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|  | BRIDGEPORT POLICE<br>DEPARTMENT       | Distribution<br>ALL PERSONNEL                        | General Order Number<br><b>5.05</b> |
|   | POLICY AND PROCEDURE<br>GENERAL ORDER | Original Issue Date<br>6/6/19                        | Reissue/Effective Date<br>1/18/23   |
| Order Title:<br><br><b>FAMILY VIOLENCE<br/>INVESTIGATIONS</b>                     |                                       | Accreditation Standard:<br>POSTC: 1.7.13<br>CLESP: 5 | Section<br>5                        |
|   |                                       | Section Title<br>PATROL FUNCTIONS                    |                                     |
| Rescinds:   |                                       | <b>Roderick Porter, Chief of Police</b>              |                                     |

*This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting*

## CONNECTICUT MODEL POLICY

### I. PURPOSE

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

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

### II. DEFINITIONS AS PER §46b-38a

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

“**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).

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

- (A) Spouses or former spouses;
- (B) parents or their children;
- (C) persons related by blood or marriage;
- (D) persons other than those persons described in subparagraph (C) of this subdivision presently residing together or who have resided together;
- (E) persons who have a child in common regardless of whether they are or have been married or have lived together at any time; and
- (F) persons in, or who have recently been in, a dating relationship.” Conn. Gen. Stat. § 46b-38a(2) (2013).

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

**“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.

**“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:

- Creating a plan as to what to do next.
- Ensuring that the victim and the child(ren) have the ability to call 911.
- Ensuring that the victim can get to a safe location.
- Calling friend, family member or advocate for support.
- Going to a safe place for the night.

**“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.

**“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 or trauma and violence on a person. The Act adds that the services be delivered by a regional family violence organization that employs or provides referrals to counselors who:

1. Make available to family violence victims resources on trauma exposure and its impact on treatment,

2. Engage in efforts to strengthen the resilience and protective factors of victims of family violence who are affected by and vulnerable to trauma,
3. Emphasize continuity of care and collaboration among organizations that provide services to children, and
4. Maintain professional relationships for referrals and consultations with programs and people with expertise in trauma-informed care.

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

“**Family Violence Victim Advocate - FVVA**” is a nonprofit advocate who is a certified domestic violence counselor trained in providing trauma-informed care. She/he 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). She/he will inform the crime victim of her/his constitutional rights as a victim, explain what to expect during the criminal case, and help her/him navigate through the court system. She/he provides information about the court case, including protective orders and restraining orders, to help victims make informed decisions. The 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**.

“**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 child, adolescent and teen victims of domestic violence and their families.

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

### **III. PROCEDURES**

#### **Telecommunication Personnel**

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

- the **caller's** name and relationship to the offender;
- the **victim's** name and the offender's name, and their relationship to each other;
- the nature of the abuse, or suspected or sustained injuries;
- previous available complaint history;
- whether the victim has a current OOP (Order of Protection);
- whether a court order of protection is in place;

- Check the Connecticut Protective Order Registry – File 20 and relay to the responding officer;
- whether children are involved;
- whether there is a presence of alcohol, drugs, or mental illness; and
- 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.

## **Responding Officer (Generally)**

### General Situations:

- Any complaint of Family Violence shall be responded to and investigated promptly.
- A subsequent complaint of Family Violence shall be responded to and investigated when received by the officer on duty regardless of who investigated the initial complaint.
- Officers shall conduct a complete investigation to determine if probable cause exists for an immediate arrest.
- The officer should not leave the scene of the Family Violence complaint until, in his/her judgment, the situation is under control and the likelihood of further violence has been eliminated.
- Should a complainant in a Family Violence situation elect to leave the location of the complaint, the officer shall provide assistance to do so with reasonable safety.

### Probable Cause

When the officer believes that the probable cause necessary to make an immediate arrest is questionable or doubtful, the officer shall explain the situation to the complainant.

Officers may seek the assistance of prosecutorial staff to assist in reviewing the details of the case and determining if an arrest warrant application should be submitted. All measures taken in this regard shall be documented in the officer’s report.

### Use of Interpreters

When the parties are non-English speaking, an unbiased interpreter should be obtained as soon as possible.

A member of this department who may be fluent in a foreign language shall be used whenever possible. If unavailable, neighboring agencies should be contacted to seek a police officer fluent in a foreign language as a preference before seeking a civilian interpreter.

Avoid the use of friends or family who may be biased toward one of the parties.

### Reports

- Reports must be as detailed as possible.
- Probable cause for the arrest must be clearly stated in the report.

