


**Connecticut  
Statewide Model Policy**

**Police Response  
to Crimes of  
Family Violence**



**Model Policies, Procedures  
and Guidelines**

Revised December 2019

# Police Response to Crimes of Family Violence

## Model Policies, Procedures and Guidelines

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## **I. FOREWORD**

This document represents Connecticut's model policy for all law enforcement to follow as a minimum standard and is aimed at serving as a meaningful guide when responding to incidents of family violence. The Family Violence Prevention and Response Act (FVPRA) represents a national model of cooperation among the multiple agencies, organizations and individuals who respond to incidents of family violence. The law is very specific regarding the responsibilities of police officers in handling family violence cases.

## II. MODEL POLICY PURPOSE

It is the policy of this agency that family violence be treated as serious, violent or potentially violent criminal behavior and, consistent with this policy, that officers fully comply with the Family Violence Prevention and Response Act to:

- Make arrest decisions in such cases in accordance with traditional probable cause standards and existing state statutes;
- Protect victims of domestic violence and provide them with relevant information regarding the availability of community services and support (“Duty to Protect”); and
- Serve as a minimum standard for all law enforcement agencies to follow with the opportunity to add enhancements which serve to reflect the needs of your particular community; and
- Promote officer safety when dealing with family violence situations.

### III. FAMILY VIOLENCE DEFINITIONS

**“Family violence”**: means an incident resulting in physical harm, bodily injury or assault, or an act of threatened violence that constitutes fear of imminent physical harm, bodily injury or assault, including, but not limited to, stalking or a pattern of threatening, between family or household members. Verbal abuse or argument does not constitute family violence unless there is present danger and the likelihood that physical violence will occur.” CGS [§46b-38a\(1\)](#) (2013).

**“Family violence crime”** means a crime as defined in [§53a-24](#), other than a delinquent act as defined in [§46b-120](#), which, in addition to its other elements, contains as an element thereof an act of family violence to a family or household member. “Family violence crime” does not include acts by parents or guardians disciplining minor children unless such acts constitute abuse. CGS [§46b-38a\(3\)](#) (2013).

**“Family or household member”**, as defined in CGS [§46b-38a\(2\)](#) means any of the following persons, regardless of the age of such person: (A) Spouses or former spouses; (B) parents or their children; (C) persons related by blood or marriage; (D) persons other than those persons described in subparagraph (C) of this subdivision presently residing together or who have resided together; (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and (F) persons in, or who have recently been in, a dating relationship.” CGS [§46b-38a\(2\)](#) (2013).

NOTE: PA 19-189, clarifies the mandatory arrest carve out added to the state’s family violence arrest statute in 2018 only applies to “non-family platonic roommates” in the following living situations:

- Attending an institution of higher education and presently residing together in on-campus housing or off-campus housing owned, managed, or operated by the institution of higher education or its agent, or
- Presently residing together in a dwelling unit and making payments pursuant to a rental agreement

Because the definition of a family or household member under Section 46b-38a has not changed, platonic roommates are still able to apply for relief from abuse under a family violence restraining order in civil courts.

**“Possess”** per CGS [§53a-3\(2\)](#), means to have physical possession or otherwise to exercise dominion or control over tangible property.

**“Safety Plan.”** A plan developed between a certified domestic violence advocate and a victim/survivor that offers various options for safety which may include law enforcement.

**“Trauma-Informed Care.”** Pursuant to CGS [§46b-38b\(f\)](#) police officers and family violence intervention unit counselors must inform the victim of services available, including providing the victim with contact information for a regional family violence organization that employs, or provides referrals to, counselors who are trained in providing 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 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, and
4. Maintain professional relationships for referrals and consultations with programs and people with expertise in trauma-informed care.

**“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.

**“Family Violence Victim Advocate - FVVA”** a person (A) who is employed by and under the control of a direct service supervisor of a domestic violence agency, (B) who has undergone a minimum of twenty 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, (C) who is certified as a counselor by the domestic violence agency that provided such training, and (D) whose primary purpose is the rendering of advice, counsel and assistance to, and the advocacy of the cause of, victims of domestic violence.

**“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.

**“Dominant Aggressor”** means the person who poses the most serious ongoing threat in a situation involving the suspected commission of a family violence crime. [CGS §46b-38a(5) as amended by [PA 18-5](#)]

## IV. ORDERS OF PROTECTION (OOP)

“**Conditions of Release Order**” for family violence 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 NCIC as a File 20 with restrictions.

“**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.

“**Protective Order.**” A protective order is issued by a *criminal court* judge and is directed against a defendant who has been arrested for a family violence crime or whenever a protective order is an appropriate remedy in a criminal case.

“**Standing Criminal Protective Order**” means a criminal order of protection issued by a criminal court judge at the time of an offenders sentencing. The order 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.

“**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.

“**Civil Protection Order**” means an order of 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.

