

STATE OF NEW HAMPSHIRE

GOVERNOR'S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE



OFFICE OF THE ATTORNEY GENERAL:

A MODEL PROTOCOL FOR LAW ENFORCEMENT RESPONSE TO DOMESTIC VIOLENCE CASES

Third Edition, 2013

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DOMESTIC ABUSE INVESTIGATION CHECKLIST

POLICE DEPARTMENT

I. VICTIM (Interview separate from suspect)

- Describe the victim's location upon arrival.
- Record victim's name, dob, address, home and work phone numbers.
- Note time dispatched, time arrived.
- Record any spontaneous statements (excited utterances) made by the victim.
- Describe the victim's emotional condition.
- Note victim's relationship to suspect (married, boyfriend, family member, etc.)
- Document the victim's injuries in detail (**size, location and coloration**) and if medical treatment sought.
- If victim received or may receive any medical attention, **complete medical records release form and have victim sign it.**
- Document evidence of alcohol and/or other drugs consumed by victim relative to the incident.
- Record any history of substance/chemical use by victim.
- Note any restraining/court orders in effect.
- Advise and provide victim with written notice of rights and services available.
- Ask victim about the presence and location of any firearms and ammunition within the dwelling.
- Ask victim about the presence and location of any deadly weapons that were used or threatened to be used, by the suspect.
- Receive audio, video or written statement from victim. (Audio or video preferred)
- Ask victim if any aspect of crime was facilitated by use of any technological devices (cell phone, computer, instant messaging, text, social networking, etc.)

II. SUSPECT (Interview separate from victim)

- Note suspect's location upon arrival.
- Record suspect's name, dob, address, home and work phone numbers.
- Record any spontaneous statements (excited utterances) made by the suspect.
- Describe the suspect's emotional condition.
- Describe the suspect's overall physical condition and appearance.
- Describe the suspect's injuries in detail (**size, location and coloration**). **Complete medical records release form and have suspect sign it.**
- Document evidence of alcohol and/or other drugs consumed by suspect during incident.
- Ask suspect about the presence, location, type of firearms and ammunition, in suspect's control, ownership or possession.
- Ask suspect about the presence of other deadly weapons that were may have been used or threatened to be used during incident.
- If arrested**, issue Miranda rights, ask suspect if he/she wants to make a statement, knew of restraining order, and/or understood order.
- Receive audio, video or written statement from suspect. (Audio or video preferred)

III. CHILDREN

- Interview each child alone. **Special efforts should be made to minimize the impact on the child even if it includes not taking a statement.**
- Every** report should include if children live in home, whether or not they are present, and child's relationship to each person present at scene.
- List names, ages, and school attended for each child present.
- If possible and necessary, arrange to have the child interviewed at a CAC with a forensic interviewer.
- Describe each child's emotional state.
- Describe and document each child's injury, if applicable.
- Notify DCYF of any child's injuries.

IV. WITNESSES

- Interview the reporting party.
- Identify all witnesses and take an audio, video or written statement. (Audio or video statement preferred)
- Record all witnesses' addresses and phone numbers.
- Record names and addresses of emergency personnel or are present or responded to the call.
- Identify treating physician and hospital.
- Receive audio or written statements from medical personnel. Medical release form required.

V. EVIDENCE

- Record the "911" number and incident number.
- Obtain recording of "911" call.
- Photograph the victim's injuries
- Photograph the suspect's injuries.
- Impound and take into evidence all deadly weapons used or threatened to be used.
- Photograph and take into evidence any objects thrown, broken, or otherwise used in incident
- Obtain copies of any text messages, e-mails, phone messages or other social networking materials.
- Complete preservation of orders and follow up with grand jury subpoena or search warrant if necessary.
- Obtain copies of all medicals records from doctors, hospitals and responding emergency service personnel.
- Obtain copies of any civil protective orders or criminal bail orders in effect.

VI. OTHER

- Incident was domestic violence abuse and/or violation of a protective order.
- If arrest is affected, **as required by RSA 173-B**, remove all firearms and ammunition in the defendant's control, ownership or possession.
- Consider lethality assessment questionnaire and implement LAP protocol if applicable.**

ABUSE DEFINED:

Assault or reckless conduct (RSA 631:1 through 631:3)
Criminal Threatening (RSA 631:4)
Sexual Assault (RSA 632-A:2 through 632-A:5)
Interference with freedom (RSA 633:1 through 633:3-a)
Destruction of property (RSA 634:1 & 634:2)
Unauthorized entry (RSA 635:1 & 635:2)
Harassment (RSA 644:4)

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NEW HAMPSHIRE DOMESTIC VIOLENCE LAW ENFORCEMENT PROTOCOL COMMITTEE

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Attorney General's Office

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Meg Kennedy Dugan, former Director
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New Hampshire Circuit Courts

Sergeant James Testeverde
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Donna Raycraft, former Executive Director
Rape and Domestic Violence Crisis Center

The Committee would like to thank Deputy Attorney General Ann Rice and the Honorable Judge Susan Carbon for their invaluable input and for editing the protocol.

PURPOSE/POLICY

The purpose of this protocol is to provide consistent guidelines and procedures to standardize the response by law enforcement in domestic violence cases. Domestic violence is distinguished from other crimes by the fact that it has as a component an intimate relationship between the victim and perpetrator. Domestic violence cases are progressive – the abuse is likely to get worse over time, becoming more dangerous for the victim and for the responding law enforcement. It is better to effectively address what may be a minor misdemeanor than by addressing a homicide later on.

The goals of this protocol are to:

- Ensure maximum protection and support to victims of domestic violence, through a coordinated victim-center multidisciplinary approach.
- Reduce the incidence and lethality of domestic violence.
- Implement the New Hampshire Lethality Assessment Program (LAP) statewide.
- Promote law enforcement safety by ensuring that officers are as fully prepared as possible to respond to domestic violence calls; and
- Ensure that victims of domestic violence are informed of their rights and the services available to them and that they are connected, when appropriate, to crisis center services.

This protocol establishes a presumptive arrest policy. Whenever an officer has probable cause to believe that a crime of domestic violence has been committed, for which arrest is not mandated by statute (173-B:9 l(a)) or RSA 633:3-a), the officer **should** nonetheless arrest unless there are **compelling reasons** for not doing so. **If an arrest is not made, the reasons for that decision should be documented in a report.**

This protocol was developed with the recognition that an individual law enforcement department's ability to adhere to the procedures will depend, to some degree, on the size and financial resources of the department. For that reason, the procedures set forth are not mandatory. They are not intended to define a minimum standard of practice, nor are they intended to create substantive rights for individuals. **Rather, their purpose is to define a standard to which all law enforcement should strive.**

For the purpose of this protocol, all victims will be referred to as "she," since the majority of victims are female and suspects/defendants will be referred to as "he" since the majority of suspects/defendants are male. However, it is recognized that domestic violence is a crime that also affects males as well as females.

DOMESTIC VIOLENCE INVOLVING LAW ENFORCEMENT

Members of the law enforcement profession are not immune from committing domestic violence against their intimate partners. All departments should have a policy in place on dealing with domestic violence involving law enforcement officers. The International Association of Chiefs of Police (IACP) has developed a model protocol for handling acts of domestic violence committed by law enforcement and for implementing prevention strategies. The IACP policy provides best practice in addressing incidents of reported domestic violence where either the perpetrator, victim or both, is an employee, whether sworn or civilian, of any rank in any law enforcement agency.

See [Appendix E](#) for the *IACP Domestic Violence by Police Officers Model Policy*

When handling a domestic violence incident involving a law enforcement officer, officers should:

- Handle it like any other domestic violence case.
- Notify a supervisor in accordance with department policy.
- Seize all firearms and ammunition to include department issued and any deadly weapons used or threatened to be used ([NH RSA 173-B:10](#)).

New Hampshire law, unlike federal law, has no exception for law enforcement or military personnel to carry or possess firearms and ammunition while on duty or otherwise after being served with a protective order that specifically prohibits possession of firearms and ammunition.

Anyone found to be in possession of a firearm or ammunition contrary to a court order must be arrested as outlined in [RSA 173-B:9](#).

LIABILITY ISSUES

An appropriate and effective law enforcement response to domestic violence calls is the best mechanism for enhancing the safety of victims. It is also the means by which law enforcement departments can minimize liability for the agency and officers. It is therefore imperative that officers receive appropriate training in handling of domestic violence complaints.

The ten major areas of domestic violence lawsuits against law enforcement are:

1. Failure to take proper actions to protect citizens.
2. Failure to appropriately enforce a court order of protection of a victim of domestic violence.
3. Failure to respond at all or in a timely manner.
4. Failure to provide notification information to a victim as required by law enforcement.

5. Arresting a citizen without establishing probable cause or not following primary determination as required by law enforcement.
6. Establishing a pattern of differential treatment of application of the law to domestic violence cases.
7. Retention of abusive officers within the department.
8. Negligent in hiring officers with past domestic violence convictions and not investigating the incident.
9. Not having policies, Not training on the policies, Not enforcing the policies.
10. Lack of supervision.

Adapted from information developed by Stephen P. Hogan, Assistant Counsel, New York State Police, presented to the National College of District Attorneys, 2000.

CRISIS CENTER VICTIM SERVICES

There are 14 crisis center programs ([Appendix A](#)) throughout the state that provide services and support to victims of domestic violence, sexual assault, stalking and sexual harassment. Their services are free and are available to everyone regardless of age, gender, race, religion, sexual orientation, physical ability or financial status. Crisis center advocates are specially trained to provide patients with free, nonjudgmental, emotional support, information, and resources.

Confidential Communication: Under [RSA 173-C](#), any communication between a crisis center advocate (staff or volunteers who have completed the required standardized training) and a victim is confidential unless a third party is present during that communication. Only the victim can release that information or sign a crisis center document for the advocate to release it. **The inability of the advocates to disclose any information must be respected, including whether the victim is staying in a domestic violence shelter.** If the crisis center has a confidential address, law enforcement should partner with the crisis center to develop a way to contact victims they believe to be living in the shelter.

Crisis center services include:

- 24-hour toll free crisis line
- Access to emergency shelter and transportation
- Legal advocacy in obtaining restraining orders against abusers
- Hospital and court accompaniment
- Information about and help in obtaining public assistance
- Safety planning with non-offending family members

VICTIM NOTIFICATION

According to [RSA 173-B:10\(d\)](#) Law Enforcement SHALL give the victim immediate and written notice of the rights of victims and of the remedies and services available to victims of domestic violence. This includes referring all victims to crisis center services.

The written victim notification form shall include a statement substantially as follows:

“If you are a victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in providing for your safety, including asking for an emergency telephonic order of protection. You may also request that the officer assist you in obtaining from your premises or curtilage, toiletries, medication, clothing, business equipment and any other items as determined by the court, and in locating and taking you to a local safe place, including but not limited to, a designated meeting place to be used as a crisis center, a family member’s or friend’s residence or similar place of safety. If you are in need of medical treatment, you have the right to request that the officer assist you in obtaining an ambulance. **You may request a copy of the report filed by the peace officer, AT NO COST, from the law enforcement agency.**”

NOTE: A copy of the dispatch log indicating that a report was made to law enforcement that includes both parties information can be given out at any time. The full investigative report may not be immediately available.

NOTE: Standardized *Law Enforcement Victim Notification Form tear-off pads* are available through New Hampshire Police Standards and Training free of charge. ([Appendix G](#))

RSA 173-B:11 requires that all law enforcement officers **SHALL** give victims of abuse immediate and adequate notice of their right to go to the district or superior court of their county to file a petition asking for protective orders against the abusive person and to seek a private criminal complaint.

The officer **SHALL** give the victim **immediate and written notice of the rights of victims and of the remedies and services available to victims of domestic violence.**

VICTIM RESPONSES

VICTIM REACTIONS

A victim of domestic violence who calls law enforcement often just wants the violence to stop. The victim may use a variety of strategies that may have worked in the past to avoid another physical assault, such as:

- Agreeing with the perpetrator's denial or minimization of the violence in public.
- Accepting promises that it will never happen again.
- Requesting that the court dismiss the protective order.
- Not showing up for court hearings.

LEAVING IS OFTEN THE MOST DANGEROUS TIME FOR A VICTIM OF DOMESTIC VIOLENCE. 92% of the state's murder/suicides involve domestic violence and 50% of the total murders in New Hampshire are domestic violence related.¹ (See [*Domestic Violence Fatality Review Committee, Ninth Report, October 2012*](#))

REASONS FOR VICTIM RELUCTANCE

The reasons given by victims of domestic violence who are or become reluctant to cooperate with law enforcement are often the same as those given by victims of other types of violent crime, such as:

- Fear of retaliation by the perpetrator.
- Unwilling to face the perpetrator again in the courtroom.
- Afraid of the perpetrator's anger for involving the justice system.
- A feeling of shame or guilt.
- Denial, ambivalence, withdrawal, and emotional swings as a result of being a victim of severe trauma.

In domestic violence cases, the above reasons are often heightened for the victim because of the following realities:

- The perpetrator may be living with the victim, be familiar with the victim's daily routine, and have on-going access to the victim at home, work, or at the home of relatives or friends.
- The intimate relationship between the perpetrator and the victim creates a unique vulnerability resulting from the perpetrator's knowledge of details about the victim's life not found in cases in which they are strangers.

¹ Governor's Commission on Domestic and Sexual Violence, Domestic Violence Fatality Review Committee, Ninth Report, October 2012

- Even when formal separations are initiated, the perpetrator often has access to the victim through child visitation arrangements.
- The victim may have genuine concern or love for the perpetrator. The victim may want the violence to end, but not the relationship.
- The victim may not have a place to stay safe from the perpetrator. Leaving home can mean becoming hunted or homeless. A victim may decide life with the perpetrator is better than the unknown.
- The victim has learned that the perpetrator will follow through with threats of retaliation because of the victim's efforts to leave or seek help from the justice system. The victim and the perpetrator may have children together, and the victim may have received threats that the children will be kidnapped if the victim cooperates.
- The victim and children may be dependent on the perpetrator for economic support. This concern may be even greater when the victim is not eligible for public benefits.
- The victim may be under religious, family, or social pressures to support the perpetrator.
- The victim may have a past experience in which the system failed to prevent violence. A domestic violence victim knows that law enforcement cannot provide constant protection. The victim may know that even if convicted the perpetrator will someday be released from custody and may find the victim, the victim's children or family.

CULTURAL CONSIDERATIONS SPECIAL VICTIM POPULATIONS

CHALLENGES

The tactics of power and control used by abusers are surprisingly similar across demographic lines, age, race, ethnicity, economic status, education, employment status or occupation, religious affiliation, urban, suburban or rural residency, immigration status, sexual orientation, gender identity, physical and mental disabilities, and marital status.

Law enforcement officers must approach cultural competency with open mindedness toward learning about cultures other than one's own, exploring one's own biases, and the willingness to see each person, regardless of what community they come from, as an individual.

There are specific ways the criminal justice system can address the challenges faced by particular cultural and demographic groups. Professionals within all aspects of law enforcement must have some understanding of the barriers faced by groups that are marginalized within today's society in order to better understand how to create policies and procedures that help to eliminate many of the obstacles.

The most successful way to address the needs of all victims is to listen to each victim's story and individual needs, and ensure that resources are available.

The way in which a domestic violence victim experiences abuse can be greatly impacted by what barriers they face, and what resources are available to them.

CULTURAL AND RELIGIOUS CONSIDERATIONS

Many cultural and religious groups hold strong values around family and community integrity, and may also hold to strict gender roles. However, being a member of a particular cultural or religious group can also be a great strength for many victims, providing understanding supports or personal values that help them hold a sense of self. Social service agencies that specialize in working with particular cultural or religious groups will often take into account particular community values when offering services, safety, and support.

IMMIGRANT VICTIMS

Immigrant victims of domestic violence face numerous barriers when reaching out to law enforcement and courts for safety from domestic violence, making abusers within these communities far less likely to be held accountable for their crimes. These barriers include a lack of knowledge about and fear of law enforcement, language barriers, fear of deportation for self or for the abuser, cultural, religious and gender barriers, and economic barriers. The abuser's intimidation tactics have likely included threats of disclosure of any documentation that is not in order, of deportation without the victim's children and of dishonoring their ethnic family values.

The fear and distrust immigrant women feel towards law enforcement may also be because law enforcement in their home country were abusive and corrupt. These barriers serve to keep victims from accessing law enforcement that could lead to greater safety in their lives

(Pendleton, 2003). With such a magnitude of barriers, when a victim does reach out to law enforcement, it is generally because the situation has become quite severe, making a culturally competent response essential.

Immigrant victims of domestic violence face unique challenges when trying to escape their abusers. They often feel trapped in their relationships because of immigration laws, language barriers, social isolation, and a lack of financial resources. Despite recent changes in federal laws, domestic violence remains a significant problem for immigrant women.

Other unique challenges that immigrant victims face include:

- Abusers use their victim's immigration status as a tool to force the victim to remain in the relationship.
- Many victims come from cultures that accept domestic violence.
- Immigrant victims have less access to legal and social services than U.S. citizens.
- Immigrant batterers and victims may believe that the penalties and protections of the U.S. legal system do not apply to them.
- For non-English victims there can be a lack of access to bilingual shelters, financial assistance, or food. It is also unlikely that they will have the assistance of a certified interpreter during their interactions with the legal system (court, police, 9-1-1, acquiring information about the legal system.)

U VISAS AND T VISAS

Law enforcement agencies should be aware of the resources available to immigrant victims of crime and human trafficking offered by U.S. Citizenship and Immigration Services (USCIS). The U and T visas are dual purpose programs. They provide immigration relief for victims of crime but they also can assist law enforcement. It is recognized that victims of crimes are less willing to come forward and report a crime or cooperate with law enforcement when they do not have legal immigration status. These programs allow immigrant victims to gain lawful immigration status, which increases their cooperation with law enforcement. When law enforcement informs a victim that they can apply for legal status if they are helpful to the investigation/ prosecution it encourages more victims to come forward.

The **U visa** is for immigrant victims of crime who have been, are being or will likely be helpful in the investigation or prosecution of the crime. Qualifying crimes include abduction, abusive sexual contact, blackmail, domestic violence, extortion, false imprisonment, female genital mutilation, being held hostage, incest, involuntary servitude, kidnapping, manslaughter, murder, obstruction of justice, peonage, perjury, prostitution, sexual assault, sexual exploitation, slave trade, torture, human trafficking, unlawful criminal restraint, witness tampering, and other related crimes.

An immigrant victim must obtain a certification from a law enforcement official (I-918 Supplement B). This certification does not grant any immigration benefit. By signing the certification the law enforcement agency is stating that the immigrant is a victim of a qualifying

crime who has been, is being, or will likely be helpful to the investigation or prosecution of the crime. An immigrant victim is not eligible for this relief without this certification.

A **T visa** is for immigrant victims of a severe form of human trafficking who assist law enforcement in the investigation and prosecution of human trafficking cases. Severe form of human trafficking is defined as sex trafficking or labor trafficking that involves force, fraud or coercion. Victims must provide evidence they are assisting law enforcement which can include a certification from a law enforcement agency (I-914 Supplement B).

Signing a certification in either case does not grant any immigration benefit. Only USCIS has authority to grant or deny any benefit.

Additional information can be obtained on the USCIS website www.uscis.gov. They also offer trainings to law enforcement. Information can be obtained on their website or by contacting T-UVAWATraining@dhs.gov.

VICTIMS WITH DISABILITIES

People with physical, intellectual, or psychiatric disabilities can be particularly vulnerable to domestic violence. They may have fewer options for escape, and may have difficulty getting help from law enforcement. Someone with psychiatric disabilities may be disbelieved, a deaf person may need an interpreter to communicate or a person with an intellectual disability may be unable to access referral systems without assistance. Law enforcement officers must be prepared to make available the supports needed to communicate with and assist a victim with disabilities.

The Americans with Disabilities Act (ADA) was enacted by Congress to protect the employment and accessibility rights of persons with disabilities and to remove barriers to employment, transportation, telecommunications, as well as public accommodations and services for persons with disabilities. The ADA applies to all public entities and to all government agencies regardless of size and a person with a disability cannot be denied access to services, programs, or activities associated with all public entities and governmental agencies.

The New Hampshire Coalition Against Domestic and Sexual Violence is a resource for guidance about communicating with victims with disabilities.

http://www.nhcadv.org/victims_disabilities.cfm.

For questions regarding available services for individuals with disabilities call 2-1-1, or the Disabilities Rights Center at 1-800-834-1721 (Voice or TTY) or www.drcnh.org.

For more information see *All Walks of Life: Responding to Victims with Disabilities*

<http://www.awol-texas.org/articles/article8.htm>

USE OF INTERPRETERS

According to the VAWA funded publication, *Resource Guide for Advocates & Attorneys on Interpretation Services for Domestic Violence Victims*, while all victims of domestic and sexual

violence must navigate complex legal systems – those with limited English proficiency (LEP) and those who are deaf or hard of hearing face additional challenges.