- If no arrest is made, the reasons for not making the arrest must be clearly stated in the report.
- All reports shall indicate that there was a family relationship between the parties and specify what that relationship is.
- The investigating officer who responds to a Family Violence incident shall complete a “Family Violence Offense Report” DPS-230-C, **whether or not an arrest is made**. In the case of arrests by warrant, form DPS-230-C will be completed upon service of the warrant.
- All paperwork concerning Family Violence incidents must be carefully reviewed and signed by the appropriate supervisor.
- If the victim requires transportation for the purpose of obtaining a safe location, such transportation may be provided by the Bridgeport Police Department if no other means of transportation are available or feasible.

#### **IV. INVESTIGATIONS**

##### **Responding Officer**

- Assess and define the nature of the incident by talking to parties separately – where it is safe and practical - and not in view of one another.
- Determine the presence and status of any weapons. Refer to section 6.3.9 below.
- 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 instruments or possessing any deadly weapon.”
- Determine whether children are present and complete the following if necessary:
  - Ascertain that they are safe and unhurt.
  - If child abuse and/or neglect is suspected, report to DCF by phone and complete form DCF-136. [CGS §17a-101(c)]
  - Interview children as witnesses according to circumstances and department policy; make arrangements for their care if dual custodial arrests are made;
  - Do not use children to serve as an interpreter for the adult.
- If abused and/or neglect of an elderly person or a person with intellectual disability is suspected complete the required reports and/or notifications.
- Obtain a statement from the victim, and when appropriate, a signed medical release form with victim’s consent.
- Carefully document the condition of the scene.
- When possible, photograph the scene and any visible injuries on the victim.
- When complaints of family violence are made by two or more opposing persons, a peace officer is not required to arrest both persons. The peace officer shall evaluate each complaint separately to determine which person is the dominant aggressor. [C.G.S. §46b-38a(b)]
- Give the victim(s) a “Victim of Crime Card” containing information about victims' rights and phone numbers for services; [CGS §46b-38b(d)] (FYI - CGS §54-216 was

amended by Sec. 6 of PA 11-152 to permit victims of domestic violence to obtain restitution services from the Office of Victim Services.)

- 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. Such assistance shall include, but is not limited to:
  - a. Assisting the victim in obtaining medical treatment, if such is required;
  - b. Notifying the victim of their rights to file an affidavit for a warrant for arrest;
  - c. Informing the victim of any available family violence services, including:
    - 1) Providing contact information for a regional family violence organization that employs, or provides referrals to, counselors who are trained in providing trauma-informed care; and
    - 2) Providing a copy of the information concerning services and resources available to victims of domestic violence as published pursuant to Connecticut General Statutes §10-10g;
  - d. If there is a child at the scene, providing the victim a copy of the documents concerning behavioral and mental health evaluation and treatment resources available to children developed pursuant to section 17a-22r for the mental health region in which such victim is located;
  - e. Referring the victim to the Office of Victim Services
  - f. Providing assistance in accordance with the uniform protocols for treating victims of family violence whose immigration status is questionable; and/or
  - g. If no probable cause exists for an arrest of either party, the officers will provide services as indicated above and will remain at the scene for a reasonable amount of time until, in their judgment, the likelihood of further violence has been eliminated.
- Police Vehicle Documentation
  - a. Each Bridgeport Police Department vehicle used by police officers, marked or unmarked, used in the course of their duties, shall contain copies of documents concerning:
    - 1. Behavioral and mental health evaluation and treatment resources available to children, for the mental health region in which such technician is located; and

2. Services and resources available to victims of domestic violence, published pursuant to Connecticut General Statutes §10-10g.
  3. The forms are also available under documents in the Power DMS application: [Victim Services Forms](#)
- b. Officers may provide a copy of such documents to any person or family of a person who may benefit from the services or resources described in such documents.
- Officers are strongly discouraged from requesting information about or otherwise investigating or assisting in the investigation of citizenship or residency status of any victim, unless such an inquiry or investigation is required by statute, ordinance, federal regulation, or a court decision. Officers should refer to the uniform enforcement protocol for treating victims of family violence whose immigration status is questionable at:  
  
[http://www.ct.gov/post/lib/post/general\\_notices/general\\_notice\\_10-1.pdf](http://www.ct.gov/post/lib/post/general_notices/general_notice_10-1.pdf).
  - Before leaving the scene, identify the local domestic violence service provider, and help the victim to develop a short-term safety plan.
  - Explain to the victim the process for arrest, arraignment and bond, including the following:
    - The offender will be arraigned the next available court date.
    - 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*.
    - 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.)
  - Victim safety is enhanced when she/he has information in regard to the offender’s incarceration status. The offender might not be held overnight, and may be released shortly after the arrest. A representative of the arresting agency shall provide the victim(s) with the incident case number and appropriate contact information for the investigating agency. Victim(s) are to be encouraged to contact the investigating agency, at the number provided, for periodic updates as to the offender’s incarceration status, as they deem appropriate. It is highly recommended that in domestic violence incidents or investigations of order of protection violations, that an

