

Stalking & Intimate Partner Violence: Increasing Intervention Before Violence Escalates

Connecticut has long been a leader in addressing intimate partner violence with strong policies and practices that strengthen victim safety and increase offender accountability. Serving nearly 40,000 victims of domestic violence across the state annually, Connecticut Coalition Against Domestic Violence (CCADV) and our 18 member organizations consistently look to identify emerging needs of victims and how the system can be best positioned to respond to those needs. Recently, we have seen large numbers of victims experiencing stalking behaviors.

In 2012, CCADV began an innovative partnership with law enforcement across the state known as the Lethality Assessment Program (LAP). LAP is an evidence-based screening tool used by law enforcement at the scene of an intimate partner violence incident that allows them to determine if the victim faces increased risk for potentially fatal violence. A recent sample review of nearly 3,000 victim responses to LAP in fiscal year 2016 indicated that large numbers of victims are experiencing stalking behaviors:

- 71% of victims of intimate partner violence in Connecticut report having their daily activities controlled;
- 49% report being followed and spied on or subjected to threatening messages; and,
- 46% of victims reported that their current or former partner threatened to kill them.

Conversely, when looking at intimate partner violence incidents, there were less than 100 arrests for stalking per year for 2014 and 2015.

PROBLEM

Connecticut's existing anti-stalking statutes (CGS § 53a-181c – 181e) require police to find probable cause that the victim fears for his or her physical safety following a defined course of conduct.

- This is a high level of fear and one to which we find many victims cannot attest.
- National best practices call for use of a lower level of fear that does not require fear of physical harm.
- Use of a lower level of fear will increase early intervention options for law enforcement before the stalking behaviors escalate to physical violence or threats of physical violence.

SOLUTION

Amend Connecticut's anti-stalking statutes to:

- Include a lower level of fear option, such as "suffer substantial emotional distress", to align with national best practices adopted in at least **29 other states**.
- Redefine "reasonable person" to be a "reasonable person in the victim's circumstances" to ensure the context of stalking behaviors is considered and understood.
- Clarify the use of electronic and social media-based stalking behaviors as part of the defined course of conduct.

It is important to note that while many elements of stalking can be found in everyday nuisance behaviors, in the context of an abusive intimate partner relationship, stalking behaviors have been found across a number of national studies to be evidence of escalating conduct and violence that could potentially result in fatal violence.

WHAT IS STALKING?

Stalking is a pervasive crime experienced by many victims of intimate partner violence. At its most basic, stalking is defined as a course of conduct directed at a specific person that would cause a reasonable person to feel fear.¹ Connecticut General Statutes (CGS) 53a-181d defines "course of conduct: to mean "two or more acts, including, but not limited to, acts in which a person directly, indirectly or through a third party, by any action, method, device or means, (1) follows, lies in wait for, monitors, observes, surveils, threatens, harasses, communicates with or sends unwanted gifts to, a person, or (2) interferes with a person's property."² The crime of stalking in Connecticut results when a "person knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for such person's physical safety or the physical safety of a third person."³

Some examples of stalking include:

- Sending unwanted messages (voicemails, text messages, emails, etc), or unwanted gifts
- Monitoring phone or computer use
- Constantly checking up on the victim
- Driving by the home, school or workplace of the victim for no legitimate purpose

Stalking is intended to intimidate and terrorize its victims. The average duration of intimate partner stalking is just over two years, and the majority of victims report that the stalking began while the relationship was intact and escalated during periods of separation.⁴ Stalking can place victims in constant fear and eventually result in escalating physical violence. Victims are sometimes forced to alter their daily routines or lives, including relocating to another state to escape their stalker.

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CT STALKING CRIMES DEFINED

CGS § 53a-181c. Stalking in the first degree

(a) A person is guilty of stalking in the first degree when such person commits stalking in the second degree as provided in section 53a-181d and (1) such person has previously been convicted of a violation of section 53a-181d, or (2) such conduct violates a court order in effect at the time of the offense, or (3) the other person is under sixteen years of age.

