



# Milford Police Department General Orders



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## Domestic Violence

1. Purpose

It is the purpose of this Order to prescribe preliminary courses of action officers should take in response to domestic/family violence incidents.

2. Scope

This order applies to all sworn Department personnel.

3. Policy

It is the policy of the Milford Police Department that incidents of domestic violence will be treated with the same consideration as violence in other enforcement contexts, is consistent with the guidelines set forth in this Order and in compliance with the Family Violence Prevention and Response Act (C.F.S 46b-38B)

4. Definitions

**A. “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 shall not constitute family violence unless there is present danger and the likelihood that physical violence will occur.” Conn. Gen. Stat. § 46b-38a (1) (2013).

**B. “Family violence crime”** means 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.** Conn. Gen. Stat. § **46b-38a (3) (2013).**

**C. “Family or household member”**, as defined in CGS §46b-38a (2) means any of the following persons, regardless of the age of such person:

1. Spouses or former spouses
2. Parents or their children
3. Persons related by blood or marriage
4. Persons who have a child in common regardless of whether they are or have been married or have lived together at any time
5. Persons in, or who have recently been in, a dating relationship
6. Household members of rooming houses and college/university students **are not** considered family members.
  - a. Household members of rooming houses and college/university students **are exempt** from the mandatory arrest requirement. Police officers who have probable cause to arrest one or both roommates are no longer mandated to make the arrest as it is no longer family violence. **However**, if roommates fit within another definition of family or household member, the arrest remains mandatory.

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

**E. “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 these steps could include but are not limited to:

1. Creating a plan as to what to do next.
2. Ensuring that the victim and children have the ability to call 911.
3. Ensuring that the victim can get to a safe location.
4. Calling friend, family member or advocate for support.
5. Going to a safe place for the night.

**F. “Long-Term Safety Plan”** A long-term plan developed with an advocate which allows individualized planning for situations the survivor and children or family may encounter regardless of what the survivor decides to do about the relationship with the abuser.

**G. “Trauma Informed Care”** By law, police officers and family violence intervention unit counselors must give family violence victims contact information about counselors who are trained to provide trauma-informed care. Existing law describes this as services directed by a thorough understanding of the neurological, biological, psychological, and social effects 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.

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

**I. “Family Violence Victim Advocate - FVVA”** Nonprofit advocate who is a certified domestic violence counselor trained in providing trauma-informed care. FVVA provides individual, fully confidential counseling, safety planning and other outside services to the victim and her/his family. Some of these services include application for crime victim’s compensation and registering for electronic victim notification (SAVIN). FVVA will inform the crime victim of her/his constitutional rights as a victim, explain what to expect during the criminal case, and help her/him navigate through the court system. FVVA provides information about the court case, including protective orders and restraining orders, to help victims make informed decisions. The FVVA can let the court know what the victim wants to have happen in the case she/he is involved with. The FVVA also provides information and referrals regarding available community services, and will help the victim develop a **long-term safety plan**.

**J. “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 arraignment. 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.

**K. “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.

**L. “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.

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

**M. “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.

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

**O. “Dominant Aggressor”** means the person who poses the most serious ongoing threat in the situation involving the suspected commission of a family violence crime.

## 5. Procedures

### A. Communications Personnel

1. When taking a call for service, telecommunication personnel should follow department protocol when obtaining information regarding a family violence incident. Communications room personnel receiving the complaint will attempt to obtain the following information from the person calling:
  - a. The **caller's** name, telephone number
  - b. The location of the incident if different from above
  - c. The **victim's** name and the offender's name, and their relationship to each other;
  - d. Whether the offender is under the influence of drugs or alcohol, or mental illness
  - e. the nature of the abuse, or suspected or sustained injuries;
  - f. Weapon(s) suspected or used
  - g. Obtain the location of the victim and offender (if the offender has fled, obtain a description and possible whereabouts, direction of travel, vehicle description, etc.)
  - h. Previous complaint history
  - i. Whether the victim has a current OOP (Order of Protection)
  - j. 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;
2. Those 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.
3. The dispatcher will give a domestic violence call the same priority as a life-threatening call.

4. Two (2) units will be dispatched to all domestic or family violence complaints; a primary and back-up unit.
  - a. All of the above information, when practical, will be provided to the responding units, along with any history at the incident address.
5. Communications Room personnel will assess the complaint and where appropriate request EMS response from the Fire Department.
6. The Road Sergeant will be made aware of the incident and the identification of the units responding.
7. Dispatchers shall not cancel police response to a domestic violence complaint based solely on a follow-up call from the residence requesting cancellation. However, the dispatcher shall advise the officers of the complainant's request.