**NOTE:** 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.



## V. RECOMMENDED RESPONSE PROCEDURES

### Telecommunication Personnel

When taking a call for service, telecommunication personnel should follow department protocol when obtaining information regarding a family violence incident. Particular attention should be paid to the following:

- the **caller's** name and relationship to the offender;
- the **victim's** name and the offender's name, and their relationship to each other;
- the nature of the abuse, or suspected or sustained injuries;
- whether weapons were implied, involved and/or present;
- previous available complaint history;
- whether the victim has a current OOP;
- whether a court order of protection is in place;
  - Check the Connecticut Protective Order Registry – File 20 and relay to the responding officer;
- whether children are involved;
- whether there is a presence of alcohol, drugs, or mental illness; and
- Telecommunication personnel are reminded that family violence victims are provided with the incident case number and contact information for the investigating agency, in order to allow them to obtain periodic updates as to the offender's incarceration status. Telecommunications personnel are to assist victim(s) who make such inquiries as to defendants who remain housed at the investigating agency.

### Responding Officer

- 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.
- Determine the presence and status of any weapons and refer to the model policy section on firearms.
- 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.
  - Assist the victim to obtain medical treatment if such treatment is required.
  - Notify the victim of the right to file an affidavit for a warrant for arrest.
  - Inform the victim of services available by providing the victim with contact information for Connecticut Safe Connect, to link to a certified domestic violence counselor for help. 1-888-774-2900 or [www.ctsafeconnect.org](http://www.ctsafeconnect.org). Help may be accessed through Safe Connect via phone call, live chat, text, or email with a connection to a local domestic violence organization.
  - Provide assistance in accordance with the uniform protocols for treating victims of family violence whose immigration status is questionable.
  - 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.
- 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.”
- Verify that the order and conditions apply to the involved victim and offender.

- Determine whether children are present, that they are safe, and unhurt and complete the following if necessary:
  - If child abuse and/or neglect is suspected, report to DCF by phone [CGS [§17a-101b](#)] and complete form DCF-136. [CGS [§17a-101c](#)]
  - Interview children as witnesses according to circumstances and department policy
    - Consider a trauma informed (forensic interview) when necessary.
    - When possible and appropriate, work cooperatively with the Child and Family Advocate at the regional family violence provider or other mental health and child welfare agencies to identify opportunities to more fully offer children trauma informed services and response at the scene of a family violence incident and develop strategies that measure impact.
    - When Appropriate, consider utilizing the Emergency Mobile Psychiatric Services (EMPS) at the scene.
    - Make arrangements for the child’s care if dual custodial arrests are made.
- Do not use children to serve as an interpreter for the adult.
- If abuse and/or neglect of an elderly person or a person with an intellectual disability is suspected complete the required reports and/or notifications.
- Obtain a statement from the victim, and when appropriate, a signed medical release form with the victim’s consent.
- Carefully document the condition of the scene.
- When possible, photograph the scene and any visible injuries on the victim.
- When complaints of family violence are made by two or more opposing persons, a peace officer is not required to arrest both persons. The peace officer shall evaluate each complaint separately to determine which person is the dominant aggressor. [CGS [§46b-38a\(b\)](#) as amended by [PA 18-5](#)]
- Give the victim(s) a “Victim of Crime 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.)
- 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. Officers should refer to the uniform enforcement protocol for treating victims of family violence whose immigration status is questionable at [http://www.ct.gov/post/lib/post/general\\_notices/general\\_notice\\_10-1.pdf](http://www.ct.gov/post/lib/post/general_notices/general_notice_10-1.pdf).
- Before leaving the scene, identify the local domestic violence service provider, and help the victim to develop a short-term safety plan.
- Law Enforcement agencies that voluntarily participate in the Lethality Assessment Program should consider, before leaving the scene of an intimate partner incident conduct the Lethality Assessment Program Screen and follow the appropriate protocol according to the results of the screen.
  - Connecticut’s Law Enforcement across the state voluntarily engage in this two-prong danger assessment tool to better understand and serve individuals experiencing violence within their intimate relationships. Individuals who are identified as “High Danger” are connected directly to an advocate at the scene of the incident by the officer. Resources to support advocates and officers are available on the [www.CTLAP.ORG](http://www.CTLAP.ORG) website.
- Explain to the victim the process for arrest, arraignment, and bond, including the following:
  - The offender will be arraigned on the next available court date.

- Prior to arraignment, the victim can call CT 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.
- 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. (\*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.)
- Victim safety is enhanced when she/he has information in regard to the offender's incarceration status. The offender might not be held overnight and may be released shortly after the arrest. A representative of the arresting agency shall provide the victim(s) with the incident case number and appropriate contact information for the investigating agency. 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.
- It is highly recommended that in domestic violence incidents or investigations of order of protection violations, that an officer not notify the alleged offender of a pending arrest or offer voluntary surrender. Voluntary surrender should only be offered where there are unusual circumstances related to officer or victim safety, etc. that would warrant the voluntary surrender.
- When an officer feels that a recorded 911 call or any recorded call for police response will enhance an investigation, she/he should request, pursuant to department policies, that the recorded call be preserved, seize the recording as evidence and document the seizure in the incident report.
- Complete, file and forward to the appropriate agencies a Family Violence Offense Report, DPS-230-C, to include the Crimes Analysis Unit at the Department of Emergency Services and Public Protection (DESPP) (Electronic versions of the DPS-230-C must be printed and sent to the Crimes Analysis Unit).
- Document any visible injuries within the report.
- Document any verbal statements made by the victim(s), offender, or witnesses and distinguish the statements with quotes where appropriate.
- Initiate a BOLO (Be On the Lookout) for the offender if probable cause for an arrest is developed and the offender has left the scene and complete a signed/sworn report/affidavit to support the arrest in the event the offender is located and arrested.
- 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 as defined in subparagraph (A), (B), (C), (E), or (F) of Subdivision (2) of section 46b-38a, or presently residing in a dwelling unit, as defined in [CGS § 47a-1](#), and making payments pursuant to a rental agreement, as defined in CGS § 47a-1, provided such persons are not family or household members as defined in subparagraph (A), (B), (C), (E) or (F) of subdivision (2) of section 46b 38a. [CGS §46b-38b (j) as amended by [PA 19-189](#)]