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

- When an officer feels that a recorded **911 call** or any recorded call for police response will enhance an investigation, she/he should request, pursuant to department policies, that the recorded call be preserved.
- Complete, file and forward to the appropriate agencies a Family Violence Offense Report, DPS-230-C, to include the Crimes Analysis Unit at the Department of Emergency Services and Public Protection (DESPP).
- Document any visible injuries within the report.
- Document any verbal statements made by either victim(s), offender or witnesses and distinguish the statement with quotes where appropriate
- Initiate a BOLO (Be On the Lookout) for the offender if probable cause for an arrest is developed and the offender has left the scene and complete a signed/sworn report/affidavit to support the arrest in the event the offender is located and arrested.
- The provisions of CGS §46b-38b shall not apply to persons who are, attending an institution of higher education and presently residing together in on-campus housing, provided such persons are not in a dating relationship. [CGS §46b-38a(j) as amended by PA 18-5]

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

### **Supervisor**

- Conduct a probable cause review at the scene (when necessary and feasible) and/or at booking and review all arrests, dual arrest situations and self-defense issues.
- Ensure that all reports, including the **DPS-230-C** are properly completed, filed and forwarded.
- 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.
- Expedite the arrest warrant execution upon approval from the court.
- 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.
- It is highly recommended that in domestic violence incidents or investigations of order of protection violations, that an officer not notify the alleged offender of a pending arrest or offer voluntary surrender. Voluntary surrender should only be offered where there are



concerns for officer safety, concern for victim safety or unusual circumstances that would warrant the voluntary surrender.

- The supervisor shall notify the Bridgeport Police Department Domestic Violence Liaison of each Domestic Violence incident. Such notification shall be made in writing, email will be sufficient notification. The Domestic Violence Liaison shall expeditiously review and oversee the Police Response to Crimes of Family Violence Model Policies, Procedures, and Guidelines and to enhance the Bridgeport Police Department's response to victims, community, and court personnel with respect to family violence.
- 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.
- The shift supervisor is responsible for setting bail after arrest. In the rare instance when a Bail Commissioner reduces the bond set by law enforcement, a shift supervisor, who has concern for the safety of the victim, may contact the State's Attorney within the jurisdiction, to override the Bail Commissioner's recommendation until the arraignment.
- The Bridgeport Police Department 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 the department's response to victims, community and court personnel with respect to family violence.

## V. ARRESTS

### General Considerations

- Except as provided in this section, whenever an officer determines upon speedy information that a family violence crime, as defined in CGS §46b-38a(3), has been committed within such officer's jurisdiction, such officer shall arrest the person suspected of its commission and charge such person with the appropriate crime(s). [CGS §46b-38b(a)]
- The FVPRA does not alter standards for arrest. Traditional constitutional and statutory standards, including CGS §54-1f guidelines, should direct decisions and procedures for making and processing family violence arrests. **An officer must determine that probable cause exists for any charge which forms the basis for an arrest.**
- When complaints of family violence are made by two or more opposing persons, a peace officer is not required to arrest both persons. The peace officer shall evaluate each complaint separately to determine which person is the dominant aggressor [CGS §46b-38b(b) as amended by PA 18-5].
- In determining which person is the dominant aggressor, the peace officer shall consider the need to protect victims of domestic violence,
  1. Whether one person acted in defense of self or a third person;
  2. The relative degree of any injury;
  3. Any threats creating fear of physical injury; and

4. Any history of family violence between such persons, if such history can reasonably be obtained by the peace officer.
- The peace officer shall arrest the person whom the officer believes to be the dominant aggressor.
  - No officer investigating an incident of family violence shall threaten, suggest or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party. [CGS §46b-38b(b)]
  - An officer should emphasize to the parties the criminal nature of family violence and that the criminal action is being initiated by the State, not the victim.
  - An officer can choose to make a custodial arrest, a summons arrest, or, in limited situations, may apply for an arrest warrant. Determination of which type of arrest to pursue should include careful consideration of imminent safety concerns for the victim and her/his children.
    - Whether or not an accused posts bond, he or she shall be scheduled for arraignment before the superior court for the geographic area where the offense is alleged to have been committed on the next regularly scheduled day of court business. CGS §54-1g
    - If an arrested person is hospitalized, or has escaped or is otherwise incapacitated, the person shall be presented, if practicable, to the first regular sitting after return to police custody.

### **Prohibited Considerations**

- The decision whether to arrest *shall not* be influenced by the following:
  - *The specific consent or request of the victim.* [CGS §46b-38b(a)]
  - *The relationship between the persons suspected of committing a family violence crime.* [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.
  - *Solely at the request of the victim.*
  - *The fact that civil proceedings such as separation, divorce or custody disputes are pending.* -- Pending civil action does not preclude a thorough investigation and arrest if probable cause exists. Officers should not assume parties are using claims of domestic violence to gain advantages in civil actions. It is well documented that violence escalates when victims take steps to seek protection and/or to leave a violent relationship.
  - *The victim's previous unwillingness to participate in the complaint or arrest process.* -- Often, a victim may be immobilized by fear. Officers should treat each incident with equal importance. There is no way to tell, for example, when a victim may be in more danger or when an abusive partner may become more violent.

