The Allegheny County Chiefs of Police Association

MODEL

DOMESTIC VIOLENCE PROCEDURES

An Allegheny County Criminal Justice Advisory Board Project

Initial issue 2008, rev 2020

In Partnership With

The Allegheny County District Attorney's Office

Reviewed March 2024

This MODEL POLICY should serve as a starting point to be reviewed, revised, and approved by the Chief or Superintendent, your municipality and solicitor before being implemented by your police agency.

ACCPA-CJAB-DA MODEL POLICY June 2020

DOMESTIC VIOLENCE, CRIME VICTIMS NOTIFICATION, REPORTING SUSPECTED CHILD ABUSE.

01. Purpose:

The purpose of this policy is to provide Police Officers with protocols on the following: handling of Domestic Violence Incidents, requirements to be followed in the event a Police/Law Enforcement Officer(s) is involved in a Domestic Incident as an alleged perpetrator, the Pennsylvania Protection From Abuse (PFA) Act, assisting victims of abuse in obtaining shelter, counseling, and a Protection From Abuse Order, arrest for a PFA violation, the Pennsylvania Protection of Victims of Sexual Violence or Intimidation (PSVI) Act, arrest for a PSVI violation, the Pennsylvania Crime Victim's Act, the requirement to disseminate important information to victims of crime and the Pennsylvania Child Protective Services Law. Changes in law and procedure, as well as training provided on these procedures, will give rise to modifications and updates.

02. Policy:

It is the policy of the Police Department to:

(1) comply with the responsibilities of state and local law enforcement under Section 2711 of the Pennsylvania Crimes Code (18 Pa. C.S.A. §2711), which authorizes warrantless arrests in certain crimes occurring in family or intimate relationships;

(2) comply with the requirements of the Pennsylvania Protection From Abuse Act, as amended, (23 Pa. C.S.A. 6101, et seq.) and this order in regard to the responsibilities of law enforcement agencies under the Act.

(3) comply with the requirements of the Pennsylvania Protection of Victims of Sexual Violence or Intimidation Act in regard to the responsibilities of law enforcement agencies under the provisions of 42 Pa. C.S. §62A04 of the Act.

(4) comply with the Pennsylvania Crime Victim's Act (18 Pa. C.S. §11.101 et seq.) and this order in regard to responsibilities of state and local law enforcement.

(5) comply with §6311 of the Pennsylvania Child Protective Services Law (23 Pa. C.S.A. 6301 et seq.) and this order in regard to persons required to report suspected child abuse.

03. Definitions:

"Firearm." Any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive or the frame or receiver of any such weapon as defined by 18 Pa.C.S. § 6105(i) (relating to persons not to possess, use, manufacture, control, sell or transfer firearms).

"Other weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term does not include a firearm.

"Weapon." Anything readily capable of lethal use and possessed under circumstances not manifestly appropriate for lawful uses which it may have. The term includes a firearm which is not loaded or lacks a magazine, clip or other components to render it immediately operable and components which can readily be assembled into a weapon as defined by 18 Pa.C.S. § 907(relating to possessing instruments of crime).

04. Responsibilities of Responding Officers on Domestic Violence Calls:

A. Once on scene, Officers will identify themselves as police officers, explain the reason for their presence, and request entry into the premises.

B. Officers should ask to see the person who is the subject of the call. If the person who called the police is someone other than the subject of the call, officers should not reveal the caller's name.

C. Officers may enter and conduct a search of the premises relevant to the incident if consent has been given to do so.

D. If refused entry, officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, officers should request 911 to contact the caller for more information

E. Officers should request that a Supervisor/OIC respond to the location.

F. Officers should not leave the scene without speaking to the subject of the call.

G. With respect to a call for a Domestic Violence, if no one answers the door or if the police request to speak with the subject is denied, then in most cases "exigent circumstances" will exist to allow police to insist on speaking to the subject or to force entry in order to ensure the safety of all parties involved.

H. If the subject of the call is no longer on scene, officers should attempt to have the subject speak personally to an officer. If this is not possible, officers should then attempt to speak to the subject via phone. If immediate contact cannot be made, officers should attempt a follow up contact with the subject of the call as soon as practicable

05. Arrests in Domestic Violence Cases under Crimes Code §2711:

A. Probable Cause Arrests Without Warrant:

Police Officers shall maintain a working knowledge of the provisions enumerated in Title 18, Section 2711, "Probable cause arrests in domestic violence cases," regarding their right to arrest without warrant in domestic violence cases.
In all cases where an arrest may be made under the criteria set forth in §2711, it will be the policy of this department that **AN ARREST WILL BE MADE WITH OR WITHOUT THE CONSENT OF THE VICTIM.** Officers shall emphasize to both the victim and defendant that the arrest is being made by the Police Department and **not** the victim. When an on view arrest is not feasible, a warrant will be requested for Defendant. Charges should not be filed via summons in an intimate partner violence case.

B. Criteria For Arrests Under §2711:

Section 2711 of the Crimes Code authorizes an Officer to make a warrantless arrest of an actor even though the offense was not committed in the presence of the Officer. In order to make a warrantless arrest, under this section **ALL** of the following requirements must be present:

1. The Officer must have Probable Cause to believe that one of the following crimes has been committed:

    - Section 2504 (relating to involuntary manslaughter), or
    - Section 2701 (relating to simple assault) or
    - Section 2702 (a)(3), (4), and (5) (relating to aggravated assault) or
    - Section 2705 (relating to recklessly endangering another person) or
    - Section 2706 (relating to terroristic threats) or
    - Section 2709.1 (relating to stalking) or
    - Section 2718 (relating to strangulation)

2. The crime must have occurred between persons in a covered relationship as defined in sub-section C (below) of this policy.

