

Temporary Holds Following an Arrest: Giving Victims Time to Find Safety

Domestic violence is a pattern of control and coercion by one intimate partner over the other. Therefore, the period following the arrest of an abusive individual on charges related to domestic violence can be particularly volatile as the abuser experiences a time when he or she is not at all in control. Yet under current state law, an individual who has been arrested for family violence may post bail immediately. This results in some family violence arrestees only being held for an hour or two after an arrest – the amount of time it takes to be transported to the local police department, processed, and post the required percentage of the bond set by the police. Such a brief period of time is inadequate for victims to formulate a safety plan, gather important belongings, pick up children, or find a safe place to stay.

Connecticut has taken several steps to enhance protections for domestic violence victims following an arrest of their abuser, including the requirement that bond be set/prohibiting release on a promise to appear and ensuring next day arraignment of all family violence crimes. But more can be done to ensure that victims have the necessary time to plan for their safety and arrestees have the necessary time to think about their actions. Connecticut Coalition Against Domestic Violence (CCADV) and our 18 member organizations advocate for changes to state law that allow for an optional 12 hour hold for persons charged with the commission of a family violence crime, subject to the review of the facts of the arrest by the releasing entity including the use of an evidence-based risk assessment to determine the presence of escalating danger to the victim.

PROBLEM

Presently, domestic violence suspects who are able to post bond are released from jail immediately following an arrest.

- Domestic violence is a unique offense where perpetrators may immediately return to the scene of the crime – their home – following an arrest.
- The immediate hours following an arrest for domestic violence can be a particularly volatile period for all involved. It is during this period that an abuser is not in control of their partner and therefore may resort to escalating violence to regain control.
- Unless conditions of release state otherwise, the abuser may then return to the family home where the victim may be present and where further violence may occur.

SOLUTION

Implement an optional 12-hour hold for suspects who pose a serious and credible threat of violence.

Require the releasing entity to hold a domestic violence suspect for a minimum of 12 hours following arrest if the releasing entity determines that the suspect poses a serious and credible threat to the alleged victim, based one or more of the following evidence-based risk factors for fatal family violence:

1. The use or threatened use of a deadly weapon by the suspect or a pattern of prior conduct involving the use or threatened use of violence with a firearm against the alleged victim;
2. Threats to seriously injure or kill the victim or minor child by the suspect; or,
3. Serious physical injuries inflicted upon the victim or minor child by the suspect.

WHY WE SHOULD TEMPORARILY HOLD CERTAIN FAMILY VIOLENCE OFFENDERS

On the afternoon of January 16, 2010, police responded to a family violence call in West Haven, Connecticut, where they arrested Selami Ozdemir for assaulting his wife. Ozdemir was booked at the West Haven Police Department at 5:30pm. Only 90 minutes later Ozdemir posted bond and was released from custody. In the hours following his release, Ozdemir acquired a handgun. Drunk and armed, Ozdemir returned to the family home around 4:00am on the morning of January 17th, where he shot and killed his wife and then himself.

This tragic case illustrates the need for a 12-hour hold following a family violence arrest. Often referred to as a “cooling off period,” it empowers releasing entities to hold suspects that are deemed a danger to their victims, including those who can afford bail. By holding a family violence suspect for 12 hours, victims have the opportunity to collect belongings from the family home, secure a safe place to stay, and work with their local domestic violence organization to devise a safety plan. Meanwhile, abusers are given time to reflect upon their actions and the potential consequences of any further violence. At least six other states have established such a period to help facilitate victim safety.

Our proposal calls for the releasing entity to only implement the 12-hour hold in arrests where, at the time of the arrest or any time preceding release, the police officer finds any of the following evidence-based risk factors for fatal family violence present:

1. The use or threatened use of a deadly weapon by the suspect or a pattern of prior conduct involving the use or threatened use of violence with a firearm against the alleged victim;
2. Threats to seriously injure or kill the victim or minor child by the suspect; or,
3. Serious physical injuries inflicted upon the victim or minor child by the suspect.

Because domestic violence is about power and control, an arrest can be a particularly difficult time for the offender. He or she is not in control during an arrest and may feel a loss of overall control in their relationship because their victim took steps to involve the police.

This may result in the offender taking more extreme actions to regain control over the victim.

Research conducted by Dr. Jacquelyn C. Campbell at Johns Hopkins University demonstrates the most dangerous times for a victim of intimate partner violence and those documented factors that indicate an increased risk of fatal violence.¹ These risk factors represent a critical tool for the criminal justice system to help prevent serious intimate partner violence or homicide. Connecticut has averaged 14 intimate partner homicides annually between 2000 and 2012.² While this policy change would in no way have prevented each of those deaths, it may have helped save the life of Selami Ozdemir’s wife.

WHAT OTHER STATES ARE DOING

State and federal courts have held that discretionary, temporary holds or, “cooling off” periods, following an arrest are constitutional.³ Some states extend holds for certain offenses for as much as 48 hours. The state has an interest in protecting the community, including the victim of domestic violence, from further violence. At least six other states have laws implementing temporary holds for domestic violence suspects.⁴ Below are such laws from four states:

Massachusetts⁵

An individual suspected of committing certain domestic or family-related court orders shall not be allowed to post bail within 6 hours of arrest.

Tennessee⁶

Upon a finding that the suspect poses a threat to the alleged victim, the suspect will not be allowed to post bail for at least 12 hours. But a magistrate may release a suspect sooner if he determines that sufficient time has elapsed for the victim to be protected.

