

	LOWER MERION TOWNSHIP POLICE DEPARTMENT Ardmore, Pennsylvania	
	Policy 3.9.1	
Subject:		Distribution:
Domestic Disputes, Issuance of PFAs, PFA Violations, and Child Custody		All Personnel
Date of Issue:	Expiration Date:	Rescinds:
09-30-2019	Until Amended or Rescinded	Policy 3.9.1 (06-01-2014)
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CALEA: N/A; PLEAC: 4.10.1		
By Authority of:		
		Superintendent of Police

PURPOSE

In order to provide protection to victims of domestic violence, and to provide for consistent and effective management of domestic disputes, the following procedure is to be adhered to in all such incidents reported to this department.

POLICY

Members of this department shall respond to all reported incidents of domestic disputes, violence or abuse, regardless if the complainant cancels his/her request for police response. Officers shall respond to these incidents as any other life-threatening situation. All members of this agency shall arrest and prosecute, for criminal activity, any person involved in domestic violence where probable cause exists to support the accusation, in compliance with the requirements of the Pennsylvania Protection from Abuse Act (23 PA C.S.A6101 et seq). The Domestic Lethality Assessment Screening process shall be conducted in all domestic cases that meet the criteria as outlined in this policy. (**PLEAC 4.10.1**)

PROCEDURE

A. Domestic Violence Incident Procedures

1. Probable cause

- a. As per Section 2711 of the Crimes Code, a police officer shall have the same right of arrest without warrant as in a felony, whenever probable cause exists that supports the belief that an individual has committed any of the following offenses against a spouse or a person who was a spouse, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity (blood) or affinity (marriage), current or former sexual or intimate partners, or persons who share biological parenthood, although the offense did not take place in the presence of the officer:

- Involuntary Manslaughter (CC 2504)
 - Aggravated Assault (CC 2702 (a) (3), (4) and (5))
 - Simple Assault (CC 2701)
 - Recklessly Endangering Another Person (CC 2705)
 - Terroristic Threats (CC 2706)
 - Stalking (CC 2709.1)
 - Strangulation (CC 2718)
- b. The Probable Cause standard has been met where the victim, complainant and/or witness confirms that the accused committed one of those offenses, and when the officer observes recent physical injury to the victim or other corroborative evidence (e.g., signs of violence, additional witnesses, etc.).
- c. The arresting officer shall seize all weapons used or threatened to be used by the defendant in the commission of the alleged offense.

2. Powers of arrest

- a. Felony or violent misdemeanors: The responding officer shall arrest upon probable cause the suspect of a felony or violent misdemeanor as defined in Section 2711. This includes all aggravated assaults and certain criminal trespass violations § 3503 (1) (i) & (ii). The officer shall seek a warrant for arrest if the accused is not apprehended at the scene.
- b. Other misdemeanors: Any misdemeanor not listed in section (A)(1)(a) of this policy, must be witnessed by the officer in order to effect a warrantless arrest. The officer shall seek a warrant in those cases where probable cause exists which would lead to the belief that a misdemeanor was committed outside of the officer's presence.
- c. In cases where an officer does not have probable cause to support an arrest for a felony or misdemeanor, and the victim disagrees with the officer's decision; the victim shall be advised of the procedures for filing a private complaint.

3. Arrest when opposed by victim

- a. The above powers of arrest enumerate when an officer is authorized to make an arrest even if the victim does not request it or opposes it. In circumstances where the victim opposes the arrest, the report will note the probable cause factors and the fact that the arrest was made against the victim's wishes.

4. Notification of availability of protection for victims

- a. In all cases, the officer shall notify the victim orally and in writing of the availability of shelter and special services under the Protection from Abuse Act, on how to obtain and enforce such protection, and the officer shall provide the victim with the Domestic Dispute/Abuse form ([S&I 21](#)). The officer shall obtain the victim's signature on a separate copy of the form and this will

be included with the original incident report. The "Information Release Form" section of form S&I 21 shall be signed if they wish to avail themselves of this service. If the victim gives the officer permission to release his/her information, the investigating officer will be responsible to fax a copy of this form to the Women's Center (██████████) before their current tour of duty ends for the day. The date and time the fax was sent shall be included in the initial investigation report. In an emergency during off hours, a Protection from Abuse order may be obtained through the on-call Magisterial District Justice. **(PLEAC 4.10.1b)**

b. Domestic violence incidents resulting in injury

1. In those cases where a victim suffers any injury as a result of domestic violence, in addition to the above the officer shall do the following:
 - a. Issue S&I 20 in accordance with Policy 3.9.4 – Victim Services Program.
 - b. Issue the Victim's Compensation Claim Form when crimes enumerated in Policy 3.9.4 – Victim Service Program are involved.