- *The number or frequency of calls for police assistance at a particular location.* --It is well documented that the level of violence may increase over time and escalate significantly when a victim seeks assistance.
- *The victim's wishes to not have the suspect arrested.* -- Officers should emphasize that criminal action is being initiated by the state, not the victim.
- *Assurances from the offender that the violence will cease.* -- If probable cause for an arrest exists the officer must proceed accordingly.

## **Jurisdiction**

### ***Misdemeanor Arrests***

- An officer (who does not have statewide jurisdiction) may arrest for misdemeanor crimes only within the geographical boundaries of the territory covered by his/her department, with two exceptions:
  - An officer may arrest outside of his/her jurisdiction anywhere within Connecticut if there is probable cause based on "speedy information" that the crime(s) occurred within his/her precinct and the officer is in immediate pursuit of the suspect. [CGS §54-1f(c)]
  - An officer may arrest anywhere within Connecticut if his/her department holds a valid arrest warrant for the accused.

### ***Felony Arrests***

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

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

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

- Whether the officer was justified in accepting the information and relying on it. (It is the officer's responsibility to check the truthfulness, reliability, and basis of knowledge of the person providing the information)

### **Warrant Arrest Considerations**

- In family violence cases, an arrest warrant should be sought only in limited circumstance, such as:
  - When further investigation is needed to establish probable cause;
  - When the offender cannot be located pursuant to speedy information;
  - For a misdemeanor arrest when there is no speedy information; and
  - For a felony arrest when there is no speedy information, unless there is a concern for safety and/or flight. A criminal violation of an order of protection is a felony crime and should be deemed to impact the safety of the victim.
- Once an officer has determined that probable cause exists, **an arrest warrant should be sought as soon as possible.**
- **If a warrant must be sought in any incident involving the use or threatened use of a weapon (electronic defense weapon or firearm), an officer should expedite the application for an execution of the arrest warrant.**
- All crimes for which probable cause exists should be charged and the facts supporting each charge, including violence or threats of violence, should be detailed in the warrant and at the next day court presentation.

### **VI. DUAL COMPLAINTS, DOMINANT AGGRESSOR AND SELF DEFENSE**

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

As discussed previously, [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 and Dominant Aggressor**

When complaints of family violence are made by two or more opposing persons, a peace officer not required to arrest both persons. The peace officer shall evaluate each complaint separately to determine which person is the dominant aggressor. In determining which person is the dominant aggressor, the peace officer shall consider the need to protect victims of domestic violence, whether one person acted in defense of self or a third person, the relative degree of any injury, any threats creating fear of physical injury, and any history of family violence between such persons, if such history can reasonably be obtained by the peace officer. The peace officer shall arrest the person whom the officer believes to be the dominant aggressor. [CGS §46b-38b(b) as amended by PA 18-5].

If a peace officer believes probable cause exists for the arrest of two or more persons, in lieu of arresting or seeking a warrant for the arrest of any person determined not to be the dominant aggressor, such peace officer may submit a report detailing the conduct of such person during the incident to the state's attorney's office 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 when appropriate, dual arrests. [CGS §46b-38b(c)].

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

No peace officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a family violence incident for: (1) an arrest based on probable cause; or for (2) any conditions or release imposed pursuant to subsection (b) of 54-63c; or (3) determinations made pursuant to subsection (b) or (c) of CGS 46b-38b(e).

*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, unless the dominant aggressor has been identified or a request will be made to have the case reviewed by a state's attorney. [CGS 46b-38b(c), as amended by PA 18-5]. In some instances, officers may receive dual complaints, but thorough investigation may only establish probable cause to arrest one of the parties. In other instances, there may be probable cause to arrest one

party for a family violence crime and the other for a non-family violence charge, such as interfering with an officer. This does not constitute a dual arrest. Officers should thoroughly document in the report all claims and complaints, as well as any facts and/or circumstances that either corroborate or disprove the claim or complaint. An officer should determine what type of arrest is necessary and appropriate under the circumstances, e.g., a misdemeanor summons arrest, a custodial arrest, or, in limited situations, a later arrest by warrant.

### **Self-Defense**

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

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

The law in Connecticut recognizes that **the use of physical force upon another person which would otherwise constitute a criminal offense is justifiable and therefore not criminal in certain circumstances.** *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, she must have **two "reasonable beliefs."**
  - The first is a reasonable belief that physical force is being used or about to be used upon her or another.
  - The second is a reasonable belief that the degree of force 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:
  - The situation from the perspective of the person acting in self-defense; that is, what did the person actually believe, and - because statute requires that the defendant's belief be reasonable, and not irrational or unreasonable under the circumstances, and
  - Whether a reasonable person in the defendant's circumstances could have reached that belief.
- 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.

