

CHAPTER 6.0

CRIMINAL INVESTIGATION

6.3 FAMILY VIOLENCE INVESTIGATIONS

6.3.1 Purpose

To establish policy and procedures for members of the Department to follow when investigating Family Violence complaints, in accordance with requirements of Connecticut General Statute Section 46b-38b.

6.3.2 Goals

The goals of the Norwalk Department of Police Service policy related to family violence investigations are:

- to clearly define the policy of the Norwalk Department of Police Service as it relates to family violence investigations
- to establish and implement certain procedures to be followed when investigating family violence situations
- to provide assistance to victims of family violence to include medical assistance and referral to the commission of victim services and related agencies

6.3.3 Definitions as per Connecticut General Statute 46b-38a (1-3)

"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.

"Family or Household Member" – means any of the following person, 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 have recently been in, a dating relationship.

Subsection (D) above shall not apply to persons who are (1) attending an institution of higher education and presently residing together in on-campus housing, or in off-campus housing that is owned, managed or operated by the institution of higher education or its agent provided such persons are not family or household members as defined in subparagraph (A), (B), (C), (E), or (F) above or (2) presently residing in a dwelling unit and making payments pursuant to a rental agreement, as defined in C.G.S. 47a-1, provided such persons are not family or household members as defined in subparagraph (A), (B), (C), (E), or (F) of subdivision (2) of section 46b-38a.

"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.

“Safety Plan” – is a plan developed between a certified domestic violence advocate and a victim/survivor that offers various options for safety which may include law enforcement. Safety planning is an essential step to be completed with all adult victims 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.

“Family Violence Victim Advocate – FVVA” – are advocates housed in all GA courts and employed by a domestic violence program and are certified domestic violence counselors trained in providing trauma informed care. They provide individual counseling, safety planning and other outside services to victims and their families. They will explain to victims what to expect during the criminal case and help them navigate through the court system. They provide 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. The FVVA also provides information and referrals regarding available community services and will help the victim develop a long-term safety plan.

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

6.3.4 General Procedures

It shall be the policy of the Norwalk Department of Police Service to investigate all reports of family violence in a manner that is consistent with the requirements of state statute. It is NOT THE POLICY of the department to attempt to mediate, but to conduct a criminal investigation into the allegations of family violence. Emphasis shall be placed on determining if probable cause exists for an arrest and taking the appropriate action.

Family violence may occur outside the dwelling in other locations as well as in or around the dwelling place of the parties involved.

6.3.5 Investigation

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 arriving at the scene of family violence situations shall assist all parties in obtaining medical assistance. If an injured party not in custody refuses medical assistance the officer shall:

- suggest the injured party seek medical attention as soon as possible
- note the refusal in his/her report

Officers shall determine the presence and status of any weapons, orders of protection, and whether any children are present and safe.

Officers shall separate involved parties and conduct a complete investigation to determine which person is the dominant aggressor. If probable cause exists, an immediate arrest shall be made.

No member of the department 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.

Officers shall provide assistance to the victim regardless of their race, age, gender, religious beliefs, immigration status, ethnicity, disability, sexual orientation, gender identity, or gender expression.

If the offender crosses state lines or forces the victim to cross state lines with the intent to commit a family violence crime, including violation of an order of protection, the investigating officer should evaluate whether a Federal Violation Against Women Act (VAWA) crime has been committed.

The investigating officer shall inform the victim of services available to include the Office of Victim Services, family violence organizations that provide counselors trained in trauma-informed care, and help the victim to develop a short-term safety plan. The officer shall conduct a Lethality Assessment screening in cases of domestic violence involving intimate partnerships.

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 complaint location, the officer shall provide assistance to do so with reasonable safety.

If the victim requires transportation for the purpose of obtaining a safe location in conjunction with the Women's Crisis Center, such transportation will be provided by the Norwalk Department of Police Service.

WHERE PERSON RESPONSIBLE IS PRESENT

When probable cause upon speedy information for an arrest exists and the person responsible is present, an immediate arrest shall be made and the arrested person(s) shall be scheduled to appear at the next court date.

When probable cause for an arrest exists but the information is NOT "Speedy", the officer shall prepare and submit to the Superior Court an Arrest Warrant Application for the past offense, within 24 hours. The investigating officer will advise the Court Officer that the application concerns Family Violence. The Court Officer will attempt to have the States Attorney expedite the processing of the application. If the warrant is issued, the Court Officer will advise a supervisor of the Patrol Platoon on duty of the warrant. The supervisor will attempt to have the warrant served as soon as possible. The above procedure does not preclude the officer from using the Misdemeanor Arrest Waiver pursuant to law.