#### **B. On Scene Investigation**

1. When responding to a family violence call, the officers should
  - a. Approach the call as potentially high risk
  - b. When practical wait until the arrival of backup
  - c. 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
  - d. Restore order to gain control of the situation
  - e. Determine the presence and status of any weapons
  - f. 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 weapon.”
  - g. Determine whether children are present and complete the following if necessary:
    - i. Ascertain that they are safe and unhurt.
    - ii. If child abuse and/or neglect are suspected, report to DCF by phone and complete form DCF-136. [CGS §17a-101(c)]
    - iii. Interview children as witnesses according to circumstances/department Juvenile/Youthful Offender Policy.
    - iv. If dual custodial arrests are made, make necessary child care arrangements.
    - v. Do not use children to serve as an interpreter for the adult.
  - h. If abuse and/or neglect of an Elderly person or a person with intellectual disability is suspected complete the required reports and/or notifications.

- i. Obtain a statement from the victim, and when appropriate, a signed medical release form with victim's consent.
- j. Carefully document the condition of the scene.
  - a. If the offender has left the scene and a crime has been committed, the officers should do the following:
    - i. Search the immediate area if practical.
    - ii. Obtain information from victims and witnesses as to where the offender might be
    - iii. Seek an arrest warrant if appropriate.
- k. When possible, photograph the scene and any visible injuries on the victim.
- l. Determine if Self-Defense exists. (CGS §46b-38b) Please refer to section on Self Defense.
- m. Give the victim(s) a "Victim of Crime Card" containing information about victims' rights and phone numbers for services; [CGS §46b-38b(d)] (CGS §54-216 was amended by Sec. 6 of PA 11-152 to permit victims of domestic violence to obtain restitution services from the Office of Victim Services.)
- n. 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. 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).
- o. Before leaving the scene, identify the local domestic violence service provider, and help the victim to develop a **short-term safety plan**.



2. A written report is required in all cases of family violence and should document
  - a. The officers' observations of the scene
  - b. Statements of the involved parties and witnesses
  - c. Physical evidence
  - d. Any other information relevant to the officers' determination of probable cause to arrest
3. Complete a Family Violence Offense Report (DPS-230-C).
4. A written report will not be required in cases of verbal disputes where violence did not occur or was not threatened or when parents were disciplining minor children.
5. Attempt to obtain a written statement from the victim and any witnesses.
6. After investigation into the facts of the incident the officer will make an arrest decision. Depending on the circumstances, a full custodial arrest or a misdemeanor summons arrest may be made, or an arrest warrant may be sought.
  - a. The decision to issue a summons at the scene must be made in accordance with [C.G.S. 54-1h](#) and with the approval of the Patrol Sergeant
7. Explain to the victim the process for arrest, arraignment and bond, including the following:
  - a. The offender will be arraigned the next available court date.
  - b. Prior to arraignment, the victim can meet with or call a Family Violence Victim Advocate (FVVA) whose phone number is listed on the "Victim of Crime Card" under *Domestic Violence Programs*
  - c. 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, 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 the FVVA is confidential.)

- d. 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 officers not notify the alleged offender of a pending arrest or offer voluntary surrender. Voluntary surrender should only be offered where there are concerns for officer safety, concern for victim safety or unusual circumstances that would warrant the voluntary surrender.
8. 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.
9. Complete, file and forward to the appropriate agencies a Family Violence Offense Report, **DPS-230-C**.

### **C. Forced Entry**

1. When necessary officers **are authorized to force entry into a residence to prevent an assault on the victim or render aid.**
  - a. Prior to making entry the officer(s) should advise Communications of their intent.
  - b. The criteria for this type of entry should be based upon the officer's observations and beliefs that a felony crime is in progress, that there is a risk of injury to minor children or an immediate need to render emergency care. [[C.G.S. §52-557b](#)].

#### **D. Arrest**

1. Whenever an officer determines, upon speedy information, that a family violence crime has been committed, he/she shall arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime(s). [[C.G.S. § 46b-38b \(a\)](#)]
  - a. Probable cause must be present for the arrest.
  - b. If speedy information is not present or the officer is not in immediate pursuit of the offender an arrest warrant should be sought.
    - i. In cases where an arrest is made of the offender by warrant, upon execution of the warrant the offender is to be given the next available court date for their date of arraignment on the charges.
2. Officers should emphasize to the victim and the offender that the state and not the victim is initiating the criminal action.
3. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately in making a determination of probable cause. [[C.G.S. §46b-38b \(b\)](#)]
4. If officers have complaints by two or more persons and probable cause exists for both, the officer has discretion to arrest one or both.
  - a. The **officer shall evaluate each complaint separately to determine which person is the dominant aggressor**. When determining which person is the dominant aggressor, officers shall consider the following factors:
    - i. The need to protect victims of violence
    - ii. Whether one person acted in defense of self or third person,
    - iii. The relative degree of injury
    - iv. Any threats creating fear of physical injury
    - v. Any history of family violence between such persons, if such history can reasonably be obtained by investigating officers.
  - b. Officers shall arrest the person they determine to be the dominant aggressor.
    - i. 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.

