

# Old Saybrook Department of Police Services



## General Order - 5.14



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| Family Violence Investigations | Issued By:<br>Michael A. Spera, Chief of Police |
| Classification: Unclassified   | Signed:   |
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| CALEA:                         |   |

### Policy

It is the policy of the Old Saybrook Department of Police Services that family violence be treated as serious, violent or potentially violent, criminal behavior and, consistent with this policy, members fully comply with the Family Violence Prevention and Response Act to:

- Promote officer safety when investigating family violence situations;
- Make arrest decisions in accordance with 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.

### Definitions

**Family Violence:** 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.

**Family Violence Crime:** A crime as defined in section 53a-24, other than a delinquent act as defined in section 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. Connecticut General Statute 46b-38a(2) (2013).

**Family or Household Member:** As defined in CGS 46b-38a(2). Any of the following persons, regardless of the age of such person:

- Spouses or former spouses;
- Parents or their children;
- Persons related by blood or marriage;
- Persons presently residing together or who have resided together;
- Persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and
- Persons in, or who have recently been in, a dating relationship.

**Safety Plan:** A plan developed between an advocate/counselor or a police officer and a victim that contains specific actions for a victim to be safe from an offender. Safety planning is an essential step to be completed with all adult victims of domestic violence. The plan allows for individualized planning for situations the victim, children or family may encounter regardless of the future relationship with the accused. Age appropriate Safety Planning is important for child victims/witnesses of domestic violence.

**Short-Term Safety Plan:** 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 the steps may include but are not limited to:

- Creating a plan as to what to do next;
- Ensuring that the victim and children have the ability to call 911;
- Ensuring that the victim can get to a safe location;
- Calling a friend, family member or advocate for support;
- Going to a safe place for the next twenty-four hour period.

**Long-Term Safety Plan:** A long-term plan is developed with an advocate and allows for individualized planning for situations the victim, children or family may encounter regardless of the future relationship with the accused.

**Trauma Informed Care:** Pursuant to section 46b-38b(d) of the Connecticut General Statutes, 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:

- Make available to family violence victims resources on trauma exposure and its impact on treatment;
- Engage in efforts to strengthen the resilience and protective factors of victims of family violence who are affected by and vulnerable to trauma;
- Emphasize continuity of care and collaboration among organizations that provide services to children; and
- Maintain professional relationships for referrals and consultations with programs and people with expertise in trauma-informed care.

**Advocacy:** Collaboratively working with, and in support of, a victim that keeps with a victim-centered, empowerment-based, and self-determined approach. Both in-person or phone advocacy and support are provided by the program's qualified staff and volunteers to domestic violence clients.

**Child and Family Advocate:** A person who is employed by and under the control of a direct service supervisor of a domestic violence agency whose primary role is to provide services, support and advocacy services to sheltered and non-sheltered children, adolescents and teen victims of domestic violence and their families.

Family Violence Victim Advocate – FVVA: A person who is (A) 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.

Dominant Aggressor: 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)

Self Defense: 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 use or imminent use of physical force, and may use such degree of force which he/she 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. A person is not justified in using physical force when (1) he/she provokes the use of physical force by such other person, or (2) is the initial aggressor. A person is not justified in using deadly physical force upon another person if he/she knows that they can avoid the necessity of using such force with complete safety by retreating, except that the actor shall not be required to retreat if he/she is in their dwelling.

Order of Protection: Generally refers to court issued order. Connecticut's Orders of Protection include Restraining Order, Ex-parte Restraining Order, Protective Order, Standing Criminal Protective Order, Foreign Orders of Protection, Conditions of Release and Common Law Restraining Orders.

Conditions of Release Order: Order of protection issued 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 Conditions of Release Order, form JD-CR-146, the Shift Supervisor shall ensure that the conditions and restrictions are entered into the NCIC File 20, Protective Order File, with the stipulated restrictions. The order is valid until modified by judge at arraignment.

Restraining Order: Order 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 subject not to hurt or harass the victim. The judge may also order the subject to move out of the home and order the victim to have temporary custody of the children.

Protective Order: Order of protection 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. The victim not involved in issuance of order.

Standing Criminal Protective Order: Criminal order of protection issued by a criminal court judge in a criminal case at the time of an offender's sentencing. The order can remain in effect for a significant duration of time. Previously known as a Standing Criminal Restraining Order with no expiration date.

Foreign Order of Protection: Any order of protection, 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: 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.

Possess: To have physical possession or otherwise to exercise dominion or control over tangible property, per section 53a-3(2) of the Connecticut General Statutes.

## **Procedure**

### **A. Emergency Communications Division Responsibilities**

1. When first taking a call for service involving family violence, the Public Safety Dispatcher shall use established Department call taking protocols and attempt to obtain and record the following information:
  - a. The **caller's** name, relationship to the offender and callback telephone number;
  - b. Location of the incident;
  - c. If weapons or firearms were used, suspected or involved;
    - (i) Are weapons or firearms at the location;
    - (ii) Does anyone have access to weapons or firearms;
    - (iii) Is anyone in possession of weapons now;
  - d. Is it an active or past family violence incident, physical or verbal;
  - e. The nature of the suspected abuse or sustained injuries;
  - f. The current location of the victim and the alleged offender;
  - g. If offender is not present, obtain a description and possible whereabouts;
  - h. The **victim's** name and the **offender's** name;
    - (i) Their relationship to each other; and
    - (ii) Previous available complaint history, including any Orders of Protection.
  - i. Are there any children involved or present;
  - j. Are alcohol, drugs, or mental illness involved?
2. In accordance with call taking protocols and as soon as practicable, during or after receipt of the call, the Public Safety Dispatcher shall:
  - a. Assess the situation with reasonable judgment;
  - b. Dispatch the necessary unit(s) which shall include the Shift Supervisor; and
  - c. Relay all pertinent information to the responding officer(s), including:
    - (i) Information received from caller;
    - (ii) Weapons information;
    - (iii) Call taker observations of phone call;
    - (iv) History of persons and/or locations; and
    - (v) Any Orders of Protection found in COLLECT.

