Speedy information” is not required for a felony arrest; however, absent speedy information, it is recommended that the officer obtain an arrest warrant unless there is a concern for safety and/or flight.
  - c. A criminal violation of an order of protection is a felony crime, and could be deemed to impact the safety of the victim.
  - d. If a warrantless arrest is not made and the suspect cannot be located within a reasonable 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; the execution of a warrant should be expedited.
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. CGS § 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 the following two considerations.
  - a. How proximate in time the information is to the crime.
  - b. 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 such as in the following cases:
  - a. When further investigation is needed to establish probable cause (i.e. self-defense, etc.).
  - b. When the offender cannot be located pursuant to speedy information.
    - 1) If the offender has left the scene and probable cause for an arrest has been established, initiate a speedy want / BOLO for the offender.
    - 2) The investigating officer shall notify the EHPSCC personnel to advise neighboring jurisdictions, or other jurisdictions where the offender is believed to have fled, of the probable cause for the offender's arrest and to effect the arrest if the offender is located.
    - 3) The investigating officer shall complete a signed/sworn report/affidavit/incident report to support the arrest in the event the offender is located and arrested.
    - 4) If the offender is not located, the investigating officer shall, as soon as practical, prepare and submit an arrest warrant application.
  - c. For a misdemeanor arrest when there is no speedy information.
  - d. For a felony arrest when there is no speedy information, unless there is a concern for safety and/or flight.
    - 1) A criminal violation of an order of protection is a felony crime and should be deemed to impact the safety of the victim.
2. 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 and Dominant Aggressor

1. The Family Violence Prevention and Response Act (FVPRA) (CGS § 46b-38b(a)) requires, in part, that whenever an officer determines upon speedy information that a domestic violence crime has been committed within such officer's jurisdiction, such officer shall arrest the person suspected of its commission and charge such person with the appropriate crime.

2. 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. 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.
  - 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.
3. When complaints of domestic violence are made by two (2) or more opposing persons, officers are not required to arrest both persons.
  - a. Officers shall evaluate each complaint separately to determine which person is the dominant aggressor.
  - b. In determining which person is the dominant aggressor, officers shall consider the need to protect victims of domestic violence, whether one person acted in defense of self or a third person, the relative degree of any injury, any threats creating fear of physical injury, and any history of domestic violence between such persons, if such history can reasonably be obtained by the officer.
  - c. The officer shall arrest the person whom the officer believes to be the dominant aggressor. (CGS § 46b-38b(b) as amended by PA 18-5.)
  - d. If an officer believes probable cause exists for the arrest of two (2) or more persons, in lieu of arresting or seeking a warrant for the arrest of any person determined not to be the dominant aggressor, the officer may submit a report detailing the conduct of such person during the incident to the State's Attorney for the Department's judicial district for further review and advice. The provisions of this section shall be construed to discourage, when appropriate, but not prohibit, dual arrests. (CGS §46b-38b(c) as amended by PA 18-5.)
    - 1) For a secondary arrest review by the State's Attorney, the report detailing the incident and the Request for Review and Advice Form must be completed and submitted to the State's Attorney by the next business day.
  - e. Dual arrests should be made only when probable cause exists to charge each party with a crime, unless the dominant aggressor has been identified or a request will be made to have the case reviewed by a State's Attorney, (CGS § 46b-38b(c) as amended by PA 18-5.).
  - f. 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. This does not constitute a dual arrest.

4. No officer investigating an incident of domestic violence shall threaten, suggest or otherwise indicate the arrest of all persons for the purpose of discouraging requests for law enforcement by any party. (CGS § 46b-38b(b))
5. No 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 (1) an arrest based on probable cause; (2) any conditions of release imposed pursuant to subsection (b) of section 54-63c; or (3) determinations made pursuant to subsection (b) or (c) of this section. (CGS § 46b-38b(e) as amended by PA 18-5.)

#### J. 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 Section III. 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.
  - b. 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.

#### K. 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.
2. When an officer feels that a recorded 911 call or any recorded call for police response will enhance an investigation, he/she should request that the recorded call be preserved; seize the recording as evidence and document the seizure in the incident report.