## **VII. OFFICER-INVOLVED DOMESTIC VIOLENCE CASES**

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

### **Sworn Personnel from an Outside Agency:**

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

### **Sworn Personnel from within the Law Enforcement Agency:**

- If an officer from a law enforcement agency is involved in a family violence incident and probable cause exists for the officer's arrest, the officer shall be arrested.
- The highest-ranking on-duty Shift Supervisor shall notify the following personnel:
  - Chief of Police,
  - Deputy Chief of Division,
  - Officer's Supervisor, and
  - Internal Affairs, when such division exists.
- The family violence incident will be criminally investigated by an officer at least one (1) rank higher than the officer involved in the incident.
  - The investigating officer shall ensure that the agency complies with the policy provisions of section 5.05 above and CGS §46b-38b(d).
- An Internal Affairs investigation will be conducted during or upon the conclusion of the criminal investigation, if such a division exists within the law enforcement agency.
- If a court order (i.e., Protective or Civil Restraining Order) is issued against the officer, the following will be done:
  - The officer shall surrender all law enforcement agency issued firearms to the Chief of Police or his/her designee,
  - The officer shall be prohibited from carrying a firearm while the Order is in forcing effect.
- Further, in accordance with Connecticut General Statutes, the officer will:
  - Surrender all other firearm(s) or electronic defense weapon(s) to the Public Safety Commissioner (DESPP), or a federally licensed firearms dealer, as required by (CGS 29-36k). Provide the Chief of Police or his/her designee with the proof of this requirement.
  - If the officer possesses a state pistol permit, he/she will surrender the permit to the State of Connecticut Department of Emergency Services and Public Protection, Division of State Police, within the guidelines of the court order. (CGS 29-36k)
  - If the officer possesses an issued pistol permit from his/her agency, he/she will surrender the permit to the Chief of Police within the guidelines of the court order.
- The Chief of Police or his/her designee may:
  - Suspend the officer without pay.
  - Assign the officer to administrative duties.



## VIII. ORDERS OF PROTECTION (OOP)

**“Conditions of Release Order”** for family violence should be set by Law Enforcement or Bail Commissioner upon release from custody, and remains in effect until 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.

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

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

- 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.
- 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.
- 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.
- Pursuant to 53a-223, no person who is listed as a protected person in any order of protection may be liable for:
  - 1) Soliciting, requesting, commanding, importuning or intentionally aiding in the violation of the order or
  - 2) Conspiracy to violate such order

**“Standing Criminal Restraining Order”** (SCRO) is identical to a protective order but lasts forever into the future, following the finalization of the criminal prosecution, unless and until modified or revoked by the court for good cause shown. An SCRO can be obtained in certain domestic/family violence cases (C.G.S. §46b-38c), stalking cases (C.G.S. §54-1k), where there has been issued a civil restraining order (C.G.S. §46b-15), and where a defendant has previously violated a protective order issued in the case (C.G.S. §53a-223).

**“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.

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.

- A very important role for law enforcement in family violence cases is the enforcement of *Orders of Protection*. Police should make use of the Connecticut Protective Order Registry – File 20.
- Officers should be aware that the words “**Orders of Protection**” generally could refer to any type of order. Most especially, in the federal law regarding interstate enforcement of *orders of protection*, the reference is general--not specific as to any one of Connecticut's types of such orders. Officers should be aware that each state has its own type(s) and titles of order(s) that may or may not be equivalent to one or any of Connecticut's orders.
- Connecticut has several types of *orders of protection* available for victims of family violence, including:
  - Restraining Order (RO)
  - Protective Order (PO)
  - Standing Criminal Protective Order (SCPO)
  - Foreign Orders of Protection
  - Conditions of Release (COR) (that include “no contact with the victim” and “not to use or possess dangerous instruments or possessing any deadly weapons.”)
  - Common Law Restraining Orders
- Each type of order has specific characteristics, requirements for issuance and penalties for violation.
- See Appendix A for a ***Comparison of Orders of Protection*** chart that summarizes and compares the types of orders, how they are issued, what they may include and how they are enforced. Officers should fully understand all aspects of each type of order.
- It is important for police officers to understand and always remember that *orders of protection* are issued by the court, against the offender, for the protection of the victim. They restrict the offender's behavior and **only the offender can violate the orders**. (See CGA §53a-223, §53a-223a and §53a-223b, as amended by PA 11-152, regarding immunity for persons protected by an order of protection.)
- **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 he/she 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.