3. The Police Officer must have observed recent physical injury to the victim or have other corroborative evidence*.

    *Corroborative evidence could be information obtained from some other person who witnessed the event, an admission by the suspect that he/she committed the actions that constitute the elements of one of the enumerated crimes, or any other supportive physical evidence.

C. Scope of Coverage:

This policy applies to any call to the Police Department reporting a disturbance between

persons in a "covered relationship," as defined in both the Pennsylvania Crimes Code §2711 and the Pennsylvania Protection from Abuse Act (23 Pa. C.S.A. § 6-02 (a)) as family or household members as follows:

- spouses or persons who have been spouses;
- persons living as spouses or who lived as if they were spouses;
- parents and children;
- persons related by consanguinity (blood) or affinity (marriage);
- current or former sexual or intimate partners; and
- persons who share biological parenthood.

There is no time limit on these relationships and no requirement that the parties need to have ever lived together.

D. Dual Arrests Discouraged:

Police are not required to arrest both parties involved in an assault when each claims to have been assaulted by the other. Dual arrests are discouraged and should be the exception as prosecution of both parties is unlikely to be successful. Officers who do make dual arrests should include in their report who the primary aggressor was.

1. No Arrest if Justification:

Persons acting with justification as set forth in Chapter 5 of the Pennsylvania Crimes Code General Principles of Justification (for example "self-defense"), are **NOT** subject to arrest.

2. Primary Aggressor Determination:

If possible, Officers should determine the primary physical aggressor.
Only the primary physical aggressor should be arrested unless the actions of the other party were significantly out of proportion to the threat from the primary physical aggressor.

An Officer should consider the following factors in determining the primary aggressor:

- Whether one of the parties was acting in self-defense regardless of who made the first physical contact;
- The intent of the law to protect victims of domestic violence from continuing abuse;
- The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
- The history of domestic violence between the parties;
- Size and strength of the parties;
- The credibility of the stories of the parties;
- Other eyewitness statements;
- All other circumstances of the incident.

E. **Steps Taken After Arrest:** If a warrantless arrest is made under Section 2711, the officer must take the following steps:

1. The responding Officer(s) **SHALL SEIZE ALL FIREARMS/WEAPONS USED BY THE DEFENDANT** in the commission of the offense. A Property/Evidence Report shall be completed with a detailed inventory, listing all firearms/weapons seized.

2. If other firearms/weapons are present in the home, seizure of those firearms/weapons should be discussed with the family. Consent should be obtained before seizing any firearms/weapons that are present but were not used in the commission of the offense. A Property/Evidence Report shall be completed with a detailed inventory, listing all firearms/ weapons seized and if possible, signed by the consenting party to avoid confusion in the future as to what was taken.
   Attachment #1 is an Authorization to Seize Firearms/Weapons Form.
   Attachment #2 is a Consent To Search Form, if consent to search is necessary.

3. Following arrest, the Officer(s) **SHALL TAKE THE DEFENDANT FOR IMMEDIATE ARRAIGNMENT** before the minor judiciary or to Shuman Center. **UNDER NO CIRCUMSTANCES SHALL THE ACTOR BE RELEASED BEFORE ARRAIGNMENT.** Every attempt will be made to have juveniles arrested for Domestic Violence, committed to Shuman Juvenile Detention Center. If Shuman Center refuses to accept, notify Children, Youth & Families for further guidance.

4. If the actor is not present upon arrival of the Police, a description and an order to arrest will be given to County 911 for broadcast. Attempts to effect an arrest will continue until the actor is apprehended. If an arrest can not be made before the end of the Officer's shift, then the responding **OFFICER SHALL OBTAIN AN ARREST WARRANT. SUMMONS SHALL NOT BE USED IN DOMESTIC VIOLENCE CASES.**

06. **<u>Arrests for Violations of Protection from Abuse (PFA) Orders</u>**

A. **Verification of Protection From Abuse (PFA) Order:**
When responding to any Domestic Violence call, Police Officers will ascertain if a PFA Order is in effect for any party in the dispute. This can be done by obtaining a hard copy directly from the victim, checking with the Pennsylvania State Police through CLEAN or checking the Police Department where the hard copy is on file. Officers are to enforce PFA orders issued by a Court within Allegheny County, issued by a Court in another judicial district within this Commonwealth, or a foreign protection order issued by a comparable Court.

B. **Mandatory Arrest:**
Officers have a mandatory arrest obligation for PFA Order violations if the following two factors are present:

- Valid PFA Order is in effect, **and**
- Probable Cause exists that there has been a violation of a safety provision of the PFA Order.

1. Probable Cause for PFA violation arrests can be established by a credible victim statement. *Unlike Crimes Code § 2711, there is no need for the Officer to see recent physical injury or have other corroborative evidence.* **In all cases where there is Probable Cause to believe that there has been a violation of a "safety provision" of a valid PFA Order, then the responding Officer has a mandatory arrest obligation and shall make a warrantless arrest or obtain an arrest warrant for Indirect Criminal Contempt (ICC) for Violation of a PFA Order. This will happen with or without consent of the victim.**

2. Safety Provisions of a PFA Order include the following:

- No abuse (Directing the defendant to refrain from abusing the plaintiff or minor children) (§6102 (a) (1));
- Exclusion from plaintiff's residence (Excluding the defendant form the residence where the plaintiff lives) (§6102 (a) (2 & 3));
- Custody (Awarding custody of minor children to the plaintiff) (§6102 (a) (4));
- No Contact / Stay Away (Prohibit the defendant from having any contact with the plaintiff or minor children including but not limited to restraining the defendant from entering the place of employment or business or school of the plaintiff or minor children (§6102 (a) (6));
- Weapons Relinquishment (Ordering the defendant to relinquish firearms, other weapons, ammunition, and firearm licenses, and prohibiting defendant from acquiring any other firearms) (§6102 (a) (7));
- No stalking or harassment (Directing the defendant to refrain from stalking or harassing the plaintiff and other designated persons) (§6102 (a) (9)); and,
- Any other special provision of a PFA Order that expressly directs that an arrest be made for violation of that provision (check Provision 8 in the standard Final PFA Order).