3. Officers shall document any verbal statements made by the victim(s), offender, or witnesses and distinguish the statements with quotes where appropriate within the incident report.
  4. Officers shall document any visible injuries within the incident report.
  5. Incident reports shall be completed in accordance with Policies and Procedures # 303 – Incident Reporting and Review Procedures.
- L. 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 (5) days of receiving written notice that his/her permit has been revoked, the holder of the permit/certificate must surrender it to the Department. (CGS § 29-32).
- c. 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)).
5. Criminal Possession of a Firearm, Ammunition, Electronic Defense Weapon, Pistol or Revolver.
  - 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 domestic 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 domestic 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 at the location of a Domestic Violence Crime (Safekeeping Provision)
    - a. Whenever an officer makes an arrest for a domestic violence crime, the officer may seize any firearm, ammunition, or electronic defense weapon 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) 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 under 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 domestic 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, have the offender complete the Firearm and Ammunition Compliance Statement form (DPS-332C) indicating the same. If the offender refuses to complete the Firearms and Ammunition Compliance Statement form, document the refusal in an incident report.
- 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 seventy-two (72) 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.

M. Verification of a Court Order

1. When an officer is advised that an 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 an 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 an 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.

N. Domestic Violence Alert Notification/GPS Program

- 1. The State of Connecticut Judicial Branch has a GPS monitoring program (Alert Notification/GPS) in Bridgeport, Danielson, and Hartford courts to first alert and secure the safety of the victim and then assist law enforcement with attempting to locate and apprehend the offender. This alert notification system is different from the parole and probation electronic monitoring of offenders in the community.
  - a. Offenders that have a history of violating court orders and/or who pose a risk of harm to a protected person(s) can be ordered by a judge to wear a GPS equipped ankle bracelet.
  - b. Specific locations are identified as restricted areas (i.e. the protected persons home, workplace, school, etc.) and the offender is instructed to avoid a 2500-foot area surrounding those areas.
- 2. An alert is triggered if:
  - a. The offender breaches one of the restricted areas;
  - b. The ankle bracelet is tampered with;
  - c. The battery is not charged; or
  - d. A GPS signal cannot be located.
- 3. If an alert is triggered, the GPS monitoring company will:
  - a. Notify the protected person(s) and advise them to activate a pre-established safety plan.
  - b. Notify the Department, if applicable, and will:
    - 1) Provide the location and direction of travel of the offender and/or other pertinent information.
    - 2) Provide information that will assist responding officers in locating the protected person.
    - 3) Stay on the line with telecommunication personnel if the offender continues to advance towards a protected person(s) and provide a call back number for follow-up.

4. Officers who are dispatched to a Domestic Violence Alert Notification/GPS shall:
  - a. Locate and ensure the safety of the protected person(s).
  - b. Attempt to locate the offender with due caution.
  - c. Determine the reason(s) for the notification.
  - d. If probable cause is established that the terms of an existing order of protection have been violated, arrest the offender on speedy information if located or apply for an arrest warrant if the offender cannot be located.
  - e. Document all information in an incident report.

O. Escorting Offenders to Retrieve Belongings

1. When a court issues an EPRO, RO or PO, the offender may be told that he/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 (1) 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. Verifying the order and its conditions.
  - b. Confirming if the order only allows for a one-time retrieval escort that it has not already be done by another officer.
  - c. Contacting 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 harass 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

- 1. The Federal Violence Against Women Act (VAWA) makes certain actions in domestic violence situations a violation of Federal law.
- 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/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/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.

Office of the United States Attorney  
157 Church Street  
New Haven, CT 06508  
(203)-821-3700
- 4. All officers shall be trained to recognize the possibility of a Federal VAWA violation and to make referrals for these violations.
- 5. Summary of Applicable VAWA Sections
  - a. Full Faith and Credit: Title 18 USC § 2265 and § 2266

- 1) 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.
  - 2) 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.
  - 3) 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.
  - 4) 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.
- b. Disposal, Receipt or Possession of a Firearm: Title 18 USC § 922(d) and (g)
- 1) 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.
  - 2) 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.
  - 3) Section 922(g)(9) prohibits the possession of a firearm or ammunition by any person who has been convicted in any court of a domestic violence crime (a domestic 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 domestic violence crime.
- c. Interstate Domestic Violence: Title 18 USC § 226(a)(1)
- 1) 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.
- d. Causing the Crossing of State Line by Force, Coercion, Duress, or Fraud: Title 18 USC § 2261(a)(2)

- 2) 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.
- e. Interstate Stalking: Title 18 USC § 2261A
    - 1) 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.
  - f. Interstate Violation of a Protective Order: Title 18 USC § 2262
    - 1) 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.