**Multiple Orders:** In some situations, a victim may obtain a RO and a PO to get all the court ordered protection available. A victim has a right to apply for a RO even if a PO has already been issued. There is nothing in the RO or PO statutes to prohibit a victim from having both orders. In situations where there are multiple orders of protection the officer should:

- a. Verify that the order and conditions apply to the involved victim and offender and;
- b. Document the existence of and issuance date of all orders in their incident report and;
- c. Arrest the offender for any and all valid violations of such orders.

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

The State of Connecticut Judicial Branch has initiated a GPS monitoring program (Alert Notification/GPS) to alert protected persons in high risk domestic violence cases than an offender is within a predetermined area using GPS technology.

- Offenders that have a history of violating court orders and/or who pose a risk of harm to a protected person(s) can be ordered by a judge to wear a GPS equipped ankle bracelet.
- Specific locations are identified as restricted areas (i.e. the protected persons home, workplace, school, etc.) and the offender is instructed to avoid a 2500 foot area surrounding those areas.
  - An alert is triggered if: (1) the offender breaches one of the restricted areas; (2) the ankle bracelet is tampered with; (3) the battery is not charged; or (4) a GPS signal cannot be located.
  - If an alert is triggered, the GPS monitoring company will:
    - Notify the protected person(s) and advise them to activate a pre-established safety plan.
    - Notify the appropriate law enforcement jurisdiction and:
      - Provide the location and direction of travel of the offender and/or other pertinent information.
      - Provide information that will assist responding officers in locating the protected person.
      - Stay on the line with telecommunication personnel if the offender continues to advance towards a protected person(s) and provide a call back number for follow-up.
- Officers dispatched to an Alert Notification/GPS should:

- Locate and ensure the safety of the protected person(s).
- With due caution – attempt to locate the offender.
- Determine the reason(s) for the notification.
- If probable cause is established that the terms of an existing order or protection have been violated – arrest the offender on speedy information if located or apply for an arrest warrant if the offender cannot be located.
- Document all information in an incident report.

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

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

When an order of protection allows for the respondent/defendant to return to the dwelling one time accompanied by an officer, to retrieve belongings:

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

If it is not practical or safe for the victim to accompany the officer and the offender during the 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.

## **Multiple Orders**

In some situations, a victim may obtain a RO and a PO to get all the court ordered protection available. A victim has a right to apply for a RO even if a PO has already been issued. There is nothing in the RO or PO statutes to prohibit a victim from having both orders.

In situations where there are multiple orders, 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**

- 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).
- Any law enforcement officer may enforce any OOP where they have a good faith basis to believe it is valid.
- The best way to verify an OOP is to check **with the Connecticut Registry of Protective Orders– File 20.**
- Another method may include asking the victim if he/she has a copy of the order.

## **IX. SEIZURE OF FIREARMS**

When an officer determines that a family violence crime has been committed, the officer may seize any firearms at the location where the crime is alleged to have been committed that are in the possession of any person arrested for the commission of such crime or suspected of its commission, or that are in plain view.

Weapons seized under this section shall be handled pursuant to law.

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

Immediately, but not later than 24 hours after notice has been provided to a person subject to a restraining order (includes ex-parte order), protective order, or a foreign order of protection (CGS §29-36k(a)) such person must:

- Transfer/sell to a federally-licensed firearms dealer, any pistols, revolvers, other firearms and/or ammunition in his/her possession. (CGS §29-36k(a)(1), or
- Deliver or surrender such pistols, revolvers, other firearms and ammunition to the Commissioner of Emergency Services and Public Protection or any local police department. [CGS §29-36k(a)(2)]

Person's subject to a restraining order (includes ex-parte order), protective order, or a foreign order of protection are prohibited from possessing a pistol, revolver, other firearm, ammunition or an electronic defense weapon. [CGS §53a-217]

Persons subject to a Condition of Release “no use or possession of a dangerous weapon” are prohibited from possessing or using any dangerous instruments or possessing any deadly weapons. [CGS §53a-222 or §53a-222a].

Refer to *section XI, Federal Domestic Violence Laws*, section regarding federal law, which prohibits the possession of firearms or ammunition by any person, including a police officer, who has been convicted in any court of a family violence crime (a family violence crime that has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon), including a misdemeanor family violence crime.

Upon the surrender of any firearms or ammunition or if the offender indicates that he/she is not in possession of, nor does he/she have access to, any firearms or ammunition and there is no other evidence to suggest the contrary, consider having the offender complete the Firearm and Ammunition Compliance Statement form (DPS-332C) indicating same.