Language access policies that implement the provision of spoken and sign language interpretation by professional, culturally competent interpreters are critical to ensuring equal access to safety and justice. Interpreters fulfill a critical duty, to place individuals with limited English proficiency on an equal footing with those who understand English. To ensure meaningful access, LEP victims must have trained and qualified interpreters.

For more information:

<http://www.dcf.state.fl.us/programs/domesticviolence/dvresources/docs/InterpretationResourceGuide.pdf>.

For more information on accessing Sign Language see the *State of New Hampshire Directory of Interpreters/Translators and Communication Access Realtime Translation Providers*:

http://www.education.nh.gov/career/vocational/documents/interp_guide.pdf.

To ensure impartiality and no conflict of interest, it is important that extended family members (including children) of the victim or the batterer not be allowed to interpret for the victim.

LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUESTIONING (LGBTQ) VICTIMS

LGBTQ people experience domestic violence at similar rates as heterosexual people. However, LGBTQ victims may find law enforcement and the courts less accessible and may be fearful of calling law enforcement or reaching out to the courts for assistance. LGBTQ people find that their relationships are misunderstood and may be taken less seriously by many within these systems and fear exposure to homophobia and insensitivity.

Domestic violence amongst LGBTQ people offers special challenges to law enforcement to identify the aggressor within the relationship, leading to a greater likelihood that the victim may be arrested rather than the perpetrator. Within the LGBTQ community, victims of domestic violence may find a lack of understanding of domestic violence and the belief that it is an issue for only heterosexual people. Another reason is the fear of being “outed.” LGBTQ victims who have not told family, friends, employers, and others in their lives of their sexual orientation or gender identity may be extremely fearful of the consequences and discrimination they might experience upon revelation of a law enforcement report or court case.

If a victim refuses to cooperate because of concerns of being “outed”, an option for law enforcement may be to charge the predominant aggressor with a non-domestic violence related offense.

RURAL VICTIMS

Rural victims of domestic violence face additional barriers to seeking safety when experiencing domestic violence. Issues such as poverty, lack of public transportation and limited access to resources and services make escape from an abusive relationship particularly difficult for rural victims.

Cultural values such as strong allegiances to the land, kinship ties, and traditional gender roles, as well as geographic isolation, add to the barriers. Additional risks and danger are present with the increase in the likelihood that weapons, such as firearms and hunting knives, are present in rural households. The victim and abuser are more likely to know law enforcement and other professionals, making confidentiality and objectivity difficult.

HOMELESS VICTIMS

It is not uncommon for victims of domestic violence to flee the abuser and find themselves and their children homeless. The abuser's efforts at isolating the victim can leave few, if any, options for support and housing from friends or family. Some victims go to domestic violence shelters, but because beds are so scarce and there are accessibility issues for many victims, many end up in homeless shelters. People who are chronically homeless are at greater risk of being victims of domestic violence, and domestic violence in any population causes may be a cause of homelessness.

Domestic violence programs often have a hard time differentiating between the two and know that they do not have the resources, skills and knowledge to affect change in the lives of those who are chronically homeless because of additional issues. The issues causing homelessness often create obstacles to their being successful in a shelter for domestic violence victims, and some homeless shelters do not accept victims of domestic violence because of the security issues involved. This can cause a dilemma for law enforcement in finding a safe place for victims.

MALE VICTIMS

Men as well as women are victimized by violence. The abuse can be physical violence, sexual violence, stalking, verbal, emotional, mental/psychological and economic abuse. The warning signs and barriers that keep male victims from leaving their abusers are similar in both genders.

Men, however, are less likely to report the intimate partner violence and less likely to ask for services because of:

- The stigma of being a male victim
- The perceived failure to conform to the macho stereotype
- The fear of not being believed
- The denial of victim status
- For gay male victims, the fear of being "outed"
- The lack of support from society, family members, friends

Men experience many of the same psychological reactions to interpersonal violence as women, including:

- Guilt, shame, humiliation
- Anger and anxiety
- Depression
- Withdrawal from relationships

Because men are often more financially independent than women, and because their fear is not so often based on physical harm, they are less likely to ask for help. They may, however, NOT have more financial independence, and they may have much less power in the relationship than their partner.

Their reasons for not leaving may be similar to women's (not wanting to leave children, fear for pets, loss of residence, loss of security) and may be complicated by societal expectations, personal expectations and a perceived lack of support.

Interpersonal violence is a crime, regardless of gender, and it is never the victim's fault. They may avail themselves of the same services as a woman, including protective orders and the services of a crisis center advocate.

Adapted from www.nhcadsy.org

TEENAGE VICTIMS

It is imperative that law enforcement be attuned to domestic violence relationships among teenagers. When law enforcement is called to respond to a school for an incident between young people, when they are summoned to a home for a 911 hang-up call and discover only young teenagers in the home, and when they see young people shouting in the street as they drive by in their cruisers, the circumstances should be looked at. The events should not be rapidly dismissed as a tiff between adolescents. Critical questions should be posed, the nature of the event considered, and close attention should be paid to observing any signs of physical injury that may have resulted from violence that should not necessarily be explained away as accidental by the youth involved.

Teenage victims of domestic violence face additional barriers that are often not factors for adults. Teenagers have authority figures in their lives at home, school and possibly work. They may fear the reactions of these individuals, whether that is fear of getting in trouble for dating or trying to explain away behavior changes that these authority figures are witnessing. They also have peers that play an integral part in how they act or what they do.

A teenager may be bullied into silence or may be congratulated for the relationship which enforces they should continue it. The problem is that these peers may not be aware of that is happening when the dating couple is alone. Teenagers also tend to be more shortsighted when it comes to the future. They tend to minimize the impact of abuse. It is also important to note that teens have most likely shared different parts of their relationship with different people in their life. These people may have a piece of the story but talking to many of them may help to build a better understanding of this teen's relationship.

DEFINITIONS OF TERMS USED IN DOMESTIC VIOLENCE SITUATIONS

STATUTORY REFERENCES: [RSA 173-B:1](#) (Definitions)
 [RSA 173-B:5](#) (Relief)
 [RSA 173-B:7](#) (Minority not a Preclusion for Services)
 [RSA 173-B:10](#) (Protection by a Peace Officer)
 [RSA 173-B:11](#) (Victim Notification)
 [RSA 625:11, V](#) (Deadly weapons)
 [RSA 631:1](#), [RSA 631:2](#), [RSA 631:2-a](#) and
 [RSA 631:3](#) (Assault or Reckless Conduct)
 [RSA 631:4](#) (Criminal Threatening)
 [RSA 632-A:2](#), [RSA 632-A:3](#), [RSA 632-A:4](#) and [RSA](#)
 [632-A:5](#) (Sexual Assault)
 [RSA 633:1](#), [RSA 633:2](#) and [RSA 633:3](#) (Interference
 with Freedom)
 [RSA 633:3-a](#) Stalking
 [RSA 633:4](#) (Interference with Custody)
 [RSA 634:1](#) and [RSA 634:2](#) (Destruction of Property)
 [RSA 635:1](#) and [RSA 635:2](#) (Unauthorized Entry)
 [RSA 644:4](#) (Harassment)

DEFINITIONS OF DOMESTIC VIOLENCE FOR APPLICATION OF A RSA 173-B PROTECTIVE ORDER (CIVIL)

Under 173-B domestic violence is generally defined by the act of abuse committed as well as by the relationship between the perpetrator and victim.

In order for the court to issue a final domestic violence protective order (DVP) the following three criteria must be met:

- Finding of Abuse
- Relationship of the Parties
- Finding of Credible Threat

[RSA 173-B:1](#) provides the definitions of abuse under this statute. As of the date of this re-write of the protocol, the following definitions are current. The reader of this protocol is encouraged to check updates to the statutes as may be appropriate.

FINDINGS OF ABUSE

- Assault or reckless conduct as defined in [RSA 631:1](#), [RSA 631:2](#), [RSA 631:2-a](#) through [RSA 631:3](#)
- Criminal threatening as defined in [RSA 631:4](#);

- Sexual assault as defined in [RSA 632-A:2](#), [RSA 632-A:3](#), [RSA 632-A:4](#) through [RSA 632-A:5](#);
- Interference with freedom as defined in [RSA 633:1](#), [RSA 633:2](#) through [RSA 633:3](#)
- Stalking as defined in [RSA 633:3-a](#);
- Destruction of property as defined in [RSA 634:1](#) and [RSA 634:2](#);
- Unauthorized entry as defined in [RSA 635:1](#) and [RSA 635:2](#);
- Harassment as defined in [RSA 644:4](#).

RELATIONSHIP OF PARTIES

- **Current or former spouse**
- **Current or former sexual partner**, including generation X’s so called “friends with benefits”.
- **Current or former intimate partner**, such as individuals who are dating, or who have dated, regardless of whether the relationship was ever consummated sexually and regardless of the age of the parties.
- **Parent of an adult child.**
- **Adult child of the perpetrator.**
- **Persons who cohabit or cohabited in a relationship** similarly situated to that of a parent or guardian, such as a 17 year old child who resides with and is supported by an aunt/uncle, adult cousin or other individual.
- **Persons “related by blood or birth”** (a.k.a. consanguinity) including siblings and siblings that share only one parent, grandparents and the brothers and sisters of one’s parents.
- **Persons “related by marriage”** (a.k.a. affinity) including sister and brothers-in-law, mother and fathers-in-law, step-siblings and step-children.

FINDING OF CREDIBLE THREAT

- This not defined by statute.

NOTE: *These relationships are not dependent on the sexual orientation of the parties.*

ROOMMATES OR INDIVIDUALS SHARING LIVING SPACE DO NOT FALL INTO A DOMESTIC RELATIONSHIP.

The minority of a party does not preclude the court from issuing a RSA 173-B protective order such that a 16 year old victim may petition for an order against his or her boyfriend or girlfriend. It is not necessary for a parent or guardian to accompany the minor to the court.

Minor children who reside with the abuser may not seek a protective order under RSA 173-B.

Victims of a stranger sexual assault do not fall into a domestic relationship and may not apply for protection under RSA 173-B.

A victim who does not qualify for a 173B protective order because of the relationship can go to the superior court and apply for an equity order.

ROLE OF THE DISPATCHER AND CALL TAKERS

Law enforcement rely on dispatchers/call takers to describe in as much detail as possible what has and what is occurring throughout a call. **Domestic violence calls should be given a high priority.** Whenever possible the dispatcher/call taker should assign a back-up unit. The dispatcher/call taker receiving a domestic violence call should attempt to keep the caller on the telephone, if safety permits. Dispatchers should ask the caller if they are safe and encourage them to seek safety.

Domestic violence calls should be coded as such for data collection purposes. Information obtained should include:

- Name of caller and their callback number.
- The exact nature of the incident; when it happened; anyone injured.
- Name of victim and suspect.
- The telephone number where the caller can be called back and whether it is safe to do so.
- The exact location of the incident.
- Whether firearms or other deadly weapons are involved or were threatened to be used.
- The precise location of any firearms and/or other weapons.
- The precise location of the victim.
- The precise location of the suspect.
- The precise location of the children, or other individuals present at the scene, if applicable.
- The location of the entryways.
- In trying to determine the suspect's state of mind, the caller should be asked about:
 - Alcohol and/or other drug use
 - Mental illness, including depression
- The dispatcher/call taker should determine:
 - Whether an ambulance is needed
 - If there are any warrants in effect for any party present
 - Whether an active protective order is in effect and if so, the conditions of the order
 - Whether bail restrictions are in effect

It is important to get as much information as possible from the victim and other household members to provide to the responding officer(s).

Recorded information can be an essential tool for the investigating officer.

When the officer indicates that s/he is in position to meet with the caller, the dispatcher/call

taker should instruct the caller to meet the officer at the entrance (providing it is safe for the caller to leave her or his location).

If the caller has hung up, the dispatcher/call taker should call back to maintain contact, ensure the safety of the caller and determine the best and safest way for the officer to gain entry.

ROLE OF THE FIRST RESPONDER

OFFICER SAFETY CONCERNS

- Be mindful that in the majority of cases the parties know that law enforcement is responding.
- If possible, a minimum of two officers should respond to a domestic violence call.
- Obtain all available information from the dispatcher before arriving at the scene and notify dispatch upon arrival.
- Avoid the use of sirens and emergency lights while responding unless it is believed that the victim is in imminent danger of serious bodily injury.
- Be alert to vehicles and people leaving the immediate area.
- Keep in mind that the threat to law enforcement safety **may be waiting outside the scene.**
- Pause outside the scene and attempt to determine what is taking place inside.
- ***STOP, LOOK AND LISTEN.***
- Unless exigent circumstances require forced entry, such as the necessity to stop what officers believe to be an ongoing physical assault or a felony, the officers should seek to have one of the parties admit them to the residence. **In the absence of exigent circumstances, the officer has no right to enter, but shall make reasonable efforts to ascertain the well being of those present.**
- Remain until it is believed that there is no immediate threat of physical harm, and appropriate measures have been taken to ensure the safety of those present, or an arrest is made and a criminal investigation has begun.

Statistically, the first minute after arrival at the scene is the most dangerous for law enforcement

Officers should establish control by:

- **Separating the victim and the suspect.** **NOTE:** If responding alone, keep both parties in view. (Position the victim so the officer can keep the suspect in view and the suspect cannot visually intimidate the victim.)
NEVER lose sight of the parties involved;
 - Removing the parties from areas of the home that pose the most threat, e.g., kitchen;
 - Identifying and taking physical control of any weapons, including but not limited to firearms, knives, etc.;
- Assessing injuries, administering first aid, and requesting medical services; and

NOTE: A parent or legal guardian **NEED NOT** be present when interviewing a child as a potential witness. Parents and legal guardians are only required to be present during an interview if the minor is a **SUSPECT** in a crime.

- Establishing locations of children in the home. Children should always be viewed for evidence of assault or abuse **and interviewed as potential witnesses.**

EXIGENT CIRCUMSTANCES

Exigent circumstances exist when “the delay caused by obtaining a search warrant would create a substantial threat of imminent danger to life or public safety or likelihood that evidence will be lost or destroyed”.

If the officers are unable to raise a person within the residence or the residents refuse entry, officers should consider whether **not** entering would create a threat to a person’s safety.

The following is a list of factors and situations that an officer should consider when determining if exigent circumstances exist:

- Who was the original complainant? Was it a resident or an involved party (i.e. victim, child of victim)?
- Did the original call to service make mention of hearing a disturbance; a person calling for help, or sounding as if they were being assaulted?
- Did a canvass of the area or neighbors locate a witness that heard any of the above circumstances? Did anyone see the residents leave prior to police arrival?
- Prior history and calls to service to this address for domestic related issues.
- What the officer heard or observed upon their arrival, such as hearing a disturbance within, threats being made, etc.
- Attempt to contact residence via phone.
- If the call originated through E911, have dispatch contact E911 to obtain more information if possible.

In most circumstances when responding to a domestic violence call, an officer will be able to develop probable cause and be able to articulate exigency to force entry. In the minority of cases when an officer is unable, the officer should document the incident and all attempts made to contact the residents. The officer should also make another attempt later in her/his shift or make arrangements for another officer to attempt to contact the residents.

NOTE: *The 911 call itself may, in some instances support a determination of exigent circumstances or include permission to enter. The dispatch tape may also be admissible evidence in court proceedings as excited utterances (especially if the victim becomes uncooperative or hostile.)*

IDENTIFYING THE PREDOMINANT PHYSICAL AGGRESSOR

THE PERSON WHO COMMITTED THE FIRST ACT OF ASSAULT OR AGGRESSION IS NOT NECESSARILY THE PERSON WHO SHOULD BE ARRESTED.

Although the New Hampshire statute refers to the “predominant” aggressor as the “primary” physical aggressor, **officers should attempt to identify the predominant physical aggressor as opposed to who committed the first act of assault.**

When an officer has probable cause to believe that the persons are committing or have committed abuse against each other, the officer **SHOULD ARREST the person whom the officer believes to be the predominant physical aggressor and SHOULD NOT arrest both persons. (173-B:10 (II))**

When determining who is the predominant physical aggressor, an officer shall consider the following in accordance with [RSA 173-B:10 \(II\)](#):

- The intent of [RSA 173-B:10](#) is to protect victims of domestic violence
- The relative degree of injury or fear apparent or exhibited by either party
- Any history of domestic abuse between these persons if that history can be reasonably attained

Other Considerations:

- The strength and size of each of the persons involved
- Who originated the emergency call
- Defensive injuries vs. offensive injuries
- Criminal records of the parties
- Prior police contacts
- Observations and locations of crime scenes
- Based on officer observations, which person’s statement appears to be most consistent with the officer’s observation
- Utilize the Domestic Violence Power and Control Wheel ([Appendix F](#))

If the officer decides not to arrest the person believed to be the predominant aggressor in a domestic violence incident, where such an arrest is lawful, the officer should document in the incident report a detailed explanation of the reasons an arrest was not made.

ON-SCENE INVESTIGATION

Responding officers should make detailed observations of the scene and persons present, including children. Observations should include the victim's physical and emotional condition. (See [Domestic Abuse Investigation Checklist](#), page i)

- When possible, interview the victim and the suspect fully. Be alert to possible incriminating statements by the suspect and **excited utterances** from both the victim and suspect.
- For safety and privacy purposes interview the victim in an area away from the suspect, witnesses and bystanders. Ask the victim about previous abuse, frequency and severity. For example, do not ask if this is the first such incident, but rather how many times it has happened in the past.
- Secure a statement from the victim and witnesses before leaving the scene. If feasible an **audio or video recording would be preferred over a written statement** in order to obtain the most accurate account of the incident. This is very important because victims often recant statements made on scene (See [Victim Responses](#), page 6)

Ask the victim if there is a protective order in effect (including a criminal protective bail order) and, if so, if the victim can produce a copy. Note carefully the restrictions imposed by the order so that it can be determined whether there is probable cause to believe the order has been violated. **If any of the protective provisions have been violated the officer SHALL arrest the suspect and detain until arraignment.**

- **The officer may rely upon a copy of any protective order (For various reasons, not every order is entered into NCIC).**
- **If the officer reasonably believes a victim to be truthful, the officer may rely on the victim's word that there is a protective order in place and can take appropriate action, including arresting or detaining a suspect.**
- If the suspect has been arrested prior to the interview, the suspect must be given Miranda warnings before being questioned. If the suspect is not in custody, any admissions made to officers, including the suspect's knowledge that a protective order is in effect will be admissible in court. **Officers should note these and any other excited utterances made by the suspect.**
- If the suspect has fled the scene, solicit information from the victim and witnesses as to the possible locations of the suspect (place of employment, relatives, friends, etc.)
- Children should be interviewed as potential victims or witnesses in a manner appropriate to the child's age. (See [Children](#) page 28)

NOTE: A Protective Order From One State Is Valid In Every Other State. The Victim Only Needs To Apply For A Protective Order Once, Which Can Then Be Enforced Throughout The Country, Without Informing The Defendant Of The Victim's Whereabouts. (See [Full Faith and Credit For Domestic Violence Victims \(page 51\)](#))

*Officers should request the victim to sign a medical release form, allowing access to the medical records relating to this specific incident. **If a medical records release is granted obtain this information AS SOON AS POSSIBLE because the victim can withdraw this permission at any time.** Names of medical personnel who dealt with or treated the victim should be noted, because they may be critical prosecution witnesses.*

- Interview any witnesses as soon as circumstances allow. **If time allows, secure statements because witnesses may recant at a later date.** Ask witnesses to provide information about prior incidents. The officer should document this information to establish a pattern.

- Collect and preserve all physical evidence present to support a prosecution, including evidence of the victim's injuries, and physical evidence that substantiates an assault **or other domestic violence crime**, such as weapons, torn clothing, etc.

- If injuries are visible or verbally conveyed by the victim, encourage the victim to seek medical care.
- All physical evidence should be collected, noted in reports, and processed as in other criminal investigations. The presence of such evidence may lead to successful prosecution of the suspect even if the victim becomes uncooperative or otherwise unavailable by the time of trial.

It is important to document and record all contacts with the suspect. Part of ensuring the victim's safety is to observe the obvious and not so obvious behavior of a suspect. When serving a protective order, answering a call for service and/or doing a criminal investigation, law enforcement is encouraged to document:

- The suspect's body language
- The suspect's tone of voice
- The suspect's statements/emotions/mood swings/demeanor
- Whether the suspect appears to be under the influence of alcohol or other drugs

PHOTOGRAPHS

Taking evidentiary photographs of the victim, suspect and scene IS STRONGLY ENCOURAGED. The following should be considered:

- Consider very closely if there is significant visible physical trauma to the victim which photographic representation would clearly and accurately depict.
- Make a special effort to minimize the potential damaging effect that photography could have on the victim. Do not surprise the victim with the use of a camera. Let the victim know in advance that photographs will be taken and for what purpose.
- A trained police photographer should take the photographs if possible. **Photographs taken by medical personnel become part of the medical records and cannot be**

released to investigators without proper releases. The officer taking photographs should submit them as evidence consistent with departmental policies.

