

DOMESTIC VIOLENCE AND PROTECTION ORDERS

6.01 PURPOSE

This regulation establishes Department policy, guidelines, and procedures in the enforcement, reporting, and prosecution of domestic violence and protection order violations.

6.02 POLICY

Members shall respond to reports of domestic violence and protection order violations and, when probable cause exists, make arrests pursuant to the provisions of Title 18, Crimes and Offenses; Title 23, Domestic Relations; Title 42, Judiciary and Judicial Procedure; and this regulation. Additionally, members shall enforce protection orders in compliance with the exact stipulations of each individual order. Members shall verify the existence of a protection order prior to taking enforcement action (i.e., Pennsylvania State Police [PSP] PFA Statewide Registry, hard copy, Protection From Abuse Database [PFAD]).

6.03 DEFINITIONS

- A. Domestic Violence: Committing or attempting to commit one or more of the following Title 18 criminal offenses against a family or household member (as defined in Section 6.03B. of this regulation):
1. Chapter 25, Criminal Homicide, Sections 2501 through 2506.
 2. Chapter 26, Crimes Against Unborn Child, Sections 2603 through 2606.
 3. Chapter 27, Assault, Sections 2701, 2702, 2705, 2706, 2707, 2707.1, 2709, 2709.1, and 2718.
 4. Chapter 29, Kidnapping, Sections 2902 and 2903.
 5. Chapter 31, Sexual Offenses, Sections 3121, 3122.1, 3123, 3124.1, 3125, and 3126.
 6. Chapter 63, Minors, Sections 6312, 6318, and 6320.

- B. Family or Household Members: Spouses or persons who have been spouses; persons living as spouses or who have lived as spouses; parents and children; other persons related by blood, ancestry, or marriage; current or former sexual or intimate partners; or persons who share biological parenthood.
- C. Protection From Abuse Data Sheet, Form SP 4-401, and Protection From Abuse Data Sheet—Supplemental, Form SP 4-401A: Forms prescribed by the PSP and used by the appropriate county prothonotary to record information concerning a protection order, court-approved consent agreement, and amendments or revocation of same. It shall be sent to the applicable PSP Station within 24 hours of the entry of the order (refer to Appendages A and B).
- D. Protection From Abuse (PFA) Order: A court order for protection from domestic abuse, issued pursuant to Title 23, Domestic Relations, Chapter 61, Protection From Abuse.

NOTE: For the purpose of this regulation, court-approved consent agreements shall be included within the definition of PFA orders.

- E. Protection From Intimidation (PFI) Order: A court order for juveniles who are being intimidated (harassed and/or stalked) by an adult who is neither a family or household member nor a past or present dating or intimate partner, issued pursuant to Title 42, Judiciary and Judicial Procedure, Chapter 62A, Protection of Victims of Sexual Violence or Intimidation.
- F. Protection Order: The term protection order, as used in this regulation, shall include PFA orders, PFI orders, Sexual Violence Protection orders, and court-approved consent agreements.
- G. Sexual Violence Protection (SVP) Order: A court order for protection from sexual violence by persons who are not family or household members, issued pursuant to Title 42, Judiciary and Judicial Procedure, Chapter 62A, Protection of Victims of Sexual Violence or Intimidation.
- H. Statewide Registry: PSP PFA Statewide Registry, maintained in the Commonwealth Law Enforcement Assistance Network/National Crime Information Center (CLEAN/NCIC), of all valid emergency, temporary, and final court orders of protection or court-approved consent agreements.

- I. Victim: A person who is physically or sexually abused by a family or household member and/or a person who is **subjected to** sexual violence or intimidation.

6.04 PROCEDURES

- A. Receipt: Upon receipt of a report of domestic violence and/or a protection order violation, Communications-Desk Unit personnel shall immediately attempt to obtain pertinent information concerning the incident (e.g., nature and location of the incident, name of the caller, callback telephone number), in accordance with OM 7-8, Communications and Information Technology. Communications-Desk Unit personnel shall also immediately attempt to verify, through the use of the Statewide Registry, PFAD, and/or hard copy, the existence of a protection order, the expiration date of the order, and the exact stipulations contained therein.
- B. Cancelled by Complainant: Domestic violence incidents and protection order violations shall not, under any circumstances, be cancelled by the complainant or any other person(s). All domestic violence incidents and protection order violations shall require personal contact with the victim and the complainant.
- C. Assignment: Whenever practicable, two or more members shall be assigned to respond to domestic violence incidents and protection order violations. Members shall be furnished all pertinent information prior to arrival at the scene.
- D. Response: Due to the potential for violence, domestic violence incidents and protection order violations shall be considered priority calls.
- E. Statewide Registry: The PSP shall enter all valid emergency, temporary, and final court orders of protection or court-approved consent agreements, as well as all related amendments and revocations, in the Statewide Registry within eight hours of receipt, in accordance with Title 23, Section 6105(e)(2), and Title 42, Section 62A04(c)(3).