### **Permit to Carry**

The issuing authority of a state permit or temporary state permit to carry a pistol or revolver, pistol or revolver eligibility certificate, long gun eligibility certificate, or an ammunition certificate must revoke the permit and/or certificate(s) if the person holding the permit/certificate(s) becomes subject to an order of protection in a case that involves the use, attempted use, or threatened use of physical force against another person. [CGS §29-32, §29-36, §29-37, §29-38]

Within five days of receiving written notice that a permit/certificate has been revoked, the holder of the permit/certificate must surrender the permit/certificate to the issuing authority. [CGS §29-32, §29-36, §29-37, §29-38]

If an offender does not surrender the permit/certificate, he/she should be arrested for any of the following that apply;

- Failure to Surrender Permit to Carry a Pistol or Revolver (CGS §29-32); or
- Failure to Surrender Pistol or Revolver Eligibility Certificate (CGS §29-36i), or
- Failure to Surrender Long Gun Eligibility Certificate (CGS §29-37s); or
- Failure to Surrender Ammunition Certificate (CGS §29-38p); and
- The permit/certificate should be confiscated and immediately forwarded to the Commissioner of the Department of Emergency Services and Public Protection. [CGS §29-32, §29-36, §29-37, §29-38]

Any local issuing authority that revokes a permit must notify the Commissioner of the Department of Emergency Services and Public Protection of the revocation, and any revocation of a state permit by the Commissioner of the Department of Emergency Services and Public Protection requires notification of the local issuing authority. [CGS §29-32]

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

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

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

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

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

Arrests for criminal possession:

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

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

A judge may issue a search and seizure warrant to search for and take custody of any firearms when any two officers (or any prosecutor) complain on oath that there is probable cause to believe that (1) a person poses a risk of imminent personal injury to him/herself or to other individuals, (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.

#### **X. VICTIM ASSISTANCE**

Officers arriving at the scene of a family violence situation shall assist all parties in obtaining medical assistance if such assistance is required.

If an injured party not in custody refuses medical assistance the officer shall:

- Suggest the injured party seek medical attention as soon as possible
- Have EMS personnel respond, evaluate and obtain a refusal of medical treatment
- Note in their case incident report any outcome with respect to medical treatment.

The victim of the incident of family violence shall be advised of their right to be notified of the judicial proceedings against a person arrested as per §51-286e.

The investigating officer shall inform the victim of services available and refer the victim to the Office of Victim Services. Officers will furnish victims with an Office of Victim Services: Information and Support Services card (JD-VS-2).

#### **XI. BAIL FOR PERSONS ARRESTED AS A RESULT OF A FAMILY VIOLENCE INCIDENT**

Supervisors shall set bail consistent with applicable laws. The purpose of bail is to ensure that the arrestee appears in court on the date assigned.

In any case where the investigating officer has reason to believe any person arrested will return to the victim's location and constitute a danger to the victim, the Bail Commissioner will be contacted to determine if the person arrested may be held for arraignment at the next session of court.

In addition, pursuant to P.A. 0-123, police officers may impose non-financial conditions of release. If such conditions are imposed, officers shall complete State form JD-CR 146.

#### **XII. 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*

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

- Section 922(d)(8) prohibits the knowing transfer of a firearm to a person who is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child.
- Section 922(g)(8) prohibits the possession of a firearm by persons subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner of such

person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

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

*Interstate Domestic Violence: Title 18 USC §2261(a)(1)*

- Prohibits the travel across state lines or the leaving or entering of Indian territory with the intent (at the time of the crossing) to injure, harass, or intimidate a spouse or intimate partner. This provision is violated when a person, after the crossing, then intentionally commits a violent crime or causes a bodily injury.

*Causing the Crossing of State Line by Force, Coercion, Duress, or Fraud:*

*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.

### **XIII. PROTOCOL FOR VICTIMS OF F/V WHOSE IMMIGRATION STATUS IS QUESTIONABLE**

#### Definitions

“Principal Petitioner”: means a victim of a family violence crime whose immigration status is questionable, and who is filing for a T Nonimmigrant Visa or a U Nonimmigrant Visa on behalf of him/herself or a qualifying family member.

“T Nonimmigrant Visa”: Victims of trafficking, also known as the “T-visa” provides immigration protection to victims of a severe form of trafficking in persons. The T-visa allows for victims to remain in the United States and assist federal authorities in the investigation and prosecution of human trafficking cases.

“U Nonimmigrant Visa”: Victims of Criminal Activity, also known as the “U-visa”, provides temporary immigration benefits to aliens and their qualifying family members who are victims of qualifying criminal activity, who have suffered mental or physical abuse as a result, and who are willing to assist law enforcement and government officials in the investigation of criminal activity.

“Questionable immigration status”: means any individual who cannot reasonably satisfy the investigating officer that he/she is a U.S. citizen, a lawful permanent resident of the United States, a documented permanent or temporary worker, a student or exchange visitor, a member of the U.S. Armed Forces, or otherwise lawfully present in the United States, or whose visa will likely expire before the case in which the individual is a victim can be fully prosecuted.

“Qualifying criminal activity”: means criminal activity that involves one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. See Title 8 U.S.C. § 1101(a) (15) (U) (iii).

