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Recommended PFA Practices in Pennsylvania

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Introduction to the Protection from Abuse Database

January 1, 2006 will mark a major milestone in the evolution of how courts and the Pennsylvania State Police (PSP) process protection from abuse (PFA) orders across the state. On that date, the PSP will require all courts to transmit PFA datasheets and PFAs electronically to the PSP for entry into the statewide PFA Registry. This important change will facilitate entry of potentially life-saving information into the National Crime Information Center (NCIC) and CLEAN in a timely manner that complies with state and national standards for safety. Electronic transmission will require courts to use the Pennsylvania Supreme Court forms, which organize PFA data in the format needed to conform with NCIC and CLEAN.

Act 85 of 1994 paved the way for major changes in how courts and the Pennsylvania State Police (PSP) process protection from abuse (PFA) orders across the state. The Act mandated that Prothonotaries provide to the PSP a copy of all PFAs, PFA amendments and dismissals, and an information form prescribed by the PSP within 24 hours of the entry of the order. Act 85 also mandated the PSP to establish and maintain a statewide registry of PFAs and to enter information received from Prothonotaries within eight hours of its receipt. In 1997 the Pennsylvania Coalition Against Domestic Violence (PCADV), with support from the Pennsylvania Commission on Crime and Delinquency and in cooperation with the Administrative Office of the Pennsylvania Courts, began to develop the Protection From Abuse Database (PFAD). In 1999, 15 counties began using PFAD, and as of September 1, 2004, 55 of Pennsylvania's 67 counties are participating in PFAD.

The PFAD was designed to capture all PFA proceedings in the Commonwealth, with a computer archival system designed to complement the PSP's Protection Order Registry. PFAD is an internet-based system that allows 24-hour access to the full text of PFAs, Affidavits of Service, Indirect Criminal Contempt dispositions, and other court orders and forms essential for effective enforcement of PFAs and service provision. The availability of the full text of the PFA enhances the information accessible from the PSP registry by providing information about the specific terms of the order, including custody and miscellaneous relief, which law enforcement officers in the field may need to make decisions critical to victim safety.

Another important attribute of the PFAD is its potential to promote greater consistency and standardization of PFA practice across the Commonwealth. PFAD contains web forms for five state standardized court forms: Petition for Protection From Abuse, Temporary Order, Final Order, Notice of Hearing, and Affidavit of Service. PFAD also created and standardized other court forms: Cost Order; Dismiss/Vacate Order; Continuation, Extension, Modification Order; Indirect Criminal Contempt Order, and Civil Contempt Order. PFAD also generates the PSP datasheet required by the PSP for its registry. PFAD users can save time and streamline PFA practice by creating all of these forms and proposed orders in PFAD.

Standardization of PFA Practice

Although PFAD has standardized many aspects of the PFA process, both the use of PFAD and the PFA process vary greatly from county to county. The Prothonotary is responsible for administering PFAD in most counties, but court administration has the primary responsibility in

a few counties. The primary users of PFAD also vary across counties, as do the organizations that initiate the PFA process. For example, in some counties the DV program and a division of the court share intake for PFAs; in other counties a division of the court initiates all PFAs, while in some counties the DV program is the sole provider of intake services for PFAs. In yet other counties, legal services or a non-governmental organization are responsible for preparing petitions and temporary orders. Similarly, various entities handle final orders. PFA practice regarding transmission of PFA information to the PSP for entry into the registry and to the sheriff for service also is inconsistent across counties.

Eventually, Pennsylvania should standardize the primary components of PFA practice. Although a county may need to vary PFA practice to accommodate the availability of resources, all counties should consider how the PFA process they use affects the efficiency of the statewide system and victim safety. Standardizing PFA practice can ensure that processes do not vary so much by county that statewide use of PFAD is compromised. PFAD users in one county should be able to count on the accuracy and currency of information from another county in PFAD. Reliability is important not only for law enforcement, but also for court staff, advocates and legal services providers, district attorneys, probation departments and others involved in maximizing the effectiveness of PFAs.