*If unsure of how to proceed in any situation, seek guidance from the supervisor.*

### **Supervisor**

- It is recommended that the supervisor 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.
- Ensure that all reports, including the Family Violence Offense Report, DPS-230-C are properly completed, filed, and forwarded to the Crimes Analysis Unit on a recommended monthly basis. (Crimes Analysis accepts faxed, emailed, or mailed hard copies.)
- 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.
- Upon approval from the court, expedite the arrest warrant execution.
- Be aware that pursuant to CGS §[54-63c\(a\)](#), any offender arrested who uses or threatens to use a firearm cannot be released on a promise to appear (PTA).
- Conditions of release for family violence should be set by the duty supervisor [CGS §[54-63c\(b\)](#)] or the bail commissioner [[CGS §54-63d\(c\)](#)]. Either the duty supervisor or the bail commissioner should enter or ensure that a File 20 has been entered into NCIC, with the appropriate conditions/restrictions listed.
  - If the defendant fails to appear in court on their initial assigned court date, Family Services will send the arresting agency the “Police Notification – Family Violence Defendant Failure to Appear at Initial Hearing Date” JD-FM-277 form advising of such. The arresting agency should consider modifying the conditions of release expiration date until the defendant appears in court.
- The shift supervisor is responsible for setting bail after arrest. In the rare instance when a Bail Commissioner reduces the bond set by law enforcement, a shift 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 police department to delay release on the Bail Commissioners recommendation until the arraignment. [[CGS §54-63d\(d\)](#)].
- Each law enforcement agency shall designate at least one officer with supervisory duties to expeditiously review and oversee the Police Response to Crimes of Family Violence Model Policies, Procedures, and Guidelines and to enhance such agency’s response to victims, community, and court personnel with respect to family violence.

Each law enforcement agency shall annually (on or before July 1) submit the *Survey to Determine Compliance with the State of Connecticut Family Violence Model Policy* form [[DESPP -231-C](#)] to the Crimes Analysis Unit at the Department of Emergency Services and Public Protection (DESPP), regarding the law enforcement agency's compliance with the Connecticut Family Violence model policy. [[CGS §46b-38b\(e\)\(4\)](#)]

## **VI. ARREST GUIDELINES**

### **General Considerations**

- Except as provided in subsection (b) and (c) of this section, whenever an officer determines upon speedy information that a family 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\(a\)](#)]

- The FVPRA does not alter standards for arrest. Traditional constitutional and statutory standards, including [CGS §54-1f](#) guidelines, should direct decisions and procedures for making and processing family violence arrests. An officer must determine that probable cause exists for any charge which forms the basis for an arrest.
- When complaints of family violence are made by two or more opposing persons, a peace officer is not required to arrest both persons. The peace officer shall evaluate each complaint separately to determine which person is the dominant aggressor. [[CGS §46b-38b\(b\) as amended by PA 18-5](#)].
- In determining which person is the dominant aggressor, the peace officer 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 family violence between such persons, if such history can reasonably be obtained by the peace officer.
- The peace officer shall arrest the person whom the officer believes to be the dominant aggressor.
- No officer investigating an incident of family violence shall threaten, suggest or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party. [CGS [§46b-38b\(b\)](#)]
- An officer should emphasize to the parties the criminal nature of family violence and that the criminal action is being initiated by the State, not the victim.
- 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 her/his children.
  - Whether or not an accused posts bond, he or she shall be scheduled for arraignment before the superior court for the geographic area where the offense is alleged to have been committed on the next regularly scheduled day of court business. [CGS §54-1g]
  - If an arrested person is hospitalized, or has escaped or is otherwise incapacitated, the person shall be presented, if practicable, to the first regular sitting after return to police custody.

### **Prohibited Considerations**

- Pursuant to CGS [§46b-38b\(a\)](#) the decision whether to arrest an offender ***shall not*** be influenced by the following:
  - *The specific consent of the victim*
  - *The relationship between persons suspected of committing a family 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.
  - *Solely on the request of the victim.*
- In addition to the statutory considerations above, the following considerations should not influence the decision to arrest an offender:
  - *The fact that civil proceedings such as separation, divorce or custody disputes are pending.* -- 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 take steps to seek protection and/or to leave a violent relationship.

- *The victim's previous unwillingness to participate in the complaint or arrest process.* -- Often, a victim may be immobilized by fear. Officers should treat each incident with equal importance. There is no way to tell, for example, when a victim may be in more danger or when an abusive partner may become more violent.
- *The number or frequency of calls for police assistance at a particular location.*--It is well documented that the level of violence may increase over time and escalate significantly when a victim seeks assistance.
- *The victim's wishes to not have the suspect arrested.* -- Officers should emphasize that criminal action is being initiated by the state, not the victim.
- *Assurances from the offender that the violence will cease.* -- If probable cause for an arrest exists the officer must proceed accordingly.
- 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.