3. Warrantless arrest is authorized for PFA violation arrests whether or not the violation was committed in the presence of the Officer.

4. If an arrest warrant for PFA violation is delivered to the Police Department from another jurisdiction for execution, Officers shall make every reasonable effort to execute the warrant and arrest the defendant as soon as possible. The Officer shall then follow the steps listed below in sub-section C.

5. Officers can verify the existence if an ICC warrant by contacting the Allegheny County Sheriff's Warrant Office at 412-350-4714 (24 hours a day).

C. When Defendant is Apprehended for Violation of a PFA Order:

1. Mandatory seizure of firearms.

(a) Once an arrest is made for violation of a PFA Order, the Officer must seize all firearms, other weapons or ammunition that were used or threatened to be used in the act that is the subject of the arrest or during prior incidents of abuse. In addition, the Officer shall seize any firearms/weapons in the defendant's possession.

(b) For the future safety of the victim and Police, if other firearms/weapons are present in the home, seizure of those firearms/weapons should be discussed with the family. Consent should be obtained before seizing any firearms/weapons that are present but were not used in the commission of the offense.

(c) A Property/Evidence Report shall be completed with a detailed inventory, listing all firearms/ weapons seized and if possible, signed by the consenting party to avoid confusion in the future as to what was taken.
Attachment #1 is an Authorization to Seize Firearms/Weapons Form.
Attachment #2 is a Consent To Search Form, if consent to search is necessary.

2. Following arrest, the Officer shall take the defendant for immediate arraignment before the minor judiciary or to Shuman Center. **UNDER NO CIRCUMSTANCES SHALL THE ACTOR BE RELEASED BEFORE ARRAIGNMENT.** If Shuman Center will not accept a juvenile and the victim of the offense is the parent or guardian, the Officer should contact Children, Youth and Family Service (CYF) for disposition of the juvenile.
3. The Officer shall file a Complaint for Indirect Criminal Contempt for Violation of a PFA Order with the minor judiciary. In addition to charging the defendant with Indirect Criminal Contempt (ICC), any applicable Crimes Code violations should also be charged by the responding Officer.

4. Officers shall notify a victim when a defendant has been arrested for a violation of a PFA order within 24 hours after preliminary arraignment unless the victim cannot be located. Officers should also provide victims with offender status information after the completion of the arraignment, such as whether the defendant was released or committed as well as any bond conditions.

D. When Defendant is <u>not</u> Immediately apprehended for Violation of a PFA Order:

1. If the Officer has Probable Cause to believe that a violation of a safety provision of a valid PFA Order has occurred but the actor is not on the scene and cannot be immediately located, the Officer will give a description of the actor to the dispatcher (County 911) for broadcast, and attempts to arrest will continue until the actor is apprehended.

2. If an arrest can not be made before the end of the Officer's shift, the responding Officer shall file a Complaint for Indirect Criminal Contempt for Violation of a PFA Order at the office of the Magisterial District Judge where the violation occurred or at Allegheny County's Night Court. Upon the filing of the Complaint, an arrest warrant will be issued.

3. A copy of the arrest warrant for PFA violation will be given by the Magisterial District Judge to the Officer for execution or faxed to an appropriate 911 dispatch center where the defendant may be located. The original arrest warrant will be faxed and mailed to the Sheriff's Department for inclusion in a county-wide registry of PFA Violation arrest warrants.

4. Once the arrest warrant is executed and the defendant is arrested and taken in for arraignment (see Section 5, sub-section C 4, for victim notification requirements), the arrest warrant will be cleared from the county-wide registry.

5. The victim does not need to sign the Indirect Criminal Complaint or be present while the Officer prepares it and presents it before the Magisterial District Judge.

07. Relinquishment of Firearms/Weapons: Misdemeanor Crime of Domestic Violence

A. A Misdemeanor Crime of Domestic Violence (MCDV) is an offense that is a misdemeanor under federal, state or tribal law that involves the use or attempted use of physical force or the threatened use of a deadly weapon and is 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.

B. Upon conviction of MCDV, Defendant will be ordered to relinquish his/her firearms within 24 hours.
   - Under penalty of law, Defendant must list all firearms he/she possesses for relinquishment.
   - Court will determine to which police department or armory Defendant will relinquish firearms.
   - Court's Order of Relinquishment will be transmitted to the relevant police department to inform them of Defendant's requirements.
   - Under Pennsylvania Law, Defendant may not have firearms for a period of 5 years.

C. When a Defendant relinquishes as ordered, the designated police department must take the weapons and follow department policies for storage and/or destruction.
   When a Defendant fails to relinquish, the designated police department must investigate the failure to relinquish by doing the following:
   - Locate and talk to defendant about failure to relinquish.
   - Follow up with information received by Defendant and possibly crime victim.
   - If investigation develops sufficient information, obtain a search warrant to locate and confiscate firearms.
   - Follow up with any other investigative leads as they develop.
   - Charge Defendant with M2 Failure to Relinquish and other relevant crimes.