- d. The Public Safety Dispatcher shall check the Connecticut Protection Order Registry (COLLECT File 20) to determine if there is an active Protective Order, Restraining Order, Condition of Release Order and/or Standing Criminal Restraining Order.
3. The Public Safety Dispatcher shall not cancel police response to a family violence incident based on a follow-up call from the residence requesting the cancellation of the police.
4. The Public Safety Dispatcher shall provide the victims of family violence with the incident number and agency contact information upon request in order to allow the victim to obtain periodic updates as to the accused's incarceration status.
5. The Public Safety Dispatcher shall assist any victim who makes an inquiry as to the accused's incarceration status and report all such inquiries to the Shift Supervisor.
6. All Orders of Protection received by this agency shall be maintained in the Emergency Communications Center (ECC) per General Order 8.11 "Orders of Protection".

## B. Responding Officer Responsibilities

1. Upon the initial response to scene, officers shall:
  - a. Respond to and investigate complaints of family violence in a safe and expeditious manner;
  - b. Regard all family violence calls as potentially "high risk" and proceed with caution;
  - c. Apply forced entry criteria only when necessary and in those circumstances in which emergency entrance is required, including but not limited to:
    - (i) Felony crime in progress or
    - (ii) Emergency medical care is needed;
  - d. Determine whether any weapons are present:
    - (i) For safety issues and
    - (ii) To make decisions regarding weapons seizure;
      - (a) Use or threatened use in a family violence crime;
      - (b) In plain view or in the possession of an offender who is arrested or a suspect for a family violence crime;
      - (c) Illegal possession or as evidence of any crime.
  - e. Defuse and stabilize the immediate situation;
  - f. Determine who is present in the household, ask all present to come forward and conduct a protective sweep of the premises;
  - g. Whenever possible seize weapons as "evidence" and/or secure for safe keeping.
  - h. Provide medical treatment, if needed;
  - i. Interview parties separately and not in view of each other, when it is safe and practical to do so;
  - j. Identify the relationship between the victim(s) and the offender to determine family and/or household member status;
    - (i) 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, provided such persons are not in a dating relationship.
  - k. Determine from the involved persons and ask the dispatchers to check for the existence of any Orders 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."
  - l. Determine whether children are present and ascertain that they are safe and unhurt;
    - (i) Interview children as witnesses according to circumstances.
    - (ii) Make arrangements for the care of children if necessary.

- (iii) Do not use children to serve as an interpreter for the adult.
- (iv) When child abuse or neglect is suspected a report shall be made to the Department of Children and Families by phone , CGS 17a-101b, and by completing form, DCF-136, CGS 17a-101c;
- (v) Consider a trauma informed (forensic interview) when necessary.
- (vi) When possible and appropriate, work cooperatively with the Child and Family Advocate at the regional family violence provider or other mental health and child agencies to identify opportunities to more fully offer children trauma informed services and a response at the scene of a family violence incident and develop strategies that measure impact.
- (vii) When appropriate, consider utilizing the Emergency Mobile Psychiatric Services (EMPS/Mobile Crisis) at the scene.
- m. If abuse and/or neglect of an elderly person or a person with an intellectual disability is suspected a report shall be made to Protective Services by phone and by completing Protective Services Report Form for the Elderly form, W-675.
- n. If animal abuse or neglect is suspected a report shall be made to the Department of Agriculture by phone and by completing the Suspected Animal Abuse Report form.
- o. Obtain a signed written statement from the victim, if willing, and when appropriate obtain a signed medical release form with the victim's consent;
- p. Document the condition of the scene with photographs and in the written report;
- q. Identify, collect, and preserve all evidence of the crime(s);
- r. When an officer feels that a recorded 911 call or any recorded call for police response will enhance an investigation, the officer should request, through established internal means, that the recorded call be preserved;
- s. When possible, photograph the scene and any visible injuries on the victim;
- t. 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)
- u. 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.
  - (i) Assist to obtain medical treatment if such treatment is required.
  - (ii) Notify the victim(s) of the right to file an affidavit or warrant for arrest;
  - (iii) 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.
  - (iv) Refer the victim to the Office of Victim Services.
  - (v) Provide assistance in accordance with the uniform protocols for treating victims of family violence whose immigration status is questionable.
  - (vi) Remain at the scene for a reasonable time until, in a reasonable judgment of the Shift Supervisor, the likelihood of further imminent violence has been eliminated.
- v. Explain to the victim the process of arrest, next-day arraignment and bond;
- w. Give victim(s) an Office of Victim Services (OVS), "Crime Victims' Rights" card including our Department name, phone number, case number and court location. Advise the victim of domestic violence victim resources available;
- x. Provide the victim with the Old Saybrook Department of Police Services incident number and appropriate contact information and encourage the victim to contact this

agency, referencing the incident number, for periodic updates as to the offender's incarceration status.