Affidavits from victim(s) and witness(s) shall be obtained whenever possible.

WHERE PERSON RESPONSIBLE IS NOT PRESENT

When probable cause for an arrest exists and the person responsible is not present, the officer shall initiate procedures for locating the person responsible. If there is no immediate danger to the victim or the person responsible is not immediately apprehended, the officer shall prepare and submit to the Superior Court an Arrest Warrant Application within 24 hours. Affidavits from victim(s) and witness(s) shall be obtained whenever possible. The investigating officer will advise the Court Officer that the application concerns Family Violence. The Court Officer will attempt to have the States Attorney expedite the processing of the application. If the warrant is issued, the Court Officer will advise a supervisor of the Patrol Platoon on duty of the warrant. The supervisor will attempt to have the warrant served as soon as possible. The above procedure does not preclude the officer from using the Misdemeanor Arrest Waiver pursuant to law.

DOUBTFUL OR NON-EXISTENT PROBABLE CAUSE

When the officer believes the probable cause necessary to make an immediate arrest is either non-existent or doubtful, he shall explain the situation to the complainant.

The officer shall inform the complainant that if they desire to provide an affidavit it will be submitted to the court for determination as to whether or not to issue a warrant for the arrest of the person alleged to be responsible.

DUAL COMPLAINTS

When complaints of family violence are made by two or more opposing persons, the officer is not required to arrest both parties. The officer shall arrest the person whom the officer believes to be the dominant aggressor. In determining the dominant aggressor the officer:

- Shall consider the need to protect the victim(s)
- Whether one acted in defense of self or third person
- The relative degree of any injury
- Any threat creating fear of physical injury, and
- Any history of family violence between such persons, if such history can reasonably be obtained.

If an officer believes that probable cause exists for the arrest of two or more persons, in lieu of arresting or seeking a warrant for the person determined not be the dominant aggressor, the officer may submit a Request for Review and Advice form to the state's attorney. The form, along with its applicable requirements shall be submitted on the next business day. This decision to seek advice is optional. This shall not prohibit dual arrests when probably cause exists.

When considering self-defense, C.G.S. 53a-19 states use of physical force in defense of person; requires that before a person uses physical force in self-defense or to defend a third party they must have two "reasonable beliefs." The first is a reasonable belief that physical force is being used or about to be used upon them or another. The second is a reasonable belief that the degree of force they are using to defend themselves is necessary for that purpose.

Deadly physical force may not be used unless the victim reasonably believes that such other person is using or about to use deadly physical force or inflicting or about to inflict great bodily harm. A person is not justified in using deadly physical force upon another person if he/she knows that he/she can avoid the necessity of using such force.

COURT ORDERS

State law requires State Marshal's serving court orders related to family violence to notify Headquarters and they may request an officer to accompany them on the service. If this department is contacted to assist, dispatch will notify a patrol supervisor who will assure that the history of the location and subject is reviewed as well as any other pertinent information that may be available. The patrol supervisor shall evaluate the circumstances and assign the appropriate number of officers to assist. Should manpower not be available, the Marshal will be advised of same and the supervisor will advise that assistance will be provided when manpower permits. This may require the Marshal to delay service if he/she still requests police assistance.

Court order present and served:

The officer shall enforce the intent of any Order of Protection or Conditions of Release issued by the courts, with an arrest, when appropriate as per the order. Connecticut has several types of orders of protection available for victims of family violence. A comparison of these orders to include how they are issued, what they may include, and how they are enforced can be found listed in Appendix A of the police officers Field Manual and in the POST Model Policy.

When such order is present and has been served on the person to be restrained, a violator may be arrested for violation of the order and whatever additional crimes the person may have committed.

Court order not present or not served:

Persons who are or have been spouses, live-in partners, or other family members of complainants, may be subject to arrest when they enter or remain in or on a premises where they no longer live and have no license nor privilege to be there.

The officer shall advise the complainant of the procedure to follow in obtaining a restraining or protective order in accordance with Connecticut General Statute 46b-38c.