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

**E. Victims' Rights Notification**

1. The officer is required to notify the victim(s) of his/her rights to file an affidavit or warrant for arrest [C.G.S. § 46b-38b (d)]
2. Inform the victim(s) of services available and refer the victim(s) to the Commission on Victims Services [C.G.S. § 46b-38b (d). The officer will also provide the victim with a copy of the Victim(s) Rights card.
3. Before leaving the scene, help the victim to develop a short-term safety plan which may include:
  - a. Planning what to do next
  - b. Calling a friend or family member for support
  - c. Going to a safe place for the night (i.e. family, friends, shelter)
4. Explain the process of arrest, arraignment and bond to the victim, including:
  - a. The offender may not be held overnight, but may be released within hours of the arrest
  - b. The offender will be arraigned the following day the court is in session
  - c. Prior to the arraignment of the offender the victim can meet with the victim advocate who will represent the victim's wishes in court, make referrals to related services in the community and assist the victim in developing a long-term safety plan.

**F. Supervisor's Responsibilities**

1. Conduct a probable cause review at the scene (when necessary) and/or at booking and review all arrest, dual arrest situations and self-defense issues.
2. Ensure that all reports, including the **DPS-230-C** are properly completed, filed and forwarded.
3. Ensure that follow-up investigative responsibilities and victim safety and offender release considerations are coordinated to allow for shift changes and/or referral to specialized units.
4. Expedite the arrest warrant execution upon approval from the court.
5. Be aware that under CGS 54-63 c(a), any **offender arrested who uses or threatens to use a firearm cannot be released on a promise to appear** in violation of CGS 54-63c(a).

6. It is highly recommended that in domestic violence incidents or investigations of order of protection violations, that officers not notify the alleged offender of a pending arrest or offer voluntary surrender. Voluntary surrender should only be offered where there are concerns for officer safety, concern for victim safety or unusual circumstances that would warrant the voluntary surrender.
7. 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.
8. Conditions of release for family violence should be set by the duty supervisor or the bail commissioner. Either the duty supervisor or the bail commissioner should enter a File 20 into NCIC, with restrictions.
9. **The Shift Commander** 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, to override the Bail Commissioner's recommendation until the arraignment.

#### **G. General Considerations**

1. 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 or persons suspected of its commission and charge such person or persons with the appropriate crime(s). [CGS §46b-38b(a)]
2. The Family Violence Protection and Response Act (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.**
3. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether probable cause to arrest exists. **[CGS §46b-38b (b)], as amended by PA 04-66 to consider self-defense.**
4. **When two or more parties make complaints of violence, the officer should consider whether either party acted in self-defense.**
5. **Notwithstanding the provisions of CGS §46b-38b(a), when a peace officer reasonably believes that a party in an incident of family violence has used force as a means of self-defense, such officer is not required to arrest such party under this section.**

6. 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)]
7. 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.
8. 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.

#### **H. Prohibited Considerations**

1. The decision whether to arrest **should not** be influenced by the following:
  - a. The specific consent or request of the victim. [CGS §46b-38b(a)]
  - b. *The relationship of the parties.* [CGS §46b-38b(a)]--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 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.
  - 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 escalates 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.
  - g. *Assurances from the offender that the violence will cease.*—If probable cause for an arrest exists the officer must proceed accordingly.

2. Pursuant to CGS 1-210 (G), law enforcement agencies shall redact the name and address of the victim of a sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, voyeurism under section 53a-189a, [or] injury or risk of injury, or impairing of morals under section 53-21 or family violence, as defined in section 46b-38a, or of an attempt thereof, or (H) uncorroborated allegations subject to destruction pursuant to section 1-216, from any arrest record released to the public.

## **I. Jurisdiction**

### **1. Misdemeanor Arrests**

- a. 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:
  - i. 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 precinct and the officer is in immediate pursuit of the suspect. [CGS §54-1f(c)]
  - ii. An officer may arrest anywhere within Connecticut if his/her department holds a valid arrest warrant for the accused.

### **2. Felony Arrests**

- a. An officer may arrest anywhere within Connecticut if s/he has probable cause to believe the suspect has committed a felony.
- b. "Speedy information" **is not required** for a felony arrest; **however**, absent speedy information, it is recommended that the officer obtain an arrest warrant unless there is a concern for **safety and/or flight**.
- c. A criminal violation of an order of protection is a felony crime, and could be deemed to impact the safety of the victim. If a warrantless arrest is not made, an arrest warrant application and an execution of a warrant should be expedited.