## **Jurisdiction**

### ***Misdemeanor Arrests***

- An officer (who does not have statewide jurisdiction) may arrest for misdemeanor crimes only within the geographical boundaries of the territory covered by his/her department, with two exceptions:
  - 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\(c\)](#)]
  - An officer may arrest anywhere within Connecticut if his/her department holds a valid arrest warrant for the accused.

### ***Felony Arrests***

- An officer may arrest anywhere within Connecticut if s/he has probable cause to believe the suspect has committed a felony.
- "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.
- A criminal violation of an order of protection is a felony crime, and could be deemed to impact the safety of the victim. If a warrantless arrest is not made, an arrest warrant application and an execution of a warrant should be expedited.

## **Warrantless (On-Site) Arrest Considerations**

- 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 jurisdiction, when the person is taken or apprehended in the act or on the "speedy information" of others.
- "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:
  - 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).

### Warrant Arrest Considerations

- In family violence cases, an arrest warrant should be sought only in limited circumstance, such as:
  - When further investigation is needed to establish probable cause (i.e. self-defense, etc.);
  - When the offender cannot be located pursuant to speedy information;
  - For a misdemeanor arrest when there is no speedy information; and
  - For a felony arrest when there is no speedy information, unless there is a concern for safety and/or flight. A criminal violation of an order of protection is a felony crime and should be deemed to impact the safety of the victim.
- Once an officer has determined that probable cause exists, an arrest warrant should be sought as soon as possible.
- 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.
- 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.

## **VII. DUAL COMPLAINTS, DOMINANT AGGRESSOR, AND SELF-DEFENSE**

In family violence situations, it is not uncommon for the victims of family violence to defend themselves from abusive partners. It is also not unusual for offenders to claim that they were acting in self-defense in an effort to justify their violent or threatening act or to attempt to punish the victim for summoning law enforcement. As a result, when officers respond to complaints of family violence they often face dual complaints from multiple parties. Such situations require responding officers to investigate each complaint separately and determine if either party used force as a means of self-defense.

As discussed previously in the **General Considerations** section, [The FVPRA] [CGS §46b-38b\(a\)](#), requires, in part, that; “*whenever a peace officer determines upon speedy information that a family violence crime 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.*” This cited section of the statute provides the basis for what is commonly referred to as the “*mandatory arrest policy*” that is central to Connecticut’s family violence laws. The statute also directs the response of law enforcement when dealing with dual or multiple complaints and claims of self-defense in family violence cases, which may provide an exception to the “mandatory arrest policy.”

### Dual Complaints and Dominant Aggressor

When complaints of family violence are made by two or more opposing persons, a peace officer is not required to arrest both persons. The peace officer shall evaluate each complaint separately to determine which person is the dominant aggressor. In determining which person is the dominant aggressor, the peace officer 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 family violence between such persons, if such history can reasonably be obtained by the peace officer. The peace officer shall arrest the person whom the officer believes to be the dominant aggressor. [CGS §46b-38b(b) as amended by [PA 18-5](#)].

If a peace officer believes probable cause exists for the arrest of two or more persons, in lieu of arresting or seeking a warrant for the arrest of any person determined not to be the dominant aggressor, such peace officer may submit a report detailing the conduct of such person during the incident to the state's attorney for the judicial district in which the incident took place 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](#)].

No peace officer investigating an incident of family violence shall threaten, suggest or otherwise indicate, the arrest of all persons involved in such incident for the purpose of discouraging any request from a person for law enforcement intervention. [CGS §46b-38b(d) as amended by [PA 18-5](#)].

No peace officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a family violence incident for (1) an arrest based on probable cause; [or for] (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](#)].

Officers should be aware that, given the nature of family violence, a victim may be afraid to make true and accurate statements regarding the incident due to fear of further violence by an abusive partner. Each complaint must be carefully and thoroughly investigated prior to making an arrest decision to ensure that victims will not be re-victimized by the legal system, or made to fear police intervention. An arrest itself can be particularly traumatic for victims of family violence.

The FVPRA requires officers to arrest a person only if there is probable cause to believe that person committed a family violence crime. Officers are prohibited from threatening, suggesting or otherwise indicating the arrest of all parties involved in an incident of family violence for the purpose of discouraging requests for law enforcement intervention by any party. [CGS [§46b-38b\(d\)](#)].

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](#)]. In some instances, officers may receive dual complaints, but thorough investigation may only establish probable cause to arrest one of the parties. In other instances, there may be probable cause to arrest one party for a family violence crime and the other for a non-family violence charge, such as interfering with an officer. This does not constitute a dual arrest. Officers should thoroughly document in the report all claims and complaints, as well as any facts and/or circumstances that either corroborate or disprove the claim or complaint. An officer should determine what type of arrest is necessary and appropriate under the circumstances, e.g., a misdemeanor summons arrest, a custodial arrest, or, in limited situations, a later arrest by warrant.

### **Self-Defense**

In determining which person is the dominant aggressor, the peace officer shall consider whether.... if one person acted in defense of self or a third person.... [CGS §46b-38b(b) as amended by [PA 18-5](#)].

Determining whether or not a person is criminally liable when allegedly acting in self-defense can often be a complex legal issue. This section is not intended to be a complete, exhaustive summary of the law regarding self-defense, but rather, is an aid to responding officers in determining whether an arrest may or may not be required under the existing family violence statutes. If an officer is unsure how to proceed in a situation involving self-defense and/or dual complaints, the officer should contact a supervisor and/or state's attorney.