Appendix A  
**COMPARISON OF ORDERS OF PROTECTION<sup>1</sup>**  
*Current to 2019*

**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**

**Protective Orders and Restraining Orders**

Type of Order	How the Order is Made	How Long the Order Lasts	Provisions that May Be Included	Violations
<p style="text-align: center;"><b>Protective Order (PO)</b>            (C.G.S. <a href="#">§46b-38c</a>)            (C.G.S. <a href="#">§ 54-1k</a>)</p>	<ul style="list-style-type: none"> <li>➤ Issued by a judge in a criminal case, usually at the time of arraignment.</li> <li>➤ There is no cost to the victim.</li> <li>➤ Victim may not want a PO or even know the PO has been issued.</li> <li>➤ Offender, not the victim, is responsible for upholding order.</li> <li>➤ Is a condition of the offender's release.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Duration of the criminal court case.</li> <li>➤ Until criminal case ends</li> <li>➤ Judge may modify or terminate at any time, without victim knowing.</li> <li>➤ May continue during probation [CGS <a href="#">§53a-28(f)</a>]</li> <li>➤ Check with Protection Order Registry</li> </ul>	<ul style="list-style-type: none"> <li>➤ Offender not to threaten, harass, assault, molest, sexually assault or attack the protected person (partial/limited order).</li> <li>➤ Offender must stay away from the protected person's home (full/ residential stay-away order).</li> <li>➤ Offender to have NO CONTACT with victim.</li> <li>➤ Offender to remain 100 yards away from victim.</li> <li>➤ Order may extend to victim's minor children, but will usually not include custody orders. May include animals.</li> <li>➤ Any other orders the court deems necessary to protect the safety of the victim and dependent children.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Criminal Violation of a Protective Order [C.G.S. <a href="#">§53a-223</a>] (D Felony)</li> <li>➤ Unless violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation, or attack of a victim (C Felony).</li> <li>➤ Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).</li> <li>➤ Criminal Trespass 1<sup>st</sup> [CGS <a href="#">§53a-107</a>] if in violation of PO.</li> </ul>

<sup>1</sup> 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.