- Each police department should have a policy relative to how photographs are documented and identified. At a minimum the policy should require the following information: Photographer, Date, Time, Location and Incident Case Number.
- **If photographs are being taken of an individual's injury, an initial photo needs to be taken showing the individual's face for identification purposes.** Overall distance photos should be taken to identify the injury in relation to the rest of the body, while close up shots will detail the injuries.
- The injured areas should be photographed with and without enhancements. In order to show the size of the injury and relative location, use a measuring device like a six-inch photographic gray card ruler. It is important to keep the measuring device on the same plane as the injury, or in close proximity in order to depict an accurate representation of the injury.
- Other than the initial overall photograph, document only visible injuries, such as bruises, cuts, lacerations, bite marks, etc. Take care to avoid embarrassing the victim. Any non-affected, private areas should be covered. **A re-victimization may occur if photographing is not handled appropriately, and may be almost as traumatic as the abuse itself.**
- Most injuries should be photographed as early as possible, before the normal healing process obscures them. **Injuries such as bruising will be better demonstrated by using photos taken at time intervals. Photos should be taken the next day or up to 48 hours after the initial assault.** All photographs should be marked with the photographer's initials, date, time taken, victim's name and age and the case number.
- Photographs of the home or crime scene should also be taken close in time to the incident. It may be necessary to obtain a search warrant in order to photograph a scene if written consent to search is not obtained. If the investigating officer is unsure if a search warrant is necessary, the officer should request advice from the department prosecutor or County Attorney.

DOMESTIC VIOLENCE LETHALITY ASSESSMENT PROGRAM

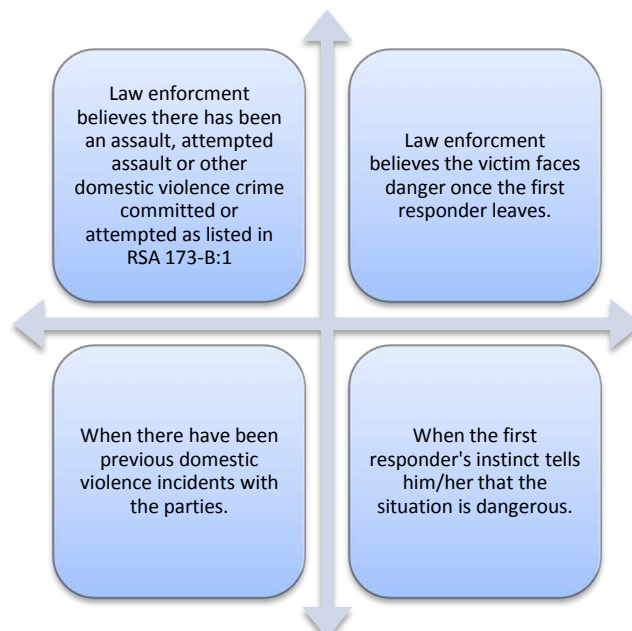
The Lethality Assessment Program (LAP) should be utilized only if the law enforcement agency has been trained on its use. Utilizing the LAP screen without first attending and completing the "first responder" training can, in some instances, be dangerous for victims. If your agency has not been trained contact your local County Attorney's Office to arrange for training.

The New Hampshire Attorney General's Office has adopted the research/evidence based Maryland Lethality Assessment Program (LAP) as a model response for domestic violence cases and strongly recommends its use by all law enforcement agencies statewide.

The LAP is an easy-to-use process that features an 11-question lethality screening tool and an accompanying response and referral protocol designed to **identify domestic violence victims who are at the greatest risk of being seriously injured or killed and to immediately connect them with crisis center services** for safety planning, information and resources.

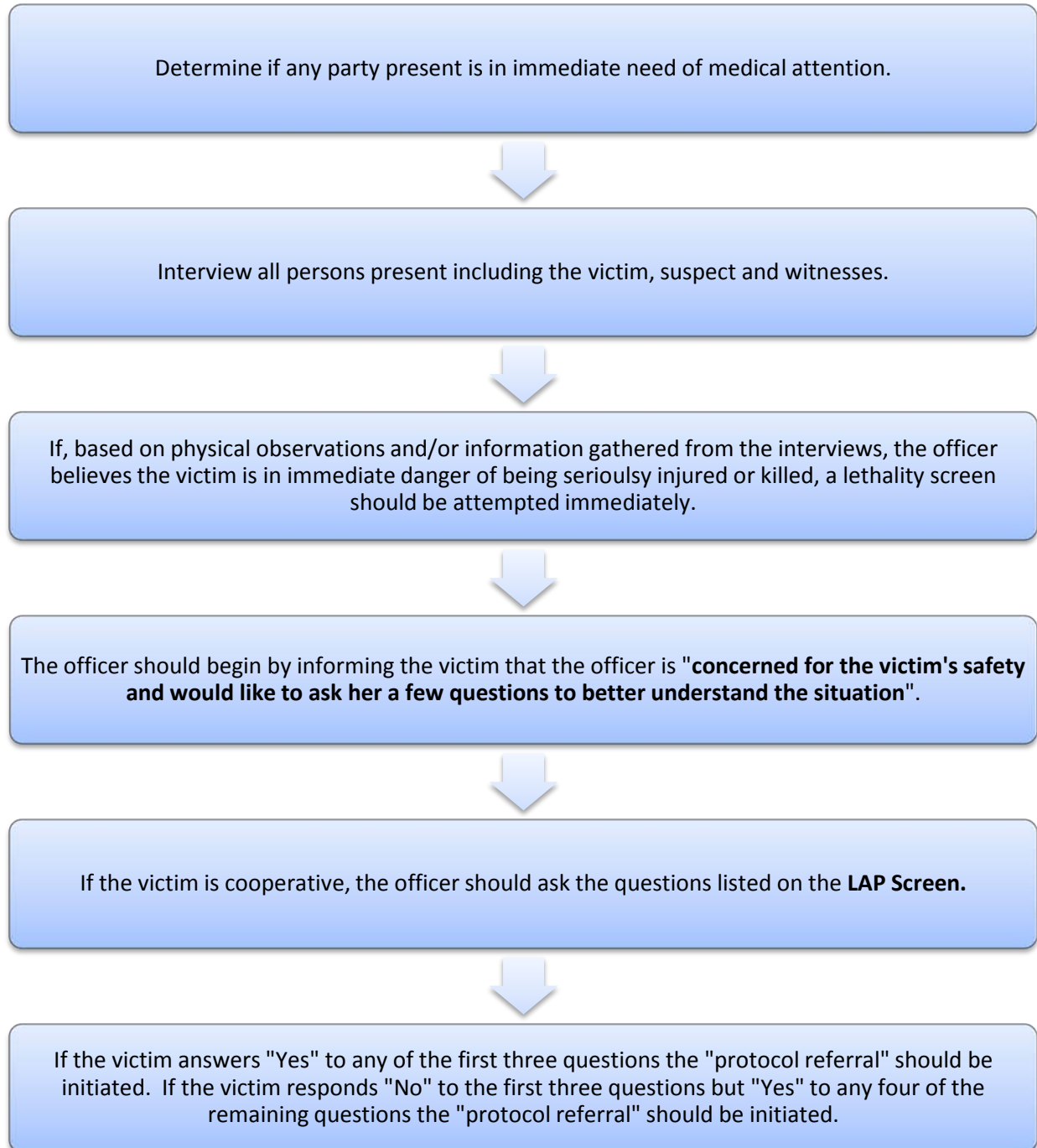
The goal of LAP is to prevent domestic violence homicides, serious injury and re-assault by encouraging more victims to use the shelter, counseling, advocacy and support services of domestic violence crisis centers. Studies have shown that the support services of crisis centers can save lives and reduce re-assaults, yet these programs continue to be under-utilized. **There is a 60% reduction in risk of severe assault when victims utilize domestic violence services. Studies show that abused women who used domestic violence services are much less likely to be the victim of murder or attempted murder. A comprehensive, nationwide, domestic violence study found that only 4% of actual or attempted intimate partner homicide victims utilized domestic violence services.** (*Jacquelyn Campbell, Ph.D., John Hopkins University School of Nursing*)

A LAP screen should be initiated in cases of **INTIMATE RELATIONSHIPS** when any of the following occur:



LAP is NOT intended to be used on ALL domestic violence calls – it is only used in calls involving intimate relationships, when a first responder believes that if IMMEDIATE INTERVENTION does not take place it is likely that the victim will be seriously injured or killed.

The process for initiating a LAP screen is as follows:



An officer may also trigger a “protocol referral” anytime s/he wishes to do so. Once initiated, it is important that all the questions listed on the LAP Screen be asked. A “protocol referral” is simply the process of initiating a phone call to the local crisis center hotline and speaking to an advocate from that agency.



If a victim “screens in” as being in danger the officer **must** tell the victim that she **“is in danger and that persons in her position have been killed”**.



If a person “screens in” the officer should also inform the victim that the officer is calling the crisis center hotline to get information to help her and would like for the victim to consider speaking to an advocate.



A phone call should be immediately made to the local crisis center hotline requesting that an advocate contact the officer at a phone number provided by the officer.



The officer should inform the person answering the crisis center hotline that this is a LAP CALL. It is important that the officer make contact with an advocate even if the victim does not wish to speak with one.



Upon making contact with the advocate the officer should provide basic information about the call and review the answers to the LAP screen with the advocate. **The victim should be encouraged, BUT NOT FORCED, to speak on the phone with the advocate.**



If the victim continues to refuse to speak to the advocate the officer should request assistance from the advocate to develop a safety plan for the victim. Upon termination of the call the officer should review the safety plan with the victim.



Prior to leaving, the officer should advise the victim of her victim rights as required by law and leave the victim with a Victim Notification Form. In addition, the officer should use all means within reason to ensure the continued safety of the victim and other family members.

NOTES:

If a LAP screen is completed and the victim **does not** “screen in” there is no requirement to immediately call the crisis center hotline but the victim should be referred to the local crisis center and be given the Victim Notification Form (**Appendix G**). The remainder of the investigation should be conducted and completed as the officer would normally do with any other domestic violence investigation in accordance with departmental policy.

- If a victim is intoxicated, **but not incapacitated**, a LAP screen should still be initiated when the circumstances warrant it.
- The LAP Screen **is discoverable in a criminal case** and should be included as a part of the incident report.
- The LAP screen is designed to be one component of a domestic violence investigation and should not be considered a substitute for a complete and thorough investigation of the facts or crime scene.

CHILDREN

Law enforcement response to domestic violence incidents will impact every member of the family including the children who are at the scene. A well-informed sensitive law enforcement response to children present is essential.

The goals of an effective law enforcement response to children include:

- Assessing whether children have been harmed
- Minimizing the impact and repercussions to children who are present
- Empowering of children within the process as much as possible
- Enhancing adult victim and child safety
- Promoting offender accountability
- Expanding the community response to domestic violence

Children can be exposed to domestic violence in a number of ways:

- Directly witnessing violence
- Intervening in an assault to protect a parent
- Overhearing violence
- Seeing the injuries or bruises on a parent
- Being harmed intentionally or unintentionally in the course of an assault

There are many variables which influence/mitigate the effects of domestic violence on children, including:

- The severity and frequency of the violence
- The age of the child
- The resiliency and temperament of the child
- The child's relationship with the parent who is battered

Children exposed to violence can experience a range of effects including, **but not limited to:**

- Sleep disturbances
- Eating problems
- Developmental delays
- Psychosomatic disorders
- Acting out violently
- Withdrawing

The impact of exposure to domestic violence on children can occur across a wide continuum. Some children experience a mild level of anxiety while other children are severely traumatized.

- Problems in school
- Depression
- Anxiety

DETERMINING WHETHER CHILDREN ARE PRESENT

Law enforcement should determine and document whether there are any children present in the residence (or were present during the incident), their names, ages, demeanor, their relationship to the parties, and whether the child/ren have been physically harmed.

- In addition to information regarding children provided by the police dispatcher, officers should look for physical evidence that may indicate the presence of child/ren (i.e.: toys, clothes, etc.).
- Ask the parties about child/ren, their whereabouts, and whether the child/ren were present during the incident.
- If child/ren were present ask the parties if the child/ren were injured in the incident.
- Explain to the parent/guardian why it is important for officers to check on the child/ren.
- If the parties are not able to respond to questions about the child/ren's welfare and there is some reason to believe that child/ren may be present, officers should consider whether to look for them.

When deciding whether to look for children, law enforcement should consider:

- Whether there is reason to believe that the child/ren are injured, in danger, or at risk of substantial harm
- The severity of the violence involved in the incident
- Whether there is someone to look after the child/ren if there would be no adults left to supervise any child/ren left in the house
- Whether there are enough officers present at the scene to do so safely

If law enforcement looks for children, officers should consider:

- That the purpose of searching the house for child/ren should be to determine their presence and welfare
- Asking the non-offending parent/guardian to go with the officer to locate the child/ren
- The age and developmental level of the child/ren which can affect where they may hide
- Not waking child/ren who appear to be sleeping in the absence of other compelling reasons to do so

WHEN A CHILD IS LOCATED

When law enforcement locates child/ren on the scene, officers should determine whether the child/ren are physically hurt by both visually observing and by asking the child/ren. Officers should make every attempt to comfort the child/ren.

If child/ren have been injured, law enforcement should:

- Determine whether the child/ren needs medical treatment and if so, make arrangements to get it. Engage the non-offending parent/guardian in that process if possible.
- Follow the Attorney General's [New Hampshire Child Abuse and Neglect Protocol](#)
- Report the incident to **DCYF Central Intake at 1-800-894-5533**.
- Explain to the non-offending parent that a report must be made and why.

TALKING WITH CHILDREN ABOUT THE INCIDENT

When deciding whether to talk to the child/ren about the incident, law enforcement should consider:

- Whether there are enough officers present at the scene to do so safely
- The potential trauma to the child/ren that could result from an interview
- Comfort level of child and non-offending parent:
 - The age and developmental level of the child/ren
 - The emotional state of the child/ren
 - Whether the child/ren are expressing an interest in speaking with an officer
 - The non-offending parent/guardian's preferences as to whether and how to talk with the child/ren
- The comfort level of officers in talking with child/ren
- Whether there exists other corroborative evidence sufficient to make the arrest decision without talking to the child/ren

If child/ren make 'excited utterances' about the incident, the officer should document them, in quotes, along with observations about the child/ren's demeanor in the officer's report.

If a child is not ready to be interviewed or circumstances do not permit an interview, consider arranging a follow-up interview at a Child Advocacy Center or with an officer trained as a forensic interviewer as soon as possible after the incident.

HOW TO TALK TO CHILD/REN ABOUT THE INCIDENT

In general, **child/ren shall be interviewed outside the presence of parents/guardians to avoid the child being influenced by their presence.** However, there may be some occasions where child/ren, because of their age, developmental level, and/or emotional state, should be interviewed in the presence of a non-offending parent/guardian in order to minimize the impact on the child/ren.

WHO SHOULD INTERVIEW CHILDREN AT THE SCENE?

It is recognized that because of the realities of staffing and resources, in most cases and in most jurisdictions, only the initially responding officers will be interacting with the child/ren at the

scene of a domestic violence incident. However, if a specifically trained law enforcement officer is available to respond to the scene or participate in follow-up interviews, that officer should be utilized.

CHILD ADVOCACY CENTERS

Child Advocacy Centers (CACs) are community-based facilities that bring together law enforcement, DCYF, the County Attorney's Office, victim advocate services and medical and mental health professionals to utilize a collaborative team approach to child abuse investigations and necessary follow-up services. CACs provide a safe neutral environment for the evaluation of child abuse and exploitation, coordination of services for victims and families and child abuse prevention through community education.

The benefits of a CAC include:

- The trauma experienced by children is reduced;
- Non-offending parents are empowered to protect and support their children;
- Children receive prompt and ongoing services tailored to their family's needs;
- Allegations of abuse and neglect are more thoroughly investigated;
- More offenders are held accountable;
- The community is better educated about the problem of child abuse; and
- The CAC becomes a resource to MDT professionals, providing consultation and specialized training.

For a list of CACs see [Appendix B](#).

INTERVIEWING WITNESSES IN THE PRESENCE OF CHILDREN

Whenever possible, avoid interviewing parties in the presence of the child/ren. To ensure impartiality and no conflict of interest, it is important that children and extended family members of the victim or of the batterer not be allowed to interpret for the victim. (See [Use of Interpreters](#), page 10)

THE ARREST DECISION

MANDATORY ARREST

[RSA 173-B:9](#) mandates that when a defendant violates either a temporary or permanent protective order issued or enforced under 173-B the officer SHALL ARREST the defendant and ensure that the defendant is detained until arraignment.

This includes protective orders contained within a divorce decree issued under [RSA 458:16](#) as part of Divorce Decrees.

[RSA 633:3-a](#) mandates that an officer SHALL ARREST when the officer has probable cause to believe that a person has committed the offense of Stalking in violation of a protective order contained within a divorce decree issued pursuant to RSA 173-B, RSA 458:16 and RSA 597:2.

WARRANTLESS ARREST

An arrest by an officer without a warrant on a charge of a misdemeanor is lawful whenever:

- The officer has probable cause to believe that the person has committed abuse as defined in [173-B:1, I](#), against a person eligible for protection from domestic abuse as defined in [RSA 173-B:1](#), within the past **12 hours**.
- The officer has probable cause to believe that the person has violated a temporary or permanent protective order issued under [RSA 173-B](#) or [RSA 458:16](#) by committing an act of abuse as defined in [RSA 173-B:1](#), within the last **12 hours**.
- The officer has probable cause to believe that the person has violated stalking provisions under [RSA 633:3-a](#) within the last **12 hours**.

Before the 12 hour period expires the officer should get a warrant if the suspect has not been arrested, unless a warrantless arrest can be made under [RSA 594:10](#)

When no protective order is in place, it is the officer's decision whether an arrest should be made. The officer should not rely on the victim's opposition to arrest and should emphasize to the victim and to the accused, that the criminal charge is initiated by the officer and not by the victim.

NOTE: *The time for the 12 hour warrantless exception begins at the time of the offense, **NOT THE TIME THE OFFENSE IS REPORTED.** The warrant shall be entered into NCIC or the Instate Misdemeanor Warrant File.*

In all cases of domestic abuse in which an arrest is not mandated by statute, officers **SHOULD ARREST**, with or without a warrant, if probable cause exists to support an arrest. If an officer decides not to arrest in a domestic abuse incident, where such an arrest is lawful, **the officer must include in the report of the incident a detailed explanation of the reasons an arrest was not made.**

REMINDER: If there is a protective order in place, law enforcement MUST arrest in all instances where they have probable cause to believe that the protective order was violated. The officer may rely upon a copy of any protective order provided by any source or may rely on the statement by the protected party that the order remains in effect.

The officer should take the suspect into custody as soon as the officer determines that a warrantless arrest is appropriate. If the suspect has fled the scene, the officer should initiate procedures to pursue and apprehend the suspect as soon as possible; arrange for the safety of the family, and take reasonable measures to safeguard the property. If a warrant is necessary, the officer **should** obtain and execute the warrant as soon as possible.

Subsequent to an arrest for the violation of the protective order, or abuse, officers **SHALL SEIZE** any firearms and ammunition in the control, ownership, or possession of the defendant. Officers shall also seize any other deadly weapons in the control, ownership or possession of the defendant which may have been used, or were threatened to be used, during the violation of the protective order. The law enforcement agency **SHOULD** maintain possession of the firearms, ammunition, or deadly weapons until the court issues a written order for return. (See [Firearms Issues](#), page 52)

PROCEDURE WHEN ARREST IS NOT POSSIBLE

- If no crime has been committed or there is no probable cause for an arrest, and there are no safety concerns, officers should refer the parties to appropriate community services, and/or suggest a temporary separation.
- When arrest is not possible, officers are still obligated to advise victims of their rights under RSA 173-B:10, and should always discuss safety options. It is highly recommended that law enforcement encourage victims to call their local crisis center (**1-866-644-3574**) where housing and safety plans can be formulated and assessed by a trained advocate.
- The officer should discuss the possibility of alternative housing with the victim and encourage the victim to contact law enforcement again if necessary. The victim's perception of the willingness of law enforcement to assist and protect the victim is often the determining factor in the victim's decision to seek further assistance from the criminal justice system.