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 family violence crime and addresses such circumstances.

***C.G.S §53a-19. Use of physical force in defense of person:***

This statute defines self-defense and the defense of others. In pertinent part, it provides that *“a person is justified in using reasonable physical force upon another person to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force, and he may use such degree of force which he reasonably believes to be necessary for such purpose; except that deadly physical force may not be used unless the actor reasonably believes that such other person is (1) using or about to use deadly physical force, or (2) inflicting or about to inflict great bodily harm.*

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 (1) . . . he provokes the use of physical force by such other person, or (2) is the initial aggressor, except that his use of physical force upon another person under such circumstances is justifiable if he withdraws from the encounter and effectively communicates to such other person his intent to do so, but such other person notwithstanding continues or threatens the use of physical force . . .”* and *“a person is not justified in using deadly physical force upon another person if 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 . . .”*

- Essentially, the statute requires that, before a person uses physical force in self-defense or to defend a third person, she/he must have two "reasonable beliefs."
  - 1) The first is a reasonable belief that physical force is being used or about to be used upon her/him or another.
  - 2) The second is a reasonable belief that the degree of force she/he is using to defend her/himself is necessary for that purpose.
- 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 these “beliefs”. In making these judgments the officer must first consider:
  - 1) The situation from the perspective of the person acting in self-defense; that is, what did the person actually believe, and - because the statute requires that the defendant's belief be reasonable, and not irrational or unreasonable under the circumstances, and
  - 2) Whether a reasonable person in the defendant's circumstances could have reached that belief.
- The analysis can be broken down into 4 steps or elements:
  - 1) That the actor actually believed that someone else was using or about to use physical force against her/him or a third person;
  - 2) That such belief was reasonable because a reasonable person in the actor's circumstances would have shared that belief;
  - 3) That the actor actually believed that the degree of force that she/he used was necessary to repel the attack;

- 4) 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.

## VIII. "OFFICER-INVOLVED" DOMESTIC VIOLENCE INCIDENTS

Police departments must recognize that the law enforcement personnel, whether sworn or civilian, are not immune from committing domestic violence against their intimate partners or being victims of domestic violence. Although no person is exempt, whatever his or her occupation, from the consequences of his or her actions that result in a violation of the law, the dynamics between the responding and accused officers have the potential for making on-scene decisions additionally difficult. The following incident and response protocols are critical components to the integrity of the law enforcement profession and the trust of the community.

### Sworn Personnel from an Outside Agency

- If an officer from another police agency is involved in a family violence incident and probable cause exists for the officer's arrest, the officer shall be arrested.
- The highest-ranking on-duty shift supervisor shall notify the officer's agency as soon as possible, but no later than by the end of the Supervisor's shift.

### Sworn Personnel from within the Law Enforcement Agency

- If an officer from a law enforcement agency is involved in a family violence incident and probable cause exists for the officer's arrest, the officer shall be arrested.
- The highest-ranking on-duty Shift Supervisor shall notify or cause to be notified the following personnel:
  - Chief of Police,
  - Command Duty Officer,
  - The Officer's Division Commander, if different from the Command Duty Officer, and
  - Internal Affairs, when such division exists.
- The family violence incident will be criminally investigated by an officer at least one (1) rank higher than the officer involved in the incident.
  - The investigating officer shall ensure that the agency complies with the policy provisions of section V. *Recommended Response Procedures: Responding Officer* and CGS §46b-38b(d).
- An Internal Affairs investigation will be conducted during or upon the conclusion of the criminal investigation if such a division exists within the law enforcement agency.
- If a court order (i.e. restraining order (includes ex-parte order), protective order, or a foreign order of protection) is issued against the officer, the following will be done:
  - The officer shall surrender all law enforcement agency issued firearms to the Chief of Police or his/her designee,
  - The officer shall be prohibited from carrying a firearm while the order of protection is in force and effect.
- Further, in accordance with Connecticut General Statutes, the officer shall:
  - Surrender all pistols, revolvers, other firearm(s), ammunition and/or electronic defense weapon(s) to the Commissioner of Emergency Services and Public Protection (DESPP) or any local police department, or;
  - Transfer via sale all pistols, revolvers, other firearm(s), and ammunition to a federally licensed firearms dealer, as required by (CGS §29-36k) and provide the Chief of Police or his/her designee with the proof of this requirement.

- If the officer possesses a state permit or a temporary state permit to carry a pistol or revolver, pistol or revolver eligibility certificate, long gun eligibility certificate, or an ammunition certificate he/she shall surrender the permit/certificate(s) to the State of Connecticut Department of Emergency Services and Public Protection, Division of State Police. (CGS [§29-36k](#)).
- If the officer possesses an issued pistol permit from his/her agency, he/she shall surrender the permit to the Chief of Police within the guidelines of the court order.
- The Chief of Police or his/her designee may:
  - Suspend the officer without pay.
  - Assign the officer to administrative duties.

## IX. ORDERS OF PROTECTION (OOP)

*(Please also see Reference Chart at the end of this Document)*

Implicit in the issuance of an OOP is a court's finding that a named protected party(ies) is in imminent danger or risk of harm, from a named, identified respondent. In the interest of immediacy, and in light of the threat always present when an order of protection is violated, coupled with the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officer witnesses or has probable cause to believe has violated a restraining order (including ex-parte order), protective order, standing criminal protective order, a foreign order of protection, or the Conditions of Release.