(b) Stalking in the first degree is a class D felony.

CGS § 53a-181d. Stalking in the second degree:

(a) For the purposes of this section, "course of conduct" means two or more acts, including, but not limited to, acts in which a person directly, indirectly or through a third party, by any action, method, device or means, (1) follows, lies in wait for, monitors, observes, surveils, threatens, harasses, communicates with or sends unwanted gifts to, a person, or (2) interferes with a person's property.

(b) A person is guilty of stalking in the second degree when:

(1) Such person knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for such person's physical safety or the physical safety of a third person; or

(2) Such person intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person that would cause a reasonable person to fear that such person's employment, business or career is threatened, where (A) such conduct consists of the actor telephoning to, appearing at or initiating communication or contact at such other person's place of employment or business, provided the actor was previously and clearly informed to cease such conduct, and (B) such conduct does not consist of constitutionally protected activity.

(c) Stalking in the second degree is a class A misdemeanor.

CGS § 53a-181e. Stalking in the third degree:

(a) A person is guilty of stalking in the third degree when he recklessly causes another person to reasonably fear for his physical safety by wilfully and repeatedly following or lying in wait for such other person.

(b) Stalking in the third degree is a class B misdemeanor.

IMPACT OF STALKING ON ITS VICTIMS

Stalking takes a significant physical, mental and emotional toll on its victims. The high level of fear and distress caused by stalking often results in anxiety, post-traumatic stress disorder (PTSD), and depression.⁵ In fact, one study demonstrated that 78% of victims stalked by an ex-partner had mean scale scores for somatic symptoms, anxiety, social dysfunction, and severe depression that were similar to symptoms reported by psychiatric outpatient populations.⁶ Given the two year average duration associated with stalking, victims also face the impact of chronic stress on their body. According the American Psychological Association, consistent and ongoing increase in heart rate, and elevated levels of stress hormones and of blood pressure can increase risk of hypertension, heart attack and stroke.⁷

The long-term fear and stress associated with stalking can hinder a victims' ability to manage daily activities. Data published by the U.S. Department of Justice indicated that 46% of victims fear not knowing what will happen next and nearly 30% fear that the stalking behavior will never stop.⁸ Essentially, some victims are left always looking over their shoulder, which severely limits their ability to enjoy their life. Meanwhile, 30% of victims fear bodily harm, 12% fear harm will come to a family member and nearly 9% fear death as a possible result of the stalking.⁹

There is also an economic impact associated with stalking. Just under 13% of stalking victims report losing time from work because of fear for their safety or to access judicial or criminal justice interventions, while some victims lose or are asked to leave their job because their stalker has been harassing them at work, causing workplace disruptions.¹⁰ Approximately 26% of victims have had some level of out-of-pocket expense related to stalking (e.g. attorney's fees, moving expenses, damage to property, etc.), with 13% spending \$1,000 or more.¹¹

Employers also experience direct effects of stalking as stalkers pose risks to company property such as damaging property, installing spyware on company computers and cell phones or monopolizing phone lines with repeated calls to the victim.¹² And not all victims report losing time from work to address the stalking, but do report more distraction at work meaning that their work productivity is reduced.¹³



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PREVALENCE OF STALKING

In Connecticut, statewide use¹⁴ of the nationally-recognized and evidence-based Lethality Assessment Program (LAP) screen allows law enforcement to screen victims of intimate partner violence for potentially fatal violence. The data collected through the screen allows us to understand those forms of abuse experienced by victims that are most closely linked to fatal intimate partner violence, including acts of stalking. According to data collected from nearly 3,000 victim responses to the Lethality Assessment Program (LAP) screen between July 1, 2015 and June 30, 2016, 71% of victims of intimate partner violence in Connecticut report having their daily activities controlled and 49% report being followed and spied on or subjected to threatening messages. Another 46% of victims reported that their current or former partner threatened to kill them.¹⁵