*Protective orders are civil orders designed to protect the victim from the defendant. **The prohibited actions in a protective order only apply to the person that the order is addressed to and NOT to the victim.** It is therefore not possible for the victim to be in violation of the order and **under no circumstances should an officer threaten, or actually arrest the victim for violating a protective order.** Temporary reconciliation **shall not** revoke the order. IF the victim indicates a desire to initiate contact with the defendant, however, the officer should suggest that the victim contact the issuing court to amend the*

- Even when an arrest is not made the issuance of a protective order may be appropriate. Officers may assist the victim by directing that person to the court during business hours or by requesting a judge to issue an emergency telephonic protective order during hours when the court is closed. Officers should be mindful of the statutory protection provided to victims by [RSA 173-B:10](#).
- In addition, [RSA 173-B:11](#) states that “all officers shall give victims of abuse immediate and adequate notice of their right to go to the district or superior court in their county to file for a petition asking for a protective order against the abusive person and to seek a private or criminal complaint”.

PROTECTION BY LAW ENFORCEMENT

Whenever law enforcement has probable cause to believe that a person has been abused, as defined in [RSA 173-B:10](#), officers **SHALL** use all means to prevent future abuse, including, but not limited to:

- Confiscating any firearms and ammunition in the defendant’s control, ownership or possession.
- Confiscating any deadly weapons used or threatened to be used in the domestic abuse.
- Transporting or obtaining transportation for the victim and any child to a designated place to meet with a crisis center advocate, family member or friend.
- Standing by while the victim removes toiletries, medication, clothing, business equipment and other items as determined by the court, from the residence or business. (See [Civil Standbys](#), page 45)
- Giving the victim immediate and written notice of the rights and of the remedies and services available to victims of domestic violence as defined in [RSA 173-B:10 I\(d\)](#). (See [Appendix G](#), Victim Notification Form.)

CONFIDENTIALITY OF VICTIM’S LOCATION/ADDRESS

It is important for the officer to determine if the perpetrator knows where the victim lives. If the perpetrator does not know and the victim does not want the perpetrator to know, the officer should not include any reference to the victim’s address in the body of the report, the incident arrest sheet or other police documents. The criminal complaint should just identify the city (i.e. Dover NH) as the location of the incident without reference to the specific street. (See [Appendix H](#), Sample Complaint). Defendants have purposely violated protective orders to obtain victim’s address from the criminal complaint.

EMERGENCY CARE, LIMITATIONS AND LIABILITY [RSA 173-B:12](#)

“Any act or omission of any peace officer rendering emergency care or assistance to a victim of domestic violence including, **but not limited to** transportation, **shall not impose** civil liability upon the peace officer or the peace officer’s supervisors or employer if the care and assistance is rendered in good faith, **unless the act or omission is a result of gross negligence or willful misconduct**”.

BAIL ISSUES

STATUTORY REFERENCES:

[RSA 173-B:9](#) (Violation of Protective Order)
[RSA 597](#) (Bail and Recognizance)

***NOTE:** Upon request, the officer shall provide to the judge a copy of the defendant's criminal record including: New Hampshire criminal record check; New Hampshire license check; motor vehicle history; domestic violence protective order history, if known; and Triple Interstate and FBI criminal check. When determining bail in a domestic violence case the officer should make the judge or bail commissioner aware of the relationship of the parties and any facts that help provide for the safety of the victim.*

If a Lethality Assessment Screen was completed at the time of the defendant's arrest the LAP Screen should be provided to the Bail Commissioner and/or the Judge.

VICTIM NOTIFICATION OF BAIL ORDERS

It is important that victims of domestic violence be made aware of all outstanding orders of protection, including bail orders. Victims are not usually present when the bail order is issued and may be unaware of what conditions the order contains. Because the court system is often not aware of the victim's location, the prosecuting agency should make all reasonable attempts to notify victims of the bail orders.

MANDATORY DETENTION

When a defendant is arrested for violation of a protection order under [RSA 173-B](#) or [RSA 633:3-a](#), the defendant must be detained until arraignment pursuant to [RSA 173-B:9 I\(a\)](#)

GUIDELINES FOR ISSUING BAIL AND CRIMINAL PROTECTIVE ORDERS PENDING ARRAIGNMENT

In general, a person is entitled to pretrial release, the conditions of which will be dependent upon the court's assessment of whether the defendant poses a risk of flight or danger to self or others. The Domestic Violence/Stalking Criminal Order of Protection including Orders and Conditions of Bail (CBPO) is a specialized form of bail order that was developed for use in criminal cases involving domestic violence, stalking or sexual assault.

The form explicitly addresses restrictions on personal contact, possession of firearms, and use of alcohol and drugs and was designed so that it can be entered into NCIC as a criminal order of protection.

The Criminal Bail Protective Order should be requested when:

1. The parties are “intimate partners” **as defined under federal law** and
2. Appropriate **bail conditions include:**
 - a) Restraints on abusive, threatening or stalking of a victim, or
 - b) Engaging in conduct that would place the victim in reasonable fear of bodily injury.

“**Intimate partners**” for purposes of a CBPO means one of the following:

- Spouse;
- Ex-spouse;
- Persons cohabiting with each other as a spouse, parent or guardian or similarly situated to a spouse parent or guardian;
- Persons who cohabited with each other as a spouse, parent or guardian or similarly situated to a spouse parent or guardian;
- Co-parents

(NOTE: To qualify as a criminal order of protection under federal law, and thus ensure that the victim will get all the protections of the federal law, the CBPO must be issued in compliance with those laws, including the federal definition of “intimate partner.” The federal definition is more narrow than the definition under NH RSA 173-B. The bail statute, RSA 597 is silent on the relationship between the parties.)

The decision of whether to use the CBPO is based on the relationship and the type of protection order. It may be appropriate for a whole range of charges.

FIREARMS

(See [*Firearms Issues*](#), page 52)

BAIL CONSIDERATIONS AT ARRAIGNMENTS

Best practice in a domestic violence case is for the defendant’s arraignment to be scheduled the next court day after an arrest. A CBPO is considered “temporary” when issued by a bail commissioner and then “final” when reviewed by a judge at arraignment. After the judge’s review of the order, it will become “final” for the purposes of disqualifying the defendant from purchasing a firearm under federal law.

PREVENTIVE DETENTION

In cases where there is clear and convincing evidence presented at arraignment that the defendant poses a significant danger to himself, or another the officer should request that the judge order preventive detention without bail, or impose alternative restrictive conditions, such as electronic monitoring.

A preventive detention should be considered whenever the defendant has made threats of suicide at the time of arrest, while in custody or during the domestic incident.

A preventive detention request should be done by written motion alleging as many of the following acts or conduct as evidence that the defendant poses a danger:

- Threats or attempts of suicide
- Depression or sudden lifting of moods
- History of violating protective orders
- Recent acquisition or change in use of weapons
- Homicidal ideation, threats or attempts
- Threats of imprisonment of the victim, or possessiveness toward another
- Interference with help seeking attempts on the part of the victim. (e.g., pulling a phone jack out of the wall)
- Stalking as defined in [RSA 633:3-a](#) or other surveillance/monitoring behavior
- Cruelty to or violence directed towards animals
- Escalation of physical violence
- Escalation of other forms of abuse
- Sexual abuse of the victim
- Change in alcohol or other drug use/abuse
- Mental health concerns connected with violent behavior
- A change in types or doses of Mental Health medications
- Other criminal behavior or injunctions (e.g., resisting arrest)
- Increase in personal risk taking (e.g., violation of a protective order)
- Centrality of the victim to the perpetrator (“she’s all I have”)
- Jealousy/obsessiveness about, or preoccupation with, the victim

NOTE: Some of the examples listed above are outlined in [RSA 597:2](#) others are taken from the [New Hampshire Batters Intervention Standards, 2002](#) and others taken from recommendations from the Domestic Violence Fatality Review Committee. While research has shown that each of these factors may be a strong indicator of lethality or future violence, a high lethality risk may exist even in the absence of these factors¹.

Also, as can be noted by the phrasing of some of the above items, a **change** in factors may be equally as important as the **presence** of those factors (e.g., owning a weapon is not as relevant as recently purchasing that weapon).

- Symbolic violence including destruction of the victim’s property
- Pending separation, divorce or custody proceedings
- Recent termination from employment
- Victim’s attempt to flee the perpetrator or to terminate the relationship
- Perpetrator’s access to the victim or her/his family

WHEN A DEFENDANT VIOLATES A CONDITION OF BAIL

In cases where there is clear and convincing evidence that the defendant has violated one or more of the terms of bail or has been arrested on a warrant for a new criminal offense, the prosecuting officer should request the court to revoke the defendant’s bail. A motion to revoke bail should be filed in all cases where the defendant has breached a “no contact” condition of bail.

In cases where the defendant has violated a “no contact” provision of bail, best practice requires the officer to charge the defendant with class A misdemeanor of stalking under RSA 633:3-a, I (c). if the alleged conduct occurred in his or her jurisdiction. However a Class A misdemeanor of breach of bail conditions under [RSA 597:7-a](#) can also be charged.

A request to revoke bail must be filed in the court that ordered the defendant’s release and bail conditions, regardless of where the violation occurred. **If this court is outside the jurisdiction of where the new offense occurred, the arresting officer should immediately notify the prosecuting jurisdiction of new offense prior to the defendants’ release.**

Case Example:

January 2, 2011: Manchester Court issues bail and orders of release, including an order of no contact with the victim.

February 14, 2011: In Auburn, the defendant is found with the victim in violation of the “no contact” order of release from the Manchester Court.

February 14, 2011: Auburn should charge the defendant with stalking or breach of bail; should call Manchester Police Department to ascertain if they want the defendant held for a Motion to Revoke bail in the Manchester Court.

February 14, 2011: Manchester police should file a written Motion to Revoke Bail to the Manchester Court.

The request to revoke bail should be done by written motion. If, however, the defendant has been arrested on a court-issued arrest warrant for the new offense, the State may stand on the warrant as written notice of the request to revoke bail.

RSA 59:7-a allows the State to detain the defendant until he or she can be brought before the issuing Court. The detention, however, must not exceed 48 hours. Any request to revoke bail should establish the following:

1. **Either** there is probable cause to believe that the person has committed a federal, state, or local crime while on release; **or** there is clear and convincing evidence that the person has violated any other condition of release- such as a “no contact” provision, and

2. **Either** there is no condition or combination of conditions of release that will assure that the person will not flee or that the person will not pose a danger to the safety of himself or any other person or the community; or that the person is unlikely to abide by any condition or combination of conditions of release.

Note: If it is alleged that the defendant has committed a federal or state felony while released on bail and the Court finds probable cause to believe that the defendant committed the felony, there is a rebuttable presumption that no condition or combination of conditions will assure that the person is not a danger to the safety of any other person or the community.

CHARGING AND SENTENCING DECISIONS

STATUTORY REFERENCES

[RSA 173-B:9, III](#)

[RSA 625:9, IV and VII](#)

In New Hampshire there is **no criminal offense of domestic violence**. The only criminal offense related to domestic violence is the violation of any protective provisions of a **civil** protective order under [RSA 173-B:9](#)

CHARGING

In some New Hampshire communities, police prosecutors are responsible for the prosecution of misdemeanor cases and/or felony probable cause hearings. Given the increasing complexity of domestic violence cases, police prosecutors charged with this responsibility should be experienced with domestic violence cases and have specialized training in domestic violence prosecution. Prosecutors should understand the issues surrounding domestic violence and be familiar with the available resources in the community.

In deciding to bring a specific charge the prosecutor must determine whether there is sufficient admissible evidence to sustain a guilty finding and a reasonable probability of conviction.

The prosecutor should review all the facts in the case and carefully consider the following:

- The elements of the offense
- The extent and seriousness of injuries and/or threats
- The use or threatened use of a deadly weapon (including furniture or other household objects)
- The defendant's criminal history and history of violence toward the victim (*See [Identifying the Predominant Physical Aggressor](#), page 20*) The language "**mutual combat**" **should not be used in the complaint.**
- The defendant's use of alcohol or other drugs insofar as the propensity for violence may be enhanced when impaired
- The victim's or caller's statements to the 911 operator

In domestic violence there are specific statutory provisions that must be taken into account when charging an offender:

- A charge of violation of a protective order under [RSA 173-B:9, III](#), which is a class A misdemeanor **cannot be reduced** to a class B misdemeanor, as is permitted in other instances under [RSA 625:9](#).
- Any misdemeanor offense that is not designated by statute as either a class A or class B is presumed to be a class A. A prosecutor has the discretion to charge any such offense as a

class A. In that event, the prosecutor **must complete** a *Notice of Intent to Seek Class A Misdemeanor Penalties* form and file it with the complaint.

- In general, the prosecutor has the discretion to reduce a class A misdemeanor to a class B. However, an offense designated as a class A misdemeanor, **may not be reduced** to a class B if the elements of the offense involve a threat of violence or an act of violence. [RSA 625:9](#) IV and VII.

Domestic violence cases should be charged as class A misdemeanors. Suspended and deferred jail sentences are useful in enforcing court-imposed requirements for treatment and participation in other rehabilitation programs. When the victim's safety is a primary concern, charging the defendant with a violation level offense may prevent meaningful interventions for the batterer. Charge reductions designed to preclude court appointed counsel are not appropriate.

If the criminal charges involve a relationship between the parties that fits within the federal definition of "intimate partner", which is more narrow than the definition under RSA 173-B, then the charging officer should complete a 5 page *Criminal Orders of Protection Including Orders and Conditions of Bail (CBPO)*. (See [Bail Issues](#), page 35)

NOTE: A Qualifying Misdemeanor Crime of Domestic Violence (QMCDV) is a crime that is a misdemeanor under New Hampshire law that has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon and which was committed by a current or former spouse, parent or guardian of the victim, a person with whom the victim shares a child in common, a person who is cohabiting or has cohabited with the victim as a spouse, parent or guardian, or a person similarly situated to a spouse, parent or guardian of the victim [18 USC 921\(a\) 33,A](#)

PRIOR CONVICTIONS AND THE IMPACT ON CHARGING

An officer should review a defendant's complete criminal history prior to making a charging decision. Under New Hampshire law, prior domestic violence offenses can be grounds for enhancing the charge for the current offense.

The statute provides the following provisions for enhancing charges:

- Any person convicted under [RSA 173-B:9, III](#), or who has been convicted in another jurisdiction of violating a protective order enforceable under the laws of this state, and who, within 6 years of such conviction or the completion of the sentence imposed for such conviction, whichever is later, subsequently commits and is convicted of one or more offenses involving abuse may be charged with an enhanced penalty for each such subsequent offense.

The statute includes the following schedule for possible enhancement:

- There is no enhanced charge under this section if the subsequent offense is a class A felony or an unclassified felony;

- If the subsequent offense would otherwise constitute a class B felony, it may be charged as a class A felony;
- If the subsequent offense would otherwise constitute a class A misdemeanor, it may be charged as a class B felony;
- If the subsequent offense would otherwise constitute a class B misdemeanor, it may be charged as a class A misdemeanor; or
- If the subsequent offense would otherwise constitute a violation, it may be charged as a class B misdemeanor.

IF NO CHARGES ARE FILED

If the prosecutor determines that **the facts are not** sufficient to file charges then the prosecutor should:

- Keep a record of the case and document the reasons no charges were filed.
- Explain clearly to the victim **why criminal charges were** not appropriate.
- Refer the victim to the local crisis center or other appropriate social service or legal organizations.
- Inform the victim of options other than criminal charges, such as civil protective orders. (See [Appendix I, Guide to Enforcing Protective Orders](#))

SENTENCING

STATUTORY REFERENCES

[RSA 173-B:9, III](#)
[RSA Chapter 651](#)

Upon a conviction for a domestic violence-related crime, a deferred or suspended jail sentence, with appropriate conditions, may be effective in promoting deterrence, rehabilitation and treatment.

Example: 6 months in the House of Corrections deferred for one year pending meaningful participation in a batterer's intervention program and completion of alcohol and/or other drug counseling.

Incarceration, together with a period of probation, may also be effective, especially when the defendant presents a higher risk of re-offending.

Example: six months incarceration with all but fifteen days deferred pending meaningful participation in a batterer's intervention program.

The prosecutor should also consider the following when crafting a sentence or negotiated plea:

- Batterers Intervention Programs are designed specifically to hold batterers accountable. Current best practices indicate that Batterer's Intervention Programs are more effective in changing behavior than personal counseling or anger management.

- **Personal counseling should be recommended with caution** as a means of rehabilitation because it is not designed around accountability.
- **Joint counseling (the offender attending counseling with the victim) is not appropriate in domestic violence cases and should not be recommended.**
- No-contact orders are an appropriate condition of a sentence if requested by the victim.
- Determine the victim's position regarding the defendant's ability to possess firearms and ammunition and the federal limitations on firearms and ammunition possession.
- Domestic violence cases are not appropriately placed on file unless there is a mechanism in place for monitoring compliance with conditions of treatment, no contact orders or good behavior.

The prosecutor **should** consult with the victim and obtain input when crafting a negotiated disposition. However, the ultimate decision on a negotiated plea rests with the prosecutor.

PROTECTIVE ORDERS

STATUTORY REFERENCES: [RSA 173-B:9](#) (Violation of Protective Order: Penalty)
 [RSA 458:16](#) (Divorce Decree)
 RSA 491 (Equity Protective Order)
 [RSA 597:7-a](#) (Criminal Bail Protective Order)
 [RSA 633:3-a](#) (Stalking)
 RSA 169-C:16, 19 (Child Order of Protection)

DOMESTIC VIOLENCE PROTECTIVE ORDERS UNDER RSA 173:B *EMERGENCY/TELEPHONIC PROTECTIVE ORDERS*

Circuit and superior court judges may issue emergency/telephonic protective orders in emergency domestic violence cases when the court is not open for business. ([RSA 173-B:4](#)) **This process should not be used as a substitute for arresting a suspect** in a domestic violence situation and establishing a “no contact with the victim” provision as a condition of bail. **Emergency/telephonic protective orders only remain in effect until the close of the next court business day.**

NOTE: *Officers shall not make the determination whether or not a petitioner is eligible for an emergency/telephonic protective order. This is solely a judicial decision.*

Procedure For Law Enforcement To Obtain An Emergency/Telephonic Protective Order:

- Have the victim complete and sign the allegation of abuse section of the *Emergency Order of Protection Form*. Ask the victim to detail specific dates, times and events.
- Contact the **on-call judge at 1-800-552-3202** (nights, weekends and holidays).
- Identify yourself to the judge and read the victim’s allegation of abuse. The victim should, if possible, be in the same room to answer any inquiries the judge may have.
- If the judge makes a finding of domestic violence, check the appropriate box on the order and proceed to read to the judge each of the listed protections and check off each protection that the judge orders. If so ordered, make sure that firearms box is checked.
- At the conclusion of the conversation with the judge, sign the order where indicated.
- Provide the victim with a copy of the order. Explain that the defendant will also receive a copy of the order.
- **Explain to the victim that the order remains in effect only until the close of the next court business day. Inform the victim that s/he must apply for a new order by the close of the next court business day if s/he wishes the order to continue.**
- Provide the victim with information regarding the local crisis center and the location of the appropriate court.

- Follow all departmental procedures for service of the defendant’s copy upon the defendant.
- Fax the emergency protective order to the **Department of Safety at (603) 271-1153** and the court of jurisdiction. The Department of Safety shall make available information regarding protective orders issued telephonically to police and sheriff departments statewide.
- File the return of service at the opening of the next business day at the court in the jurisdiction where the victim resides.

TEMPORARY CIVIL PROTECTIVE ORDERS

Temporary civil protective orders may be obtained at all circuit and superior courts during court business hours. A final hearing on the order is to be held within 30 days of the filing of the petition. A duly served temporary protective order has the same force and effect as a final order of protection.

The victim begins the procedure by filing a petition containing the allegations of abuse, the nature of the relationship and the reason the other individual poses an “immediate and present danger of abuse.” The victim files the petition ex-parte, which means the individual against whom the order is sought is not notified.

If the court approves the petition, it will issue a temporary protective order and a notice of hearing date, both of which must be served on the defendant before any enforcement of the order may occur. In some instances, the service of the temporary protective order is the first notice the defendant has of the victim’s intentions to leave the relationship.

The defendant may request an expedited hearing. If a request is made, a hearing must be held no less than three or more than five business days after a written request is received.

FINAL CIVIL PROTECTIVE ORDERS

A final civil protective order is issued only after a public hearing on the victim’s petition. At the final hearing the victim must establish by a preponderance of evidence that the defendant abused the victim within the meaning of [RSA 173-B:1](#), and that the defendant poses “a credible threat to the victim’s safety.” If the final order is granted, it will be in effect for up to one year. The defendant is given an opportunity to be heard and to present evidence.

SERVICE OF CIVIL DOMESTIC VIOLENCE AND STALKING PROTECTIVE ORDERS

Emergency and temporary protective orders **SHALL BE PROMPTLY SERVED** on the defendant. In most cases the responsibility for service of protective orders will fall upon the local police department where the defendant resides.