<p style="text-align: center;"><b>Restraining Order (RO)</b> (C.G.S. <a href="#">§46b-15</a>)</p> <p>Includes Ex-Parte order</p>	<ul style="list-style-type: none"> <li>➤ Victim files an “Application for Relief from Abuse” in the Family Division of Superior Court (civil court).</li> <li>➤ Ex-parte order may be granted by judge. Hearing on order scheduled within 14 days.</li> <li>➤ Victim must ensure that offender is “served” with notice of hearing.</li> <li>➤ Offender, not the victim, is responsible for upholding order.</li> <li>➤ There is no cost to the victim (for filing or service).</li> </ul>	<ul style="list-style-type: none"> <li>➤ Ex-parte order lasts until day of hearing, which is within 14 days of date of issuance.</li> <li>➤ 7 day hearing if firearms, permit, eligibility certificate disclosure.</li> <li>➤ Marshal/PD service in hand when possible.</li> <li>➤ At hearing, judge can extend the order for 1 year with possible extension beyond 1 year.</li> <li>➤ If victim wants to extend order beyond initial 1 year term, must file a motion at least 12 days prior to expiration.</li> <li>➤ Order will not end prior to the expiration date without the victim being notified.</li> <li>➤ Check with Protection Order Registry.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Same provisions as in Protective Orders (above).</li> <li>➤ May include custody orders.</li> <li>➤ May include financial conditions for spouse (ex)/dependent children, living together (i.e. utilities, insurance, mortgage, rent, support).</li> <li>➤ No disposal of property, documents, keys, ID.</li> <li>➤ Must surrender weapons immediately, but not later than 24 hours after notice.</li> <li>➤ Must surrender permit/eligibility certificate within 5 days of notice.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Criminal Violation of a Restraining Order (C.G.S. <a href="#">§53a-223b</a>) (D Felony)</li> <li>➤ Unless violation includes, imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation or attack of victim (C Felony).</li> <li>➤ Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).</li> <li>➤ Criminal Trespass 1<sup>st</sup> [CGS <a href="#">§53a-107</a>] if in violation of RO.</li> <li>➤ Victim also can file a Motion for Contempt in court where order was issued.</li> <li>➤ Violation of financial conditions is NOT a criminal violation; explain option to file Motion for Contempt</li> </ul>
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<p><b>Standing Criminal Protective Order (SCPO)</b> (C.G.S. <a href="#">§53a-40e</a>)</p> <p><i>AKA: Standing Criminal Restraining Order (pre-Oct. 1, 2010)</i></p> <p><i>Permanent Protective/Restraining Order</i></p>	<ul style="list-style-type: none"> <li>➤ Issued by a criminal court judge at the time of sentencing.</li> <li>➤ Can only be issued if offender is <u>convicted</u> of: <ul style="list-style-type: none"> <li>▪ Violation of enumerated offenses; or</li> <li>▪ Any crime the court determines to be family violence; or,</li> <li>▪ Any other crime for good cause shown.</li> </ul> </li> <li>➤ No cost to victim.</li> <li>➤ Victim may not want a SCPO or even know the SCPO has been issued.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Orders issued prior to Oct. 2010 could last indefinitely.</li> <li>➤ Orders issued post Oct. 2010 shall remain in effect for any duration specified by the court at the time of sentencing.</li> <li>➤ Orders can be modified and/or terminated without notice to or consent of the victim.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Offender not to threaten, harass, assault, molest, sexually assault or attack the protected person (partial/limited order).</li> <li>➤ Offender must stay away from the protected person's home (full/residential stay-away order).</li> <li>➤ Offender to have NO CONTACT with victim.</li> <li>➤ Offender to remain 100 yards away from victim.</li> <li>➤ Order may extend to victim's minor children, but will usually not include custody orders.</li> <li>➤ Any other orders the court deems necessary to protect the safety of the victim and dependent children.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Criminal Violation of a Standing Criminal Protective Order (C.G.S. <a href="#">§53a-223a</a>) (D Felony)</li> <li>➤ Unless the violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation, or attack of victim (C Felony).</li> <li>➤ Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).</li> <li>➤ Criminal Trespass 1<sup>st</sup> [CGS <a href="#">§53a-107</a>] if in violation of SCPO.</li> </ul>
<p><b>Foreign Orders of Protection</b> (C.G.S. <a href="#">§46b-15a</a>)</p>	<ul style="list-style-type: none"> <li>➤ Entitled to enforcement in Connecticut where: <ul style="list-style-type: none"> <li>▪ Issued by courts of: (1) another state; (2) District of Columbia; (3) U.S. commonwealth, territory or possession; or (4) Indian tribe;</li> </ul> </li> <li>➤ Presume an order is valid if the content and form appear to be authentic (Full Faith &amp; Credit). The order does NOT have to be a certified copy.</li> <li>➤ May be criminal or civil. Conditions vary by issuing entity.</li> <li>➤ Must surrender weapons immediately but not later than 24 hours after notice.</li> <li>➤ Must surrender permit/eligibility certificate within 5 days of notice.</li> <li>➤ A person may register a foreign order of protection in Connecticut, but is NOT</li> </ul>			<ul style="list-style-type: none"> <li>➤ Criminal Violation of a Foreign Order of Protection (C.G.S. <a href="#">§53a-223b</a>) (D Felony)</li> <li>➤ Unless the violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex</li> </ul>