While it is not known how many Connecticut victims report stalking to law enforcement at the time it occurs, arrest data from the Department of Emergency Services and Public Protection, Division of State Police indicates that there were 71 arrests for stalking in intimate partner relationships in 2015 and 87 arrests in 2014.¹⁶

Nationally, according to the Centers for Disease Control (CDC), two-thirds of female victims of stalking (66.2%) reported being stalked by a current or former intimate partner and just over 40% of male victims of stalking reported that the perpetrator was a current or former intimate partner.¹⁷ Stalking is one of the top risk factors for fatal intimate partner violence. One study demonstrated that 76% of female intimate partner homicide victims had been stalked by their intimate partner prior to their death.¹⁸ Another study showed that weapons are used to harm or threaten victims in 1 out of 5 stalking cases and that intimate partner stalkers frequently approach their victims, and that their behavior escalates quickly.¹⁹

STRENGTHENING CT'S STATUTE

A leader on addressing intimate partner and interpersonal violence, Connecticut has made several enhancements over the years to strengthen its stalking laws. One additional step that should be taken by the General Assembly is to modify the level of fear required to constitute stalking under Connecticut law. Connecticut currently requires a high level of fear – “fear for such person’s physical safety.”²⁰ While this was consistent with stalking laws developed in the early 1990s, according to the National Center for Victims of Crime (NCVC), many states have since incorporated a lower level of fear in an attempt to provide earlier and better protection for victims.²¹

We propose that Connecticut’s anti-stalking statutes (CGS § 53a-181c through 181e) be amended to incorporate a lower level of fear and by redefining “reasonable person” as a “reasonable person in the victim’s circumstances.”

Incorporating a Lower Level of Fear

Limiting Connecticut’s statute to a fear for physical safety may hinder timely intervention by the criminal justice system. As we have discussed, stalking behaviors escalate over time, with stalking by a current or former intimate partner typically resulting in a quicker escalation of those behaviors. It can be difficult for victims to predict what will happen next and some victims who feel distressed by the stalking behaviors may not be able to identify when the behaviors are escalating to a potential level of physical harm. If that is the case, the victim may not fear for their physical safety and therefore may not be able meet the level of fear currently required by Connecticut law when seeking police intervention.

Incorporating a lower level of fear has been identified by NCVC as allowing the “criminal justice system to address the greatest number of stalking cases without exposing innocent persons to potential criminal charges.”²² Recognizing that some behaviors committed as part of a course of conduct may not rise to the level of “fear for physical safety”, at least twenty-nine (29) states and the District of Columbia have eliminated a high level of fear as the sole requirement to meet the definition of stalking in their statutes.²³ Of those states, seventeen (17) and the District of Columbia allow for the lower level of fear recommended by NCVC related to suffering emotional distress or harm to emotional health.²⁴

At least 29 STATES and D.C. have eliminated a requirement for a high level of fear in statute.

PROPOSED CHANGE TO CGS § 53a-181d

- (a) For the purposes of this section, “course of conduct” means two or more acts, including, but not limited to, acts in which a person directly, indirectly or through a third party, by any action, method, device or means, including, but not limited to, electronic or social media, (1) follows, lies in wait for, monitors, observes, surveils, threatens, harasses, communicates with or sends unwanted gifts to, a person, or (2) interferes with a person’s property, and “emotional distress” means significant mental or psychological suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
- (b) A person is guilty of stalking in the second degree when:
- (1) Such person knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person in the victim’s circumstances to (A) fear for such person’s physical safety or the physical safety of a third person, or (B) suffer substantial emotional distress; or
- (2) Such person intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person that would cause a reasonable person in the victim’s circumstances to fear that such person’s employment, business or career is threatened, where (A) such conduct consists of the actor telephoning to, appearing at or initiating communication or contact at such other person’s place of employment or business, provided the actor was previously and clearly informed to cease such conduct, and (B) such conduct does not consist of constitutionally protected activity.
- (c) Stalking in the second degree is a class A misdemeanor.