The *Defendant Information Sheet* is completed by the victim and is sent to law enforcement. This information will allow law enforcement to better assess the potential for violence at the time of service. **The *Defendant Information Sheet* should NEVER be shared with the defendant.**

All attempts to serve the defendant shall be documented should be included in the police file. If law enforcement is unable to make service, the report should indicate why (i.e. defendant has moved; no response at door, etc). All returns of service including service of emergency orders must be sent to the court.

Once issued, the protective order will be available to law enforcement through either NCIC or the state database. NCIC has strict data requirements and only orders that contain all the required information can be entered. If the Return of Service is incomplete and this information is not obtained by law enforcement the protective orders do not get entered into NCIC correctly and may not be available. Once the protective order is served the system is updated.

When serving the order the officer **should**:

- Obtain and/or verify the defendant's:
 - Full name
 - Date of birth
 - Address
 - Height
 - Weight
 - Eye color
 - Hair color
- Obtain the defendant's social security number (this information does not appear on the court forms).
- Thoroughly explain the order's content and the potential penalties for violating the order.
- Confirm that the defendant understands the order.
- Insure that the defendant is aware of the hearing date listed at the bottom of the order.
- Notify the defendant that an earlier hearing can be requested in writing at the court where the order was issued.
- Observe and document the defendant's response to service including statements made, body language, level of sobriety, etc.
- When possible, obtain the defendant's signature on the return of service.
- **Ensure that the victim's address or the location of any domestic violence shelter is not divulged to the defendant.**
- Deliver return of service form to the court of issuance.



All of this information MUST be obtained and/or verified at the time of service, in order to be entered into the state database and NCIC.

All efforts should be made to notify the victim that the protective order has been served on the defendant.

ENFORCEMENT OF CIVIL DOMESTIC VIOLENCE PROTECTIVE ORDERS

If law enforcement has probable cause to believe that a person has violated either an emergency, temporary or final domestic violence protective order an arrest **SHALL** be made. The arrest may be made **without a warrant** if there is probable cause to believe the violation

occurred within **12 hours** of the incident. The arresting agency **SHALL** seek an arrest warrant if the defendant is not arrested within **12 hours** of the incident. The officer should verify that the order was served on the defendant.

Subsequent to the arrest, law enforcement **SHALL** seize any firearms and ammunition in the control, ownership or possession of the defendant. (See [Firearms Issues](#) page 52) **Law enforcement should not return the items seized to the defendant without an order from the court.** Unless there are exigent circumstances, this rule of mandatory seizure does not authorize a law enforcement officer to enter the person’s home for the purpose of seizing the weapons. A search warrant must be obtained unless the officer is given consent to enter.

The violation of a protective order is a Class A misdemeanor, for which arrest and detention is statutorily mandated. An individual arrested for a violation of a protective order **MUST** be detained until arraignment. A Bail Commissioner may not set bail on the defendant. If extreme conditions exist that prevent the defendant from being safely detained, the arresting agency may request alternate orders from a judge.

NOTE: Remember that the provisions of the protective order remain in effect while the civil standby is taking place.

CIVIL STANDBYS

Law enforcement is required by statute to conduct civil standbys for the purpose of allowing a defendant or victim to retrieve personal property. The process is outlined in statute.

Defendant- [RSA 173-B:5 I\(a\)\(2\)](#) restrains the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is “accompanied by a peace officer and is allowed entry by the plaintiff for the sole purpose of retrieving personal property specified by the court”.

The defendant must make arrangements through the local law enforcement agency to retrieve any property specified by the court. The law enforcement agency should contact the victim and arrange for a convenient time for the defendant and the law enforcement officer to proceed to the residence to retrieve the items designated. Should the victim deny access to the items specified by the court, the law enforcement officer should notify the court of the refusal. Disputed property needs to be addressed by the court and should be left at the residence until so ordered. **UNDER NO CIRCUMSTANCES SHOULD THE DEFENDANT BE ALLOWED ACCESS TO THE RESIDENCE WITHOUT THE SPECIFIC CONSENT OF THE VICTIM AND THE PHYSICAL PRESENCE OF AN OFFICER.**

For the personal safety of law enforcement and the victim, the officer should physically remain in the presence of the defendant while the victim is retrieving the items specified by the court.

Victim – [RSA 173-B:10 I\(d\)](#) requires a law enforcement officer to “assist the victim in removing toiletries, medication, clothing, business equipment and any other items determined by the court.”

If the victim has left the residence, this statute does not require notification to, or permission from, the defendant to remove the items specified. Nor does it require that the defendant be present.

If there is a court order allowing a large amount of personal property, such as furniture, to be removed from the residence and it is apparent that it will take a prolonged period of time, the law enforcement agency may seek guidance from the court relative to cost reimbursement or any other alternative plan the court may recommend or dictate.

Best practice is that whenever someone asks for a standby the law enforcement agency should grant the request, within reason, regardless of whether or not there is an order in place EXCEPT if the victim objects.

OTHER PROTECTIVE ORDERS

MARITAL ORDERS OF PROTECTION - [RSA 458](#)

After a party files for divorce, annulment or separation, the court may include temporary or permanent protective orders in the marital order that:

- Direct the offending party to refrain from abusing or interfering in any way with the liberty of the other party.
- Direct the offending party from entering the premises wherein the other party resides upon a showing that physical or emotional harm would otherwise result.
- Direct the offending party from contacting the other party at, or entering, the other party's place of employment or school.
- Direct the offending party from harassing, intimidating or threatening the other party, other party's relatives regardless of their place of residences, or the other party's household members in any way

These orders cannot prohibit someone from possessing firearms and ammunition.

These orders do not provide the same level of protection afforded by a civil domestic violence protective order (173-B). These orders are not entered into a state database

Enforcement Of Marital Protective Orders

A warrantless arrest for violation of the order may be made within **12 hours** of the incident, when supported by probable cause, whether or not the violation is committed in the presence of a peace officer.

Violations of non-protective provisions of a marital protective order (e.g. failure to pay bills) are non-criminal matters. The complaining party should return to the court that issued the orders.

CRIMINAL BAIL PROTECTIVE ORDERS - [RSA 595:7](#)

Criminal bail protective orders (CBPO) can be issued by the bail commissioner or judge in a criminal case involving domestic violence. There is a specific CBPO order form that should be used in these cases. (See [Bail Issues](#) page 35)

Unlike other protective orders, the criminal protective order may be requested and issued without the protected party's (victim) consent. All efforts should be made by the prosecuting officer to notify the victim of the criminal order of protection.

Enforcement Of Criminal Protective Orders

Violations of these orders can be charged with stalking under [RSA 633:3-a](#) or Breach of Conditions under [RSA 597:7-a](#).

STALKING PROTECTIVE ORDERS - [RSA 633:3-A](#)

Stalking protective orders are issued by the circuit court. A victim may obtain a stalking protective order in the circuit court in the area in which either party resides.

No specific relationship is required to qualify for the issuance of a stalking protective order. The victim must prove, however, that the defendant engaged in a course of conduct as defined by statute.

Once the stalking order is issued it is served and enforced in the same manner as a domestic violence civil protective order under RSA 173-B.

Enforcement Of Stalking Protective Orders

If law enforcement has probable cause to believe that a person has violated one or more of the protective orders contained in a temporary or final stalking order, the officer **SHALL** make an arrest. The arrest may be made **without a warrant** if there is probable cause to believe the violation occurred within **12 hours** of the incident. The arresting agency **SHALL** seek an arrest warrant if the defendant is not arrested within **12 hours** of the incident. No arrest should be made when a violation of a condition listed under the *Further Orders* section is alleged to have been violated.

Subsequent to an arrest for violation of a stalking protective order a law enforcement officer **shall seize** any firearms and ammunition in the control, ownership or possession of the defendant and any other deadly weapons, which have been used or were threatened to be used, during the violation of the protective order. Unless there are exigent circumstances, this rule of mandatory seizure does not authorize a law enforcement officer to enter the person's home for the purpose of seizing the weapons. A search warrant must be obtained unless the officer is given consent to enter.

RSA 169-C, CHILD PROTECTION ACT, ORDERS OF PROTECTION

RSA 169-C Orders of Protection under the Child Protection Act ("169-C Orders") may be issued by the Circuit Court – Family Division when there is an open abuse and neglect case.

The 169-C Order of Protection should be used to protect the children involved in these proceedings. It may also provide relief for a parent.

Service of 169-C Order of Protection

If the person is in court the order will be served. (The person may or may not be a party to the Abuse and Neglect case.) If the person against whom the order is issued is not present in court, the order is served by law enforcement. Law enforcement should notify the local DCYF District

Office once service is made. The person may file a request for a hearing on the order, which must be held within 5 days.

The statute requires that 169-C Orders of Protection be entered into the state database. They will be entered if the order includes the required data elements outlined above. (*See Service of Domestic Violence and Stalking Protective Orders*)

Enforcement of 169-C Order of Protection

If an officer has probable cause to believe a person has violated a 169-C Order of Protection an arrest **SHALL** be made. The arrest may be made without a warrant if there is probable cause to believe the violation occurred within 6 hours of the arrest. The arresting agency must seek an arrest warrant from the circuit court if the defendant is not arrested within 6 hours of the violation. An arrest can be made if arresting officer can verify the existence and service of the 169-C Order Protection, regardless of whether the Order is entered into the state database.

Subsequent to an arrest for the violation of a 169-C Order of Protection, officers **SHALL SEIZE** any firearms and ammunition in the control, ownership, or possession of the defendant. Officers shall also seize any other deadly weapons in the control, ownership or possession of the defendant which may have been used, or were threatened to be used, during the violation of the protective order. Unless there are exigent circumstances, this rule of mandatory seizure does not authorize a law enforcement officer to enter the person's home for the purpose of seizing the weapons. A search warrant must be obtained unless the officer is given consent to enter.

The law enforcement agency **SHOULD** maintain possession of the firearms, ammunition, or deadly weapons until the district court issues a written order for return and should refer to agency protocols regarding the return of firearms. (*See [Firearms Issues](#), page 52*)

An individual arrested for a violation a 169-C Order must be detained until arraignment and cannot be released on bail. Any criminal complaint brought for a violation of a 169-C Order must be filed as a class A misdemeanor; it cannot be reduced to a lesser charge, as may be permitted in other instances.

After arraignment, the case must be transferred to the Circuit Court for misdemeanor prosecution. Subsequent offenses may have an increased penalty.

EQUITY ORDERS OF PROTECTION - RSA 491

Equity orders can only be issued by the superior court. They are issued for the purpose of requiring one individual to stay away from another person. **The orders are not enforceable by law enforcement.** However, a violation of an equity order should be investigated as a potential stalking charge under RSA 633:3-a.

If a person violates an equity protective order, the protected party must return to the issuing superior court to file a motion for contempt.

As outlined above, there are several types of protective orders that may be issued for victims of abuse. All of these orders, except for equity protective orders which are discussed below, are

enforceable by law enforcement. **Not all orders are entered into SPOTS or NCIC so law enforcement should not rely solely on SPOTS or NCIC when enforcing orders.**

If law enforcement is confronted with conflicting protective orders, the officer should contact the judge that signed the most recent order for clarification.

FULL FAITH AND CREDIT FOR DOMESTIC VIOLENCE PROTECTION ORDERS

STATUTORY REFERENCES: [RSA 173-B:13](#) (Orders Enforceable)
 [RSA 458:16](#) (Temporary Orders)
 [RSA 461-A:10](#) (Restraining Orders)

Law enforcement officer should enforce orders of protection that appear valid. An officer should presume a protection order is valid when the order:

- Gives the names of the parties;
- Contains the date the order was issued;
- Contains an expiration date and
- Is signed by a judge.
- Specifies the terms and conditions against the defendant

Full Faith and Credit enables a victim to travel safely, without having to obtain a new protective order in each location. A protective order from one state is valid throughout the country. The victim need apply only once for a protection order, which can then be enforced throughout the country without informing the defendant of the victim's whereabouts.

The laws of the *issuing jurisdiction* govern the following:

- The persons who are eligible for a protection order
- The length of time the order will be in effect
- The relief that may be granted
- The *enforcing jurisdiction* only determines how a violation will be enforced

For an order issued in another jurisdiction to be entitled to full faith and credit in New Hampshire the order must be a "valid protection order".

A Foreign Protection Order must be enforced as written. The Foreign Protection Order does not need to be registered to be enforced in New Hampshire.

Foreign orders will not be entered into NCIC by New Hampshire. No jurisdiction has authority to enter another jurisdiction's order into NCIC.

A mutual protection order issued by a foreign jurisdiction against a person who has received a protection order shall be accorded full faith and credit only if:

- A cross or counter petition, complaint, or other written pleading was filed seeking such protection order; and
- The court made specific findings of domestic or family violence by both parties and that each party was entitled to such order.

NOTE: New Hampshire does not permit the granting of mutual protection orders.

FIREARMS ISSUES

STATUTORY REFERENCES

<u>RSA 159:3</u> <u>RSA 159:11</u> RSA 159-C:2 <u>RSA 159-D:3</u> <u>RSA 173-B:1</u> <u>RSA 173-B:4</u> <u>RSA 173-B:11</u> <u>RSA 173-B:9</u> <u>RSA 173-B:10</u> <u>RSA 173-B:11</u> <u>RSA 625:11(v)</u> <u>RSA 629:1</u> <u>18 USC 2265-66</u>	(Convicted Felons) (False Information) (Sale of Handguns: Criminal Record Check) (Penalty for Attempts to Purchase Firearms Illegally) Definitions (Temporary Relief) (Relief) (Violation of Protective Orders) (Protection by Peace Officers) (Notice to Victims) (Deadly Weapons) (Attempt) (Federal Law)
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Under federal law there are a number of categories of individuals who are prohibited from purchasing or possessing firearms and ammunition.

- Persons who have been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.
- Persons who are Fugitives from Justice
- Persons who are unlawful users of or addicted to any controlled substance
- Persons who have been adjudicated as a mental defective or have been committed to any mental institution
- Persons who are illegal aliens or legal non immigrants who do not meet certain exceptions
- Persons who have received a dishonorable discharge from the Armed Forces
- Persons who having been citizens of the United States, have renounced their U.S. Citizenship
- Persons who are subject to a protective order.
- Persons who have been convicted of a domestic violence misdemeanour - specifically defined under federal law.
- Persons who are under indictment or information for a crime punishable by imprisonment for a term exceeding one year

DEFINITIONS

For the purposes of the domestic violence statutes, firearms and deadly weapons are defined separately as there are different mandates regarding the relinquishment, confiscation or seizure of these items. These specific definitions and statutory authority are as follows:

FIREARMS

"Firearm" is defined in [RSA 173-B:1, XI](#) as "any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by force of gunpowder."

DEADLY WEAPONS

"Deadly weapons" are defined as any "knife or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing death or serious bodily injury" [RSA 625:11\(v\)](#)

RELINQUISHMENT OR SEIZURE IN ACCORDANCE WITH CIVIL PROTECTIVE ORDERS

EMERGENCY/TELEPHONIC ORDERS

A judge has discretion to order relinquishment of firearms, ammunition and other deadly weapons at the time an emergency telephonic protective order is issued. The judge should consider input from law enforcement's when deciding whether to order relinquishment.

Therefore, a law enforcement officer should convey any concerns to the judge when an emergency telephonic order is being sought or contemplated.

TEMPORARY ORDERS

When issuing a temporary order, the judge has **discretion** to order relinquishment of firearms, ammunition and other deadly weapons. If ordered, the items **shall** be relinquished to a police officer. The defendant may be ordered to surrender any and all firearms and ammunition in the defendant's control, ownership or possession. All firearms the defendant owns must be seized regardless of where the firearms are located.

The judge may also order the defendant to relinquish any other deadly weapons that are in the possession of the defendant or any other person on behalf of the defendant, if any were specified in the petition. ([RSA 173-B:4, I\(a\)\(9\)](#))

The judge may also prohibit the defendant from purchasing, receiving or possessing any deadly weapons, including any firearms and ammunition for the duration of the order. ([RSA 173-B:4, II](#))

If law enforcement has probable cause to believe that a defendant has not relinquished firearms, ammunition or other deadly weapons referenced in the protection order, the officer should seek a search warrant authorizing the seizure of these items.

FINAL ORDERS

When issuing a final protective order, it is **mandatory that the judge order the defendant to relinquish all firearms and ammunition in his/her control, ownership or possession**, for the duration of the protection order. The judge **shall** also prohibit the defendant from purchasing, receiving or possessing any deadly weapons, including firearms and ammunition, for the duration of the order. The judge **may** order the relinquishment of any and all other deadly weapons specified in the protection order.

If a defendant will not voluntarily relinquish firearms, ammunition and other specified deadly weapons, law enforcement should seek a search warrant.

VIOLATION OF CIVIL PROTECTIVE ORDERS (MANDATORY SEIZURE)

If a defendant violates a protective order (emergency, temporary, final or foreign) law enforcement **MUST** seize firearms, ammunition and deadly weapons.

This rule of mandatory seizure does not authorize law enforcement to enter the person's home, **without consent**, for the purpose of seizing these items. A search warrant should be obtained to seize the weapons.

Law enforcement shall maintain possession of all firearms, ammunition and deadly weapons seized, until the court issues an order that they be relinquished.

NOTE: *Law enforcement officers and military personnel are not exempt from this statute. Any law enforcement officer or member of the military who has, at any time, been convicted of a qualifying misdemeanor crime of domestic violence **may no longer possess a firearm for any purpose**, including the performance of official duties.*

MANDATORY RELINQUISHMENT UPON ARREST

In accordance with [RSA 173-B:10, I\(a\)](#), whenever a peace officer has probable cause to believe that a person has been abused, as defined in [RSA 173-B:1](#), that officer **SHALL** use all means within reason to prevent further abuse including but not limited to confiscating any deadly weapons involved in the alleged domestic abuse **and any firearms and ammunition in the defendant's control, ownership or possession.**

If an officer makes an arrest for **ANY** domestic violence crime defined in [RSA 173-B:1](#), any firearms and ammunition in the control, ownership or possession of the defendant **MUST BE CONFISCATED** whether or not they were used or threatened to be used. **There need not be a civil protective order in place at the time.**

FIREARMS, AMMUNITION AND DEADLY WEAPONS INVENTORIES

Firearms, ammunition and other deadly weapons seized, shall be documented and inventoried consistent with departmental policy.

STORAGE

The seizing law enforcement agency is responsible for storage of all firearms, ammunition and deadly weapons seized unless otherwise specified by the court.

No law enforcement agency or federally licensed firearms dealer may release any firearm, ammunition or other deadly weapons without a court order.

***NOTE:** Friends, relatives or other third parties will not be permitted to store firearms and ammunition during the term of the protection order.*

RETURN OF FIREARMS AND AMMUNITION

Return of firearms should be done through court order. The process and standard for obtaining the order is different in civil and criminal cases.

Firearms seized in a criminal domestic violence case where no civil order existed, **should be returned only with a court order and consistent with departmental policies and practices.** The prosecutor should seek a court order prior to releasing the firearms **provided the firearms are not contraband, the State does not have “good cause” to deny the return of the firearms, and the defendant is not prohibited by federal law from possessing firearms and ammunition.**

Firearms seized or held pursuant to a civil domestic violence protective order shall be returned to the defendant only upon a court order after a hearing. The process a defendant must follow to obtain such an order is set out in RSA 173-B:5. X. Law enforcement and the victim will receive notice of this hearing but need not be present.

If the defendant is convicted of a qualifying misdemeanor crime of domestic violence under federal law s/he is forever prohibited from purchasing or possessing firearms and ammunition.

PENALTY FOR ATTEMPTING TO BUY FIREARMS ILLEGALLY

Any person who completes and signs an application for purchase of a firearm and knowing that such purchase is illegal because s/he is subject to a protective order shall be guilty of a class A misdemeanor for a first offense and a class B felony for a second or subsequent offense.

For circumstances giving rise to a potential prosecution under federal law contact the ATF (603) 471-1283 or the US Attorney’s Office (603) 225-1552

STRANGULATION

Strangulation, commonly referred to as “choking,” is a life threatening traumatic event that can result in death hours, or even days, after the initial assault. The injuries caused by strangulation are often not visible externally, even in fatal cases. Batterers commonly use strangulation as an effective means to control their victims.

Non-fatal strangulation has a high risk of future lethality and has been recognized as a predictor of future serious assault and homicide.

The lack of external signs of injury often causes victims, law enforcement and members of the medical community to overlook the potential lethality of an incident of strangulation. **It is highly recommended that law enforcement request EMS response to all strangulation assaults,** regardless of whether or not the victim wishes to have EMS respond. It is also recommended that law enforcement agencies adopt a policy of automatic EMS dispatch in strangulation cases.

Victims of strangulation often experience new or changing symptoms in the hours and days following the assault. For this reason, law enforcement should obtain a medical records release from the victim even if the victim declines EMS transport to the hospital or indicates that s/he will not be seeking medical attention. As a result of evolving symptoms victims will often seek medical care at a later time, and these medical records will be an important component of the case.