Once probable cause for arrest has been established and if the offender has left the agency's jurisdiction, the Officer shall notify the dispatcher to advise neighboring jurisdictions or jurisdictions where the offender is believed to have fled, that there is probable cause to arrest the offender and to do so if the offender is located, and complete a signed/sworn report/affidavit to support the arrest. The investigating Department, as soon as practical, shall prepare an arrest warrant at this juncture.

- The officer's authority and mandates to arrest are set forth in CGS [§46b-38b](#), and [§54-1f](#).
- A very important role for law enforcement in family violence cases is the enforcement of *Orders of Protection*. Police should make use of the Connecticut Protective Order Registry – File 20.
- Officers should be aware that the words “**Orders of Protection**” generally could refer to any type of order. Most especially, in the federal law regarding interstate enforcement of *orders of protection*, the reference is general--not specific as to any one of Connecticut's types of such orders. Officers should be aware that each state has its own type(s) and titles of order(s) that may or may not be equivalent to one or any of Connecticut's orders.
- Connecticut has several types of *orders of protection* available for victims of family violence, including:
  - Restraining Order (RO) (includes Ex-Parte Order)
  - Protective Order (PO)
  - Civil Protective Order (includes Ex-Parte Order)
  - Standing Criminal Protective Order (SCPO)
  - Foreign Orders of Protection
  - Conditions of Release (COR) (that include “no contact with the victim” and “not to use or possess dangerous instruments or possessing any deadly weapons.”)
  - Family Court Orders
- Each type of order has specific characteristics, requirements for issuance and penalties for violation. See Appendix for a *Comparison of Orders of Protection* chart that summarizes and compares the types of orders, how they are issued, what they may include and how they are enforced. Officers should fully understand all aspects of each type of order.
- It is important for police officers to understand and always remember that *orders of protection* are issued by the court, against the offender, for the protection of the victim. They restrict the offender's behavior and **only** the offender can violate the orders. (See CGS [§53a-223](#), [§53a-223a](#) and [§53a-223b](#), regarding immunity for persons protected by an order of protection.)
- **Standard conditions** in an OOP or a SCPO (CGS [§54-1k](#)) may include provisions enjoining the offender from:
  - Imposing any restraint upon the person or liberty of the victim;
  - Threatening, harassing, assaulting, molesting or sexually assaulting the victim; and
  - Entering the family dwelling or the dwelling of the victim.

- A judge (pursuant to CGS [§54-64a](#)) or a bail commissioner (pursuant to CGS [§54-63d](#)) can impose on any person charged with a felony, misdemeanor or motor vehicle violation for which a term of imprisonment may be imposed a **Condition of Release** that she/he have “*no contact with the victim*” in that case. A person who intentionally violates that condition should be arrested for Violation of a Condition of Release. [CGS [§53a-222](#) or [§53a-222a](#)]
  - **Special conditions** that a judge may order in an OOP include, but are not limited to:
    - No direct or indirect contact with the victim; and
    - Not to go or remain within a specific distance of the victim.

### **Domestic Violence Alert Notification/GPS Program**

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.

- 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.
- 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.
- Alerts:
  - An alert is triggered if: 1) The offender breaches one of the restricted areas, 2) the ankle bracelet is tampered with, 3) the battery is not charged or, 4) a GPS signal cannot be located
  - If an alert is triggered, the GPS monitoring company will:
    - Notify the protected person(s) and advise them to activate a pre-established safety plan.
    - Notify the appropriate law enforcement jurisdiction and:
      - Provide the location and direction of travel of the offender and/or other pertinent information.
      - Provide information that will assist responding officers in locating the protected person.
      - 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.
- Officers dispatched to an Alert Notification/GPS should:
  - Locate and ensure the safety of the protected person(s).
  - With due caution - attempt to locate the offender.
  - Determine the reason(s) for the notification.
  - 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.
  - Document all information in an incident report.

### **Domestic Violence Personal Property Retrieval**

- When a judge issues an order enjoining the offender from entering his/her family dwelling, the offender likely will be advised that she/he may contact the police for a one-time escort to retrieve personal belongings.

- When an order of protection allows for the respondent/defendant to return to the dwelling one time accompanied by an officer, to retrieve belongings:
  - Initiation of the retrieval shall be at the discretion of the agency in a time period that is reasonable and practical.
  - The officer must verify the order.
  - The officer must check to ensure that the retrieval has not already been completed by another officer. The officer must contact the protected party to arrange a time for the retrieval.
  - If the officer is unable to make contact with the protected party, or if children are present, the retrieval should be scheduled for a later date/time.
  - The officer is to accompany the respondent throughout the entire retrieval. If they wish to do so, the protected party should be allowed to accompany the officer and respondent during the retrieval.
  - The retrieval should last no longer than 10 to 15 minutes, as the respondent is only retrieving essentials (clothes, toiletry, medication, etc.). Other non-essential or valuable items used by the protected party and/or children (groceries, electronics, jewelry, furniture, etc.) are not to be removed from the dwelling.
  - The officer must document that the retrieval has occurred in a CAD or incident supplement. If a call comes in as something other than a retrieval, such as request for officer, etc., the incident must be changed to “Retrieval.”
  - The protected party must have prior notice by the department, and must agree to the timing of the retrieval.
  - The respondent must not be allowed to use this as a means of harassing the protected party.
  - If it is not practical or safe for the victim to accompany the officer and the offender during the property retrieval, the officer shall review with the victim, before the officer or the offender leave the premises, what essential items the offender is seeking to remove from the residence.