- y. Complete a Family Violence Offense Report, DPS-230-C, for all arrests and written reports;
  - z. Document any verbal statements made by either victims or offenders.
2. The Family Violence Prevention and Response Act requires that where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately.
- a. 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.
  - b. When two or more parties make complaints of violence, the officer shall consider whether either party acted in Self-Defense.
  - c. Officers are not mandated to arrest a person in a family violence incident if the officer has reasonable cause to believe that the person acted in Self-Defense. Refer to the Self-Defense section.
  - d. 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.
  - e. It should be emphasized to the involved persons the criminal nature of family violence and that the criminal action is being initiated by the State, not the victim.
  - f. 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.
  - g. Officers are prohibited from requesting information about or otherwise investigating or assisting in the investigation of citizenship or residence status of any victim, unless such inquiry or investigation is required by statute, ordinance, federal regulation, or a court decision. The uniform protocol for treating victims of family violence with questionable immigration status is available at <http://www.ct.gov/post/lib/post/generalnotices/generalnotice10-1.pdf>.
3. If a custodial arrest is not made, the officer shall remain at the scene until, in the reasonable judgment of the Shift Supervisor, the likelihood of further imminent violence has been eliminated.
4. Before leaving the scene, identify the local domestic violence service provider, determine if a lethality assessment screen is appropriate and help the victim develop a short term safety plan.

### C. Shift Supervisor Responsibilities

1. Shift Supervisors shall be dispatched to all active family violence complaints.
2. It shall be the responsibility of the Shift Supervisor to:
  - a. Ensure the scene is safe and a protective sweep has been conducted;
  - b. Review the circumstances with the responding officers to ensure Departmental compliance with all family violence laws and this order;
  - c. Conduct a probable cause review at the scene, when necessary and feasible, and/or at booking.
  - d. Ensure a short-term safety plan was developed;
  - e. Ensure a D.C.F. referral was made if required;
  - f. Ensure that all reports are properly completed, filed and forwarded;

- g. Ensure that follow-up investigative responsibilities are coordinated to allow for shift changes and/or referral to specialized units;
  - h. Review any weapon issues, including seizures, to ensure compliance with Department directives and State and Federal laws.
  - i. Review all arrests, complaints, dual complaints, self-defense issues and dual arrest situations.
  - j. Ensure that all reports, including the DPS-230-C are properly completed, filed and forwarded.
3. Shift Supervisors are responsible for setting an appropriate bond following Old Saybrook Department of Police Services Bond Guidelines.
    - a. For any family violence crime involving the use or threatened use of a firearm, supervisors are prohibited from releasing the suspect on a summons, written promise to appear (PTA) or non-surety bond.
  4. When a Bail Commissioner reduces the bond set by law enforcement, a Shift Supervisor, who has concern for the safety of a victim, shall contact the Chief of Police. The Chief of Police may contact the State's Attorney to request authorization to delay release on the Bail Commissioners recommendation until arraignment.
  5. Shift Supervisors are responsible to ensure that follow-up investigative responsibilities and victim safety and offender release considerations are coordinated to allow for shift changes and/or referral to specialized units.
  6. Shift Supervisors shall ensure the issuance of the Conditions of Release, form JD-CR-146, upon the release of any person who is arrested and charged in a family violence incident, in accordance with C.G.S. 54-63c and General Order 8.11, Protective and Restraining Orders.
  7. The Old Saybrook Department of Police Services shall designate at least one officer with supervisory responsibility 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.
  8. The Old Saybrook Department of Police Services 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.

#### D. Arrest Guidelines

1. 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, having probable cause for arrest, shall arrest the offender suspected of its commission and charge such offender with the appropriate crime(s).
2. Traditional constitutional and statutory probable cause standards 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.
3. It should be emphasized to the involved persons the criminal nature of family violence and that the criminal action is being initiated by the State, not the victim.



4. When complaints of family violence are made by two or more opposing persons, a peace officer is not required to arrest both persons. The officer shall evaluate each complaint separately to determine which person is the dominant aggressor.
5. In determining which person is the dominant aggressor, the officer shall consider the need to protect victims of domestic violence. The following factors shall be considered:
  - a. Whether one person acted in defense of self or a third person;
  - b. The relative degree of any injury;
  - c. Any threats creating fear of physical injury;
  - d. Any history of family violence between such persons, if such history can reasonably be obtained by the officer.
6. The officer shall arrest the person whom the officer believes to be the dominant aggressor.
7. 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).
8. The decision whether to arrest should be based on the probable cause standard and shall not be influenced by the following:
  - a. The specific consent or request of the victim;
  - b. The relationship between persons suspected of committing a family violence crime.
    - (i) The seriousness of crimes committed between family or household members is not mitigated because of the relationships, living arrangements or genders of those involved;
  - c. The fact that civil proceedings are pending, such as, separation, divorce or custody disputes – 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;
  - d. 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;
  - e. 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;
  - f. 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; or
  - g. Assurances from the offender that the violence will cease – If probable cause for an arrest exists, the officer must proceed with an arrest.
9. When a determination is made that probable cause for arrest exists officers shall:
  - a. Determine if the arrest is to be a custodial arrest, misdemeanor summons arrest, or if an arrest warrant is to be applied for. Determination of which type of arrest to pursue should include careful consideration of the imminent safety concerns for the victim and her or his children. A summons arrest and arrest warrant application shall only be used in rare situations.
  - b. Give victim(s) an Office of Victim Services (OVS), "Crime Victims' Rights" card, JD-VS-2, including our Department name, phone number, case number and court location. Advise the victim of Domestic Violence victim resources available.
  - c. Explain to the victim the process for arrest, arraignment and bond including the following:

- (i) The offender will be arraigned the next available court date.
  - (ii) Prior to arraignment, the victim can meet with or call a family violence victim advocate (FVVA) whose phone number is listed on the OVS card under Domestic Violence Programs.
  - (iii) 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 in court. The FVVA will provide information and referrals regarding available community services and will help the victim develop a long-term safety plan. (\*The FVVA will only disclose information as allowed by the victim – otherwise any information given by the victim to FVVA is confidential.)
10. Section 54-1f of the Connecticut General Statutes authorizes an officer to arrest, without previous complaint and warrant, any person for any offense that occurred within his/her jurisdiction, when the person is taken or apprehended in the act or on the "speedy information" of others.
    - a. "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:
      - (i) How proximate in time the information is to the crime; and
      - (ii) Whether the officer was justified in accepting the information and relying on it. It is the officer's responsibility to verify truthfulness, reliability and the basis of knowledge of the person providing the information.
  11. An arrest may be made for a misdemeanor crime only within the geographical boundaries of Old Saybrook with two exceptions;
    - a. An officer may arrest outside of Old Saybrook anywhere within Connecticut if there is probable cause based on "speedy information" that the crime(s) occurred within Old Saybrook and the officer is in immediate pursuit of the suspect.
    - b. An officer may arrest anywhere within Connecticut if his/her Department holds a valid arrest warrant for the accused.
  12. An arrest for a felony crime may be made anywhere in Connecticut if there is probable cause to believe the suspect committed the felony.
    - a. "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.
    - b. 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 the execution of the arrest warrant should be expedited.
  13. Whether or not an accused posts bond, he or she shall be scheduled for arraignment before the Superior Court for the Geographical Area where the offense is alleged to have been committed on the next regularly scheduled day of court business. CGS 54-1G.
  14. 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.
  15. In family violence cases, an arrest warrant should be applied for only in limited circumstances, such as;
    - a. When further investigation is needed to establish probable cause;
    - b. When the offender cannot be located pursuant to speedy information;
    - 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 concern for safety and/or flight.
16. Once probable cause for arrest has been established and if the offender is not located, the assigned officer shall notify or cause to be notified 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.
  - a. A BOLO (Be On the Lookout) shall be issued for the offender based on speedy information, if probable cause for a family violence crime exists and the offender has left the scene.
  - b. If the offender is not located, an arrest warrant shall be prepared, reviewed by the Shift Supervisor prior to the end of the officer's workday and submitted to court as soon as practical.
  - c. The warrant shall detail and charge all crimes for which probable cause exists and contain the facts supporting each charge, including threats of violence.
17. In any incident involving the use or threatened use of a weapon, the Shift Supervisor shall expedite the issuance and execution of the arrest warrant.
18. It is highly recommended that in domestic violence incidents or investigations of order of protection violations, that an officer not notify the subject of a pending arrest or offer voluntary surrender. Voluntary surrender should only be offered where there are concerns for officer safety, concerns for victim safety or unusual circumstances that would warrant the voluntary surrender.

#### E. Dual Complaints, Dominant Aggressor, and Self-Defense

1. 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.
2. Where complaints are made by two or more opposing persons, the officer is not required to arrest both persons. The officer shall evaluate each complaint separately to determine which person is the dominant aggressor. In determining which person is the dominant aggressor, the 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 officer. The officer shall arrest the person whom the officer believes to be the dominant aggressor.
3. If an 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 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.
4. No 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.

5. Dual arrests, where both parties involved in the Family Violence incident are arrested, should only be made 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. In some instances, officers may receive dual complaints, but through 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.
6. In determining which person is the dominant aggressor, the officer shall consider whether one person acted in defense of self or a third person.
7. 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 the Shift Supervisor.
8. Section 53a-19 of the Connecticut General Statutes 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.
  - a. 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 using or about to use deadly physical force, or inflicting or about to inflict great bodily harm.
  - b. Exceptions to the use of such physical force in defense of a person is not justified when he/she provokes the use of physical force by such other person, or 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 by retreating, except that the actor shall not be required to retreat if he or she is in his or her dwelling.
9. The statute requires that before a person uses physical force in self-defense or to defend a third person, he/she must have two reasonable beliefs:
  - a. That physical force is being used or about to be used upon him/her or another and;
  - b. That the degree of force he/she is using to defend himself/herself is necessary for that purpose.
10. 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 judgements about the reasonableness of these beliefs. In making these judgements the officer must consider:

- a. The situation from the perspective of the person acting in self-defense; that is, what did the person actually believe, and, because the statutes requires that the defendant's belief be reasonable, and not irrational or unreasonable under the circumstances, and
  - b. Whether a reasonable person in the defendant's circumstances could have reached that belief.
11. The self-defense analysis can be broken down into four 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 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.