Victims of strangulation should be contacted, in person, 24-48 hours after the assault to check their welfare, ascertain if signs and/or symptoms are changing, worsening or improving and to obtain follow-up photos of evolving or resolving injuries.

Due to the dangerous and complex nature of strangulation, it is recommended that law enforcement receive specialized training on strangulation and familiarize themselves with [RSA 632:2](#) which specifically addresses assault by strangulation. This statute defines strangulation as pressure being applied to the throat or neck or the blocking of the person’s nose or mouth that results in one of the following three conditions:

- **Impeded breathing** – i.e. the victim feels as though s/he cannot breathe or take in air due to physical obstruction applied by the suspect or the lips or fingers turn blue in color.
- **Impeded blood circulation** – i.e. the victim feels dizzy, light-headed, passes out (syncope), has visual disturbances, ringing in the ears or feels increasing pressure or pain in his/her head during the application of pressure to their neck.
- **Change in voice** – This may not be noticeable to the victim. Even if the victim says no, ask a family member or friend if the victim’s voice sounds different. Obtain audio of the victim’s voice (i.e. 911 call or audio/video statement).

NOTE: *Only one of the three conditions listed above needs to be alleged in the complaint, not all three. The examples with each condition are examples only and are by no means the only evidence of those conditions.*

STRANGULATION INVESTIGATION QUESTIONS

The following is a list of suggested questions to ask a victim in a strangulation case. Remember that victims and other lay people will often refer to this event as “choking” and law enforcement should consider using the terms with which that person is comfortable.

- How, when and where was the victim strangled?
- How long did it last?
- Did it involve one hand, two hands, forearm, knee, foot, ligature or something else?
- Were there multiple attempts and/or multiple methods?
- Was smothering involved?
- Is the perpetrator right or left handed?
- What did the perpetrator say before, during and after the strangulation?
- Was the victim shaken, straddled or held against something while strangled?
- Was the victim’s head struck against a wall, floor, ground or other object?
- What did the victim think was going to happen?
- How or why did the perpetrator stop strangling the victim?
- What was the perpetrator’s demeanor?
- Describe what the perpetrator looked like during the strangulation?
- Have there been prior incidents of strangulation, domestic violence or threats?

TECHNOLOGICAL CONSIDERATIONS IN DOMESTIC VIOLENCE CASES

Technology plays a significant role in today's society. This is particularly relevant when investigating domestic abuse cases involving teens and young adults. It is important for law enforcement officers to understand the prevalence of the use of the Internet, email, or related digital electronic communication devices to annoy, alarm, or threaten a victim. Technology often captures evidence of criminal behavior that is helpful in the investigation. It should be properly seized and searched in a timely manner.

The anonymity and reach of the Internet, and the difficulties in capturing, recording, and verifying digital evidence combine to create new challenges for law enforcement agencies trying to prevent and detect crime and apprehend the criminals. In particular, the "expectation of privacy" afforded to all participants engaged in on-line communication often makes it difficult to connect the actual perpetrator with his/her cyber activity.

DEFINITIONS

Perpetrators use various methods of Internet communication to harass their victims. Some of the more common methods of electronic communications that law enforcement need to recognize and document in their investigations include:

1. **E-mail:** A method of communication that allows an individual to transfer text, picture, video, and audio files to another person's electronic mailbox.
2. **Text messages:** A written communication between users' cell phones.
3. **Social Networking:** An online service platform or site that focuses on building and reflecting of social networks or social relations among people, who, for example, share interests and/or activities
4. **Hand held devices:** Smartphones or tablets **with Internet** capabilities.
5. **Newsgroup:** A newsgroup is an Internet-based discussion about a particular topic.
6. **Message boards/guest books:** A method of communication similar to a newsgroup in that its contents amount to comments about a particular topic. Internet sites often have a guest book where visitors can enter their names and make comments about the site.
7. **Internet sites:** A method of communication that involves posting information to a unique uniform resource locator (URL). Internet users later can retrieve this information by directing their Web browser to the corresponding URL. An Internet site becomes the method of harassment when an abuser posts information or images on a Web page about an individual that causes the individual to become alarmed or frightened.
8. **Chat rooms:** A method of communication that enables real-time text, audio and video-based group interaction. Chat rooms, or chat channels, usually are organized around specific topics of conversation.

9. **Instant messaging:** A method of communication that enables real-time text, audio, and video based interaction between two individuals over the Internet or a computer network. Users program their instant messenger software to notify them when designated individuals log on to the network.

ELECTRONIC EVIDENCE COLLECTION

Computers and cell phones are a significant source of evidence in many contemporary domestic abuse cases. Law enforcement can seize computers, cell phones, or other electronic devices used in a crime for forensic inspection.

Law enforcement should seize any electronic device that contains potential evidence including text messages, emails and videos , either by consent or search warrant. It may be possible to extract the data from the device with the assistance of a trained forensic examiner, using one of the following software programs, Cellebrite or Paraben. In the event neither of the programs work, law enforcement should be prepared to retrieve the data manually. Investigators should also communicate with their prosecutor regarding the type of evidence that will be required or beneficial in these types of domestic violence/technology-related cases.

Law enforcement may call their local crisis center ([Appendix A](#)) to inquire about availability of a cell phone to replace the one confiscated from victims for purposes of evidence collection.

Preservation orders must be used to preserve relevant data and information ([Appendix J](#)) and followed up with the appropriate legal process, such as an administrative subpoena issued under 7:6-b,a grand jury subpoena, or a search warrant ([Appendix K](#)) to capture data and content. Important pieces of evidence may include subscriber information, IP addresses, call logs, text/email content, user names and passwords, cell tower and location data. Consultation with the County Attorney's Office, the Attorney General's Office or the US Attorney's Office for guidance is appropriate.

Before collecting evidence from a computer or other electronic device, it is important to have an understanding of how forensic science is applied to computers or other devices. The collection, documentation and preservation of digital evidence requires significant training and experience. To ensure that evidence is not lost or destroyed in the collection process, untrained investigators are strongly advised to consult with trained personnel from the New Hampshire State Police Forensic Laboratory or members of the Internet Crimes Against Children Task Force.

The New Hampshire State Police Forensic Laboratory (603) 271- 3573) should be contacted for assistance if there are specific questions about cyber evidence collection.

MANDATORY REPORTING

New Hampshire has a mandatory reporting law for both **child abuse and neglect and elder and incapacitated adult abuse and neglect**. **Any person** who has reason to suspect the abuse and/or neglect of a child or an incapacitated adult over the age of 18 **MUST** report the abuse.

ELDER AND INCAPACITATED ADULT ABUSE

New Hampshire law **mandates** the reporting of any suspected incident of abuse, neglect, self-neglect or exploitation involving an incapacitated adult. A person is incapacitated if his or her physical, mental or emotional ability is such that s/he is unable to manage personal, home or financial affairs in his/her best interest, or s/he is unable to delegate responsibility to a responsible caretaker or caregiver. ([NH RSA 161-F:46](#))

Anyone who has reason to suspect abuse, neglect or self neglect of an individual over the age of 18 who is suspected to be incapacitated, **must** report to:

Adult Protective Services (APS) Central Intake Unit

1-800-949-0470 or 603-271-7014

Email at apscentralintake@dhhs.state.nh.us

Central Intake Business Hours

Monday-Friday 8:00 am- 4:30 pm

After regular business hours, elder abuse emergencies are to be referred to the local law enforcement agency.

CHILD ABUSE AND NEGLECT

New Hampshire law **mandates** the reporting of any suspected incident of child abuse and neglect ([NH RSA 169-C:29](#)). Information regarding the suspected abuse or neglect of a child is not protected by confidentiality and **must** be reported to the Division for Children Youth and Families (DCYF).

Anyone who has reason to suspect child abuse and neglect must report to:

Division for Children, Youth and Families (DCYF) Central Intake Unit

1-800-894-5533 or 603-271-6556

Fax: 603-271-6565.

Central Intake Business Hours

Monday-Friday 8:00 am- 4:30 pm

ONLY Law Enforcement agencies can make a report via e-mail by sending in their police report to Central Intake at DCYF: Intake@dhhs.state.nh.us

VICTIMS' COMPENSATION PROGRAM

Victims of domestic violence may be eligible to apply to the **New Hampshire Victims' Compensation Program** for compensation of medical/dental expenses, mental health therapy expenses, lost wages or other out-of-pocket expenses not covered by insurance or other resources available to the victim. The expenses must be directly related to the victims' condition as a result of the crime. The program will not provide compensation for property losses or pain and suffering. **In order to qualify, the victim must report the crime to law enforcement.**

Law enforcement is encouraged to inform victims of crime about the program. Victim/witness and crisis center advocates can assist victims with the application process.

**NH Victims' Compensation Program
Attorney General's Office
33 Capitol Street
Concord, NH 03301
1-800-300-4500 (in NH only)
Or (603) 271-1284**

For more information go to: <http://doj.nh.gov/grants-management/victims-compensation-program/index.htm>

ADDRESS CONFIDENTIALITY PROGRAM

Frequently, victims attempting to escape from violent situations must move and establish a new address in order to prevent their abuser or assailant from locating them. Unfortunately, victims can be tracked by their abuser as a result of their address being part of a public record. The New Hampshire Address Confidentiality Program (ACP), administered by the Attorney General's Office, was designed to assist victims of domestic violence, sexual assault or stalking to maintain the secrecy of their home, work or school address.

The ACP allows victims who have permanently moved and want to keep their location confidential to receive a substitute address designated by the Attorney General. This address is used as if it were the victim's actual address when accessing state and local services. State and local agencies are mandated under the statute to accept the ACP address for a victim, therefore keeping their actual address from appearing in government and other public documents. The ACP address has no relation to the victim's actual physical address. Private companies, business and federal agencies do not have to accept the ACP address for a participant.

Victims in the ACP designate the Attorney General as their agent for service of process and receipt of mail. Any first class mail addressed to the victim through the ACP is accepted by the Attorney General and forwarded to the victim. This allows a victim to continue having mail service while maintaining the confidentiality of his/her actual residential address.

Victims interested in applying for the ACP need to be referred to their local crisis center ([Appendix A](#)) in order to apply. Advocates will help victims decide if the program will be of value in their individual situation and assist them with the application process.

APPENDIX A

CRISIS CENTER LIST

NH Statewide Sexual Assault Hotline: 1-800-277-5570

NH Statewide Domestic Violence Hotline: 1-866-644-3574

NH Coalition Against Domestic and Sexual Violence - PO Box 353, Concord, NH 03302-0353 - Office Phone: 603-224-8893

General Web Site: www.nhcadsv.org and Teen Web Site: www.reachouthn.com

The NH Coalition is comprised of 14 member programs throughout the state that provide services to survivors of sexual assault, domestic violence, stalking and sexual harassment. You do not need to be in crisis to call. Services are free, confidential, and available to everyone regardless of gender, age, health status (including HIV-positive), physical, mental or emotional ability, sexual orientation, gender identity/expression, socio-economic status, race, national origin, immigration status or religious or political affiliation. The services include:

- Support and information, available in person and through a 24-hour hotline
- Accompaniment, support, and advocacy at local hospitals, courts, and police departments
- Access to emergency shelter
- Peer Support Groups
- Assistance with protective/restraining orders and referrals to legal services
- Information and referrals to community programs
- Community and professional outreach and education

RESPONSE to Sexual & Domestic Violence

54 Willow Street
Berlin, NH 03570
 1-866-662-4220 (crisis line)
 603-752-5679 (Berlin office)
 603-237-8746 (Colebrook office)
 603-788-2562 (Lancaster office)
www.coosfamilyhealth.org/response

Turning Points Network

11 School Street
Claremont, NH 03743
 1-800-639-3130 (toll free crisis line)
 603-543-0155 (Claremont office)
 603-863-4053 (Newport office)
www.free-to-soar.org

Crisis Center of Central New Hampshire

PO Box 1344
Concord, NH 03302-1344
 1-866-841-6229 (crisis line)
 603-225-7376 (main office)
 603-225-5444 (walk-in office)
www.rdvcc.org

Starting Point: Services for Victims of Domestic & Sexual Violence

PO Box 1972
Conway, NH 03818
 1-800-336-3795 (crisis line)
 603-447-2494 (Conway office)
 603-539-5506 (Ossipee office)
www.startingpointnh.org

Sexual Harassment & Rape Prevention Program (SHARPP)

UNH/Verrette House
 6 Garrison Avenue
Durham, NH 03824
 1-888-271-SAFE (7233) (crisis line)
 603-862-3494 (office)
www.unh.edu/sharpp

Monadnock Center for Violence Prevention

12 Court Street
Keene, NH 03431-3402
 1-888-511-6287 (crisis line)
 603-352-3782 (crisis line)
 603-352-3782 (Keene office)
 603-209-4015 (Peterborough)
 603-209-4015 and
 603-532-6288 (Jaffrey Office)
www.mcvprevention.org

New Beginnings – Without Violence and Abuse

PO Box 622
Laconia, NH 03247
 1-866-841-6247 (crisis line)
 603-528-6511 (office)
www.newbeginningsnh.org

WISE

38 Bank Street
Lebanon, NH 03766
 1-866-348-WISE (crisis line)
 603-448-5525 (local crisis line)
 603-448-5922 (office)
www.wisefoftheuppervalley.org

The Support Center at Burch House

PO Box 965
Littleton, NH 03561
 1-800-774-0544 (crisis line)
 603-444-0624 (Littleton office)
www.tccap.org/support_center.htm

YWCA crisis Service

72 Concord Street
Manchester, NH 03101
 603-668-2299 (crisis line)
 603-625-5785 (Manchester office)
www.ywcanh.org

Bridges: Domestic & Sexual Violence Support

PO Box 217
Nashua, NH 03061-0217
 603-883-3044 (crisis line)
 603-889-0858 (Nashua office)
 603-672-9833 (Milford office)
www.bridgesnh.org

Voices Against Violence

PO Box 53
Plymouth, NH 03264
 1-877-221-6176 (crisis line)
 603-536-1659 (local crisis line)
 603-536-5999 (public office)
 603-536-3423 (shelter office)
www.vavnh.org

A Safe Place

6 Greenleaf Woods, Suite 101
Portsmouth, NH 03801
 1-800-854-3552 (crisis line)
 603-436-7924 (Portsmouth crisis line)
 603-436-4619 (Portsmouth office)
 603-330-0214 (Rochester crisis line)
 603-890-6392 (Salem crisis line)
www.asafeplacenh.org

Sexual Assault Support Services

7 Junkins Avenue
Portsmouth, NH 03801
 1-888-747-7070 (crisis line)
 603-436-4107 (Portsmouth office)
 603-332-0775 (Rochester office)
www.sassnh.org

APPENDIX B
GRANITE STATE CHILDREN'S ALLIANCE

(Formerly the New Hampshire Network of Child Advocacy Centers)

603-380-3095

www.nhncac.org

Belknap

The Greater Lakes Child Advocacy Center
65 Water Street
Laconia, NH 03246
603-524-5497

Carroll

The Child Advocacy Center of Carroll County
56 Union Street
Post Office Box 948
Wolfeboro, NH 03894
603 569-9840
www.carrollcounty.cac.org

Cheshire

The Monadnock Region Child Advocacy Center
164 Emerald Street
Keene, NH 03431
Phone: 603-352-0413

Coos County

Coos County Attorney
1 Middle Street
Lancaster, NH 03584603-788-5559
603-788-4633

Grafton/Sullivan

CAC of Grafton and Sullivan Counties at
Dartmouth Hitchcock Medical Center
1 Medical Center Drive
Lebanon, NH 03756
603-653-9012
www.dhmc.org/goto/CAC

24 Opera House Square
Moody Building, Suite 203
Claremont, NH 03734

Mt. Eustin Commons
Cottage Street, Suite 271
Littleton, NH 03561

Hillsborough County

Hillsborough County CAC
2 Wellman Avenue
Suite 140
Nashua, NH 03060
603-889-0321
www.cac-nh.com

960 Auburn Street
Manchester, NH 03103
603-623-2300

Merrimack

Merrimack County Attorney
4 Court Street
Concord, NH 03301
603-228-0529 Ext 350

Rockingham

Child Advocacy Center of Rockingham County
100 Campus Drive
Suite 11
Portsmouth, NH 03801
603-422-8240
www.cacnh.org

43B Birch Street
Parkland Professional Building
Derry, NH 03038
603-434-5565

Strafford

Strafford County Child Advocacy Center
259 County Farm Road
P.O. Box 799
Dover, NH 03821
603-516-8100

<p>APPENDIX C</p> <p>NEW HAMPSHIRE</p> <p>VICTIM/WITNESS ASSISTANCE PROGRAMS</p>

State Office of Victim/Witness Assistance
 Attorney General's Office
 33 Capitol Street
 Concord, NH 03301
 603 271-3671

Hillsborough County Attorney's Office
 Southern District
 Victim Witness Program
 19 Temple Street
 Nashua, NH 03060
 603 594-3255

Belknap County Victim/Witness Program
 Belknap County Superior Courthouse
 64 Court Street
 Laconia, NH 03246
 603 527-5440

Merrimack County Victim/Witness Program
 4 Court Street
 Concord, NH 03301
 228-0529

Carroll County Victim/Witness Program
 P.O. Box 218
 Ossipee, NH 03864
 603 539-7476

Rockingham County Victim/Witness Program
 P.O. Box 1209
 Kingston, NH 03848
 603 642-4249

Cheshire County Victim/Witness Program
 12 Court Street
 Keene, NH 03431.
 603 352-0056

Strafford County Victim/Witness Program
 P.O. Box 799
 Dover, NH 03821-0799
 603 749-4215

Coos County Victim/Witness Program
 1 Middle Street, 3rd Floor
 Lancaster, NH 03584
 603-788-3812

Sullivan County Victim/Witness Program
 Sullivan County Attorney's Office
 14 Main Street
 Newport, NH 03773
 603 863-8345

Grafton County Victim/Witness Program
 3785 Dartmouth College Highway, Box 7
 No. Haverhill, NH 03774
 603 787-2040 or 603 787-6968

United States Attorney's Office
 District of New Hampshire
 James C. Cleveland Federal Building
 55 Pleasant St., Suite 312
 Concord, NH 03301
 603 225-1552

Hillsborough County Victim/Witness Program
 Northern District
 300 Chestnut Street
 Manchester, NH 03101
 603 627-5605

APPENDIX D
NEW HAMPSHIRE BUREAU OF ELDERLY AND ADULT
SERVICES DISTRICT OFFICES

Berlin District Office

650 Main Street, Suite 200
Berlin, NH 03570-1720
603-752-7800
1-800-972-6111

Claremont District Office

17 Water Street
Claremont, NH 03743-2280
603-542-9544 or
1-800-982-1001

Concord District Office

40 Terrill Park Drive
Concord, NH 03301-7825
603-271-6201 or
1-800-949-0470

Conway District Office

73 Hobbs Street
Conway, NH 03818
603-447-3841 or
1-800-552-4628

Keene District Office

809 Court Street
Keene, NH 03431-1712
603-357-3510 or
1-800-624-9700

Laconia District Office

65 Beacon Street West
Laconia, NH 03246
603-524-4485 or
1-800-322-2181

Littleton District Office

80 N. Littleton Road
Littleton, NH 03561
603-444-6786
1-800-552-8959

Manchester District Office

195 McGregor St, Suite 110
Manchester, NH 03103-4976
603-668-2330 or
1-800-852-7493

Southern District Office

3 Pine Street Ext., Suite Q
Nashua, NH 03060
603-579-7726 or
1-800-852-0632

Seacoast District Office

50 International Drive
Portsmouth, NH 03801-2862
603-433-8300 or
1-800-821-0326

Rochester District Office

150 Wakefield Street
Rochester, NH 03867
603-332-9120 or
1-800-862-5300

INTAKE AND REGISTRY

40 Terrill Park Drive
Concord, NH 03301-7375
603-271-7014 or
1-800-499-0470

APPENDIX E

IACP DOMESTIC VIOLENCE BY POLICE OFFICERS MODEL POLICY

A PREVENTION AND TRAINING

The department will adhere to a zero-tolerance policy towards police officer domestic violence and will not tolerate violations of the policy. The department will provide ongoing training to every officer on domestic violence and the zero-tolerance policy throughout all phases of the police officer's career.

Prevention Through Collaboration

Departments should develop ongoing partnerships with the New Hampshire Coalition Against Domestic and Sexual Violence and its member programs and should continually train officers on issues of domestic violence to enhance the agency's response to victims. Training topics should include: Understanding Domestic Violence, Identifying the Primary Aggressor, Warning signs of Domestic Violence by Officers, Victim Safety, Lethality Assessment Program (LAP) and Federal Domestic Violence Laws. To enhance the effectiveness of the training, departments should work with internal or external research resources to evaluate the training and its impact.