08. Relinquishment of Firearms/Weapons: Protection From Abuse Order (PFA)

A. All police agencies must have an active account with the Protection From Abuse Database (PFAD). If necessary, your department can go to www.pfad.pa.gov to establish an account.

B. Upon service of a Temporary PFA which includes a weapons relinquishment order or the Court imposing a Final PFA which includes a weapons relinquishment order, the Defendant has 24 hours to relinquish firearms to law enforcement. The PFA will be entered into PFAD with the Defendant's home law enforcement agency. This agency will receive a notification of the order via PFAD and CLEAN. This agency will be

responsible for enforcement of the relinquishment requirement.

C. If Defendant relinquishes as required, the police department must enter the receipt of the weapons into PFAD. This will stop future notifications from PFAD/CLEAN. The police department should follow department policies for storage of the relinquished weapons.
    - If Defendant relinquishes to an Amory or an attorney (only eligible 3rd parties), the police department must follow up to verify that such relinquishment occurred.

D. If relinquishment does not occur within 24 hours, PFAD/CLEAN will send daily notifications of the outstanding relinquishment order until relinquishment is satisfied and the police department has entered such into PFAD.

E. If Defendant fails to relinquish after 24 hours, the police department will need to investigate the failure to relinquish by doing the following:
    - Locate and talk to defendant about the failure to relinquish
    - Follow up on information received by the Defendant and the Plaintiff in the PFA.
    - If investigation develops sufficient information, obtain a search warrant to locate and confiscate firearms.
    - Follow up with any other investigative leads as they develop.
    - Charge Defendant with M2 Failure to Relinquish and other relevant crimes.

F. Any questions regarding PFAD should be directed to the Pennsylvania State Police Help Desk at 1-877-777-3375.

09**: <u>Arrest for Violations of Protection of Victims of Sexual Violence or Intimidation (PSVI) Orders.</u>**

Unlike the PFA Act there are NO firearms relinquishment provisions in the PSVI Act*.

A. Verification of PSVI Order:

Police Officers will ascertain if a PSVI Order is in effect for any party in the dispute. This can be done by obtaining a hard copy directly from the victim, checking with the Pennsylvania State Police through CLEAN or checking the Police Department where the hard copy is on file. Officers are to enforce PSVI orders issued by a Court within Allegheny County, issued by a Court in another judicial district within this Commonwealth.

B. Mandatory Arrest:

Officers have a **mandatory arrest obligation** for PSVI Order violations if the following two factors are present:

- Valid PSVI Order is in effect, and
- Probable Cause exists that there has been a violation of a provision of the PSVI Order.

1. Probable Cause for PSVI violation arrests can be established by a credible victim statement. *There is no need for the Officer to see recent physical injury or have other corroborative evidence.* **In all cases where there is Probable Cause to believe that there has been a violation of a valid PSVI Order, then the responding Officer has a <u>mandatory arrest obligation</u> and <u>shall</u> make a warrantless arrest or obtain an arrest warrant for Indirect Criminal Contempt (ICC) for Violation of a PSVI Order.** This will happen with or without consent of the victim.

2. Warrantless arrest is authorized for PSVI violation arrests whether or not the violation was committed in the presence of the Officer.

3. If an arrest warrant for PSVI violation is delivered to the Police Department from another jurisdiction for execution, Officers shall make every reasonable effort to execute the warrant and arrest the defendant as soon as possible. The Officer shall then follow the steps listed below in sub-section C.

4. Officers can verify the existence if an ICC warrant by contacting the Allegheny County Sheriff's Warrant Office at 412-350-4714 (24 hours a day).

C. When Defendant is Apprehended for Violation of a PSVI Order:

1. Following arrest, the Officer shall take the defendant for immediate arraignment before the minor judiciary or to Shuman Center. **UNDER NO CIRCUMSTANCES SHALL THE ACTOR BE RELEASED BEFORE ARRAIGNMENT.** If Shuman Center will not accept a juvenile and the parent or guardian refuse to take custody, the Officer should contact Children, Youth and Family Service (CYF) for disposition of the juvenile.

2. The Officer shall file a Complaint for Indirect Criminal Contempt for Violation of a PSVI Order with the minor judiciary. In addition to charging the defendant with Indirect Criminal Contempt (ICC), any applicable Crimes Code violations should also be charged by the responding Officer.

3. Officers shall notify a victim when a defendant has been arrested for a violation of a PSVI order within 24 hours after preliminary arraignment unless the victim cannot be located. Officers should also provide victims with offender status information after the completion of the arraignment, such as whether the defendant was released or committed as well as any bond conditions.

D. When Defendant is <u>not</u> immediately apprehended for Violation of a PSVI Order:

1. If the Officer has Probable Cause to believe that a violation of a valid PSVI Order has occurred and has made a decision to make an arrest but the actor is not on the scene and cannot be immediately located, the Officer will give a description of the actor to the dispatcher (County 911) for broadcast, and attempts to arrest will continue until the actor is apprehended.

2. If an arrest cannot be made before the end of the Officer's shift, the responding Officer shall file a Complaint for Indirect Criminal Contempt for Violation of a PSVI Order at the office of the Magisterial District Judge where the violation occurred or at Allegheny County's Night Court. Upon the filing of the Complaint, an arrest warrant will be issued.

3. A copy of the arrest warrant for PSVI violation will be given by the Magisterial District Judge to the Officer for execution or faxed to an appropriate 911 dispatch center where the defendant may be located. The original arrest warrant will be faxed and mailed to the Sheriff's Department for inclusion in a county-wide registry of PSVI Violation arrest warrants.