F. Incident Reporting/Documentation:

1. The Police Officer and, if necessary, Public Safety Dispatcher shall document their findings in an incident report prior to completing their workday.
2. The incident report shall document the relationship between all persons involved.
3. The incident report shall establish and document the probable cause for each criminal violation that will be charged, including all companion charges.
4. When complaints of family violence are made by two or more opposing persons, the incident report shall document the steps taken to determine which person is the dominant aggressor, documenting the following;
  - a. Whether one person acted in defense of self or a third person;
  - b. The relative degree of any injury;
  - c. Any threats creating fear of physical injury;
  - d. Any history of family violence between such persons, if such history can reasonably be obtained.
5. When an officer feels that a recorded 911 call or any recorded call for police response will enhance an investigation, the officer should request, through established internal means, that the recorded call be preserved, seize the recording as evidence and document the seizure in the incident report.
6. The incident report shall document any medical attention provided or sought, that a short-term safety plan was developed and the victim was provided with an OVS card or referred to services as the situation dictates.
7. Scene photographs, evidence photographs and photographs of the victim or offender shall be included in the incident report.
8. Document any visible injuries in the incident report.
9. Document any verbal statements made by the victim(s), offender, or witnesses and distinguish the statements with quotes where appropriate.
10. Without exception, an officer is required to give the arrestee the next available court appearance date on all family violence arrests.
11. The Police Officer shall complete and prepare all the necessary documents required prior to the offender's court appearance date.
12. When child abuse is suspected a report shall be made to the Department of Children and Families by phone and by completing form, DCF-136.

13. If abuse and/or neglect of an elderly person or a person with an intellectual disability is suspected a report shall be made to Protective Services by phone and by completing Protective Services Report Form for the Elderly form, W-675.
14. If animal abuse or neglect is suspected a report shall be made to the Department of Agriculture by phone and by completing the Suspected Animal Abuse Report form.
15. The Police Officer shall complete a Family Violence Offense Report (DPS 230-C).
16. Copies of the Family Violence Offense Report shall be distributed as mandated.
17. The Shift Supervisor shall ensure all reports are properly completed, filed and forwarded.

#### G. Weapons

1. If an officer has probable cause to believe that a person used or threatened to use a weapon in the commission of a family violence crime that person shall be arrested for all appropriate crimes committed and the weapon(s) shall be seized as evidence of the crime(s).
2. Whenever an officer makes an arrest for a family violence crime, the officer may seize any firearm(s), ammunition, or electronic defense weapon at the location where the crime is alleged to have been committed that are in the possession of the offender or that are in plain view.
  - a. Any firearm seized under this section must be returned within seven days to its rightful owner unless such person is ineligible to possess the firearm or unless otherwise ordered by the court.
  - b. Any questions regarding the return of weapons seized under this section should be promptly directed to the State Attorney's Office.
3. Whenever an officer makes an arrest for a family violence crime, the officer should seize and turn over to the issuing authority any State or temporary permit to carry pistols or revolvers, pistol or revolver eligibility certificate, long gun eligibility certificate, or an ammunition certificate.
4. The issuing authority of a State or temporary permit to carry pistols or revolvers, pistol or revolver eligibility certificate, long gun eligibility certificate, or an ammunition certificate shall revoke the permit if the person holding the permit 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.
5. Within five days following written notice that a permit/certificate has been revoked, the holder of the permit/certificate shall surrender the permit to the issuing authority.
6. If the offender fails to surrender a revoked permit/certificate, the offender should be arrested for any of the following crimes that apply and the permit/certificate should be confiscated and immediately forwarded to the Commissioner of the Department of Emergency Services and Public Protection. Crimes:
  - a. Failure to Surrender Permit to Carry a Pistol or Revolver, CGS 29-32;
  - b. Failure to Surrender Pistol or Revolver Eligibility Certificate, CGS 29-36i;
  - c. Failure to Surrender Long Gun Eligibility Certificate, CGS 29-37s;
  - d. Failure to Surrender Ammunition Certificate, CGS 29-29-38p;
7. Any local 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 to the local issuing authority.
8. An offender shall 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 arrested for Criminal Possession of a Pistol or Revolver if found in possession of any pistol or revolver. The weapon(s) and/or ammunition shall be seized as evidence of the crime whenever a pistol, revolver, or ammunition is found in the possession of an offender who;

- a. Knows he/she is the subject of an order of protection in a case involving the use, attempted use or threatened use of physical force against another person; or
  - b. Has been convicted of a felony or qualifying misdemeanor; or
  - c. Has been convicted of a Misdemeanor committed on or after October 1, 1994 (pistol and revolver); on or after October 1, 2013 (other firearms, ammunition, electronic defense weapons) as identified in CGS 53a-217 and 53a-217c: or
  - d. Is subject to any other firearms prohibitions as defined in CGS 53-217 and 53a-217c; or
  - e. Is in possession of any firearm, ammunition, electronic defense weapon, pistol or revolver.
9. A judge may issue a search and seizure warrant to search for and take custody of any firearms when any two officers apply on oath that there is probable cause to believe that a person poses a risk of imminent personal injury to him/herself or to other individuals, such person possesses one or more firearms, and such firearms are within or upon any place, thing or person. This referred to as a "Risk Warrant".
10. 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, eligibility certificate for a pistol or revolver, long gun eligibility certificate, an ammunition eligibility certificate and/or possesses one or more firearms or ammunition, the marshal service shall:
- a. Whenever possible, provide in-hand service of the order to the respondent.
  - b. Notify the law enforcement agency for the town in which the service will take place.
  - c. Provide such agency a copy of the application, the applicant's affidavit, the ex-parte order and notice of hearing.
  - d. Request a police officer from such agency be present when the service is executed.
11. When possible and consistent with all other provisions of this policy, this agency shall assign an officer to accompany the State marshal during the service of an ex-parte order upon request.
12. 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, such person shall:
- a. Transfer/sell to a federally-licensed firearms dealer, any pistols, revolvers, other firearms and/or ammunition in his/her possession, or
  - b. Deliver or surrender such pistols, revolvers, other firearms and ammunition to the Commissioner of Emergency Services and Public Protection or any local police Department.
13. 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.
14. Persons subject to a Condition of Release order are prohibited from possessing or using any dangerous instruments or possessing any deadly weapons. CGS 53a-217.
15. Section XI of Federal Domestic Violence Laws 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 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.