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

- 1) Connecticut General Statute's section 54-1f authorizes an officer to arrest, without previous complaint and warrant, any person for any offense (felony or misdemeanor) that occurred within his/her precinct, when the person is taken or apprehended in the act or on the "speedy information" of others.
- 2) "Speedy Information" is information received during the course of or promptly after the commission of the crime and is of such character that the officer has reasonable grounds to accept it as true. Whether such information constitutes

speedy information depends on two considerations:

- a. 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)

#### **K. Warrant Arrest Considerations**

1. In family violence cases, an arrest warrant should be sought only in limited circumstance, 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; and
  - d. 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.
2. Once an officer has determined that probable cause exists, **an arrest warrant should be sought as soon as possible.**
3. **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.**
4. All crimes for which probable cause exists should be charged and the facts supporting each charge, including violence or threats of violence, should be detailed in the warrant and at the next day court presentation.



**L. Weapons**

1. Officers when making an arrest for domestic violence should seize all firearms in the possession of the arrestee and all firearms in plain view. [\[C.G.S. 46b-38b\(a\)\]](#)
  - a. Firearms not seized as evidence must be returned to the owner in the same condition in which they were seized, not more than seven days after the seizure.
  - b. Officers should photograph weapons of high value or collectables to record the condition of the weapons at the time of seizure.
  - c. Weapons seized as evidence are not subject to the above requirement.

*For more information see the Weapons Section in General information*

**M. Protective/Restraining Order File**

1. The Department will maintain a file of current protective, restraining, and standing criminal restraining orders.
  - a. This file will be accessible on a 24-hour basis to communications room personnel, investigating officers and supervisors.
  - b. It will be updated on a monthly basis to insure its accuracy.
2. Officers should verify the validity of all protective and restraining orders prior to taking enforcement action.
3. If an order requires an escort to allow the offender to retrieve personal belongings the officer is responsible only for:
  - a. Standing by to prevent a breach of peace
  - b. Remaining at the scene for reasonable time, not to exceed 20 minutes, while the offender gathers only necessary belongings such as clothes, toiletries or essential work materials.
  - c. Providing this escort service only one time
4. Out of state orders are valid within the State of Connecticut and the offender should be charged under the applicable Connecticut statute.

*For more information see the Protective Order Section in General information*

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#### **N. Domestic Violence Personal Property Retrieval**

1. When a judge issues an order forbidding 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.
2. When an order of protection allows for the respondent/defendant to return to the dwelling one time accompanied by an officer, to retrieve belongings:
  - a. Initiation of the retrieval shall be at the discretion of the agency in a time period that is reasonable and practical.
  - b. The officer must verify the order.
  - c. The officer must check to ensure that the retrieval has not already been completed by another officer.
  - d. The officer must contact the protected party to arrange a time for the retrieval.
  - e. 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.
  - f. 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.
  - g. The retrieval should last no longer than 20 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.
  - h. The officer must document that the retrieval has occurred in a CAD or incident supplement. If a call comes in as something other than retrieval, such as request for officer, etc., the incident must be changed to "Retrieval."
  - i. The protected party must have prior notice by the department, and must agree to the timing of the retrieval.
  - j. The respondent must not be allowed to use this as a means of harassing the protected party.
  - k. If it is not practical or safe for the victim to accompany the officer and the offender during the proper 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.

**O. Child Visitation Orders**

1. Child visitation orders are civil court orders that cannot be enforced by this Department. Officers should refer the individual of such complaints to their attorney or the issuing court.

**P. Domestic Violence Involving Milford Police Officers**

1. Prevention, Education, and Training
  - a. This Department will adhere to a zero tolerance policy towards police officer domestic violence and violations of the policy will not be tolerated.
  - b. The Training Unit will provide training to officers on domestic violence and the zero tolerance policy throughout all phases of an officer's career.
2. Department Responsibilities
  - a. The Department may in response to observed warning signs or at the request of an officer make confidential referrals to confidential counseling services through the [Employee Assistance Program](#) (EAP).
3. Officer Responsibilities
  - a. Officers who disclose to any member of the department that they have personally engaged in domestic violence are not entitled to confidentiality. The report of such criminal conduct must be treated as an admission of a crime and shall be investigated both criminally and administratively.
  - b. Officers with definitive knowledge of abuse and/or violence involving fellow officers must report such information in a timely manner to their supervisor. Failure to do so will subject the officer to investigation, disciplinary action, and possible criminal charges.
  - c. An officer who is the subject of a criminal investigation, protective or restraining order related to domestic violence, regardless of jurisdiction, is required to report him/herself to his/her supervisor and provide notice of the court dates, times, appearances, and proceedings in a timely manner.
  - d. An accused officer, who is the subject of any civil protective order proceeding, whether or not the order is issued and regardless of jurisdiction, shall notify his/her supervisor in a timely manner and provide a copy of the order, if issued, to his/her supervisor.