4. Once the arrest warrant is executed and the defendant is arrested and taken in for arraignment (see sub-section C-3 for victim notification requirements), the arrest warrant will be cleared from the county-wide registry.

5. The victim does not need to sign the Indirect Criminal Complaint or be present while the Officer prepares it and presents it before the Magisterial District Judge.

***THE PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION (PSVI) ACT.**
While PSVI Orders may be sought by a victim, the District Attorney's Office suggests that Police Officers inform victims to consult an Assistant District Attorney (ADA) from the Crimes Person Unit, when safety permits, to discuss the process and effects of the PSVI Order.
In the event a victim obtains an emergency or temporary PSVI Order, Officers should direct him/her to contact the District Attorney's Office prior to the hearing in Family Court to speak with an ADA from the Crimes Person Unit about the manner the PSVI Order relates to the pending criminal case.

10. Evidence Collection in Domestic Violence Cases

All possible evidence shall be collected in Domestic Violence cases as the success of any investigation and subsequent prosecution depends on the proper discovery, collection, packaging and processing of all evidence, including but no limited to the following:

- Photographing the crime scene;
- Identification of weapons and firearms;
- Photographing victim injuries; if the nature of the injuries dictates, additional photographs should be taken at a later time. (Example: a bruise that would increase in severity in a day or two)
- Collection of physical evidence;
- Recording of spontaneous statements by the suspect or statements by the victim;
- Identification of witnesses who observed or heard the incident and the recording of those witnesses' statements;
- Obtaining a written and signed statement from the victim, if the victim is willing to provide one;
- Obtaining a Mirandized statement about the events from the suspect; (Attachment #3 Miranda Form).
- Securing tape of 9-1-1 calls.
- Body Worn Cameras (see model BWC policy).

11. Registry, Service, and Initial Enforcement of PFA Orders

A. A daily log entry under the heading "ASSIST," shall be initiated whenever someone presents a PFA order to the Police Department. The log entry will document all pertinent information associated with the order and the parties involved. The log entry will also note whether the order has been served.
(1). A copy of the order will be attached to the PFA clipboard.

(2). The Administrative Assistant will enter a copy of the order into the file available on the intra-departmental Website. This file will be accessible via MDT to members on a 24 hour a day basis.

B. Foreign Protection Orders:

All foreign protection orders shall have the presumption of validity in this Commonwealth and Officers shall make arrests for violations thereof, in the same manner, as set for violations of protection orders issued within this Commonwealth. Officers shall rely upon any copy of a foreign protection order, which has been presented to the member by any source. Officers should attempt to verify the existence of a protection order. The fact that a foreign protection order has not been filed with the Family Court or entered into the Pennsylvania State Police registry shall not be grounds for an Officer to refuse to enforce the order. (**ANY DOUBT CONTACT AN ASSISTANT DISTRICT ATTORNEY**)

C. Service and Immediate Enforcement:

If the PFA defendant is located within the police department's jurisdiction, then the Officers will as soon as possible personally serve the defendant with a copy of the PFA Petition and Order. They will simultaneously enforce the PFA Order provisions, including but not limited to exclusion of the defendant from the plaintiff's residence and weapons relinquishment. In cases where service is completed on Temporary PFA Orders, an Affidavit of Service shall be completed and faxed to Family Court's PFA Unit.

12. Notification of Rights to Victims of Abuse

A. Notice of Services and Rights:

1. Officers responding to an incident of domestic violence shall provide the victim with oral and written notice of services and rights available to the victim including the availability of safe shelter and of domestic violence services in the community, pursuant to the PFA Act and Crimes Code Section 2711.

2. Within 24 hours of the law enforcement agency's first contact with the victim, the Officer must provide basic information of the rights and services available for crime victims in accordance with Pennsylvania's Crime Victims Act.

3. Within 48 hours of the law enforcement agency's first contact with the victim, the Officer is required to give the victim information on victim's compensation as well as provide an application for crime victim's compensation for any victims that have suffered physical or mental injury, death or loss of earnings as a direct result of the criminal act. This notice is required by the Pennsylvania's Crime Victims Act.

4. All of these requirements set forth above in 1-3, may be fulfilled by using the "Rights and Services Available to Victims of Crime In Pennsylvania" booklet, provided by the District Attorney's Office and PCCD. Members shall explain the

booklet and provide it to every victim. Members will request the victim sign the last page, acknowledging receipt and understanding. This page should be filed with the incident report. It should also be documented in the incident report that the required notice was provided to the victim.

B. Additional instructions that may be given to victim's seeking PFA orders:

(1). To Obtain Order During Normal Business Hours:
(a). Protection from abuse orders are handled in room 3030 of the Family Court, located at 440 Ross St., Pittsburgh, Pennsylvania 15219, between 9:00am and 11:00am. Assistance with completing the PFA petition will be given, and a hearing will be conducted at 1:00pm.

(2). To Obtain Order After Normal Business Hours and Weekends:
(a). Emergency PFA orders can be obtained at the District Magistrate's office, or at Night Court.

13. <u>Domestic Violence Incident Involving Police/ Law Enforcement Officer</u>:

A. In the event that a Police/Law Enforcement Officer is involved in a Domestic Incident within our jurisdiction (regardless of the involved Officer's jurisdiction), the responding Patrol Officer(s) shall request that a Supervisor who is of a higher rank than the involved Officer(s) report to the scene and take appropriate action. The Chief of Police shall be notified through the Chain-of-Command whenever a Police Officer is involved in a Domestic Incident, whether violent, or non-violent.