	<p>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.</p>			<p>assault, molestation, or attack of victim (C Felony).</p> <ul style="list-style-type: none"> <li>➤ Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).</li> <li>➤ Criminal Trespass 1<sup>st</sup> [CGS §<a href="#">53a-107</a>] if in violation of FOP.</li> <li>➤ May be federal violation – contact US Attorney</li> </ul>
<p><b>Conditions of Release (COR)</b> (C.G.S. §§ <a href="#">53a-222</a>, <a href="#">53a-222a</a>, <a href="#">54-63c</a>, <a href="#">54-63d</a>)</p>	<ul style="list-style-type: none"> <li>➤ A person charged with a family violence crime can be released with non-financial conditions of release<sup>2</sup> by: <ul style="list-style-type: none"> <li>▪ Law enforcement;</li> <li>▪ Bail commissioner; or</li> <li>▪ A judge.</li> </ul> </li> <li>➤ To verify: <ul style="list-style-type: none"> <li>▪ Check File 20;</li> <li>▪ Contact clerk of court in JD/GA where order issued;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ COR imposed by bail commissioner or law enforcement remain(s) in effect until offender is presented to a judge at arraignment.</li> <li>➤ COR imposed by a judge remain(s) in effect for the duration of the case or until further order of the court.</li> </ul>	<p>Law Enforcement:</p> <ul style="list-style-type: none"> <li>➤ Comply with specified restrictions on travel, association, or place of abode;</li> <li>➤ Not engage in specified activities, including use/possession of dangerous instruments or possessing any deadly weapons, intoxicant, or controlled substance;</li> <li>➤ Avoid all contact with alleged victim.</li> </ul> <p>Bail Commissioner</p>	<ul style="list-style-type: none"> <li>➤ If released on a felony charge: violation of conditions of release in the first degree (C.G.S. <a href="#">§53a-222</a>). (D Felony)</li> <li>➤ Unless violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation or attack of victim (C Felony).</li> <li>➤ If released on a misdemeanor charge: violation of conditions of</li> </ul>

<sup>2</sup> No person shall be released upon the execution of 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).

	<ul style="list-style-type: none"> <li>▪ Contact bail commissioner who released offender;</li> <li>▪ Contact police department who released offender.</li> </ul>		<ul style="list-style-type: none"> <li>➤ Any of the above; plus</li> <li>➤ Remain under supervision of designated person or organization;</li> <li>➤ Any other condition reasonably necessary to ensure appearance of the person in court.</li> </ul> <p>Judge:</p> <ul style="list-style-type: none"> <li>➤ Any of the above; plus</li> <li>➤ Any non-financial condition the judge deems appropriate;</li> <li>➤ Compliance with Protective Order.</li> </ul>	<p>release in the second degree (C.G.S. <a href="#">§53a-222a</a>). (A misdemeanor)</p> <ul style="list-style-type: none"> <li>➤ Unless violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation or attack of victim (C Felony).</li> <li>➤ 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).</li> </ul>
<p><b>Civil Protection Order (CPO)</b> (CGS <a href="#">§46b-16a</a>)</p>	<ul style="list-style-type: none"> <li>➤ <b>Not for DV Cases</b></li> <li>➤ Issued by civil judge.</li> <li>➤ Victims of stalking, sex assault, sexual abuse.</li> <li>➤ Service by marshal.</li> <li>➤ Hearing within 14 days.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Lasts up to one year.</li> <li>➤ Victim requests order.</li> <li>➤ Cannot have a PO for same incident before CPO.</li> <li>➤ If victim wants to extend beyond one year, must file a motion at least 3 weeks prior to expiration.</li> <li>➤</li> </ul>	<ul style="list-style-type: none"> <li>➤ Offender not to impose restraint on the person or their liberty, threaten, harass, assault, molest, sexually assault or attack the protected person.</li> <li>➤ Offender cannot enter dwelling of protected person.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Criminal Violation of a Civil Protective Order (CGS <a href="#">§53a-223c</a>) (D Felony)</li> </ul>

<b>Other Orders</b>				
<b>Type of Order</b>	<b>How the Order is Made</b>	<b>How Long the Order Lasts</b>	<b>Provisions that May Be Included</b>	<b>Violations</b>
<b>Family Court Orders</b>	<ul style="list-style-type: none"> <li>➤ 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 around exclusive possession of the home.</li> <li>➤ While these orders are not technically Orders of Protection, they are valid orders of the court and govern the conduct of the relevant parties.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Family Court orders, unless they contain an expiration date, are valid until further order of the court.</li> </ul>	<ul style="list-style-type: none"> <li>➤ The victim should have a copy of the relevant order.</li> <li>➤ Such orders may include, but are not limited to: <ul style="list-style-type: none"> <li>▪ Exclusive possession of an identified premises;</li> <li>▪ Limitations on when and how one party may contact the other;</li> <li>▪ Stay away orders – from a particular party or location.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ 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.</li> </ul>