SEIZURE OF FIREARMS

When an officer determines that a family violence crime has been committed, the officer shall seize any firearm, ammunition, weapon, or electronic defense weapon, as defined in CGS 53a-3, and firearms permit or eligibility certificate, at the location where the crime is alleged to have been committed that is in the possession of any person arrested for the commission of such crime or suspected of its commission, or that is in plain view. A Firearms and Ammunition Compliance statement form (DPS-332-C) shall be completed or a written statement indicating the violator is aware they are ineligible to possess firearms and are currently not in possession of any firearms, ammunition, weapon, or electronic defense weapons. A Surrendered Firearm and Ammunition Log Sheet (DPS- 293-C) along with any seized permits shall be completed and submitted to the CPS Firearms Unit.

Weapons seized under this section shall be handled pursuant to Connecticut General Statute 46b-38b. Any firearm seized under this section must be returned in its original condition within (7) days to its rightful owner unless such person is ineligible to possess the firearm or unless otherwise ordered by the court.

If firearms, ammunition, weapons, or electronic defense weapons were seized as evidence, the state's attorney shall be notified so that appropriate court orders regarding the custody of such weapons can be requested and issued.

LETHALITY ASSESSMENT PROGRAM (LAP)

Lethality Assessment Program (LAP) is a screening tool for law enforcement officers. The goal of the LAP is to prevent homicides, serious injury and re-assaults involving intimate partners by encouraging victims to utilize the support and shelter services of domestic violence programs.

Intimate partners are persons involved in an intimate relationship who:

- are married, separated, or divorced;
- live or have lived together;

- have children in common; or
- are dating, or have dated, but do not live, or never have lived, together

Officers shall perform a LAP screen with the victim if the domestic violence incident involves an intimate partner relationship and

- you reasonably believe there has been an assault or other act of domestic violence
- you reasonably believe the victim may face danger once you leave
- the agency has investigated previous domestic violence incidents at the home or previous incidents involving the same subjects
- when your training and experience indicates the situation is dangerous, but you lack probable cause to make an arrest

Officers conducting a Lethality Assessment will ask the victim the lethality screening questions provided on the Domestic Violence Lethality Screening form according to protocol. When a victim is assessed as being in danger, the officer will contact the on-call advocate at the DVCC and ask the victim to speak with a counselor.

Completed LAP forms will be signed by a supervisor and be placed in the Domestic Violence Liaison Officer's mailbox prior to the end of the assigned officer's shift. The Domestic Violence Liaison Officer will be responsible for collecting the LAP forms daily and coordinating the appropriate follow-up response with the DVCC and GA20.

The provisions of LAP screening shall operate in addition to, and not in lieu of, the requirements of C.G.S. 46b-38b. If any provision of this policy may be in conflict with C.G.S. 46b-38b, the statutory requirements shall prevail.

6.3.6 Officer-Involved Domestic Violence Cases

Law enforcement personnel, whether sworn or civilian, are not immune from committing domestic violence against their partners or being victims of domestic violence. Although no person is exempt, whatever their occupation, from the consequences of their actions that result in a violation of law, the dynamics between the responding and accused officers have the potential for making on-scene decisions difficult.

Sworn Personnel from Another 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 shift supervisor shall notify the officer's agency as soon as possible, but not later than by the end of the shift.

All Personnel of the Norwalk Department of Police Services

If an employee of the Department, sworn or civilian is involved in a family violence incident and probable cause exists for the person's arrest, the employee shall be arrested. This shall be done by a supervisor or a ranking officer above the arrestee. The investigation shall be handled in accordance with all the requirements set forth in this Directive and C.G.S. Section 46b-38b. Disciplinary action shall be handled in accordance with Local 1727, Collective Bargaining Agreement, Article 19.

The shift supervisor shall notify the shift commander, the Deputy Chief of Operations, and the employee's supervisor, if different than the shift supervisor. If requested, peer support of the

employee's choice shall be provided and the involved parties shall be referred to public safety EAP for assistance.