### **Multiple Orders**

- In some situations, a victim may obtain a RO and a PO to get all the court ordered protection available. A victim has a right to apply for a RO even if a PO has already been issued. There is nothing in the RO or PO statutes to prohibit a victim from having both orders.
- In situations where there are multiple orders of protection the officer should:
  - Verify that the order and conditions apply to the involved victim and offender and;
  - Document the existence of and issuance date of all orders in their incident report and;
  - Arrest the offender for any and all valid violations of such orders.

### **Verification of an Order of Protection**

- A violation of any OOP is a felony to include:
  - Protective Order (CGS §[53a-223](#)).
  - Standing Criminal Protective Order (CGS §[53a-223a](#)).
  - Restraining Order (includes ex-parte order) (CGS §[53a-223b](#)).
  - Foreign Order of Protection (CGS §[53a-223b](#)).
  - Civil Protective Order (CGS §[53a-223c](#)).
- A violation of Conditions of Release can be either a felony (CGS §[53a-222](#)) or misdemeanor (CGS §[53a-222a](#)) based on the original underlying charges.
- Any law enforcement officer may enforce any OOP where they have a good faith basis to believe it is valid.

- The best way to verify an OOP is to check with the Connecticut Registry of Protective Orders– File 20.
- Other methods may include;
  - Asking the victim if she/he has a copy of the order.
  - Contacting the issuing court.
  - Contacting the police agency with jurisdiction where the victim resides/works.
  - Contacting the police agency with jurisdiction where the offender resides.

## X. WEAPONS

### **Effect of a Court Order of Protection (OOP)**

#### **Possession – Definition CGS [§53a-3\(2\)](#): to have physical possession or otherwise to exercise dominion or control over tangible property.**

- When the state marshal service receives an ex-parte order issued by the court that indicates that the respondent holds a;
  - Permit to carry a pistol or revolver;
  - An eligibility certificate for a pistol or revolver;
  - A long gun eligibility certificate;
  - An ammunition eligibility certificate or;
  - Possesses one or more firearms or ammunition.
- The marshal service shall;
  - Whenever possible, provide in hand service of the order to the respondent.
  - Notify the law enforcement agency for the town in which the service will take place.
  - Provide such agency a copy of the application, the applicant’s affidavit, the ex-parte order, and the notice of hearing.
  - Request a police officer from such agency be present when service is executed.
    - When possible and consistent with all other provisions of this policy, the law enforcement agency may consider sending an officer to accompany the state marshal during the service of the ex-parte order.
- Immediately, but not later than 24 hours after notice has been provided to a person subject to a restraining order (includes ex-parte order), protective order, or a foreign order of protection (CGS [§29-36k\(a\)](#)) such person must:
  - Transfer/sell to a federally-licensed firearms dealer, any pistols, revolvers, other firearms and/or ammunition in his/her possession. (CGS [§29-36k\(a\)\(1\)](#), or
  - Deliver or surrender such pistols, revolvers, other firearms and ammunition to the Commissioner of Emergency Services and Public Protection or any local police department. [CGS [§29-36k\(a\)\(2\)](#)]
- Person’s subject to a restraining order (includes ex-parte order), protective order, or a foreign order of protection are prohibited from possessing a pistol, revolver, other firearm, ammunition or an electronic defense weapon. [CGS [§53a-217](#)]
- Persons subject to a Condition of Release “no use or possession of a dangerous weapon” are prohibited from possessing or using any dangerous instruments or possessing any deadly weapons. [CGS [§53a-222](#) or [§53a-222a](#)].
- Refer to *section XI, Federal Domestic Violence Laws*, section regarding federal law, which prohibits the possession of firearms or ammunition by any person, including a police officer, 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.

- 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 same.

### **Permit to Carry**

- The issuing authority of a state permit or temporary state permit to carry a pistol or revolver, pistol or revolver eligibility certificate, long gun eligibility certificate, or an ammunition certificate must revoke the permit and/or certificate(s) if the person holding the permit/certificate(s) becomes subject to an order of protection in a case that involves the use, attempted use, or threatened use of physical force against another person. [CGS [§29-32](#), [§29-36](#), [§29-37](#), [§29-38](#)]
- Within five days of receiving written notice that a permit/certificate has been revoked, the holder of the permit/certificate must surrender the permit/certificate to the issuing authority. [CGS [§29-32](#), [§29-36](#), [§29-37](#), [§29-38](#)]
- If an offender does not surrender the permit/certificate, he/she should be arrested for any of the following that apply;
  - Failure to Surrender Permit to Carry a Pistol or Revolver (CGS [§29-32](#)); or
  - Failure to Surrender Pistol or Revolver Eligibility Certificate (CGS [§29-36i](#)), or
  - Failure to Surrender Long Gun Eligibility Certificate (CGS [§29-37s](#)); or
  - Failure to Surrender Ammunition Certificate (CGS [§29-38p](#)); and
  - The permit/certificate should be confiscated and immediately forwarded to the Commissioner of the Department of Emergency Services and Public Protection. [CGS [§29-32](#), [§29-36](#), [§29-37](#), [§29-38](#)]
- Any local issuing authority that revokes a permit must notify the Commissioner of the Department of Emergency Services and Public Protection of the revocation, and any revocation of a state permit by the Commissioner of the Department of Emergency Services and Public Protection requires notification of the local issuing authority. [CGS [§29-32](#)]

### **Seizure of Firearms at the location of a Family Violence Crime (Safekeeping Provision)**

Whenever an officer makes an arrest for a family 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\(a\)](#)]. 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.