### Applicability

The Protocol for Victims of F/V whose immigration status is questionable shall be implemented whenever it reasonably appears that a victim of family violence, whose immigration status is questionable: No police officer investigating an incident of family violence shall discourage a victim of family violence from making or pursuing a criminal complaint against an alleged perpetrator of qualifying criminal activity, or from participating in the prosecution of an alleged offender because of the immigration status of the victim or the offender.

- Is the victim of criminal activity designated in §1101(a)(15)(U) of the Immigration and Nationality Act;
- Has suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity;
- Possesses information concerning the qualifying criminal activity of which he/she was a victim;
- Will meet the certification requirements that he/she has been, is being or is likely to be helpful to a state or local government official in the investigation or prosecution of the qualifying activity of which he/she is a victim and;
- The qualifying activity of which he/she is a victim violated the laws of the United States or occurred in the United States (including Indian territory and military installations) or the territories or possessions of the United States.
- In addition, a Principal Petitioner filing for a qualifying family member, or currently

- holding U-1 status and filing for a qualifying member, must also demonstrate that
- If under the age of 21 years, qualifying family members for whom the Principal Petitioner is filing is/are his/her:
    - Spouse
    - Unmarried child(ren) under age of 21;
    - Parent(s) (including step-parents and adoptive parents): or
    - Unmarried siblings under the age of 18.
  
  - If over the age of 21 years, qualifying family members for the Principal Petitioner is filing is/are his/her:
    - Spouse; or
    - Unmarried child(ren) under the age of 21.

### Policy Responsibility

- 1) Whenever an officer determines that a crime has been committed, such officer shall render immediate assistance to any crime victim, including obtaining medical assistance for any such crime victim if such assistance is required; present a Victim's Rights Card prepared by the Office of the Chief Court Administrator to the crime victim informing the crime victim of services available and the rights of crime victims in this state; and refer the crime victim to the Office of Victim Services for additional information on rights and services.
- 2) Each officer at the scene of a family violence incident involving one or more persons of questionable immigration status who appears to meet the requirements of this protocol shall, in addition to the above, explain to the victim his/her right to petition for a U-visa and shall, if requested, refer such victim to the appropriate supervisory officer designated to assist such victims with processing the necessary forms.
- 3) The designated supervisor shall be responsible for providing such assistance as may be necessary to facilitate the expeditious processing of Form I-918, Petition for U Nonimmigrant Status, Form I-918 Supplement A, Petition for Qualifying Family Member of U-1 Recipient, and Form I-918 Supplement B, U Nonimmigrant Status Certification, upon request of a victim of family violence. (See form I-918 Instructions, Petition for U Nonimmigrant Status, available online at <http://www.uscis.gov/files/form/i-918instr.pdf>.)
- 4) Reasonable efforts shall be made to obtain the services of a qualified interpreter whenever it appears that there exists a language barrier which may impede the expeditious processing of a petition for issuance of a U-visa.

### Limitation

Police officers shall not render legal advice to applicants concerning matters of immigration law, but shall merely assist applicants in filling out and processing the necessary forms upon request. Whenever possible, officers shall refer applicants to available pro-bono legal services or local legal aid agencies which may provide competent legal advice to applicants.

Victims of family violence whose immigration status is questionable, and who appear to require practical assistance beyond that which is permitted by this protocol, may also be referred to one or more of the following agencies

- The Connecticut Coalition Against Domestic Violence @ 888-774-2900

- The State of Connecticut Office of Victim Advocate @ 800-822-8428
- The Connecticut State's Attorney's Office at GA2 or where the criminal activity is most likely to be prosecuted

#### Forms and Reports

- Form I-918, Petition for U Nonimmigrant Status:  
<http://www.uscis.gov/files/form/i918.pdf>
- Form I-918 Supplement A, Petition form Qualifying Family Member of U-1 Recipient:  
<http://www.uscis.gov/files/form/i-918.pdf>
- Form I-918 Supplement B, U Nonimmigrant Status Certification:  
<http://www.uscis.gov/files/form/i-918.pdf>

#### **XIV. ANNUAL REPORTING**

On or before July 1<sup>st</sup> of each year, the Bridgeport Police Department shall submit *the Survey to Determine Compliance with the State of Connecticut Family Violence Model Policy* form (DESPP-231-C) to the Crime Analysis Unit at the Department of Emergency Services and Public Protection (DESPP), regarding Bridgeport Police Department's compliance with the Connecticut Family Violence model policy. CGS §46b-38b(e)(4)

Pursuant to PA 19-43, law enforcement agencies shall redact the name, address or other identifying information of any victim of sexual assault, voyeurism, injury or risk of injury, or impairing of morals, or family violence, or witness thereof, as defined in section 46b-38a, or of an attempt thereof, from any arrest record released to the public.