6.3.7 Arrests

Whenever a sworn member of the department determines upon speedy information that a family violence crime, as defined in Connecticut General Statute 46b-38a (3), has been committed within the City of Norwalk, he/she shall arrest the person or persons for the appropriate crime. Officers SHALL NOT refrain from making an arrest solely because of the following:

- the victim does not want an arrest after a complaint has been made
- the parties are married or living together
- the victim has not sought or obtained a restraining order
- the victim has/has not instituted civil proceedings such as separation, divorce, or custody disputes are pending
- the officer prefers to reconcile the parties or mediate the situation
- the victim has previously called the police for protection and has not pursued the action and/or has withdrawn the criminal complaint against the alleged abuser
- sworn statements from the victim or witness(s) to the family dispute are not obtained prior to the arrest
- the incident occurred at an earlier time and is just now being reported or the report is actually a follow-up or continuation of a previous investigation
- the victim has no visible physical evidence of the assault on his/her body as long as such lack of evidence is consistent with the description of the assault complaint

6.3.8 Bail for Persons Arrested as a Result of a Family Violence Incident

When the investigating officer has reason to believe any person arrested for an act of Family Violence 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.

The result of the conversation with the Bail Commissioner will be included in the officer's report.

In addition, pursuant Connecticut General Statute 54-63c, police officers may impose non-financial conditions of release. If such conditions are imposed, officers shall file state form JD-CR-146.

Upon the arrest of any family violence offender who uses or threatens to use a firearm, the arresting officer shall notify the booking officer and the bail commissioner to ensure that the offender is not released on a promise to appear in violation of C.G.S. 54-63c(a).

6.3.9 Written Reports

Reports must be as detailed as possible. Probable cause for the arrest must be clearly stated in the report. Officers shall document conditions of the scene as well as photograph the scene and any visible injuries.

If no arrest is made, the reasons for not making the arrest must be clearly stated in the report.

All reports shall include under "Type of Incident" that in addition to the incident reported, e.g. assault, breach of peace, etc. there was a family relationship between the parties.

Information on family violence shall be entered into the computer by records personnel and may be retrieved for the purpose of statistical information and to determine past incidents of Family Violence involving the same parties so that the investigation may be thoroughly completed.

The investigating officer of a family violence incident shall also complete (if applicable):

- Family Violence Offense Report, DPS-230-C, whether or not an arrest occurs,
- Notify the DCF Careline, when children under the age of 18 are living in the home,
- DCF Form 136, if child abuse and/or neglect is suspected,
- Conditions of Release form, on arrested person(s) and enter into NCIC as a File 20

The Court Officer shall review all Family Violence reports as soon as possible and fax a copy to the Family Violence Prosecutor at (203)840-1667.

If an officer believes that a person may have violated a provision of the Federal Violence Against Women Act, he shall forward a copy of all the reports to the United States Attorney's Office at 157 Church St., New Haven, CT 06508.

In accordance with C.G.S. 46b-38b(e), the Chief of Police or his designee shall submit an annual report to the Commissioner of Emergency Services and Public Protection (DESPP-231-C) regarding the Departments compliance with the model law enforcement policy on family violence for the state.

6.3.10 Victim Notification

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

The victim of the incident of family violence shall be advised of the services available and referred to the Criminal Injuries Compensation Board, ref.: chapter 968 Connecticut General Statutes.

If the victim of the family violence is a woman or child and the perpetrator is a male, the victim or parent/guardian shall be advised of the Women's Crisis Center.

The victim of the incident shall be advised of their right to have an officer present for one-time personal property removal.

The above may be accomplished by providing the victim with a copy of the flier produced by the Commission on Victim Services.

The investigating officer shall also provide assistance in accordance with uniform protocols for treating victims of family violence whose immigration status is questionable established pursuant to C.G.S. 46b-38b (g). The Chief of Police shall designate a supervisory officer responsible for providing such assistance as may be necessary to facilitate the processing of various forms to include USCIS I-918.

In cases of serious domestic violence offenses, the investigating officer shall provide the victim with contact information for the Norwalk Department of Police Service, Domestic Violence Liaison Officer.

6.3.11 Domestic Violence Alert Notification/GPS Program

The State of Connecticut has initiated a GPS monitoring program to alert protected persons in high risk domestic violence cases that an offender is within a predetermined area. Offenders that have a

history of violating court orders and/or pose a risk of harm to a protected person can be ordered by a judge to wear a GPS ankle bracelet.

If an alert is triggered, the GPS monitoring company will notify the protected person and advise them to active a pre-established safety plan. The company will then notify Headquarters and provide any pertinent information regarding the offender, i.e. location and/or direction of travel. The monitoring company will stay on line with communications if offender continues to advance towards protected person.

Alerts are triggered if the offender:

- Breaches a restricted area
- Monitor is tampered with
- Battery is not charged
- Signal cannot be located