4. Incident Response Protocols

- a. All calls or reports, including those made anonymously, involving possible police officer domestic violence will be accepted and documented.
- b. Communications officers/dispatchers shall document all domestic violence calls received that involve, or appear to involve, a police officer and immediately notify the Headquarters Sergeant, regardless of the involved officer's jurisdiction.
- c. Upon arrival on the scene of a domestic violence call/incident involving a police officer, the primary officer shall immediately notify dispatch and request a supervisor be sent to the scene, regardless of the involved officer's jurisdiction.
- d. In responding to domestic violence situations where the victim or both parties are police officer(s), standard domestic violence response and investigation procedures should be followed.

5. On-Scene Supervisor Response

- a. A supervisor shall report to the scene of all police officer domestic violence situations, regardless of the involved officer's jurisdiction.
- b. In cases where probable cause exists, the on-scene supervisor shall ensure an arrest is made.
- c. If the offender has left the scene, the supervisor shall ensure a search is conducted and an arrest warrant is obtained if needed.
- d. Whenever an officer is arrested, the supervisor shall relieve the accused officer of his/her service weapon. Where possible under law all other firearms owned or at the disposal of the accused officer should be removed.
- e. Whenever a police officer domestic violence call does not result in an arrest, the on scene supervisor shall ensure that a written report explaining the reasons why an arrest was not made or a warrant was not sought is completed.
- f. The on-scene supervisor shall ensure the victim is informed of their victims rights and provided a victims rights card.
- g. The law enforcement investigator shall help the victim to develop a short-term safety plan.
- h. The on-scene supervisor shall inform the shift commander of all the facts as soon as possible.

6. Shift Commander Responsibilities

- a. The shift commander should make every attempt to respond to the scene.
- b. If one of the involved parties holds the rank of Sergeant or above, the shift commander shall respond to the scene.
- c. As soon as practical the shift commander shall make the proper notifications through the chain of command.
- d. The shift commander shall in a timely manner debrief all officers who respond to a police officer domestic violence call. During the debriefing, the shift commander shall:
  - i. Review department confidentiality guidelines.
  - ii. Reaffirm that officer's share information only on a need-to-know basis.

7. Department Follow-Up

- a. Arrest warrants charging police officers with domestic assault and civil protective orders issued at a later time shall be served by no fewer than two officers with at least one being of senior rank to the officer being served.
- b. On-scene and follow-up investigators shall proactively seek out information on existing restraining and/or protective orders and, if found, shall enforce them.
- c. Following the reported incident, a Supervisor shall be assigned as a principal contact for the victim. The assigned Supervisor will keep the victim apprised of the case throughout the adjudication process and provide the victim with a copy of the incident report.
- d. If a court order (e.g., Protective or Civil Restraining Order) is issued against the officer the following will be done:
  - i. The officer shall surrender all department issued firearms to the Chief of Police or his designee.
  - ii. The officer shall be prohibited from carrying a firearm while the order is in force.
  - iii. In accordance with [C.G.S. 53a-217](#), the officer will surrender all other firearm(s) or electronic defense weapon(s) to a person who is eligible to possess them or the Commissioner of Public Safety. The officer will then provide the Chief of Police or his designee with the proof of compliance to this requirement.

- iv. If the officer possesses a state pistol permit, he/she will surrender the permit to the State of Connecticut Department of Public Safety, Division of State Police, within the guidelines of the court order.
- v. If the officer possesses a town issued pistol permit, he/she will surrender the permit to the Chief of Police within the guidelines of the court order.
- vi. Based on the totality of the circumstances the officer may then be assigned to administrative duties, or suspended without pay, for the duration of the adjudication.

8. Post-Incident Administrative Decisions

- a. The Internal Affairs Unit shall conduct separate administrative investigation of the incident.
- b. If the facts of the case indicate that domestic violence has occurred or any departmental policies have been violated, administrative action shall be taken separate and distinct from any criminal proceedings as soon as practicable.
- c. Independent of the outcome of the criminal case, the department shall adhere to all Orders and policies relating to the incident.

9. Criminal Conviction

- a. Federal law ([18 U.S.C. 922\(g\) \(9\)](#)) prohibits anyone convicted of a misdemeanor domestic violence crime from carrying firearms.
- b. Any police officer convicted of a domestic violence crime as defined herein shall have his/her police powers revoked, and the Department may begin termination proceedings.