NOTE: Emergency protection orders shall be entered into CLEAN/NCIC as temporary orders, with the expiration date being the next scheduled business day and shall be immediately purged upon expiration.

1. Following entry, the protection order/consent agreement shall be maintained in a separate file with a copy of the CLEAN/NCIC Message (Query Protection Order [QPO]) and any amendment and accompanying data sheet. The current data sheet shall be placed on top, with the protection order/consent agreement and QPO CLEAN/NCIC Message beneath. Any amendment(s) and accompanying data sheet(s) shall be attached to the original.
2. The PSP shall be responsible for reviewing/comparing current data sheets with previous data sheets, and any change(s) shall be manually entered into CLEAN/NCIC. The only fields that automatically update are the issue date, expiration date, and Brady Indicator field. All protection orders shall be modified/supplemented with any additional information, as necessary.
3. Protection orders shall be filed **either** alphabetically by last name or **sequentially** by issue date (ISD), then numerically by Originating Agency Case (OCA) number. Protection orders and consent agreements shall be retained for 36 months from the ISD, unless they are cancelled or expired, at which time they shall be purged from the file. Prior to purging any protection order, the file shall be reviewed to ensure that no active protection order is purged.

NOTE: Copies of cancelled or expired protection orders can be retrieved indefinitely through PFAD. NCIC will archive the entry for five years from the date of expiration or cancellation.

6.05 PROSECUTION

- A. Arrests for Domestic Violence: Members have the same right of arrest without a warrant as in a felony whenever there is probable cause to believe the actor has violated any of the following criminal offenses, pursuant to Title 18, Section 2711(a). The offense does not have to take place in the presence of a member; however, recent physical injury must be observed, or other corroborative evidence must be available.
 1. Section 2504, Involuntary manslaughter.
 2. Section 2701, Simple assault.

3. Section 2702 (a) (3), (4), (5), Aggravated assault.
 4. Section 2705, Recklessly endangering another person.
 5. Section 2706, Terroristic threats.
 6. Section 2709.1, Stalking.
 7. Section 2718, Strangulation.
- B. Arrests for Protection Order Violations:
1. Members shall immediately effect an arrest for a violation of a protection order when the actor is present at the scene. If a criminal offense(s) is alleged in conjunction with the protection order violation, the actor shall be charged with the criminal offense(s) and indirect criminal contempt. If the only offense alleged is a protection order violation, then the actor shall be charged only with indirect criminal contempt. In both cases, a criminal complaint shall be filed, and the actor shall be afforded a preliminary arraignment before the proper issuing authority, without unnecessary delay. Members shall not release an actor from custody in lieu of an immediate preliminary arraignment, pursuant to Title 18, Section 2711(c); Title 23, Section 6113(c); Title 42, Section 62A12(b); and Title 234, Rules of Criminal Procedure, Rule 519 (see Comments).
 2. When the only offense alleged is a violation of a protection order and the actor is not present at the scene, the responding member(s) shall expend a reasonable amount of investigative effort to apprehend the actor. If the actor cannot be apprehended, the investigating member shall file a criminal complaint charging the actor with indirect criminal contempt. The complaint shall be filed on the next business day before the court in the judicial district where the violation is alleged to have occurred.
 3. When a county has a local Rule of Court or prosecution policy for initiating and/or handling indirect criminal contempt petitions which differs from this regulation (e.g., requiring the victim, rather than police, to initiate a petition before the appropriate court), members shall comply with the rule or policy. A copy of the rule or

policy shall be obtained from the district attorney and kept at the affected Station by the Criminal Investigation Unit Supervisor. An additional copy shall be forwarded to the applicable Troop Criminal Investigation Section Commander.