(1) **On-Scene Supervisor Responsibility**:

* Obtain needed medical assistance.
* Secure the scene and collect any evidence.
* Ensure an arrest is made where Probable Cause exist.
* Attempt to locate the alleged offender if he/she has fled.
* Remove firearms.
* Address issues of victim safety.
* Notify the Chief of Police in the accused Officer's jurisdiction.

B. In the event that a Police Officer from this Department is involved in a Domestic Incident outside of our jurisdiction (violent or non-violent) it is the responsibility of that Officer to notify the On-Duty OIC from this department who shall notify the Chief of Police. The Chief of Police or his designee shall initiate an Internal/Administrative review to determine if any departmental rules or regulations were violated.

C. In the event that a Police Officer from this Department learns that he/she is the subject of a criminal arrest, criminal investigation and/or **any** Protection From Abuse Order, regardless of the jurisdiction, he/she shall immediately notify the On Duty OIC from this Department and provide a copy any criminal charges and/or PFA Order. The OIC shall notify the Chief of Police. The Chief of Police or his designee shall initiate an

Internal/Administrative review to determine if any departmental rules or regulations were violated and the employment status of the involved Officer(s) under the mandated requirements of Pennsylvania Statute 53 P.S. 752.1, "Confidence in Law Enforcement Act" (Attachment #4).

14. <u>Procedures in Cases Where Crime Victim Notification is Necessary</u>:

A. Members who come in contact with a serious crime victim(s) (sexual assault, simple and aggravated assault, robbery, burglary, harassment, stalking, hate crimes, attempted homicide, DUI accident victim) who was injured or suffered a loss, are required to provide that victim(s) with information on victims' compensation and available services. Both notifications shall be in writing. The victims' compensation notification will be provided within 48 hours of contact with that victim. The available services notification will be provided within 24 hours of contact with the victim.

B. Members shall use the pamphlet provided by the District Attorney's Office and PCCD. This pamphlet will meet the criteria for both notifications. The form will direct victims to the centers, who in turn, will provide free assistance in filing victim compensation claim forms and provide information on available services.

(1). Members shall give the victim one copy of the pamphlet, and then have the victim sign the back page, as acknowledgement of receipt. The signed back page will then be filed with the incident report and included in the case folder.

(2). Members shall give the victim one copy of the application for crime victim's compensation.

C. Incident reports shall document the fact that the victim was provided with the proper notification paperwork, along with other pertinent information.

D. In personal injury crimes, members shall notify the victim when an arrest is made. Members will provide the victim with the results of the arraignment, including bail conditions and status, i.e. released or committed. When known by the member, the victim shall be notified of any escape on the part of the suspect, or release from a holding facility. This will be documented in the incident/ supplemental report.

E. Victim's property that was collected as evidence shall be returned to the victim once the Assistant District Attorney had determined that the evidence is no longer needed.

1. 15. <u>Responding to a Report of Child Abuse</u>:

(CHILD ABUSE 1ST RESPONDER PROTOCOL AVAILABLE ON DATA VIA PC OR MDT)

A. Actions by Officers at the possible crime scene:

Assess safety and health of the child

a. Take action to prevent the risk of further abuse

b. Ensure proper medical care for the child victim

i. if you see signs of abuse or
ii. if the child has medical complaints.
iii. If the allegation is sexual abuse within the past 72 hours, the child should be taken to Children's Hospital

c. **Gather facts** and **evidence**. Note: an incident report form is available at https://p080.da.allegheny.pa.us

a. **Gather Facts.** Examples:

i. Who reported the abuse?

ii. Nature of the allegation. When, where it occurred.

iii. Names of the child victim and alleged perpetrator.

iv Note: the child victim will be interviewed by a detective or at a forensic interview.

a. **Preserve the possible crime scene and gather Evidence**. Examples:

i. Objects that could have caused physical marks on the child

ii. Child victim's clothing

iii. Child victim's bedding

iv. Note: mobile crime units A

1. Allegheny County 412 473-1252
2. City of Pittsburgh 412 323-7141

d. **Provide information** to the victim or non-abusing adults about available Social Services. This provides help to the victim and non-offending family members and their support may help in successful prosecution

B. WHAT NOT TO DO that can harm the Child or the prosecution of the Perpetrator:

1. **DO NOT Interview the child victim.**
   a. He or she will be interviewed at a Forensic Interview or by investigating Detectives.
2. **DO NOT** take a written statement from the child.

3. **DO NOT** threaten the child with a polygraph test.

4. **DO NOT** give the child gifts.

5. **DO NOT** touch the child.

C. Forensic Interview

1. You or the investigating Detective must arrange for a Forensic Interview of the child in certain cases:

a. Child Victim is under the age of 14.

b. Child Victim is not able to communicate with law enforcement.

2. Two Child Advocacy Centers for Forensic Interviews are:

a. A Child's Place at Mercy (Allegheny County) 412-232-7200.

b. Division of Child Advocacy (Pittsburgh) 412-692-8664.

D. When to contact the Office of Children Youth and Family (CYF) 412-473-2000:

1. You or the investigating Detective must contact CYF in certain cases**:**

a. By law, CYF must respond if the perpetrator is a member of the household, parent paramour of parent, older child or caretaker (broadly defined).

b. If you are unclear, always contact CYF and report the basic facts of the case.