16. Upon 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, the offender shall complete the Firearm and Ammunition Compliance Statement form (DPS-332C) indicating same.

#### H. Police Officer-Involved Domestic Violence Incidents

1. This Department recognizes that law enforcement personnel, whether sworn or civilian, are not immune from committing domestic violence against their intimate partner, family or household members or being victims of domestic violence. No person is exempt from the consequences of his/her actions that result in a violation of law. The dynamics between responding and accused officers have the potential for making on-scene decisions additionally difficult. The following elements of this order are critical components to the integrity of the law enforcement profession and trust of the community.
2. If a sworn police officer is involved in a family violence incident and probable cause exists for the officer's arrest, the officer shall be arrested.
3. All family violence incidents involving law enforcement personnel shall be criminally investigated by a Supervisor at least one rank higher than the officer involved in the incident, when practicable.
4. The investigating Supervisor shall perform all duties outlined in section B. Responding Officer Responsibilities of this order to ensure that this agency complies with all responsibilities and recommended response procedures of a responding officer in this order, per CGS 46b-38b(d).
5. If the accused officer is a member of an outside law enforcement agency, the highest-ranking on-duty Shift Supervisor shall notify our Chief of Police or his designee as soon as practicable while on scene.
6. The on-duty Shift Supervisor shall contact the Shift Supervisor of the arrested officer's agency as soon as possible, no later than the end of that supervisor's shift, unless notification has been made by the Chief of Police.
7. The Shift Supervisor shall communicate with the highest ranking officer available at the arrested officer's agency.
8. Supervisor contact with the arrested officer's agency shall always occur prior to releasing the arrested officer from Old Saybrook Police custody.
9. If the arrested officer is a member of the Old Saybrook Department of Police Services, the highest-ranking on-duty Shift Supervisor shall notify the Chief of Police or his designee as soon as practicable while on scene.
10. An internal affairs investigation shall be conducted during or upon conclusion of the criminal investigation as directed by the Chief of Police.
11. If a court order of protection, which includes ex parte-orders and foreign orders, is issued against an officer, the officer shall surrender all law enforcement agency issued firearms to the Chief of Police or his designee and shall be prohibited from carrying a firearm while the court order is in force and effect.
12. 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, the officer shall surrender the permit(s) or certificate(s) to the State Department of Emergency Services and Public Protection, Division of State Police.
13. The arrested officer shall surrender all non-Department pistols, revolvers, other firearms, ammunition and/or electronic defense weapons to the Commissioner of Emergency Services and Public Protection or any local police Department or transfer via sale to a



federally licensed firearms dealer and provide the Chief of Police or his designee proof of such sale as required by and in accordance with Connecticut General Statutes.

14. The Chief of Police or his designee shall;
  - a. Take possession of all Department issued firearms, permits, electronic defense weapons and ammunition.
  - b. Conduct the necessary internal investigation.
  - c. Assign or recommend discipline in accordance with current Department policy and procedure which may include suspension without pay.

#### I. Orders of Protection

1. Orders of Protection are issued when the court finds that a named protected party is in imminent danger or risk of harm, from a named, identified respondent.
2. 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 an order of protection.
3. Any law enforcement officer may enforce any Order of Protection where they have a good faith basis to believe it is valid.
4. Once probable cause for arrest has been established and if the offender has left this agency's jurisdiction, the assigned officer shall notify or cause to be notified 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. If the offender is not located, an arrest warrant shall be prepared, reviewed by the Shift Supervisor prior to the end of the officer's workday and submitted to court as soon as practical.
5. Connecticut's orders include, Ex Parte Restraining Orders, Restraining Orders, Protective Orders, Civil Protective Order, Standing Criminal Protective Order, Conditions of Release, Family Court Orders and Foreign Orders of Protection.
6. Orders may include "no contact with the victim" and "not to use or possess dangerous instruments or possessing any deadly weapons."
7. Officers should be aware that order of protection is a general term used in federal law and each State has its own types and titles for orders of protection that may or may not be equivalent to one or any of Connecticut's orders.
8. Each type of order has specific characteristics, requirements for issuance and penalties for violation. Refer to the Appendix for the Comparison 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.
9. In some situations, a victim may obtain multiple orders to get all court ordered protection available. A victim has a right to apply for a Restraining Order even if a Protective Order has already been issued. The statutes pertaining to Restraining and Protective Orders do not prohibit the victim from having both orders
10. Verification of orders should be conducted through NCIC/COLLECT and/or through hardcopy verification with the law enforcement agency where the parties reside.
  - a. If unable to verify through NCIC/COLLECT, an order may be provided by the victim if they have a copy of the order.
  - b. The issuing court may be contacted to verify and request a copy of the order.
11. Foreign Orders may be presented and when unable to verify should be acted on in good faith giving the greatest amount of protection possible to the victim.