Standardization does not require all counties to adopt a uniform process with identical PFAD users. For example, a county may choose to provide intake by both the court and a DV program. But regardless of who initiates the petition and prepares proposed temporary orders, in every Pennsylvania county the PFA plaintiff should be able to:

- Understand the types of relief and protections the PFA Act offers
- Complete the process of filing a petition and receiving a Temporary PFA in the same day
- Have access to advocacy services at the courthouse or through referrals from court staff
- Rely on the PSP registry to contain the order within 24 hours
- Rely on the sheriff to serve the PFA in a timely fashion
- Find out when the PFA is served on the defendant.

Similarly, different agencies may be involved in the final hearing process, but in every Pennsylvania county, the PFA plaintiff should be able to have a copy of the final PFA when she or he leaves the courthouse following the hearing and rely on the expeditious entry of the final PFA into the PSP registry, as well as service of the PFA if the defendant was not at the hearing.

Coordination of PFA Practice

The way that a county shares the work involved in the PFA process and the level of coordination among the court, DV programs, law enforcement and other organizations can have a significant impact on how effectively the process is carried out, how quickly PFAs are entered into the PSP registry, the speed and effectiveness of service of PFAs, how many resources the court and the other organizations must apply to the process, and ultimately, how well the interests of domestic violence victims are served. Counties with high levels of coordination and well established collaboration structures can eliminate gaps in service that may impede victim safety. They also can make greater use of the benefits that PFAD offers.

For example, in one county a division of court administration and the DV program share responsibility for the intake and temporary order processes. Court administration and the DV program coordinate with:

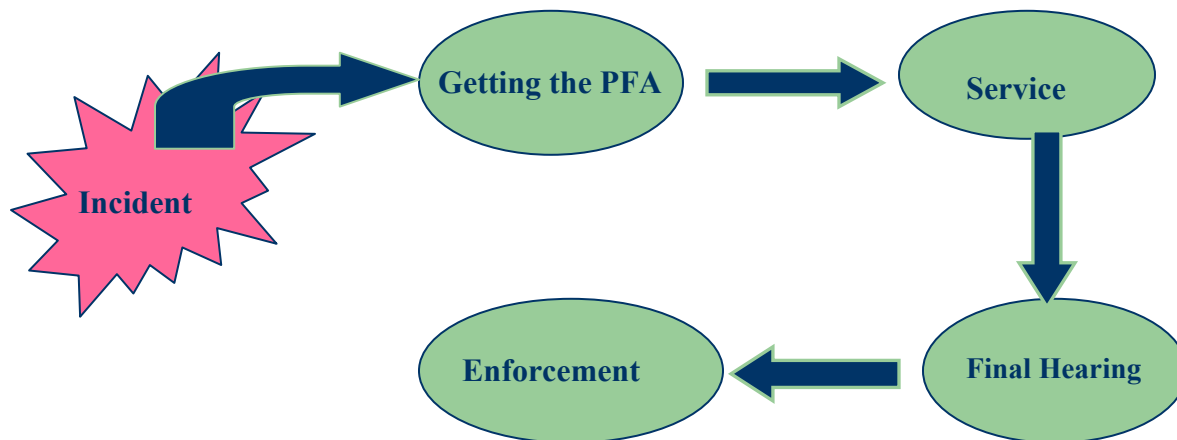
- The Prothonotary’s Office, which provides civil case numbers via email, stamps the judge’s signature and certifies copies of PFAs, and sends PFA information to the PSP, the 911 center, and the Sheriff
- The legal services agency, which represents most DV program clients in PFA hearings.

This county integrates PFAD effectively into the entire PFA process, from initiating the petition to preparing final orders and representing clients in PFA hearings. Petitions and temporary orders are prepared directly in PFAD, the Sheriff enters service information into PFAD, and legal services accesses PFAD to prepare for hearings on final orders, including pretrial discussions with the defendant or defendant’s counsel. This county has an active, inclusive, and institutionalized domestic violence coordinating committee that has addressed most PFAD and PFA process issues. This level of coordination has led to significant improvements in the PFA process and greater safety for victims of domestic violence.