E. Social Service Agencies that provide support to victims and non-offending adults:

- Center for Victims 412-392-8582 or 1-866-644-2882
- Family Resources 412-641-4546
- Pittsburgh Action Against Rape 412-431-5665 or 1-866-363-7273

16. <u>Legal Mandate Requiring the Reporting of Suspected Child Abuse</u>:

A. General Rule - Persons who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made in accordance with §6313 (relating to reporting procedure) when they have reasonable cause to suspect on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity, is an abused child. Except with respect to confidential communications made to an ordained member of the clergy, which are protected under 42 Pa.C.S. §5943 (relating to confidential communications to clergymen), the privileged communication between any professional person required to report, and the patient or client of that person, shall not apply to situations involving child abuse and shall not constitute grounds for failure to report as required by this chapter.

B. Enumeration of persons required to report:

(1). Persons required to report include, but are not limited to, any licensed physician, osteopath, medical examiner, coroner, funeral director, dentist, optometrist, chiropractor, podiatrist, medical intern, registered nurse, licensed practical nurse, hospital personnel engaged in the admission, examination, care or treatment of persons, Christian Science practitioner, member of the clergy, school administrator, school teacher, school nurse, social services worker, day-care center worker or any other child -care or foster-care worker, mental health professional, peace officer or law enforcement official.

C. Reporting Procedure:

(1). Reports from persons who are required to report shall be made immediately by telephone and in writing within 48 hours after the oral report to the appropriate county agency.

17. Procedure For Reporting Child Abuse:

A. Any member who comes in contact with a child in which child abuse is suspected, shall start or cause to be started, a criminal investigation into the suspected abuse. The investigation shall address, but not be limited to:

(1). The names and addresses of the child and parents and all other persons, such as babysitters, relatives, etc., responsible for the care of the child.

(2). The location where the suspected abuse occurred, and the time or time period of the suspected abuse.

(3). The age and sex of all the subjects in the investigation.

(4). The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or siblings of the child.

(5). The name and relationship of the person(s) responsible for causing the suspected abuse, if known, and any evidence of prior abuse by that person(s).

(6). Information regarding the family composition.

(7). Identify the source of the report of abuse, and where that person can be reached.

(8). Any actions taken by the reporting source and/or the investigating officer, including the taking of photographs and x-rays, removal or keeping of the child, or notifying other agencies.

(9). All other information required for a complete and detailed investigation.

B. Once the investigating member has reasonable facts, the Office of Children and Youth and Family is to be notified. Along with the investigation, the member's primary concern is for the safety and welfare of the child.

Form may be used on your department letterhead

POLICE DEPARTMENT

AUTHORIZATION TO SEIZE FIREARMS/WEAPONS

I, _____, authorize Police to **seize** all firearms/weapons from the premises or motor vehicle described as

_____

_____

I am not unduly under the influence of drugs and/or alcohol.

I am giving this written permission voluntarily and without threats, pressures, coercion or promises of any kind being made to me.

Police are authorized by me to **seize** all firearms/weapons.

Print Name_____

Signature_____

Location _____

Date & Time_____

Witnesses:

Police Officer_____

Police Officer_____

Attachment #1

Form may be used on your department letterhead

POLICE DEPARTMENT

VOLUNTARY CONSENT TO SEARCH

I, _____, having been informed of my constitutional rights not to have a search made of myself, the premises or motor vehicle mentioned below without a search warrant and, my right to refuse to consent to such search, and that I may revoke my consent to search at any time, hereby authorize Police to conduct a complete search of my person, premises or motor vehicle described as_____

_____

These Police Officers are authorized by me to take any letters, papers, materials or other property, which is contraband, or may be used as evidence in criminal proceedings.

I am not unduly under the influence of drugs and/or alcohol.

I am giving this written permission voluntarily and without threats, pressures, coercion or promises of any kind being made to me.

Print Name_____

Signature_____

Location _____

Date & Time_____

Witnesses:

Police Officer_____

Police

Officer_____

Attachment #2

Form may be used on your department letterhead

POLICE DEPARTMENT

MIRANDA RIGHTS WARNING

PLACE _____

DATE & TIME _____

(1) You have the right to remain silent.

(2) Anything you say can and will be used against you in a court of law.

(3) You have the right to talk to an attorney and have him/her present with you while you are being questioned.

(4) If you cannot afford to hire an attorney, one will be appointed to represent you free of charge before any questioning, if you wish.

(5) You can decide at any time to exercise these rights and not answer any questions or make any statements.

WAIVER

I am not unduly under the influence of drugs and/or alcohol.

I am making this waiver voluntarily and without threats, pressures, coercion or promises of any kind being made to me.

I understand my rights.

Signature_____

I certify the above statements were read to_____

before he/she was questioned.

Police Officer _____

Police Officer _____

Attachment #3

CONFIDENCE IN LAW ENFORCEMENT ACT

53 P.S. § 752.1

Purdon's Pennsylvania Statutes and Consolidated Statutes Annotated Currentness

Title 53 P.S. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8. Public Officers and Employees (Refs & Annos)
Article VI-B. Confidence in Law Enforcement Act

§ 752.1. Short title

This act shall be known and may be cited as the **Confidence in Law Enforcement Act**.

CREDIT(S)

2004, Jan. 29, P.L. 4, No. 2, § 1, effective July 1, 2004.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update
Act 2004-2 legislation

Sections 6 to 8 of 2004, Jan. 29, P.L. 4, No. 2, effective July 1, 2004, provide:

"§ 6. Repeal. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

"§ 7. Construction. This act may not be modified or supplemented unless by order of a court or an act of the General Assembly.