### **Use or Threatened Use of Weapon in a Family Violence Crime**

In responding to family violence incidents, officers shall investigate and arrest in accordance with relevant Connecticut 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).



**Criminal Possession of a Firearm, Ammunition, Electronic Defense Weapon, Pistol or Revolver**

Arrests for criminal possession...

- 1) Any offender that knows that she/he is subject to a Restraining Order, (includes ex-parte order), Protective Order, Standing Criminal Protective Order or Foreign Order of Protection issued by the court, in a case involving the use, attempted use or threatened use of physical force against another person, or
  - 2) has been convicted of a felony; or
  - 3) has been convicted of a Misdemeanor committed on or after October 1, 1994 (pistol and revolvers); on or after October 1, 2013 (other firearms, ammunition, electronic defense weapons) as identified in CGS §[53a-217](#) and §[53a-217c](#); or
  - 4) is subject to any other firearms prohibitions as defined in CGS §[53-217](#) and §[53a-217c](#); and
  - 5) is in possession of any firearm, ammunition, electronic defense weapon, pistol or revolver,
- should be arrested for Criminal Possession of a Firearm or Electronic Defense Weapon (CGS §[53a-217](#)) if found in possession of any firearm, ammunition, electronic defense weapon; or
  - Criminal Possession of a Pistol or Revolver (CGS §[53a-217c](#)) if found in possession of any pistol or revolver; and
  - The weapon(s) and/or ammunition should be seized as evidence of the crime.

**Seizure of Firearms from Person Posing Risk to Self or Others (Risk Warrant)**

A judge may issue a search and seizure 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, and (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\(a\)](#)]

Police officers should consider this option when investigating incidents of family violence.

## XI. FEDERAL DOMESTIC VIOLENCE LAWS

The possible or potential applicability of any of the federal family violence laws discussed in the following material does not preclude an officer's responsibility to comply with Connecticut's family violence laws and mandatory arrest provisions, as Connecticut and federal law can have concurrent jurisdiction.

The Federal Violence Against Women Act (VAWA) makes criminal certain actions in family violence situations. Several provisions of that Act which may arise during the investigation of family violence situations by Connecticut police officers are described below.

If an officer believes that a person may have violated a provision of VAWA, he/she should discuss the facts of the investigation with a supervisor and/or States Attorney for referral and review by an Assistant United States Attorney who will determine whether the situation warrants prosecution on federal charges.

The offices of the United States Attorney for the District of Connecticut are located at:

Office of the United States Attorney  
157 Church Street New Haven, Connecticut  
06508 (203) 821-3700

### **Summary of Applicable VAWA Sections**

#### ***Full Faith and Credit: [Title 18 USC §2265](#) and [§2266](#)***

- 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.
- 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.
- 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.
- 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.

#### ***Disposal, Receipt or Possession of a Firearm: [Title 18 USC §922\(d\)](#) and [\(g\)](#)***

- 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. 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.

- 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.

***Interstate Domestic Violence: [Title 18 USC §2261\(a\)\(1\)](#)***

- 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.

***Causing the Crossing of State Line by Force, Coercion, Duress, or Fraud: [Title 18 USC §2261\(a\)\(2\)](#)***

- 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.

***Interstate Stalking: [Title 18 USC §2261A](#)***

- 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.

***Interstate Violation of a Protective Order: [Title 18 USC §2262](#)***

- 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<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 such order.**

<b>Protective Orders and Restraining 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>Protective Order (PO)</b> (C.G.S. <a href="#">§46b-38c</a> ) (C.G.S. <a href="#">§ 54-1k</a> )	<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.

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<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>
	<ul style="list-style-type: none"> <li>➤ Issued by a criminal court judge at the time of sentencing.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Orders issued prior to Oct. 2010 could last indefinitely.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Offender not to threaten, harass, assault, molest, sexually assault or attack the</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> </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>➤ 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 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>	<p>protected person (partial/limited order).</p> <ul style="list-style-type: none"> <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>➤ 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 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.</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 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,</li> </ul>

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				<p>assault, intimidating a witness, etc.).</p> <ul style="list-style-type: none"> <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;</li> <li>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> <li>▪ Contact bail commissioner who released offender;</li> <li>▪ Contact police department who released offender.</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>➤ 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>	<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 release in the second degree (C.G.S. <a href="#">§53a-222a</a>). (A misdemeanor)</li> <li>➤ Unless violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault,</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).

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			<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>molestation or attack of victim (C Felony).</p> <ul style="list-style-type: none"> <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</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> </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>



	<p>stay away orders, orders around exclusive possession of the home.</p> <ul style="list-style-type: none"><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>▪ Stay away orders – from a particular party or location.</li></ul>	
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