**Q. Domestic Violence Involving Out of Agency Law Enforcement Officers**

- 1. If an officer from another law enforcement agency is involved in a family violence incident in Milford, all responding officers, and supervisors shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from this Department.
- 2. The shift commander shall make the appropriate notifications through the chain of command.

The Chief of Police, or his designee, shall notify the senior on-duty supervisor in the accused officer's jurisdiction as soon as possible.

## 6. General Information

### A. DUAL COMPLAINTS 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] C.G.S. § 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:

[The FVPRA] § (b) of C.G.S. §46b-38 further requires that; *“(w)here complaints are made by two or more opposing parties, **the officer shall evaluate each complaint separately** to determine whether such officer should make an arrest or seek a warrant for an arrest.”* 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 (b)]

**Dual arrests should be made only when probable cause exists to charge each party with a crime.** 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:

Subsection (b) of C.G.S. §46b-38 [The FVPRA] is significant because it provides an **exception to the mandated arrest required** by subsection (a).

*“Notwithstanding the provisions of subsection (a) . . . , when a peace officer reasonably believes that a party in an incident of family violence has used force as a means of self-defense, such officer is not required to arrest such party under this section.”*

**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.** C.G.S §53a-19 is applicable in the context of family violence crime and addresses such circumstances.



**(1) 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, he/she must have **two "reasonable beliefs."**
  1. The first is a reasonable belief that physical force is being used or about to be used upon her/him or another.
  2. The second is a reasonable belief that the degree of force he/she is using to defend herself 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 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 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 (he/she) 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.

**B. 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 an ex parte restraining order, a restraining order, protective order, standing order of protection, or a foreign order of protection.

Once probable cause for arrest has been established and if the offender has left the 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. 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 CGS §54-1f.

1. 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.
2. 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.
3. Connecticut has several types of *orders of protection* available for victims of family violence, including:
  - a. Restraining Order (RO)
  - b. Protective Order (PO)
  - c. Standing Criminal Protective Order (SCPO)
  - d. Foreign Orders of Protection
  - e. Conditions of Release (COR) (that include “no contact with the victim” and “not to use or possess dangerous weapons.”)
  - f. Common Law Restraining Orders

4. Each type of order has specific characteristics, requirements for issuance and penalties for violation.
5. 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.
6. 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 CGA §53a-223, §53a-223a and §53a-223b, as amended by PA 11-152, regarding immunity for persons protected by an order of protection.)
7. **Standard conditions** in an OOP(CGS §53a-222 or §53a-222a) or SCPO 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 s/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.

### C. MULTIPLE ORDERS

1. 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.
2. In situations where there are multiple orders, officers should document the existence of and issuance date of all orders in the report and arrest for any and all valid arrestable violations of such orders.

#### Verification of an Order of Protection

1. Protective Order (PO), Standing Criminal Protective Order and Restraining Order Violations are felonies pursuant to Conn. Gen. Stat. §53a-223, 53a-223(a), 53a-223(b).
2. Any law enforcement officer may enforce any OOP where they have a good faith basis to believe it is valid.
3. The best way to verify an OOP is to check **with the Connecticut Registry of Protective Orders–File 20.**
4. Another method may include asking the victim if he/she has a copy of the order.

### D. 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**

- Not later than two business days after the occurrence of any event that makes a person ineligible to possess a pistol or revolver **OR OTHER FIREARMS and ammunition (CGS §29-26k (a))** (e.g., person is subject to a -OOP see page 24 for other disqualifying events) such person must;
  - Transfer in accordance with CGS §29-33, or sell to a federally-licensed firearms dealer, any pistols or revolvers (firearms with a barrel length of less than twelve inches [CGS §29-27 and §53a-3 (18)]) OR ANY FIREARM and ammunition in his possession in accordance with any applicable state or federal laws (See CGS §29-36k(a)(1), as amended by PA 11-152, for specific conditions), or
  - Deliver or surrender such pistols or revolvers **OR OTHER FIREARMS and ammunition** to the Commissioner of Emergency Services and Public Protection. [CGS §29-36k(a)(2)]
1. Persons subject to a OOP are prohibited from possessing a firearm or electronic defense weapon. [CGS §53a-217 as amended by PA 01-130 Section 15]

2. Persons subject to a COR “no use or possession of a dangerous weapon” are prohibited from possessing any dangerous weapons. [CGS §53a-222 or §53a-222a].
3. **Current statute creates an exception for ex-parte orders and therefore does not trigger mandatory surrender. For ex parte orders officers should seek a voluntary surrender.**
4. Refer to the 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.
5. Although CGS §29-36k requires pistols and revolvers or **ANY FIREARM** to be delivered or surrendered to the Commissioner of Emergency Services and Public Protection, departments should develop procedures to accept any delivered or surrendered pistols and revolvers and forward them to the Commissioner of Emergency Services and Public Protection.
6. If a department does not have such procedures, then a person attempting to surrender a weapon to a municipal police department should be referred to the Commissioner of Emergency Services and Public Protection, unless the delayed surrender would cause a violation of the criminal possession statute. In such a case, the municipal police department should accept the weapon and forward it to the Commissioner of Emergency Services and Public Protection. (PA 01-130 Section 14 states that the Commissioner of Public Safety, Chief State’s Attorney and the Connecticut Police Chiefs Association shall develop protocol to ensure compliance with [CGS§29-36k].