B EARLY WARNING AND INTERVENTION

Pre-Hire Screening and Investigation

- ◆ Departments should conduct thorough background investigations of all potential new employees using address history, driver's record, protection order database and a criminal record check.
- ◆ All candidates should be asked if they have engaged in or been investigated for domestic violence and asked about any past arrests, suspended sentences, diversion programs, convictions, and protection orders related to elder abuse, child abuse, sexual assault, stalking, or domestic violence.
- ◆ Those candidates with a history of perpetrating violence (to include: elder abuse, child abuse, sexual assault, stalking, or domestic violence) should be screened out at this point in the hiring process.
- ◆ Candidates should be clearly informed of the department's position of zero tolerance concerning domestic violence by officers.

Post Conditional Offer of Employment

- ◆ A psychological screening should be done of all viable candidates and should focus on indicators of abusive tendencies in their background.
- ◆ Departments should strongly consider a no-hire decision in the case of a candidate with tendencies indicative of abusive behavior.

Post-Hire Intervention

- ◆ When new officers are hired, the department should reach out to their intimate partners/family members to introduce this policy and other relevant department policies.
- ◆ Departments should engage in periodic outreach to officers and their intimate

partners/family members with information on this policy, the point of contact within the department and referrals for local crisis center services.

Department Responsibilities

- ◆ The department should develop policies to ensure timely notification of an incident involving an officer from another agency.
- ◆ The department should, either in response to observed warning signs or at the request of an officer, intimate partner, or other family member, provide non-punitive avenues of assistance before an act of domestic violence occurs.
- ◆ The department should inform officers of the procedure for seeking confidential referrals, either internally or externally, to confidential counseling services.
- ◆ A disclosure on the part of any officer, intimate partner or family member to any member of the department that an officer has personally engaged in domestic violence will be treated as an admission or report of a crime and should be investigated both administratively and criminally.

Supervisor Responsibilities

- ◆ Supervisors should be cognizant of and document any pattern of abusive behavior potentially indicative of domestic violence including but not limited to the following:
 - **Aggressiveness**
 - Excessive and/or increased use of force on the job
 - Stalking and inappropriate surveillance activities
 - Unusually high incidences of physical altercations and verbal disputes
 - Citizen and fellow officer complaints of unwarranted aggression and verbal abuse
 - Inappropriate treatment of animals
 - On- or off-duty officer injuries
 - **Domestic violence-related issues**
 - Monitoring and controlling any family member or intimate partner through such means as excessive phone calling
 - Stalking any intimate partner or family member
 - Discrediting and/or disparaging an intimate partner
 - **Deteriorating work performance**
 - Tardiness
 - Excessive absences
 - Alcohol and drug abuse
- ◆ When the supervisor notes a pattern of problematic behavior, the supervisor should:
 - Address the behaviors through a review or other contact with the officer and document all contacts
 - Forward written reports capturing the behaviors through the chain of command in a timely manner to determine discipline as warranted
 - Prepare and submit a written request for a psychological exam/ counseling by a psychologist/psychiatrist who is knowledgeable about domestic violence.
 - When warranted, request an officer be ordered to seek assistance from a certified

program for batterers, and if such a program is not available, a counselor knowledgeable about domestic violence.

Police Officer Responsibilities

- ◆ Officers are encouraged to take personal responsibility in seeking confidential referrals and assistance from the department to prevent a problem from escalating to the level of criminal conduct against an intimate partner.
- ◆ Officers who engage in the following actions should be subject to severe discipline up to and including dismissal:
 - Failure to report knowledge of abuse or violence involving a fellow officer
 - Failure to cooperate with the investigation of a police officer domestic violence case (except in the case where that officer is the victim)
 - Interference with cases involving themselves or fellow officers
 - Intimidation/coercion of witnesses or victims (i.e., surveillance, harassment, stalking, threatening, or falsely reporting)
- ◆ Officers who learn they are the subject of a criminal investigation, regardless of jurisdiction, should immediately make a report to their supervisors and provide notice of the court dates, times, appearances, and proceedings. Failure to do so may result in severe discipline up to and including dismissal.
- ◆ Officers who learn they are the subject of any protective order proceeding, whether or not the order is issued and regardless of jurisdiction, should immediately notify their supervisor and provide a copy of the order, if issued. If subject to a qualifying protection order, the officer should surrender all firearms. Failure to do so should result in severe discipline up to and including dismissal.

C INCIDENT RESPONSE PROTOCOLS

Department-wide Response

- ◆ The department should accept, document, and preserve all calls or reports, including those made anonymously, regarding domestic violence as on-the-record information.
- ◆ All reports of possible criminal activity implicating police officers in domestic violence should be documented in accordance with the policies governing the handling of reports of domestic violence involving civilians.
- ◆ The on-scene supervisor should forward a copy of the report alleging domestic violence by the officer through the chain of command.
- ◆ All such incident reports should be made available by the department to the victim without cost.

Communications Response

- ◆ Communications officers/dispatchers should be instructed to assign a high priority to all domestic violence calls, including those that involve or appear to involve a police officer of any department.
- ◆ Communications officers/dispatchers should immediately notify the supervisor on duty and the dispatch supervisor of any domestic violence call received that involves, or

appears to involve, a police officer, regardless of the involved officer's jurisdiction.

- ◆ Communications officers/dispatchers should prepare and preserve documentation of the facts and circumstances of the call, including the 911 tape, for use in potential administrative or criminal investigations.
- ◆ Communications officers/dispatchers should have available current contact information for the local crisis center for on-scene supervisors to provide to victims.

Patrol Response

- ◆ Upon arrival on the scene of a domestic violence call or incident involving a police officer, the responding officer should immediately notify dispatch and request a supervisor of higher rank than the involved officer report to the scene, regardless of the involved officer's jurisdiction.
- ◆ The responding officers should perform the following actions:
 - Obtain needed medical assistance
 - Address the immediate safety of all parties involved
 - Secure the scene and preserve evidence
 - Note all excited utterances, admissions and/or incriminating statements
 - Make an arrest if probable cause exists

On-Scene Supervisor Response

- ◆ A supervisor of higher rank should report to the scene of all police officer domestic violence incidents including a police officer, regardless of the involved officer's jurisdiction.
- ◆ The on-scene supervisor should assume command and ensure that the crime scene is secured and that all evidence is collected. Photographic and/or video documentation of the parties involved and scene should be recorded where such resources are available.
- ◆ The supervisor should inquire as to the safety of all children present at the time of the incident and all children in the household. As appropriate and necessary, the children should be interviewed separately from other parties.
- ◆ In cases where probable cause exists, the on-scene supervisor should ensure an arrest is made.
- ◆ If the alleged offender has left the scene and probable cause exists, the supervisor should perform the following actions:
 - Exhaust all reasonable means to locate the alleged offender
 - Ensure that an arrest warrant is sought, if unable to locate the alleged offender within 12 hours
 - Document all subsequent actions in a timely manner
- ◆ In the event that the victim has left the scene, the supervisor should make every effort to follow through on the investigation and attempt to locate the victim.
- ◆ Arrest of both parties involved in a domestic violence incident should be avoided. The primary aggressor should be arrested. The supervisor should ensure that a thorough investigation is conducted and an arrest of the primary aggressor is made in accordance with state law.

- ◆ Whenever an officer is arrested, the supervisor should relieve the accused officer of all service weapons regardless of whether the officer is a member of the responding department.
- ◆ All firearms owned or at the disposal of the accused officer should be seized for safety reasons at the time of arrest or service of a Domestic Violence Order.
- ◆ The command staff officer should inquire whether the victim wants any firearms removed from the home for safekeeping by the department and make arrangements as necessary.
- ◆ The on-scene supervisor should ensure the victim is informed of the following:
 - The judicial process and victim rights
 - The department's policy on police officer domestic violence, procedures and cross-jurisdictional responsibilities as they apply
 - The standard of probable cause for arrest
 - Procedures for obtaining protective orders
 - Victim compensation
 - The availability of an on-scene advocate
 - The availability of confidential transportation to a location that can provide improved victim safety
 - Community resources and local domestic violence victim services
 - The option to remove firearms for safekeeping
- ◆ Whenever a police officer involved domestic violence call does not result in an arrest or a warrant is not sought, the on-scene supervisor should explain why in a written report.
- ◆ The on-scene supervisor should notify the head of the officer's agency and the accused officer's immediate supervisor as soon as possible. In the event that the officer is from another jurisdiction, the supervisor should ensure that the head of the accused officer's agency is notified. All notifications, and attempts to notify, should be fully documented.

Additional Critical Considerations

- ◆ When responding to a domestic violence complaint involving a police officer follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from their own department.
- ◆ In the event that the reported incident involves the head of a law enforcement agency, the supervisor should immediately notify the New Hampshire Attorney General.
- ◆ In responding to domestic violence incidents where the victim is a police officer, standard domestic violence response and investigation procedures should be followed.
- ◆ In responding to domestic violence incidents where the parties involved are both police officers, standard domestic violence response and investigation procedures should be followed. After probable cause and primary aggressor are determined, an arrest should be made and all service weapons of the accused officer confiscated.

Department Follow-Up

- ◆ In a timely manner, the head of the investigating law enforcement agency should ensure that all officers who responded to a police officer domestic violence call are debriefed. The debriefing should include the following:

- A review of department confidentiality guidelines
 - A direct order prohibiting discussion of the incident outside of the official inquiry
 - A clear delineation of assignments
- ◆ Follow-up investigators should proactively seek out information on existing protective orders and, if found, should enforce them and any applicable state and federal firearms laws and determine whether the officer violated department policy by failing to report the protective order.
 - ◆ Arrest warrants charging police officers with domestic violence and protective orders issued at a later time should be served by no fewer than two officers with at least one being of senior rank to the officer being served. In cases where firearms have not previously been seized, firearms should be seized.
 - ◆ In the event the protection order expires or the victim asks that it be discontinued, the department should still conduct a thorough administrative investigation.
 - ◆ Following the reported incident, the department should designate a member of the command staff to perform the following duties:
 - Conduct a Lethality Assessment (LAP) of the accused officer to determine the potential for further violence and inform the victim of the possibility of danger regardless of the outcome of the assessment
 - Act as a principal point of contact to keep the victim apprised of all developments
 - Ensure that safety planning is made available to the victim
 - Report the findings of the Lethality Assessment to the head of the accused officer's law enforcement agency who will make decisions concerning appropriate sanctions, administrative actions, and referrals for the accused officer

D) VICTIM SAFETY AND PROTECTION

- ◆ Departments should work with community resources and advocacy agencies to connect victims and their children with appropriate services.
- ◆ The command staff designated as principal contact for the victim, should inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.
- ◆ All officers should be aware of possible victim/witness intimidation or coercion and the increased danger when the victim leaves an abusive partner. The designated principal contact should assist the victim and children in safety planning and caution the victim to be alert to stalking activities. If an officer suspects intimidation or coercion of the victim/witness is occurring, the officer should prepare a written report to be delivered immediately to the investigator in charge of the case through the chain of command.
 - In order to determine whether the victim/witness is being intimidated or coerced, the investigator in charge should seek out secondary sources of information.
 - Given the possibility that a victim will recant or choose not to participate in court proceedings, supplemental evidence should be sought out and preserved.

E) POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

Departments should conduct separate parallel administrative and criminal investigations of

alleged incidents of police officer domestic violence in a manner that maintains the integrity of both investigations and promotes zero tolerance. Regardless of the outcome of the criminal case, the department should uphold all administrative decisions. If the facts of the case indicate that domestic violence has occurred or any department policies have been violated, administrative action should be taken independent of any criminal proceedings as soon as practicable.

The department will adhere to and observe all necessary protocols to ensure an accused officer's departmental, union, and legal rights are upheld during the administrative and criminal investigations.

Administrative Investigations and Decisions

The responsibility to complete the administrative investigation of a police officer involved domestic violence incident should rest with the Internal Affairs Division of the department, or in the event that no such unit exists, the head of the law enforcement agency should appoint an experienced investigator. The head of a law enforcement agency may ask an outside law enforcement agency to conduct the administrative investigation to protect ensure the integrity of the investigation.

- ◆ Regardless of whether an arrest was made on scene, the investigating official should conduct an independent, comprehensive administrative investigation using standard elements of criminal investigations. Victims and witnesses can be re-interviewed, crime scene evidence, photographs, and medical records accessed; and 911 tapes requested. **All interviews should be recorded.**
- ◆ Where sufficient information/evidence exists, the department should take immediate administrative action against the accused officer that may include removal of badge and service weapons, reassignment, sanctions, suspension, or termination.
- ◆ When an investigation of an incident uncovers officers who had knowledge of violence on the part of another officer but failed to notify the department or engaged in actions intended to interfere with the investigation, the department should investigate those officers and take disciplinary action and criminally charge as warranted.
- ◆ The head of the law enforcement agency should determine whether and when the accused officer should be issued an **Administrative Order of Protection**.
- ◆ If administrative policies and/or administrative orders of protection are violated or sufficient concern exists regarding a violation, the department should initiate an independent administrative investigation, seize firearms as allowed under department policy as soon as practicable, and take disciplinary action up to and including dismissal.
- ◆ In determining the proper course of administrative action, a department should consider factors including the level of danger an officer poses as indicated by the outcome of the Lethality Assessment of the officer, the officer's history of compliance with departmental rules, prior written or verbal threats, history of aggressive behaviors, and existence of an alcohol or substance abuse problem.
- ◆ If the accused officer is assigned enforcement duties while the administrative and/or criminal investigations are under way, those duties should not include response to domestic violence calls.
- ◆ If the department determines through an administrative investigation that the officer

violated department policy, regardless of whether the officer plead nolo contendere in response to criminal charges, the department may employ the full range of administrative sanctions. Any officer determined through an administrative investigation to have committed domestic violence shall be terminated from the department.

Criminal Investigations and Decisions

The responsibility to complete a criminal investigation of an incident of police officer domestic violence shall rest with the domestic violence unit of the department, or in the event that no such unit exists, the criminal investigations unit or detective division. The chief may ask an outside law enforcement agency to conduct the criminal investigation.

- ◆ The investigating official shall conduct criminal investigations as would be the case for any other criminal violation.
- ◆ In accordance with the officer's and victim's privacy rights, the investigating official or agency shall conduct sufficient interviews (**taped**) of family members, friends, neighbors, colleagues, and others who may have information regarding criminal charges.
- ◆ Even though an initial report may already exist concerning a police officer, reports of any subsequent or additional criminal or non-criminal incidents, which may include fellow officers engaging in surveillance or intimidation of the victim, shall be documented in separate incident reports, assigned a case number, cross-referenced with the original case number and investigated thoroughly.
- ◆ The department shall completely investigate the charges and where warranted seek prosecution even in cases where the victim recants.
- ◆ The department shall establish a liaison to work with the prosecuting attorney for each case. This officer shall present all the information to the prosecuting attorney for action and ask that decisions about the adjudication of the case be made in a timely manner.
- ◆ As with any other case for criminal prosecution, the investigating officer shall request filing of court papers/complaints.
- ◆ Any officer convicted through criminal proceedings of a domestic violence crime shall be terminated from the department.

Termination Procedures

- ◆ Upon the decision to terminate an officer, the head of the law enforcement agency shall do the following in accordance with department policy and state law:
 - Notify the officer, in writing, of the effective date of termination
 - ii. Inform the officer of available support services, to include counseling
 - Ensure that the victim is notified in a timely manner and offered available assistance, to include safety planning
 - Notify the Police Standards and Training Council of the enforcement actions against the officer as soon as is practicable.
- ◆ Federal law prohibits anyone convicted of a misdemeanor domestic violence crime from possessing firearms. The department shall ensure compliance with federal law.

F) ADMINISTRATIVE ORDERS OF PROTECTION

Police officers who commit acts of domestic violence pose unique dangers to victims. In some cases the risk to victim safety escalates after the officer is arrested or suspended from duty. It is important for police supervisors to ensure victim safety remains a top priority through-out the criminal and internal affairs investigations.

Police Supervisors have at their disposal a valuable tool to increase victim safety – the *Administrative Order of Protection*. An administrative order of protection is nothing more than a direct order from a police supervisor to refrain from particular conduct toward a particular person. This tool can be extremely effective in that compliance with lawful orders is an important conditions of a police officer’s employment.

If a complaint or investigation reveals that a police officer may have committed a domestic violence offense, police supervisor are generally free to order the officer to refrain from contact with the alleged victim. These orders should be preferably reduced to writing and issued by a superior officer.

Terms and Conditions

Terms of an order must be drafted to fit the needs of the particular circumstances and the relationships of the parties. The order should also be tailored to protect the interests of the department. In general, administrative orders of protections should be issued after speaking with the victim in order to ensure the terms of the order are appropriate for the victim’s situation, and not overly broad so as to render the order unlawful. If the parties are living separately, a comprehensive “no-contact order” can be issued, including indirect contact through a third party (exceptions for a legal representative of the officer is advisable). If parties will continue to live together, an order specifying no threats, harassment, or physical duress of the victim or members of the household is advisable.

These orders should remain in effect whether or not the officer is on-duty, and should remain valid until rescinded by competent authority. A supervisor should deliver the order in person o the officer subject to it, and the officer should acknowledge receipt in writing at the bottom of the department’s copy. The order may also contain language prohibiting witness tampering or witness intimidation. The order should include language advising the officer that failure to comply with the order will constitute independent grounds for disciplinary action, and may result in termination, regardless of the outcome of the underlying investigation.

Benefits

A law enforcement agency that routinely issues these orders in domestic violence cases should find that they promote victim safety and are easier to modify than orders issued by civil or criminal courts. Punishment for violation of the order can be swift, certain and severe and should generally be resistant to any legal challenge.

Another potential benefit of these orders is that administrative proceedings related to violations of these orders can often proceed more quickly than the underlying criminal case. Many administrative cases involving police domestic violence remain “on hold” for extended periods of time while the criminal case proceeds through its various stages, in order to avoid complicating the criminal prosecution. In contrast, departments can elect to proceed to adjudicate the administrative case for failure to obey a direct order without the fear of jeopardizing the related criminal case.

APPENDIX F
POWER AND CONTROL WHEEL



**APPENDIX G
VICTIM NOTIFICATION FORM**

**VICTIMS OF FELONY CRIME IN NEW HAMPSHIRE
HAVE RIGHTS
WHICH ARE PROTECTED BY LAW**

**RSA 173 - B:10(d) - NEW HAMPSHIRE CRIME VICTIMS'
BILL OF RIGHTS INCLUDES:**

- ◆ THE RIGHT TO BE TREATED WITH DIGNITY AND RESPECT THROUGHOUT THE ENTIRE CRIMINAL JUSTICE PROCESS.
- ◆ THE RIGHT TO BE INFORMED ABOUT THE PROCESS AND TO BE NOTIFIED OF ALL COURT PROCEEDINGS.
- ◆ THE RIGHT TO ATTEND THE TRIAL AND ALL OTHER COURT PROCEEDINGS THE ACCUSED HAS THE RIGHT TO ATTEND.
- ◆ THE RIGHT TO BE PROTECTED FROM INTIMIDATION THROUGHOUT THE PROCESS.
- ◆ THE RIGHT TO BE INFORMED ABOUT AVAILABLE RESOURCES , FINANCIAL ASSISTANCE AND SOCIAL SERVICES.

DOMESTIC VIOLENCE AND SEXUAL ASSAULT CRISIS SERVICES

STATEWIDE DOMESTIC VIOLENCE HOTLINE 1-866-644-3574
STATEWIDE SEXUAL ASSAULT HOTLINE 1-800-277-5570
www.reachoutnh.org ◆ www.nhcadsv.org

New Hampshire Coalition Against Domestic and Sexual Violence 224-8893

The Coalition is comprised of 14 programs that provide services to victims of sexual assault, domestic violence and stalking. The services are FREE, confidential and include a 24-hour crisis line, emergency shelter and transportation, court advocacy in obtaining protective orders against abusers, hospital and court accompaniment for sexual assault survivors, support groups and information and help in obtaining public assistance.

Berlin (SA)	1-800-277-5570	Laconia (SA)	1-800-277-5570
Berlin (DV)	1/866-644-3574	Laconia (DV)	1-866-644-3574
Concord (SA)	1-800-277-5570	Lebanon	1-866-348-WISE
Concord (DV)	1-866-644-3574	Littleton	1-800-774-0544
Conway	1-800-336-3795	Manchester	668 -2299
Claremont	1-800-639-3130	Nashua	883-3044
Durham UNH	862-SAFE	Plymouth	536-1659
Durham UNH	1-866-233-7233	Portsmouth (DV)	1-800-854-3552
Keene	352-3782	Portsmouth (SA)	1-800-747-7070

IF YOU ARE A VICTIM OF DOMESTIC VIOLENCE, INCLUDING THREATS OF VIOLENCE:

According to NH law RSA 173 - B:10(d) "If you feel that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in providing for your safety, including asking for an emergency telephonic order for protection. You may also request that the officer assist you in obtaining from your premises, toiletries, medication, clothing, business equipment, and any other items as determined by the court, and in locating and taking you to a local safe place including but not limited to, a designated meeting place to be used as a crisis center, a family member or friend's residence, or a similar place of safety. If you are in need of medical treatment you have the right to request that the officer assist you in obtaining an ambulance. You may request a copy of the report filed by the peace officer, at no cost, from the law enforcement department."