Prototype PFA Practice

There is no prototype for PFA practice in Pennsylvania. PFAD program documentation indicates that the counties have four different PFAD processes. The four categories of processes are based on the county entities involved in preparing petitions, temporary orders and final orders. Within these categories, the combinations of entities vary greatly. While each county has variations in how PFAs are processed, there are practices that should be in place to enhance victim safety. The exhibit below outlines the PFA process, from the incident to enforcement. Prototype practice, using a hypothetical scenario, is then provided for each step.

Exhibit: Flow Chart of PFA Process



Incident

Janet Patton is married to Ed Patton. The Pattons live in County A and have a 2 year old son and a six year old daughter. Ed has been becoming increasingly abusive to Janet over the past year, and on Sunday he punched her in the stomach and told her she better “watch her back.” Janet

wants to find out what she can do to prevent Ed from hitting her again and to spend some time away from him while he gets some help to stop his abusive behavior.

On Monday Janet calls the local DV program in County A and learns that she can petition the court for a PFA, that she can start the paperwork either at the DV program offices or at the court, and that the whole process should be finished in time for her to pick up son from day care and be home when her daughter gets home from school. She thinks the court might intimidate her, so she decides to see an advocate at the DV program. Although she is afraid Ed might blow up at her again, she decides she can wait until the next day, when she has a day off and Ed is working the evening shift. On Tuesday she goes to the DV program, telling Ed she is going grocery shopping.

Getting the PFA

1. At the domestic violence program, an advocate listens to Janet's situation, explains the possibilities of PFA relief and the process, including precautions Janet should take if the court issues a PFA; Janet decides to file a petition, and the advocate creates the petition, proposed temporary order, notice of hearing, and affidavit of service on PFAD.
2. The advocate calls the Prothonotary for County A to get a civil case number for the petition and the PFA coordinator in court administration to alert her that Janet will be coming over to the court with the PFA paperwork.
3. Janet is willing and able to take the paperwork to courthouse, so the advocate gives her a map to the court and a map of the courthouse showing the PFA coordinator's office (otherwise, DV program staff would have accompanied her or taken the paperwork for her).
4. The advocate advises Janet to return to the DV program office after she has the PFA to make further arrangements, including creating an initial safety plan for her current situation, arranging a safe place for Janet and the children to spend the night, and giving her referral information for legal services for representation at the hearing on a final PFA.
5. Janet walks two blocks to the courthouse and follows prominent and clearly understood signs to the PFA coordinator's office.
6. At the courthouse, the PFA coordinator staff reviews the paperwork and takes it to the judge assigned that week to PFAs and other emergency matters.
7. The judge takes a break from the bench to review the petition and temporary order and signs the order as submitted.
8. PFA coordinator staff take the signed PFA, notice of hearing, and affidavit of service to the Prothonotary's Office.
9. The Prothonotary enters the PFA into PFAD and makes copies of it, giving three to Janet.
10. The Prothonotary faxes the PSP datasheet and PFA to PSP and 911 dispatch center. The Prothonotary also sends a service packet to the Sheriff.

Service

1. A Sheriff's deputy serves the order at Ed's workplace and enters the affidavit of service into PFAD.
2. The DV program advocate logs onto PFAD and determines that Ed has been served.

Final Hearing

1. The DV program advocate calls legal services to advise them of Janet's referral
2. Janet calls legal services and makes an appointment after discussing her situation.
3. Legal services staff accesses PFAD, prints out PFA and starts a file for Janet
4. An attorney meets with Janet, discusses her options, prepares a proposed final order; they also discuss the possibility of filing for a divorce if Ed does not complete a batterers intervention program.
5. Before the hearing Janet's attorney meets with Ed's attorney and Ed agrees to the terms in the proposed order, but he wants time with the children every other weekend.
6. The judge accesses PFAD with the PC at his bench to make edits to the proposed final order. The courtroom clerk prints out the PFA and the judge signs it; the clerk then sends an email to the Prothonotary to tell her the PFA is signed.
7. The Prothonotary accesses PFAD, files the final order, and makes copies of PFA, giving three to Janet when she arrives a few minutes later.
8. The Prothonotary faxes the PSP datasheet and PFA to PSP and to the 911 dispatch center.