Nevada⁷

Domestic violence suspects are not permitted to post bail for the 12 hours immediately following their arrest.

Mississippi⁸

In cases in which suspect is arrested for stalking or certain domestic violence offenses, a judge may impose a holding period of up to 24 hours from the time of arrest.

CAN YOU GET SAFE IN 4 HOURS?

Take a look at a typical safety plan for a domestic violence victim who needs to flee her or his home because of an imminent risk of serious physical danger. Would you be able to complete all of these steps within just a few hours before your abuser is bailed out of jail? Keep in mind that many victims going through these steps have just experienced a significant trauma and need to do all of this at a particularly volatile and frightening time.

- Pack a bag with everything that you will need to live for at least a week – clothes, personal items, medications, etc.
- Gather all of your personal identification documents – birth certificate, passport, social security card, work permits, citizenship documents, driver's license and registration, health insurance card and related paperwork, etc.
- Gather personal finance documents – checkbook, ATM cards, information on bank accounts or other assets, mortgage or lease agreement if you are listed
- In the process of getting a divorce? Be sure to gather all of the related paperwork and don't forget the number for your attorney.
- Have an existing restraining or protective order? Be sure to gather that paperwork.
- Have kids? Be sure to gather their clothes, personal items, medications, birth certificate, social security card, passport, vaccination records, health insurance card, medical records, school records, etc. Make sure to take the names and phone numbers of their pediatricians and school/teachers. Don't forget their favorite toys, blankets, etc. They are going to be very scared so anything you can bring to comfort them will help. Also, if it's the middle of a weekday, go to school and get them because your abuser knows where they are and that may be the first place he or she goes upon making bail.
- Have pets? Gather them up including their food, medical records and name/phone number of the veterinarian. If you are going to a domestic violence shelter, they can't go with you, but the shelter will assist with attempting to secure a temporary foster home.
- In all likelihood you will not have time to gather up additional sentimental or valuable items, but try since those will be the first things that your abuser will look to destroy.
- Call a trusted family member or friend to let them know where you are going.



CONCLUSION

The implementation of a 12-hour holding period enhances a victim's safety in the aftermath of family violence. It provides a family violence victim with the critical time to make safety decisions for her or himself and her or his children, as well as the necessary time to act on those decisions.

This proposal is somewhat similar to existing practice by Connecticut law enforcement to hold DUI suspects following an arrest. The hold is meant to protect the safety of the public while that individual is still under the influence of drugs or alcohol. We know that individuals are more likely to drive recklessly while under the influence of drugs or alcohol so, recognizing those risk factors, we prevent them from leaving and potentially causing harm to others.

Many times, following a violent act such as murder, the question will arise – "how could we have known this would happen?" But with family violence, we often know when violence will escalate. The signs are often there, the common elements have been observed and it is incumbent upon us a system to identify those high-risk cases and intervene strenuously.

ENDNOTES

¹ Campbell, JC, et al. 2003. "Risk Factors for Femicide in Abusive Relationships: Results from a Multistate Case Control Study." *American Journal of Public Health*. 93(7): 1092.

² Connecticut Coalition Against Domestic Violence. (July 2014) *Upon Further Examination: 2014 Findings & Recommendations of the Connecticut Domestic Violence Fatality Review Committee*. p. 2.

³ *Fields v. Henry Cnty., Tenn.*, 701 F.3d 180, 183 (6th Cir. 2012).

⁴ Alabama, Indiana, Massachusetts, Mississippi, Nevada, Tennessee (2014) *Mass. Legis. Serv.* 260 (West).

⁶ *Tenn. Code* § 40-11-150 (2010).

⁷ *Nev. Rev. Stat.* § 178.484 (2013).

⁸ *Miss. Code* § 99-5-37 (2013).

WHO IS CCADV?

Connecticut Coalition Against Domestic Violence, Inc. (CCADV) is the state's leading voice for domestic violence victims and those agencies that serve them. Our coalition is comprised of Connecticut's 18 domestic violence service organizations that provide critical support to keep victims safe 24 hours per day, wherever they live in our state. Confidential services provided by our members include a 24-hour toll-free crisis line, emergency shelter, safety planning, counseling, support groups, court advocacy, information and referrals, and community education. These services are provided free of cost to all victims of domestic violence.

The Umbrella Center for Domestic Violence Services
Ansonia | 203.736.9944

Prudence Crandall Center
New Britain | 860.225.6357

The Center for Family Justice
Bridgeport | 203.384.9559

The Umbrella Center for Domestic Violence Services
New Haven | 203.789.8104

Women's Center of Greater Danbury
Danbury | 203.731.5206

Safe Futures
New London | 860.701.6000

Domestic Violence Program United Services, Inc.
Dayville | 860.774.8648

Domestic Violence Crisis Center
Norwalk | 203.852.1980

Network Against Domestic Abuse
Enfield | 860.763.4542

Women's Support Services
Sharon | 860.364.1900

Domestic Abuse Services Greenwich YWCA
Greenwich | 203.622.0003

Domestic Violence Crisis Center
Stamford | 203.588.9096

Interval House
Hartford | 860.527.0550

Susan B. Anthony Project
Torrington | 860.482.7133

Meriden-Wallingford Chrysalis
Meriden | 203.238.1501

Safe Haven
Waterbury | 203.575.0036

New Horizons
Middletown | 860.347.3044

Domestic Violence Program United Services, Inc.
Willimantic | 860.456.9476

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