5. Lethality Assessment Program (LAP)

- a. The Women's Center and the Police Department are committed to assisting victims of domestic violence. In addition to providing resources available to victims the Police Department will partner with the Women's Center to participate in a Lethality Assessment Program. This program is a two-pronged intervention process that features an interview (screening) to determine the victims risk level and an accompanying protocol referral.
- b. The investigating officer will complete the Domestic Violence Lethality Screen when he/she responds to a domestic dispute involving intimate partners and one or more of the following conditions exist:
 1. There is a reason to believe an assault has occurred.
 2. The officer believes the potential for danger is high.
 3. The persons or location involved are repeat names or locations, or
 4. The officer uses discretion and believes one should be conducted based on his/her training and experience.
- c. If the officer deems it appropriate to use the Domestic Violence Lethality Screen form he/she will ask the questions verbatim and in order. The responses to the questions may trigger the protocol referral to the Women's Center Hotline ██████████. The Officer will contact the hotline and encourage the victim to talk to the counselor. The following are instructions on how to use the Domestic Violence Lethality Screen form:
 1. A "yes" response to any of questions 1-3 automatically triggers the protocol referral. A negative response to questions 1-3, but four "yes" responses to the remaining questions 4-11 will also trigger the protocol referral. An officer can also trigger a referral whenever he/she believes

the victim is in a potentially lethal situation.

2. If the victim agrees to talk to the counselor, the officer shall not be in a position where he/she can hear the conversation being conducted as a matter of confidentiality.
3. The investigating officer is responsible for placing the Domestic Violence Lethality Screening form in the designated mailbox in the roll room and shall send an email to the LAP Distribution List before the end of their shift.

d. LAP coordinator responsibilities

1. Upon receipt of the Lethality Screening form, the LAP coordinator will email a copy for the form to the appropriate agencies.
2. Forward a copy of the form to report review to be attached to the case file.
3. Maintain records on all Domestic Violence Lethality Screenings.

6. Reporting procedures

- a. Officers investigating a domestic violence incident should detail their investigation in the incident report and make note of the forms which were issued to the victim.

7. Supervisor's responsibility

- a. When possible, the on-duty supervisor shall respond to all domestic violence incidents to ensure that this policy is complied with.

B. Issuance of Protection from Abuse Orders

1. When this department is presented with a Protection from Abuse Order, a member of the Investigations Unit or officer assigned by a patrol supervisor will obtain an incident number and prepare an initial report as well as a liaison report. A copy of the liaison report will be placed in the Investigations Unit, roll room, and distributed to all sworn staff via email. The Investigations Unit will contact the Montgomery County Sheriff's Office to ascertain if and when the defendant was served with the Order. The liaison report is to note that the defendant:
 - a. Has been served.
 - b. Has not been served.
 - c. Service is unknown
2. All information regarding the case is kept in the Police Drive (P:Drive) Protection from Abuse Orders. It is the responsibility of the Investigations Unit to update the Protection from Abuse files.

3. Active Protection from Abuse Orders can also be located in the Commonwealth Law Enforcement Assistance Network (C.L.E.A.N.) by querying an individual for driver's license information. This applies even if the individual is not licensed. All Protection from Abuse Orders issued within the Commonwealth of Pennsylvania are entered into C.L.E.A.N. Out-of-state protection orders may be found in the resulting N.C.I.C query that accompanies a driver's license information request. It is the responsibility of the out-of-state venue to enter a protection order into N.C.I.C and should not be the sole factor in determining if an order exists and is active. **(PLEAC 4.10.1d)**
4. In general, the Montgomery County Sheriff's Office is responsible for the service of Protection from Abuse Orders. However, with supervisory approval, Protection from Abuse Orders may be served within the Township.
 - a. **Seizure of weapons** – If the Protection from Abuse order denotes that weapon(s) are to be relinquished, the serving officer will make every reasonable effort to have the defendant relinquish the weapon(s) at the time of service. The seized weapon(s) will be placed in evidence per procedure and turned over to the Montgomery County Sheriff's Office as soon as practical.
 1. When served with a temporary PFA or final PFA which requires the defendant to relinquish firearms, weapons, ammunition, and/or firearms license(s) the defendant has 24 hours to relinquish firearms to any police department, sheriff's office, or a licensed firearms dealer.
 - a. Officers accepting relinquished firearms and/or related items shall complete PA's Relinquishment of Firearms Receipt ([SP-4-411](#)) and submit it to the Investigations Unit supervisor for entry into the PA's Protection From Abuse Database (PFAD).
 - b. Intentionally or knowingly failing to relinquish firearms is punishable as a misdemeanor of the second degree.
 - c. It is the responsibility of the jurisdiction in which the defendant resides to investigate failure to relinquish firearms. Radio Room personnel who receive a CLEAN notification advising of the issuance of a PFA shall forward the message to the Investigations Unit supervisor for follow-up investigation.
 - b. If service is made, the Verification of Service form and the PFA Verification of No Weapons form, when applicable, which accompany the Protection from Abuse Order, will be completed and faxed to the Montgomery County Sheriff's Department. A copy of the completed Verification of Service form will be attached to the multimedia section of the ALERT report.
5. **Training** – As mandated by law, all new police officers will receive training on the responsibilities of the police under the Pennsylvania Protection from Abuse Act and this policy. **(PLEAC 4.10.1a)**