### **Permit to Carry**

1. The issuing authority of a state permit, temporary or state permit,) to carry a pistol or revolver must revoke the permit if the person holding the permit becomes subject to a OOP in a case that involves the use, attempted use, or threatened use of physical force against another person. [CGS §29-32]
2. Within five days of receiving written notice that a permit has been revoked, the holder of the permit must surrender the permit to the issuing authority. [CGS §29-32]
3. If an offender does not surrender the permit, s/he should be arrested for Failure to Surrender Permit to Carry a Pistol or Revolver, and the permit should be confiscated and immediately forwarded to the Commissioner of the Department of Emergency Services and Public Protection. [CGS §29-32, as amended by PA 01-130 Section 8]
4. 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 as Evidence of a Family Violence Crime**

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

### **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 Pistol or Revolver, or Electronic Defense Weapon**

The offender should be arrested for Criminal Possession of a Pistol or Revolver (CGS §53a- 217c), and the weapon should be seized as evidence of the crime whenever a pistol or revolver is found in the possession of an offender who:

knows s/he is subject to a RO, PO or SCPO issued by the court, after notice and an opportunity to be heard, in a case involving the use, attempted use or threatened use of physical force against another person;

has been convicted of a felony;

### **Seizure of Firearms from Person Posing Risk to Self or Others**

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, (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.

## **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 forward copies of the case report and all supplemental reports to one of the United States Attorney's Office (see below) for 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**

1. Requires states and Indian tribes to enforce orders of protection issued by foreign states and Indian tribes as if the orders had been issued by the non-issuing, enforcing state or Indian tribe.
2. A valid order of protection is defined as an order of protection that was issued by a court with jurisdiction over the parties and matter under the laws of such state or Indian tribe and in circumstances where the defendant was given reasonable notice and the opportunity to be heard sufficient to protect the defendant's due process rights.
3. The provision applies to any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final protection orders issued by civil and criminal courts (other than support or child custody orders). In other words, it extends to temporary and final, civil and criminal orders of protection.
4. The provision states that officers should enforce out-of-state orders of protection that are presented to them if the order appears valid on its face, i.e., it contains both parties' names and has not yet expired. The provision further states that even if the out-of-state order is uncertified, it should be enforced if it meets the requirements of facial validity. (Refer to the section on Enforcement of



Foreign Jurisdiction Orders of Protection, page 22.)

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

1. Section 922(d)(8) prohibits the knowing transfer of a firearm to a person who is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child.
2. Section 922(g)(8) prohibits the possession of a firearm by persons subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.
3. Section 922(g)(9) prohibits the possession of a firearm or ammunition by any person who has been convicted in any court of a 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.



## COMPARISON OF ORDERS OF PROTECTION

### Comparison of Orders of Protection<sup>1</sup>

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> (C.G.S. §46b-38c) (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 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>➤ Judge may modify or terminate at any time, without victim knowing.</li> <li>➤ Check with Protection Order Registry</li> </ul>	<ul style="list-style-type: none"> <li>➤ Offender not to assault, threaten, abuse, harass, follow, interfere with, or stalk the protected person (partial/limited order) (CT01).</li> <li>➤ Offender must stay away from the protected person's home (full/residential stay-away order) (CT03).</li> <li>➤ Offender to have NO CONTACT with victim (CT05).</li> <li>➤ Offender to remain 100 yards away from victim (CT16).</li> <li>➤ Order may extend to victim's minor children (CT19), 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>➤ Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).</li> </ul>
	<ul style="list-style-type: none"> <li>➤ Victim files an "Application for Relief from Abuse" in the Family</li> </ul>	<ul style="list-style-type: none"> <li>➤ Ex-parte order lasts until day of hearing,</li> </ul>	<ul style="list-style-type: none"> <li>➤ Same provisions as in Protective Orders (above).</li> <li>➤ May include custody</li> </ul>	<ul style="list-style-type: none"> <li>➤ Criminal Violation of a Restraining</li> </ul>

<sup>1</sup> The orders outlined in this chart are not mutually exclusive. A family violence victim could have more than one valid order from the same category or more than one valid order from multiple categories in effect at the same time (i.e. two protective orders, a protective order and a restraining order, etc.). Law enforcement must enforce the strictest provisions of any and all valid orders.