**The same language should also be added to § 53a-181e.*

Giving law enforcement the tools they need to intervene before abuse escalates to physical violence is critical to increasing victim safety. A 1993 Connecticut court decision, *State v. Culmo*, highlighted by the National Center on Victims of Crime's Model Stalking Code illustrates the reason that adopting a lower level of fear in anti-stalking statutes is in the state's interest. Acknowledging the mental impact of stalking on its victims, the Court noted that:

*"[The] state's interest in criminalizing stalking behavior...is compelling...Providing protection from stalking conduct is at the heart of the state's social contract with its citizens, who should be able to go about their daily business free of the concern that they may be the targets of systematic surveillance by predators who wish them ill. The freedom to go about one's daily business is hollow, indeed, if one's peace of mind is being destroyed, and safety endangered, by the threatening presence of an unwanted pursuer."*²⁵

Further, United States Code incorporates the lower level of fear term "substantial emotional distress"²⁶:

"Whoever –

(1) Travels in interstate or foreign commerce or is present within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel or presence engages in conduct that –

- a. places that person in reasonable fear of the death of, or serious bodily injury to –
 - i. That person;
 - ii. an immediate family member (as defined in section 115) of that person; or
 - iii. a spouse or intimate partner of that person; or

b. causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person described in clause (i), (ii), or (iii) of subparagraph (A)..."²⁷

Redefining "Reasonable Person"

The National Center for Victims of Crime (NCVC) also recommends defining the "reasonable person" standard used in most anti-stalking statutes to clearly reflect that of someone "in the victim's circumstances".²⁸ Incorporating the context of offender behavior is essential to understanding its impact on the victim. When considering intimate partner violence, it is often the victim who knows the offender best. Suffering prolonged periods of abuse, the victim may be accustomed to behaviors or actions on the part of the offender that are clearly intended to be a threat, but that would not seem odd or alarming to someone who has no knowledge of the past abuse. It could be an unwanted gift, such as flowers, or a seemingly friendly email that contains a phrase that the victim understands to be a threat. Without the context of past abuse, these actions may not rise to the level of causing "a reasonable person to fear for such person's physical safety," but they would certainly cause a "reasonable person in the victim's circumstances" to fear for their safety or suffer substantial emotional distress.

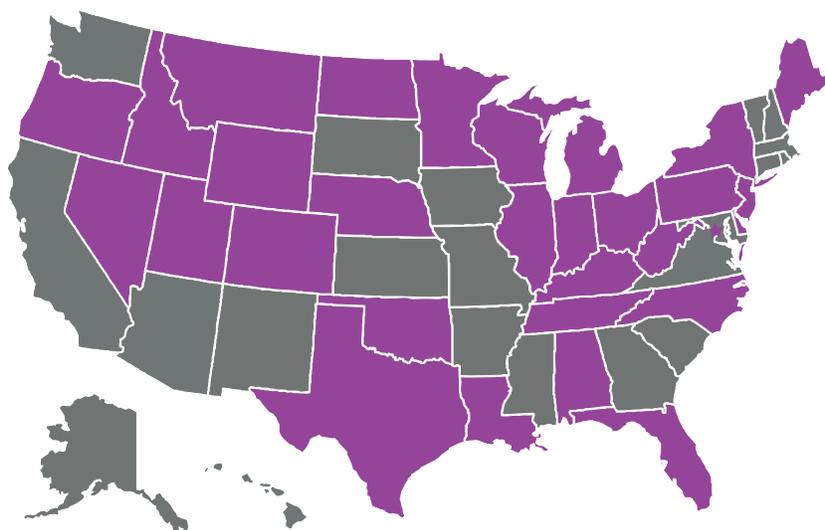
WHAT DOES "SEVERE EMOTIONAL DISTRESS" LOOK LIKE?

Emotional distress can be described as ongoing or continual suffering that can be articulated as a sense of anxiety, distress or panic that affects a person's basic way of life (i.e. negatively impacts work, travel, sleep, school, etc.). Emotional distress can be inflicted by an abuser through a pattern (as opposed to an isolated incident) of continued, intense, extreme or outrageous conduct.