C. Violation of Protection from Abuse Order

1. In all cases where the existence of a Protection Order is questioned, the investigating officer shall contact the Communications Center to determine whether the offender has been served.
 - a. If the defendant has been served, he/she shall be taken into custody and charged with "Indirect Criminal Contempt" 23 PA.C.S. Section 6114 (a), relating to Contempt for violation of order or agreement. If the offender is no longer on the premises and probable cause exists to support the violation, then the officer shall proceed by way of an arrest warrant.
 - b. If the offender has not been served or if it is unknown whether service has occurred, then the investigating officer shall advise the offender that a Protection Order exists, that he/she will leave the premises, and, that if he/she subsequently violates the Order, he/she will be arrested.
 1. Having been so advised, if the offender refuses to leave, or if he/she subsequently returns, he/she shall be arrested and charged with Indirect Criminal Contempt and Defiant Trespass. Separate complaints shall be prepared; one for the Contempt and one for the Defiant Trespass and any other Crimes Code violations.
3. **Enforcement of out-of-state Protection Orders** – All out-of-state protection orders shall have the presumption of validity in this Commonwealth and shall be enforced until a court declares the order invalid. All police officers shall make arrests for violations thereof in the same manner as set forth above.
4. **Notification of arrest** - If an offender is arrested for violation of a Protection Order, the investigator will notify any adult or emancipated minor protected by such order as soon as possible. If the person cannot be located, notice of the arrest shall be provided not more than twenty-four hours after the preliminary arraignment. **(PLEAC 4.10.1c)**
5. **Seizure of weapons** - According to Title 23 § 6113(b) Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the Protection Order or during prior incidents of abuse. The weapon(s) will be placed in evidence per policy and delivered to the Montgomery County Sheriff's Office as soon as practical.
6. **Reporting Procedures** – Since all Protection from Abuse Orders are assigned an incident number when they are received in the Investigations Unit, a patrol officer who investigates a routine violation of the order shall fully document the incident in a supplemental report carrying the initial incident number. If the incident involves a separate, more serious violation, in addition to the PFA violation, a new incident number will be used with a reference to the previous incident number.
7. **Supervisor's Responsibility**
 - a. In situations where service has not yet been made, and the investigating

officer advises the offender of the existence of the order, it is the supervisor's responsibility to make certain that the supplemental report is supplied to the Investigations Unit so the order can be updated.

D. Domestic Standbys

1. As part of a PFA order, officers may be required to accompany the plaintiff to the plaintiff's residence to retrieve personal belongings or to accompany the plaintiff while the petition or order is served upon the defendant by the sheriff or competent adult. If mandated by the PFA order, officers will accompany the plaintiff.
2. If there is no PFA order in place or the PFA order does not mandate officers accompany the plaintiff to the residence but a domestic standby is requested, Officers will accompany the plaintiff when practical.

E. Child Custody Orders

1. Generally, the Lower Merion Police Department will not serve child custody orders. Occasionally, Montgomery County Office of Children and Youth (OCY) may need assistance serving an order that requires immediate action.
2. Officers may become involved in child custody orders if it is necessary to arrest a person actively attempting to remove a child from a court appointed custodian, pursuant to Section 2904 of the Crimes Code.
3. The Uniform Child Custody Jurisdiction and Enforcement Act (Domestic Relations 23, Pa C.S.5451): There may be an occasion where a Common Pleas Court Judge in a child custody proceeding issues a warrant to take physical custody of a child who is deemed to be in imminent physical harm or likely to be removed from the Commonwealth. If a judge of the Court of Common Pleas issues a warrant under this section, law enforcement officers are obligated to enforce it. If an officer has questions about the validity or terms of an apparent order, contact the on-call Assistant District Attorney for guidance.

RESPONSIBILITY

It is the responsibility of all supervisory personnel to ensure that all personnel under their immediate supervision comply with this policy.