- ◆ You have the right to go to the District, Family or Superior Court to obtain a protective order against the person who abused or threatened you.
- ◆ Contact your local Domestic Violence Crisis Center for free, confidential support and assistance.
- ◆ The police officer has the responsibility to decide whether or not to make an arrest; an officer can arrest with or without your consent if the officer believes that a crime has been committed.

VICTIM/WITNESS ASSISTANCE PROGRAMS

These programs provide orientation, notification, information and support throughout the judicial process within the Superior Courts and in some District Courts.

◆ Attorney General's Office of Victim Assistance 271-3671 ◆

Belknap County	527-5440	Hillsborough/South	594-3255
Carroll County	439-7476	Merrimack County	228-0529
Cheshire County	355-3013	Rockingham County	642-4249
Coos County	788-3812	Strafford County	749-4215
Grafton County	787-6968	Sullivan County	863-8345
Hillsborough North	627-5605	U.S. Attorney's Office	225-1552

◆ CRIME VICTIMS' COMPENSATION PROGRAM ◆

If you are a victim of a violent crime, or the family or dependent of a deceased victim, you may be eligible for compensation for hospital/medical expenses, lost wages, funeral expenses and/or mental health therapy expenses, not otherwise covered by insurance. Property crimes are not covered.

**FOR MORE INFORMATION CALL 1-800-300-4500 (toll free In NH only)
603-271-1284 (out of state)**

**CHILD ABUSE REPORTING LINE: 1-800-894-5533
ELDER AND INCAPACITATED ADULT ABUSE REPORTING LINE
1-800-322-9191**

NAME OF POLICE OFFICER:	
POLICE DEPARTMENT:	
CASE NUMBER:	COURT LOCATION:

Provided by
THE NEW HAMPSHIRE ATTORNEY GENERAL'S OFFICE (603) 271-3671

APPENDIX H SAMPLE COMPLAINT

Docket # _____ TN # _____

The State of New Hampshire COMPLAINT

Docket # _____

VIOLATION
 CLASS A MISDEMEANOR
 FELONY
 CLASS B

YOU ARE TO APPEAR BEFORE THE COURT LISTED BELOW
 AT 8:30 O'CLOCK IN THE AM/PM ON _____ YR.
 UNDER PENALTY OF LAW TO ANSWER TO A COMPLAINT
 CHARGING YOU WITH THE FOLLOWING OFFENSE:

TO THE 9th Circuit - District Division - Nashua COURT, COUNTY OF HILLSBOROUGH.

THE UNDERSIGNED COMPLAINS THAT: PLEASE PRINT

NAME Doe John
Last Name First Name MI
12 Meade Street Nashua, New Hampshire
Address State Zip
 DOB 12-15-57 OP. LIC.# _____

WRITE OUT: M H 5'07" 180 BROWN BROWN
Sex Race Height Weight Color of Hair Color of Eyes

COMM. VEH.
 COMM. DR. LIC.
 HAZ. MAT.
 16+ PASSENGER

AT NASHUA, NEW HAMPSHIRE
(Location)
 ON THE 4th DAY OF December YR. 2013 at 4:45 (P.M.)

on/at in said county and state, did commit the offense of
VIOLATION OF PROTECTIVE ORDER
 contrary to RSA 173-B:9
 and the laws of New Hampshire for which the defendant should be held to
 answer, in that the defendant did

**KNOWINGLY HAVE TELEPHONIC COMMUNICATION WITH JANE DOE
 AFTER A PROTECTIVE ORDER WAS ISSUED BY JUDGE THOMAS
 BAMBERGER OF THE 9th CIRCUIT - DISTRICT DIVISION - NASHUA COURT
 AND WAS SERVED ON THE DEFENDANT ON NOVEMBER 17, 2013.**

against the peace and dignity of the State.

SERVED IN HAND

Complainant _____ Printed Name _____ Dept. _____

Making a false statement on this complaint may result in criminal prosecution.

Oath below not required for police officers unless complaint charges class A misdemeanor or felony (RSA 592-A:7, I).
 Personally appeared the above named complainant and made oath that the above
 complaint by him/her subscribed is, in his/her belief, true.

DATE _____ Justice of the Peace _____

APPENDIX I
A GUIDE TO ENFORCING PROTECTIVE ORDERS

Statute/ Name of Order	Issuing Court	Protected Party	Action taken when there is Probable Cause for a Violation	Firearms and <u>Ammunition</u>	Charging Decision (only the “Protective Orders” section, not “Other Relief” section)
RSA 173-B DVP Orders: Emergency Order Temporary Order Final Order	Circuit Court- Family Division Superior Court	Family or household member, current or former sexual or intimate partner	Shall arrest. 12 hour warrantless arrest exception. Shall be detained until arraignment.	Emergency and Temporary DVP Orders: Judge’s discretion Final Orders: Shall confiscate at time of service or arrest	Can charge with Violation of a Protective Order or Stalking 633:3-a(c)
RSA 633:3-a Stalking Order	Circuit Court- District Division	No relationship required	Shall arrest. 12 hour warrantless arrest exception. Shall be detained until arraignment for violating a stalking protective order.	Temporary Stalking Orders: Judge’s discretion Final Orders: Shall confiscate at time of service or arrest	Can charge with Stalking 633:3-a(c)
RSA 491 Equity Order	Superior Court only	<i>Examples:</i> Issued to a parent who wants orders to keep her daughter’s boy friend away from her daughter, disputing neighbors and other individuals not related.	NO arrest. Document incident. Protected party files motion for contempt in issuing Court.	N/A	Investigate for a charge of Stalking 633:3-a(c)
RSA 458:16 Marital Order	Circuit Court- Family Division	Orders issued in divorce decree by Circuit Court- Family Division	When the violation is the result of a criminal act CAN arrest. 12 hour warrantless arrest exception.	If the order is violated, shall be seized at the time of arrest	Can charge with Stalking 633:3-a(c)
RSA 458:16 Marital Order	Superior Court	Orders issued in divorce decree by Superior Court before the existence of the	Violations that are not the result of a criminal act but merely a violation of a non-protective	N/A	

		Family Courts	part of the order should be handled the same way as an Equity Order above.		
RSA 169-C:16 169-C Order of Protection	Circuit Court-Family Division	Orders issued in a juvenile Abuse and Neglect proceeding to keep a person away from a child, the premises or another party.	Shall arrest <u>6 hour</u> warrantless arrest exception. Shall be detained until arraignment.	Shall confiscate all firearms at time of arrest	
RSA 597-7 Criminal Bail Protective Orders (CBPO) – Bail Conditions	Circuit Court-District Division (which includes Bail Commissioners) Superior Court for felony cases	Orders issued against a defendant in a criminal case as a condition of release to bail to protect the victim	Should be charged with stalking under 633:3-a.	Shall confiscate under 173-B:10	

APPENDIX J PRESERVATION ORDERS



NEW HAMPSHIRE
OFFICE OF THE ATTORNEY GENERAL

Date:

To: _____, Legal Analyst
Company:
Address:
City/State/Zip:
Fax:

Master Case #

ISP PRESERVATION ORDER

You are hereby requested to preserve, under the provisions of Title 18, United States Code, Section 2703(f)(1), the following records in your custody or control, including records stored on backup media:

- A. All information (not to include email), and other files, associated with the account that was assigned **IP Address** _____ **on (day)** _____, **(date)** _____ **at (time)** _____ **AM/PM Eastern Daylight Time (UTC offset of -4/-5).**
- B. All connection logs and records of user activity for each such account, including:
- (1) name;
 - (2) address;
 - (3) local and long distance telephone connection records, or records of session times and durations;
 - (4) length of service (including start date) and types of service utilized;
 - (5) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and
 - (6) means and source of payment for such service (including any credit card or bank account number)
- C. relating to the account assigned **IP Address** _____ **on (day)** _____, **(date)** _____ **at (time)** _____ **AM/PM Eastern Daylight Time (UTC offset of -4/-5).**
- D. Any other records related to the above-referenced names and user names, including, without limitation, correspondence, billing records, records of contact by any person or entity about the above-referenced names and user names, and any other subscriber information.

You are requested to preserve for a period of 90 days the records described above currently in your possession. This request applies only retrospectively; it does not obligate you to capture and preserve new information that arises after the date of this request. **Failure to comply with this request could subject you to liability under 18 U.S.C. § 2707.**

You are also requested not to disclose the existence of this request to the subscriber or any other person, other than as necessary to comply with this request.

Please refer any questions to:

Detective : _____ . Telephone Number: _____

Thank you in advance for your cooperation

Address, Town, NH Zip
PHONE:/ FAX:

APPENDIX K

SEARCH WARRANT CHEAT SHEET FOR COMMUNICATION DEVICES

This is not a comprehensive list, but includes items that officers should consider including:

FOR THE SEARCH WARRANT FACE SHEET:

- The person of Johnny Doe.
- We therefore command you to make a search of the above-mentioned location, vehicles, and person. The search is authorized to be conducted during the night time, or any time of the day, for the following property:
- Any cell phones or hand held communication devices.
- And to examine the cell phones for subscriber and electronic communication documentation specific to this case, in specifically requesting that the search warrant authorize any appropriate law enforcement agency access to the items referred to in the search warrant, the authority to open these items, view their contents, and copy and reproduce all data contained therein as necessary for the investigation and prosecution of this matter.

FOR THE AFFIDAVIT:

- I know through my training and experience that cell phones are store data to include text messages, calls records, photos, received contacts and other data pertinent to an investigation.
- I know from my training and experience that even if the files were deleted by a user, they still may be recoverable by a trained computer forensic examiner.
- I know from training and experience that files related to the exploitation of children found on computers are usually obtained from the Internet using application software which often leaves files, logs or file remnants which would tend to show the exchange, transfer, distribution, possession or origin of the files.
- I know from training and experience that computers used to access the Internet usually contain files, logs or file remnants which would tend to show ownership and use of the computer as well as ownership and use of Internet service accounts used for the Internet access.
- I know from training and experience that search warrants of residences involved in computer related criminal activity usually produce items that would tend to establish ownership or use of computers and ownership or use of any Internet service accounts accessed to obtain child pornography to include credit card bills, telephone bills, correspondence and other identification documents.

- I know from training and experience that search warrants of residences usually reveal items that would tend to show dominion and control of the property searched, to include utility bills, telephone bills, correspondence, rental agreements and other identification documents.

FOR THE SEARCH WARRANT APPLICATION:

- Based upon the foregoing information (and upon my personal knowledge) there is probable cause to believe that the property hereinafter described as any cell phones or hand held communication devices is evidence used in the commission of a felony crime of Stalking as defined by RSA 633:3-a and is the property of Johnny Doe, and may be found in the possession of Johnny Doe at the residence of Any Street, Any town, New Hampshire.
- The property I intend to seize as a result of the issuance of a Search Warrant is the following:
- Any cell phones or hand held communication devices.
- And to examine the cell phones for subscriber and electronic communication documentation specific to this case, in specifically requesting that the search warrant authorize any appropriate law enforcement agency access to the items referred to in the search warrant, the authority to open these items, view their contents, and copy and reproduce all data contained therein as necessary for the investigation and prosecution of this matter.

APPENDIX L

TECHNOLOGY SAFETY PLANNING FOR VICTIMS

1. **Trust your instincts.** If you suspect the abusive person knows too much, it is possible that your phone, computer, email, driving or other activities are being monitored. Abusers, stalkers and perpetrators can act in incredibly persistent and creative ways to maintain power and control.
2. **Plan for safety.** Navigating violence, abuse, and stalking is very difficult and dangerous. Advocates at the National Domestic Violence Hotline have been trained on technology issues, and can discuss options and help you in your safety planning. Local domestic violence and rape crisis hotline advocates can also help you plan for safety.
3. **Take precautions if you have a “techy” abuser.** If computers and technology are a profession or a hobby for the abuser/stalker, trust your instincts. If you think he/she may be monitoring or tracking you, talk to hotline advocates or the police.
4. **Use a safer computer.** If anyone abusive has access to your computer, he/she might be monitoring your computer activities. Try to use a safer computer when you look for help, a new place to live, etc. It may be safer to use a computer at a public library, community center, or Internet café.
5. **Create new email or IM accounts.** If you suspect that anyone abusive can access your email or instant messaging (IM), consider creating additional email/IM accounts on a safer computer. Do not create or check this new email/IM from a computer the abuser could access, in case it is monitored. Look for free web-based email accounts, and strongly consider using non-identifying name & account information. (Example: bluecat@email.com and not YourRealName@email.com)
6. **Check your cell phone settings.** If you are using a cell phone provided by the abusive person, consider turning it off when not in use. Also many phones let you to “lock” the keys so a phone won’t automatically answer or call if it is bumped. When on, check the phone settings; if your phone has an optional location service, you may want to switch the location feature off/on via phone settings or by turning your phone on and off.
7. **Change passwords & pin numbers.** Some abusers use victim’s email and other accounts to impersonate and cause harm. If anyone abusive knows or could guess your passwords, change them quickly and frequently. Think about any password protected accounts - online banking, voicemail, instant messaging, etc.
8. **Minimize use of cordless phones or baby monitors.** If you don’t want others to overhear your conversations, turn baby monitors off when not in use and use a traditional corded phone for sensitive conversations.
9. **Use a donated or new cell phone.** When making or receiving private calls or arranging escape plans, try not to use a shared or family cell phone because cell phone billing records and phone logs might reveal your plans to an abuser. Contact your local hotline program to learn about donation programs that provide new cell phones and/or prepaid phone cards to victims of abuse and stalking.

10. Ask about your records and data. Many court systems and government agencies are publishing records to the Internet. Ask agencies how they protect or publish your records and request that court, government, post office and others seal or restrict access to your files to protect your safety.

11. Get a private mailbox and don't give out your real address. When asked by businesses, doctors, and others for your address, have a private mailbox address or a safer address to provide. Try to keep your true residential address out of databases.

12. Search for your name on the Internet. Major search engines such as "Google" or "Yahoo" may have links to your contact information. Search for your name in quotation marks: "Full Name". Check phone directory pages because unlisted numbers might be listed if you gave your number to anyone.

SAFETY SUGGESTIONS

There are a number of ways you can reduce your risk when using technology and social networking sites. You may want to consider the following:

- Always be aware of your surroundings...know what information about you that you are making available to others
 - On social networking sites, utilize privacy settings
 - Be selective about who you "friend"
 - Be aware that social networking sites update their privacy policies, often without notice which might necessitate your updating your privacy/security settings. Check frequently.
 - Certain conversations may be more appropriate in a private conversation as opposed to "posting" for all to see current activities, etc
 - You can control who "tags" your photos through privacy settings
 - Social networking such as "Foursquare" or "Google Latitude" provide real time status updates and give information about your current location
- Threatening calls should be reported to the police department and to the phone company.
- Always carry a cell phone. Cell phones have security settings where GPS tracking can be turned on, off or be set for 911 emergency calls only. Check your settings to ensure that the GPS tracking is set to 9-1-1 emergency only. Often, victims can be stalked via GPS on their cell phones.
 - Be prepared to change cell phone numbers or email accounts and limit the amount of people to whom you provide this information.
 - Save messages or caller ID numbers for evidence.
 - Avoid calling 800 or 900 phone numbers as well as giving your number out on any sites that solicit phone numbers.
 - Don't leave your cell phone unattended.
 - Set the GPS in your cell phone so it is accessible only by 9-1-1. Contact your wireless provider for more information.
 - Filtering capabilities of your email program can block email from certain addresses.

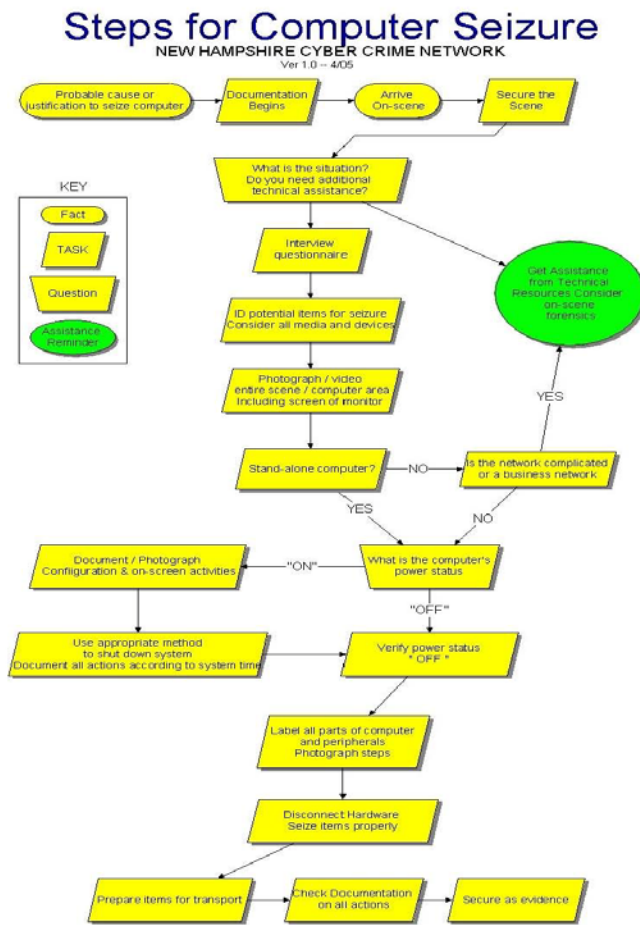
- Monitor your children's online computer usage to include social networking and emails.
- Remember that any photos you are posting online or sending cannot be retrieved or taken back.
- Computers can store a lot of private information about what you look at via the Internet, the emails and instant messages you send, internet-based phone and IP-TTY calls you make, web-based purchases and banking, and many other activities.
- It might be safer to use a computer in a public library, at a trusted friend's house, or an Internet Café.

APPENDIX M

CYBERCRIME RESPONSE

The *Response to Victims of Cyber Crime Protocol* is available as an online training module on the NH Police Standards and Training Council's in-service training portal, available at inservice.pstc.nh.gov/moodle.

Steps for Computer Seizure



APPENDIX N

COMPARISION OF FEDERAL VS. STATE FIREARMS PROHIBITIONS

Federal Firearm Prohibitions under 18 U.S.C. 922

- Section 922 (g)(1) Persons who have been convicted in any court of a crime punishable by imprisonment for a term exceeding one year-Felony conviction
- Section 922 (g) (2) Persons who are Fugitives from Justice
- Section 922 (g)(3) Persons who are unlawful users of or addicted to any controlled substance
- Section 922 (g)(4) Persons who have been adjudicated as a mental defective or have been committed to any mental institution
- Section 922 (g)(5) Persons who are illegal unlawful aliens or legal non immigrant who does not meet certain exceptions
- Section 922 (g)(6) Persons who have received a Dishonorable Discharge from the Armed Forces
- Section 922 (g)(7) Persons who having been citizens of the United States, have renounced their U.S. Citizenship
- Section 922(g)(8) Possession of a firearm and/or ammunition while subject to a protection order –
- Section 922(g)(9) Possession of a firearm and/or ammunition after conviction of a domestic violence misdemeanor –
- Section 922(g)(n) Persons who are under indictment or information for a crime
- Knowingly transferring firearm/ammunition to persons federally prohibited Section 922(d)

State Firearms Prohibitions

- Felonious Use RSA 650-A:1
- Negligent Storage of firearms RSA 650-C
- Felon in Possession RSA 159:3 punishable by imprisonment for a term exceeding one year

APPENDIX O SAMPLE PAPERWORK TRACKING SHEET

COURT TRACKING SHEET

Type of Service:

_____ Subpoena _____ Juvenile Petition _____ Restraining Order	_____ Warrant _____ Abuse/Neglect Petition _____ Other
--	--

Name _____ DOB _____

Address _____

Juvenile's Name _____ DOB _____

Offence _____

Date/Time Received _____ Due Date _____

Source _____ Entered Tracking System _____

Assigned To:

Officer _____	Sector _____	Date _____
Officer _____	Sector _____	Date _____
Officer _____	Sector _____	Date _____
Officer _____	Sector _____	Date _____
Officer _____	Sector _____	Date _____
Officer _____	Sector _____	Date _____
Officer _____	Sector _____	Date _____
Officer _____	Sector _____	Date _____

Service Information:

Date/Time	Officer/Badge	No Answer	No Forw Address	CK PO	Served	Arrest	Comments

OUT OF CITY SERVICE:

Document Sent To _____ Date _____ By _____