<p><b>Restraining Order (RO)</b> (C.G.S. §46b-15)</p> <p><i>AKA: TRO, Temporary RO, Ex Parte RO.</i></p>	<p>Division of Superior Court (civil court).</p> <ul style="list-style-type: none"> <li>➤ Ex-parte order may or may not be immediately granted by judge. A hearing on the order should be scheduled within 14 days.</li> <li>➤ Victim must ensure that offender is “served” with notice of hearing at least 5 days prior to 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>	<p>which is within 14 days of date of issuance.</p> <ul style="list-style-type: none"> <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>	<p>and visitation orders that are in effect for the duration of the order.</p>	<p>Order for violating the no contact or no-violence provisions of the RO (C.G.S. § 53a-223b) (D Felony).</p> <ul style="list-style-type: none"> <li>➤ Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).</li> <li>➤ Victim also can file a Motion for Contempt in court where order was issued.</li> </ul>
<p><b>Standing Criminal Protective Order (SCPO)</b> (C.G.S. § 53a-40e)</p>	<ul style="list-style-type: none"> <li>➤ Issued by a criminal court judge at the time of sentencing.</li> <li>➤ Can only be issued if offender is <u>convicted</u> of: <ul style="list-style-type: none"> <li>▪ A Family Violence crime;</li> </ul> </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</li> </ul>	<ul style="list-style-type: none"> <li>➤ Offender not to assault, threaten, abuse, harass, follow, interfere with, or stalk the protected person (partial/limited order) (CT01).</li> <li>➤ Offender must stay</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> </ul>

<p><i>AKA: Standing Criminal Restraining Order, Permanent Protective/ Restraining Order</i></p>	<p>or</p> <ul style="list-style-type: none"> <li>▪ Any crime against a family/household member for good cause shown.</li> </ul> <ul style="list-style-type: none"> <li>➤ No cost to victim.</li> <li>➤ Victim may not want a SCPO or even know the SCPO has been issued.</li> </ul>	<p>shall remain in effect for any duration specified by the court at the time of sentencing.</p> <ul style="list-style-type: none"> <li>➤ Orders can be modified and/or terminated without notice to or consent of the victim.</li> </ul>	<p>away from the protected person's home (full/residential stay-away order) (CT03).</p> <ul style="list-style-type: none"> <li>➤ Offender to have NO CONTACT with victim (CT05).</li> <li>➤ Offender to remain 100 yards away from victim (CT16).</li> <li>➤ Order may extend to victim's minor children (CT19), 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>➤ Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).</li> </ul>
<p><b>Foreign Orders of Protection</b> (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; or (4) Indian tribe;</li> <li>▪ Issued to protect a person from violence or threatened violence (i.e. order prohibits offender from committing an act of violence against the protected party);</li> <li>▪ Issuing court had jurisdiction over the parties; and</li> <li>▪ Offender had reasonable notice and opportunity to be heard. Note: ex parte orders are enforceable provided the state/tribal law provides for a hearing within reasonable time.</li> </ul> </li> <li>➤ Presume an order is valid if the content and form appear to be authentic. The order does NOT have to be a certified copy.</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>➤ Arrest for all other crimes for which there is probable cause (e.g., criminal trespass, harassment, threatening, burglary, assault, intimidating a witness, etc.).</li> </ul>

<p><b>Conditions of Release (COR)</b> (C.G.S. §§ 53a-222, 53a-222a, 54-63c, 54-63d)</p>	<ul style="list-style-type: none"> <li>➤ A person charged with a family violence crime can be released with non-financial conditions of relief<sup>2</sup> by: <ul style="list-style-type: none"> <li>▪ Law enforcement;</li> <li>▪ Bail commissioner; or</li> <li>▪ A judge.</li> </ul> </li> <li>➤ To verify: <ul style="list-style-type: none"> <li>▪ Check File 20;</li> <li>▪ Contact clerk of court in JD/GA where order issued;</li> <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</li> <li>➤ on travel, association, or place of abode;</li> <li>➤ Not engage in specified activities, including use/possession of dangerous weapon, 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> <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>	<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. § 53a-222).</li> <li>➤ If released on a misdemeanor or charge: violation of conditions of release in the second degree (C.G.S. § 53a-222a).</li> <li>➤ If, in the course of violating a COR, a person commits any other crime (i.e. threatening, intimidating a witness, assault, etc.), that person should be arrested for any other appropriate crime(s).</li> </ul>
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<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).

<b>Common Law 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: vacate 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 criminal “behavior” targeted by the Order, such as an arrest for trespass, harassment, custodial interference , etc.</li></ul>
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