12. It is important for officers to understand and always remember that orders of protection are issued by the court, against the offender, for the protection of the victim.
13. Orders of Protection only restrict the offender's behavior and only the offender can violate an Order of Protection, the victim shall not be arrested for violating an Order of Protection.
14. When applying for an arrest warrant or an on-scene arrest that involves a violation of a judicial court order of protection, officers shall include in their affidavit/report a paragraph describing said order and copies of the order to be enforced.
  - a. The paragraph should include:
    - (i) The date the order was signed,
    - (ii) The name of the Judge who imposed the order,
    - (iii) The stipulations of the order and
    - (iv) When, if stated, the order is to expire.
15. 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 "no contact with the victim" in that case.
  - a. A person who intentionally violates a Condition of Release shall be arrested for violating said condition.
  - b. Special conditions that a judge may order in an Order of Protection include, but are not limited to:
    - (i) No direct or indirect contact with the victim; and
    - (ii) Not to go or remain within a specific distance of the victim.
16. A violation of a Conditions of Release Order can either be a felony (CGS 53a-222) or misdemeanor (53a-222a) based on the original underlying charges.
17. A violation of any Order of Protection is a felony to include:
  - a. Protective Order (CGS 53a-223).
  - b. Standing Criminal Protective Order (CGS 53a-223a).
  - c. Restraining Order (includes ex-parte order) (CGS 53a-223b).
  - d. Foreign Order of Protection (CGS 53a-223b).
  - e. Civil Protective Order (CGS 53a-223c).

#### J. Domestic Violence Alert Notification/GPS Program

1. The State of Connecticut has initiated a GPS monitoring program, Alert Notification/GPS, to alert protected persons in high risk domestic violence cases that an offender is within a predetermined area using GPS technology.
2. 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.
3. Specific locations are identified as restricted areas (i.e. the protected persons home, workplace, school, etc.) and the offender is instructed to avoid a twenty-five hundred, 2500, foot area surrounding those areas.
4. Alerts are triggered when:
  - 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.
5. 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 appropriate law enforcement jurisdiction and :

- (i) Provide the location and direction of travel of the offender and/or other pertinent information.
  - (ii) Provide information that will assist responding officers in locating the protected person.
  - (iii) Stay on the line with public safety dispatch personnel if the offender continues to advance towards a protected person(s) and provide a call back number for follow-up.
6. Officers responding to an Alert Notification/GPS shall:
  - a. Locate and ensure the safety of the protected person(s).
  - b. With due caution, attempt to locate the offender.
  - 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.

#### K. Domestic Violence Personal Property Retrieval

1. The Old Saybrook Department of Police Services shall provide one-time escorts for personal property retrievals as allowed by court when a judge issues an order enjoining the offender from entering his/her family dwelling.
2. When an order of protection is in place, the order shall be verified and the officer assigned shall confirm that the order allows for the property retrieval.
3. The escort shall be at the discretion of the Shift Supervisor and will be at a time period that is reasonable and practical.
4. The assigned officer shall check or cause to be checked the Records Management System (RMS) to determine if the retrieval has already been completed by another officer.
5. The assigned officer shall contact the protected person or others with standing in the residence to arrange a time for the retrieval. The protected parties must agree to the timing of the retrieval and children should not be present.
6. If unable to make contact with the protected person or persons with standing in the residence, or if children are present, the retrieval should be scheduled at a later date/time.
7. The respondent shall not be allowed to use this as a means of harassing the protected party.
8. The assigned officer shall accompany the respondent throughout the entire property retrieval.
9. The protected person or other persons with standing in the residence should be allowed to accompany the officer and respondent during the retrieval, if requested, unless there is a concern for safety during the retrieval.
10. 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 or items used by the protected party and/or children (groceries, electronics, toys, jewelry, furniture, etc.) are not to be removed from the dwelling.
11. If it is not practical or safe for the victim to accompany the officer and the respondent during the property retrieval, the officer shall review with the victim, before the officer or the respondent leave the premises, what essential items the respondent is seeking to remove from the residence.
12. The officer shall document the retrieval in a case incident report and the incident type shall be "Property Retrieval".

## L. Federal Domestic Violence Laws

1. **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. 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 opportunity to be heard sufficient to protect the defendant's due process.
  - b. The provision applies to any injunction or 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 but does not include child support or child custody orders.
  - c. Foreign orders of protection shall be enforced if the order appears to be valid on its face, i.e., it contains both parties names and has not yet expired. If the foreign order is uncertified it shall be enforced on its facial validity.
2. **Disposal, Receipt or Possession of a Firearm:** Title 18 USC 922(d) and (g)
  - a. Prohibits the knowing transfer of a firearm to a person who is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child.
  - b. Prohibits the possession of a firearm by persons subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.
  - c. Prohibits the possession of a firearm or ammunition by any person who has been convicted in any court of a family violence crime that has an element of the use or attempted use of physical force, or the threatened use of a deadly weapon, including a misdemeanor family violence crime.
3. **The Federal Violence Against Women Act (VAWA) makes criminal certain actions in family violence situations.**
  - a. **Interstate Domestic Violence:** Title 18 USC &2261(a)(1), prohibits 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 bodily injury.
  - b. **Causing the Crossing of State Line by Force, Coercion, Duress, or Fraud:** Title 18 USC &2261(a)(2), when the defendant by force, coercion, duress or fraud, causes a spouse or intimate partner to cross state lines and in the course or as a result of that conduct, intentionally commits a crime of violence. Bodily injury to the victim is required.
  - c. **Interstate Stalking:** Title 18 USC &2261A, prohibits travel across State line or within special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, when in the course 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.
  - d. **Interstate Violation of a Protective Order:** Title 18 USC &2262, when a person travels across State lines or leaves or enters Indian territory with the intent to engage in conduct that violates the portion of a Protective Order that protects against credible threats of violence, repeated harassment, or bodily injury.