Enforcement process

1. The Tuesday after the hearing Ed takes their son from day care; he drives to the house and parks in the driveway; Janet calls the police.
2. The police officer assigned to the call accesses PFAD through the dispatcher; she sees that Ed should not be at the house or have the son on that day; she arrests Ed after verifying the information in CLEAN.
3. The police officer takes Ed to the station, pulls up PFAD to complete an Indirect Criminal Contempt (ICC) complaint and an affidavit of probable cause, and then takes Ed to the District Justice for preliminary arraignment.
4. The District Justice accesses PFAD, reviews the relief provisions in the PFA, searches for any previous ICC convictions, incarcerates Ed, and completes the hearing information on the CC form on PFAD.
5. The District Attorney accesses PFAD, reviews the Final Order and Case History, and searches statewide for any other ICCs pending or convictions. The District Attorney successfully prosecutes the ICC.
6. Janet moves to County B; Ed finds out where she lives and comes to her house; Janet calls the police.
7. The police officer accesses PFAD, reads the PFA and arrests Ed after verifying the information in CLEAN.
8. The police officer completes an ICC complaint and affidavit of probable cause in PFAD, and takes Ed to the District Justice, who finds the PFA and ICC conviction in County A in PFAD, incarcerates Ed, and completes the hearing information on the ICC form on PFAD.
9. The District Attorney for County B accesses PFAD, finds the PFA and prior ICC conviction in County A, and successfully prosecutes the ICC.
10. The probation department uses PFAD to prepare a pre-sentence report, which includes the history of abuse and the ICC conviction in County A.
11. The judge sentences Ed to six months in jail.

Recommended PFA Practices

The National Center for State Courts' evaluation of PFAD provided lessons for using PFAD most effectively. These Recommended Practices point out ways courts and other PFAD users can integrate PFAD into their business practices, fully utilize the functions of PFAD, eliminate unnecessary steps in the PFA process, improve enforcement of PFAs, and reduce trauma for plaintiffs. Eight recommendations include:

1. Coordinate with key agencies and service providers to eliminate gaps in the PFA process.
2. Use PFAD to prepare petitions and all orders.
3. Prioritize the review and issuance of temporary orders.
4. Transmit PFA information to the PSP, Sheriff, and 911 Dispatch Center.
5. Use PFAD to document service.
6. Ensure final orders are made available to the petitioner and all relevant parties in a timely fashion.
7. Use PFAD to facilitate enforcement of PFA orders.
8. Encourage criminal justice system partners to use PFAD.

Recommendation 1: Coordinate with key agencies and service providers to eliminate gaps in the PFA process.

- A. The county should establish a PFA coordinating committee or similar entity.
- B. All participants in the PFA process should designate representatives to the coordinating committee, including the Prothonotary, court administration, the judge, local law enforcement, the PSP, the DV program, legal services, the district attorney, community corrections, and others (e.g., IT departments). These representatives should have ready access to the decision makers in their respective organizations and agencies.
- C. The coordinating committee should meet regularly (monthly, if possible) to address PFA practice issues.
 - Review the county's PFA practices to address gaps that delay the issuance, entry, and enforcement of orders.
 - Collaborate in determining how each participant can contribute to improving PFA practice in the county.
 - Collaborate in applications for funds to improve and sustain best PFA practices.
 - Review how the county and each member can integrate PFAD into their PFA practices.
 - Ensure that the county stays current on the PFA Act, federal law, and PFAD updates.

Recommendation 2: Use PFAD to prepare petitions and all orders.

- A. Provide private space and security for PFA intake.
- B. PFAD is set up as a question and answer system to guide the user through the process; PFAD should be used to create the petition and proposed temporary order.
- C. Enter information directly into PFAD; do not require the plaintiff to complete forms by hand and then enter the information into PFAD later.
- D. Arrange space and computers to allow the plaintiff to watch the screen as the intake staff conducts the interview, works through the screens and enters information.
- E. Check for accuracy of the information entered into PFAD.