Manifestations of emotional distress can include but are not limited to:

- Anxiety/fear of escalation
- Mental anguish/suffering
- Depression
- Indignity/shock/humiliation
- Sleep disturbances
- Dramatic weight fluctuations/altered eating habits
- Chronic fatigue
- Lack of sex drive

WHAT ARE OTHER STATES DOING?



Recognizing that some behaviors committed as part of a course of conduct may not rise to the level of “fear for physical safety”, at least twenty-nine (29) states and the District of Columbia have eliminated a high level of fear as the sole requirement to meet the definition of stalking in their statutes.²⁹

Delaware (Title 11, Chap. 5 § 1312)³⁰

A person is guilty of stalking when the person knowingly engages in a course of conduct directed at a specific person and that conduct would cause a reasonable person to:

- (1) Fear physical injury to himself or herself or that of a third person; or (2) Suffer other significant mental anguish or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

Idaho (§ 18-7906)³¹

A person commits the crime of stalking in the second degree if the person knowingly and maliciously:

- (a) Engages in a course of conduct that seriously alarms, annoys or harasses the victim and is such as would cause a reasonable person substantial emotional distress; or (b) Engages in a course of conduct such as would cause a reasonable person to be in fear of death or physical injury, or in fear of the death or physical injury of a family or household member.

Maine (17-A M.R. § 210-A)³²

A person is guilty of stalking if:

A) The actor intentionally or knowingly engages in a course of conduct directed at or concerning a specific person that would cause a reasonable person:

- (1) To suffer serious inconvenience or emotional distress; (2) To fear bodily injury or to fear bodily injury to a close relation; (3) To fear death or to fear the death of a close relation; (4) To fear damage or destruction to or tampering with property; or (5) To fear injury to or the death of an animal owned by or in the possession and control of that specific person.

New Jersey (2C:12-10)³³

A person is guilty of stalking, a crime of the fourth degree, if he purposefully or knowingly engages in a course of conduct directed at a specific person that would cause a reasonable person to fear for his safety or the safety of a third person or suffer other emotional distress.

Wisconsin (§ 940-32)³⁴

Whoever meets all of the following criteria is guilty of a Class I felony:

- (a) The actor intentionally engages in a course of conduct directed at a specific person that would cause a reasonable person under the same circumstances to suffer serious emotional distress OR to fear bodily injury to or the death of himself or herself or a member of his or her family or household.
- (b) The actor knows or should know that at least one of the acts that constitute the course of conduct will cause the specific person to suffer serious emotional distress or place the specific person in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household.
- (c) The actor's acts cause the specific person to suffer serious emotional distress or induce fear in the specific person of bodily injury to or the death of himself or herself or a member of his or her family or household.