"§ 8. Applicability. **This act does not apply to convictions occurring before the effective date of this act."**

Title of Act:

An Act prohibiting employment of certain individuals as law enforcement officers; requiring suspension of law enforcement officers charged with certain crimes; and establishing dismissal procedures for law enforcement officers convicted of certain crimes. 2004, Jan. 29, P.L. 4, No. 2.

53 P.S. § 752.2. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commonwealth agency." An executive agency, an independent agency, a State-affiliated entity or the General Assembly.

"Conviction." An adjudication of guilt including the imposition of a sentence.

"Executive agency." The Governor and each department, board, commission, authority and other officer and agency of the Commonwealth. The term does not include a court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies or an independent agency or State-affiliated entity.

"Independent agency." A board, commission or other agency or officer of the Commonwealth which is not subject to the policy supervision and control of the Governor. The term does not include a State- affiliated entity, a court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, a State-related institution, political subdivision or a local, regional or metropolitan transportation authority.

"Law enforcement officer." A member of the Pennsylvania State Police Force or an individual employed in a position requiring certification pursuant to 53 Pa.C.S. Ch. 21 (relating to employees).

"Serious misdemeanor." A criminal offense for which more than one year in prison can be imposed as a punishment.

"State-affiliated entity." A Commonwealth authority or a Commonwealth entity. The term includes the Pennsylvania Turnpike Commission, the Pennsylvania Housing Finance Agency, the Pennsylvania Municipal Retirement System, the Pennsylvania Infrastructure Investment Authority, the State Public School Building Authority, the Pennsylvania Higher Educational Facilities Authority and the State System of Higher Education. The term does not include a court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, a State-related institution, political subdivision or a local, regional or metropolitan transportation authority.

"State-related institution." The Pennsylvania State University, the University of Pittsburgh, Lincoln University or Temple University.

53 P.S. § 752.3 Prohibition against employing certain persons

A Commonwealth agency, State-related institution, political subdivision, municipal authority, local, regional or metropolitan transportation authority or any other person shall not employ or continue to employ an individual as a law enforcement officer when the individual has been convicted of any of the following:

(1) An offense graded a felony or a serious misdemeanor.
(2) An offense in another jurisdiction, state, territory or country in accordance with the laws of that jurisdiction, state, territory or country, and the offense is equivalent to an offense specified in paragraph (1) regardless of its grading in that jurisdiction, state, territory or country.

53 P.S. § 752.4

Except in the case of a member of the Pennsylvania State Police, a law enforcement officer charged with an offense that would prohibit employment under section 3 [FN1] shall be immediately suspended from employment as a law enforcement officer until final disposition of the charge or upon acceptance into a program of Accelerated Rehabilitative Disposition, whichever occurs first. In the case of a member of the Pennsylvania State Police, a law enforcement officer charged with an offense that would prohibit employment as such under section 3 shall immediately be suspended from employment until final disposition of the charge or upon acceptance into a program of Accelerated Rehabilitative Disposition, whichever occurs first. If a judge terminates the participation of a law enforcement officer in a program of Accelerated Rehabilitative Disposition for an offense that would prohibit employment under section 3 prior to completion in accordance with Pa.R.Crim.P. No. 318 (relating to procedure on charge of violation of conditions), the suspension previously imposed shall be reinstated until final disposition of the charge.

53 P.S. § 752.5 Termination of employment

(a) General rule.--An employer of an individual who is a law enforcement officer and who is or becomes ineligible for employment as a law enforcement officer pursuant to section 3 [FN1] shall immediately terminate the employment of the individual as a law enforcement officer.

(b) Certified copy of conviction.--At any termination proceeding, the introduction of a certified copy of a conviction indicating that a law enforcement officer has been convicted of an offense that would prohibit employment under section 3 shall, in and of itself, be sufficient evidence to justify the termination of the law enforcement officer.

CREDIT(S)

2004, Jan. 29, P.L. 4, No. 2, § 5, effective July 1, 2004.

[FN1] 53 P.S. § 752.3.

HISTORICAL AND STATUTORY NOTES

2007 Electronic Update
Act 2004-2 legislation

Sections 6 to 8 of 2004, Jan. 29, P.L. 4, No. 2, effective July 1, 2004, provide:

"§ 6. Repeal. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

"§ 7. Construction. This act may not be modified or supplemented unless by order of a court or an act of the General Assembly.

"§ 8. Applicability. **This act does not apply to convictions occurring before the effective date of this act."**

Copr. © 2007 Thomson/West
END OF DOCUMENT

RESOURCE LIST

Resources for Domestic Violence and *PSVI Victims
Counseling and Shelter for Victims and Children

Due to the confidential nature of the work and the need to maintain safety and security, domestic violence programs do not publish the addresses of their shelters or safe homes. The hotline number is the key to accessing all the shelter services.

City of Pittsburgh and Allegheny County
Women's Center & Shelter of Greater Pittsburgh
24 Hour Hotline: (412) 687-8005
Shelter Intake and Crisis Counseling 24 hours
http://trfn.clpgh.org/womenscenter

Crisis Center North
24 Hour Hotline 412-364-5556
Safe Home Intake and Crisis Counseling 24 hours

Alle-KiskiValley - Tarentum
Alle-KiskiAreaHopeCenter
24 Hour Hotline: (724) 224-1266 Toll Free (888) 299-4673
Shelter Intake and Crisis Counseling 24 hours
http://www.akhopecenter.org/
E-mail: hopecenter@akhopecenter.org

***Center For Victims**

24 Hour Hotline 1-866-644-2882
http://www.centerforvictims.org

***Pittsburgh Action Against Rape**

PAAR
24 Hour Hotline: 1-866-363-7273
www.paar.net

Attachment #5