- If the plaintiff has difficulty reading, the intake provider should read information entered into the petition and proposed order to the plaintiff and ask the plaintiff to confirm the accuracy of the information.
 - If the plaintiff has no difficulty reading the documents, print out the petition and proposed temporary order for the plaintiff to read and verify.
- F. Make any needed corrections and print out the petition and proposed temporary order for the plaintiff's signature.
- G. Contact the Prothonotary to obtain a civil case number for the petition (fax the petition or call or email the Prothonotary).
- H. If DV program, legal services, or other non-governmental agency is providing intake, notify court administration or the appropriate office in the court that the petition will be filed and need to be taken to the judge.

Recommendation 3: Prioritize the review and issuance of temporary orders.

- A. If possible, assign staff to take proposed PFAs to the judge for signature so that intake staff can keep the process of initiating petitions flowing, assist more plaintiffs, and reduce waiting time for them.
- B. Arrange judges' schedules so they can review and decide proposed PFAs as soon as possible to reduce waiting time for plaintiffs and to move the PFA to the Prothonotary quickly.
- C. After the judge signs the temporary order, court staff or DV program service provider should take the order to the Prothonotary for entry into PFAD.
- D. The Prothonotary should make necessary copies for distribution after entering the PFA into PFAD. Do not require multiple copies from the intake provider and then take the time to conform all the copies to the order the judge signed.

Recommendation 4: Transmit PFA information to the PSP, Sheriff, and 911 Dispatch Center.

- A. Until electronic transmission of PFA data to the PSP registry is functional, the Prothonotary should fax or deliver the PSP datasheet to the PSP immediately after the PFA is entered into PFAD.
- B. The Prothonotary should fax or deliver copies of the PSP datasheet and PFA to the local 911 dispatch center.
- C. The Prothonotary should send PFA documents to the Sheriff for service.

Recommendation 5: Use PFAD to document service.

- A. The Sheriff should enter the Affidavit of Service into PFAD.
- B. The Sheriff should establish a mechanism for the plaintiff or service provider to find out that the defendant has been served.
- C. Service providers should use PFAD to determine whether the defendant has been served.

Recommendation 6: Ensure final orders are made available to the petitioner and all relevant parties in a timely fashion.

- A. Legal service providers should use PFAD to produce proposed final orders and to prepare for hearings.
- B. Counties should provide a computer in the courtroom for clerks and legal services providers to prepare final orders to conform to changes the judge may have made to proposed orders.
- C. The judge should sign the final order immediately to ensure that the Prothonotary can enter it into PFAD that day.
- D. In courts where a courtroom staff (e.g., clerk or court reporter) enters information from the hearing into PFAD for the final order, the courtroom staff should notify the Prothonotary by email or phone that the order is available so the Prothonotary can enter it into PFAD and start the certification and copying process.
- E. Complete the entry of final orders into PFAD in a time frame that allows the plaintiff to leave the court with a copy of the final order.

Recommendation 7: Use PFAD to facilitate enforcement of PFA orders.

- A. Law enforcement agencies should promote officer access to additional information available from PFAD when enforcing PFAs, particularly custody and miscellaneous relief not available in PSP registry.
- B. Indirect Criminal Contempt
 - District Attorneys should collaborate with DV programs and legal services to prosecute PFA violations through the Indirect Criminal Contempt process.
 - District Attorneys should use the ICC forms on PFAD.
 - If the District Attorney's Office is not using PFAD's ICC forms, the court should enter ICC dispositions into PFAD to provide statewide access to information on convictions.
- C. Civil Contempt: DV programs and legal services should use the Civil Contempt form in PFAD to seek enforcement of terms of PFAs not addressed by the Indirect Criminal Contempt process.

Recommendation 8: Encourage criminal justice system partners to use PFAD.

- A. Community corrections should use PFAD to prepare pre-sentence reports and to monitor the defendants' behavior while they are under supervision.
- B. The Administrative Office of the Pennsylvania Courts should establish mechanisms for District Justices to transmit emergency protection orders electronically to make them available to Prothonotaries for initiating cases in the Court of Common Pleas.
- C. If District Justices serve in a central location, provide security at that location.