ENDNOTES

- ¹ The National Center for Victims of Crime, Stalking Resource Center. *Stalking Fact Sheet*. Retrieved on February 22, 2017 from http://victimsofcrime.org/docs/default-source/src/stalking-fact-sheet-2015_eng.pdf?status=Temp&sfvrsn=0.994206007104367.
- ² Connecticut General Statutes § 53a-181d
- ³ Ibid
- ⁴ Logan, T. (2010). *Research on Partner Stalking: Putting the Pieces Together*. Lexington, KY: University of Kentucky, Department of Behavioral Science & Center on Drug and Alcohol Research. p. 4
- ⁵ Id at p. 10
- ⁶ Ibid
- ⁷ American Psychological Association. *Stress Effects on the Body*. Retrieved on February 22, 2017 from <http://www.apa.org/helpcenter/stress-body.aspx>.
- ⁸ Baum, K. (2009). *Stalking Victimization in the United States*. Washington, DC: US Department of Justice Bureau of Justice Statistics. p. 7.
- ⁹ Ibid
- ¹⁰ Ibid
- ¹¹ Id p. 13
- ¹² *The Facts on the Workplace and Stalking*. Workplaces Respond to Domestic & Sexual Violence. Retrieved on February 22, 2017 from <http://www.workplacesrespond.org/learn/the-facts/the-facts-on-workplace-and-stalking>.
- ¹³ Ibid
- ¹⁴ 91% of Connecticut cities and towns utilize LAP as of 2.1.17
- ¹⁵ Lethality Assessment Program data collected between July 1, 2015 and June 30, 2016.
- ¹⁶ Connecticut State Police, Crimes Analysis Unit. Connecticut Family Violence 2015 and 2014 Arrest Report. Retrieved from <http://www.dpsdata.ct.gov/dps/ucr/ucr.aspx>.
- ¹⁷ Black, MC, et al. (2011). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. p. 33.
- ¹⁸ McFarlane, Judith, et al. (1999) *Stalking and Intimate Partner Femicide*. *Homicide Studies* 3; 4.
- ¹⁹ Mohandie, Kris, et al. *The RECON Typology of Stalking: Reliability and Validity Based on a Large Sample of North American Stalkers*. *Journal of Forensic Sciences* 51; 1. 2006.
- ²⁰ Supra note 2
- ²¹ National Center for Victims of Crime. (2007) *The Model Stalking Code Revisited: Responding to the New Realities of Stalking*. p. 38.
- ²² Id p. 39
- ²³ Alabama, Colorado, Delaware, District of Columbia, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, West Virginia, Wisconsin, Wyoming
- ²⁴ Alabama, Colorado, Delaware, District of Columbia, Florida, Idaho, Illinois, Louisiana, Maine, Montana, New Jersey, New York, Ohio, Pennsylvania, Utah, West Virginia, Wisconsin, Wyoming
- ²⁵ Supra note 21 at p. 41 (State v. Culmo, 642 A.2d 90, 101-102 Conn. Super. Ct. 1993)
- ²⁶ 18 U.S. Code § 2261A
- ²⁷ Ibid
- ²⁸ Supra note 21 at p. 49
- ²⁹ Supra note 23
- ³⁰ Delaware Criminal Code Title 11, Chap. 5 § 1312 retrieved December 2016 from <http://delcode.delaware.gov/title11/c005/sc07/>
- ³¹ Idaho Statutes § 18-7906 retrieved December 2016 from <https://legislature.idaho.gov/statutesrules/idstat/Title18/T18CH79/SECT18-7906/>
- ³² Maine Revised Statutes 17-A M.R. § 210-A retrieved December 2016 from <http://www.mainelegislature.org/legis/statutes/17-A/title17-Asec210-A.html>
- ³³ New Jersey Revised Statutes 2013 Section 2C:12-10 retrieved December 2016 from <http://law.justia.com/codes/new-jersey/2013/title-2c/section-2c-12-10>
- ³⁴ Wisconsin Statutes § 940-32 retrieved December 2016 from <https://docs.legis.wisconsin.gov/statutes/statutes/940/II/32>

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

The Center for Family Justice
Bridgeport | 203.384.9559

Women's Center of Greater Danbury
Danbury | 203.731.5206

**Domestic Violence Program
United Services, Inc.**
Dayville | 860.774.8648

The Network
Enfield | 860.763.4542

**Domestic Abuse Services
Greenwich YWCA**
Greenwich | 203.622.0003

Interval House
Hartford | 860.527.0550

Chrysalis Domestic Violence Services
Meriden | 203.238.1501

New Horizons
Middletown | 860.347.3044

Prudence Crandall Center
New Britain | 860.225.6357

**The Umbrella Center for
Domestic Violence Services**
New Haven | 203.789.8104

Safe Futures
New London | 860.701.6000

Domestic Violence Crisis Center
Norwalk | 203.852.1980

Women's Support Services
Sharon | 860.364.1900

Domestic Violence Crisis Center
Stamford | 203.588.9096

Susan B. Anthony Project
Torrington | 860.482.7133

Safe Haven
Waterbury | 203.575.0036

**Domestic Violence Program
United Services, Inc.**
Willimantic | 860.456.9476

To learn more, visit www.ctcadv.org.

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