4. When the alleged offense is a violation of a PFA order issued by another state, regardless of whether or not it has been entered into the Statewide Registry, it shall be enforced as if it were issued in this Commonwealth, in accordance with Title 23, Section 6105(h) (1) and (2).
- C. Seizure of Weapons: Subsequent to an arrest, members shall seize all weapons used during an incident of domestic violence, violation of a PFA order, or during prior incidents of abuse, pursuant to Title 18, Section 2711(b), and Title 23, Section 6113(b). As soon as it is reasonably possible, all weapons seized as a result of a violation of a PFA order shall be delivered to the office of the sheriff, pursuant to Title 23, Section 6113(b). Weapons seized as a result of an incident of domestic violence shall be processed as evidence in accordance with established Department regulations.
- D. Multiple Remedies: Disposition of a charge of indirect criminal contempt shall not preclude the prosecution of other criminal charges associated with the incident giving rise to the contempt, nor shall disposition of other criminal charges preclude prosecution of indirect criminal contempt associated with the criminal conduct giving rise to the charges.

6.06 REPORTING

- A. For reporting purposes, every incident of domestic violence or violation of a protection order shall be reported on the Incident Report/Incident Report—Part II, Forms SP 7-0050 and SP 7-0050A. The following information, when applicable, shall be documented on the Domestic Violence/PFA Checklist on the bottom portion of the Incident Report—Part II.
1. Name, address, and telephone number of the caller.
 2. A second permanent address and telephone number for the victim (e.g., a close family member or a friend).

3. If applicable, what weapons were used or threatened to be used? (Provide details in the narrative of the Incident Report.)
 4. A description of any injuries observed by the member.
 5. A description of any injuries described by the victim which were not observed by the member, and a statement that the injuries were not observed.
 6. Was the accused arrested and arraigned? If so, was bail set and what are the conditions of bail? Was bail posted?
 7. The names and ages of any children present in the household, and if relocated, the address and telephone number of relocation.
 8. A notation of any previous domestic violence or protection order violation(s) the member is personally aware of.
 9. A notation of any previous incident(s) reported by the victim or witnesses, if known.
- B. The following information, when applicable, shall be documented in the narrative portion of the Incident Report.
1. Names, addresses, and telephone numbers of any witnesses.
 2. The date, time, and whether the accused appeared intoxicated or under the influence of a controlled substance(s).
- C. When domestic violence occurs, and the protection order is not valid, the criminal offense alleged shall be handled and reported consistent with existing procedures.
- D. When the criminal offense alleged is in conjunction with a violation of a valid protection order, the criminal offense shall be the most serious offense committed, and indirect criminal contempt shall be listed accordingly.

- E. When the only offense alleged is the violation of a valid protection order and the actor was charged, the incident shall be considered cleared.

6.07 NOTIFICATION

- A. **Services and Rights:** Members shall provide victims of domestic violence and PFA order violations with oral and written notice of the availability of safe shelter and domestic violence services in the community, including the hotline number for domestic violence services. The written notification shall be made through the use of the Victim/Witness Assistance Guide, Form SP 7-004A, in either English or Spanish, whichever is most appropriate. Members shall also provide the Victim/Witness Assistance Guide to victims of PFI and SVP order violations.
- B. **Arrest:** Members shall make reasonable efforts to notify any person protected by a protection order of the arrest of the defendant for violation of the order or for a domestic violence incident, as soon as possible. Unless the individual(s) cannot be located, notice shall be provided within 24 hours after preliminary arraignment. This notification requirement is pursuant to Title 23, Section 6105(d), and Title 42, Section 62A04(b).
- C. **Release:** When a member is provided with information of the accused's release, they shall make a reasonable effort to notify the affected individual(s).

6.08 INCIDENTS INVOLVING DEPARTMENT PERSONNEL

- A. In addition to Department policy, guidelines, and procedures outlined throughout this regulation, specific procedures apply to domestic violence incidents and protection orders involving Department personnel. All allegations of domestic violence and protection orders filed against Department personnel will be reviewed and investigated by the Bureau of Integrity and Professional Standards, Internal Affairs Division. Members shall enforce protection orders filed against Department personnel in compliance with the exact stipulations of each individual order, and in accordance with this regulation.

- B. When Department personnel are named as a plaintiff or defendant in a protection order or are arrested for a domestic violence incident and/or violation of a protection order, they shall follow the applicable procedures contained in FR 5-4, Legal Action Against Department Personnel.