4. The possible or potential application of any federal family violence laws 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.
5. When an officer believes that a person may have violated a provision of VAWA, that officer's supervisor shall consult with the Chief of Police or his designee who may request through the Middlesex State Attorney's Office that copies of the case report and all supplemental reports be forwarded to the United States Attorney's Office, 157 Church Street, New Haven, Connecticut 203-821-3700, for review by an Assistant United States Attorney.

### **Revision History**

|                   |  |
|-------------------|--|
| February 21, 2019 | Public Act 18-5 and Model Policy Updates                               |
| October 21, 2016  | Public Act and Model Policy Updates                                    |
| January 3, 2014   | General Order Issued – Replacing Domestic Policy Issued Sept. 10, 1986 |

# COMPARISON OF ORDERS OF PROTECTION

Revised January 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.

| Protective Orders and Restraining Orders                              |  |   |   |   |
|---|--|---|---|---|
| Type of Order   | How the Order is Made  | How Long the Order Lasts  | Provisions that May be Included   | Violations  |
| <b>Protective Order (PO)</b><br>(C.G.S. §46b-38c)<br>(C.G.S. § 54-1k) | <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 the 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 [C.G.S. §53a-28(f)]</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 the 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 Protective Order [C.G.S. §53a-223] (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> [C.G.S. §53a-107] if in violation of PO.</li> </ul> |

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.

## 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><b>Restraining Order (RO)</b><br/>(C.G.S. §46b-15)<br/>Includes Ex-Parte order</p> | <ul style="list-style-type: none"> <li>➤ Victim files an "Application for Relief from Abuse" in the Family Divisions 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 the notice of hearing.</li> <li>➤ Offender, not the victim is responsible for upholding the 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>➤ Marshall/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 end 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, and support).</li> <li>➤ No disposal of property, documents, keys, ID.</li> <li>➤ Must surrender weapons immediately by 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. §53a-223b] (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> [C.G.S. §53a-107] 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> |

## 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><b>Standing Criminal Protective Order (SCPO)</b><br/>(C.G.S. §53a-40e)<br/>AKA: Standing Criminal Restraining Order (pre- Oct. 1, 2010)<br/><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 the 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 the 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. §53a-223a] (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> [C.G.S. §53a-107] if in violation of SCPO.</li> </ul> |



## 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><b>Foreign Orders of Protection</b><br/>(C.G.S. §46b-15a)</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; (4) Indian Tribe.</li> </ul> </li> <li>➤ Presume an order is valid if the content and form appears to be authentic (Full Faith &amp; Credit).                             <ul style="list-style-type: none"> <li>The order does NOT have to be a certified copy.</li> </ul> </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. §53a-223b] (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> [C.G.S. §53a-107] if in violation of SCPO.</li> <li>➤ May be federal violation – contact US Attorney.</li> </ul> |

## 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> <b>Conditions of Release (COR)</b><br/>                     (C.G.S. §53a-222)<br/>                     (C.G.S. §53a-222a)<br/>                     (C.G.S. §54-63c)<br/>                     (C.G.S. §54-63d)                 </p> | <p>                     A person charged with a family violence crime can be released with non-financial conditions of release<sup>1</sup> by:                     <ul style="list-style-type: none"> <li>▪ Law enforcement;</li> <li>▪ Bail commissioner;</li> <li>or</li> <li>▪ A judge.</li> </ul>                     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> </p> | <p>                     COR imposed by bail commissioner or law enforcement remain(s) in effect until offender is presented to a judge at arraignment.<br/>                     COR imposed by a judge remain(s) in effect for the duration of the case or until further order of the court.                 </p> | <p>                     Law Enforcement:<br/>                     Comply with specified restrictions on travel, association, or place of abode;<br/>                     Not engage in specified activities, including use/possession of dangerous instruments or deadly weapons, intoxicant, or controlled substance;<br/>                     Avoid all contact with alleged victim.<br/>                     Bail Commissioner:<br/>                     Any of the above; plus<br/>                     Remain under supervision of designated person or organization;<br/>                     Any other condition reasonably necessary to ensure appearance of the person in court.<br/>                     Judge:<br/>                     Any of the above; plus<br/>                     Any non-financial condition the judge deems appropriate;<br/>                     Compliance with Protective Order.                 </p> | <p>                     If released on a felony charge; violations of conditions of release in the first degree [C.G.S. §53a-222] (D Felony).<br/>                     If released on a misdemeanor charge; violations of conditions of release in the second degree [C.G.S. §53a-222a] (A misdemeanor).<br/>                     If any felony or misdemeanor COR violation includes imposing restraint on a person or their liberty, threatening, harassing, assault, sex assault, molestation or attack of victim (C Felony).<br/>                     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).                 </p> |

<sup>1</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].

## Protective Orders and Restraining Orders

| Type of Order  | How the Order is Made  | How Long the Order Lasts  | Provisions that May be Included   | Violations   |
|--|--|---|---|--|
| <b>Civil Protection Order (CPO)</b><br>(C.G.S. §46b-16a)<br>**New 2015** | <ul style="list-style-type: none"> <li>▶ Not for DV Cases.</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 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> </ul> | <ul style="list-style-type: none"> <li>▶ Offender not to impose restraint on the person or their liberty, threaten, harass, 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 [C.G.S. §53a-223c] (D Felony)</li> </ul> |

## Other Orders

| Type of Order              | How the Order is Made  | How Long the Order Lasts   | Provisions that May be Included  | Violations   |
|----------------------------|--|--|--|--|
| <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> |

