

ACTIONS PURSUANT TO PROTECTION FROM ABUSE ACT

Rule 1901.2.A. Scheduling

- (a)(1) Pro Se Petitioners seeking the assistance of a Domestic Violence Advocate may file Protection from Abuse Petitions between the hours of 8:30 a.m. - 2:30 p.m., Mondays through Fridays. The Court shall be deemed unavailable after 3:00 p.m. during which time a Petition for Temporary Protection from Abuse may be filed before the on-call District Justice who may grant relief in accordance with 23 Pa.C.S.A. § 6110.
- (2) Petitioners not requiring clerical assistance may present Protection from Abuse Petitions at 11:00 a.m. and p.m., Mondays through Fridays. The Court shall be deemed unavailable after 3:00 p.m. during which time a Petition for Temporary Protection from Abuse may be filed before the on-call District Justice within the county who may grant relief in accordance with 23 Pa.C.S.A. § 6110.
- (b)(1) The Court deems itself unavailable for the filing of Protection from Abuse Petitions on those days the Court is closed for any reason including Court holidays as published on the official holiday schedule including those days designated as Floating Holidays and those days during which the Court's Winter and Summer conference is scheduled.
- (2) In addition to the times set forth, above, the Court may issue an Administrative Regulation indicating the date(s) and time(s) the Court deems itself unavailable to sign Temporary Protection from Abuse Orders. District Justices are authorized to issue Temporary Emergency PFA Orders when the Court has deemed itself unavailable to do so. The Administrative Regulation shall be distributed by the Court Administrator to all Common Pleas Court Judges, all District Judges, Emergency Services and all interested Court personnel.
- (3) At those times the Court is deemed unavailable for the filing of Protection from Abuse Petitions, a Petition for Temporary Protection from Abuse may be filed before the on-call District Justice who may grant relief in accordance with 23 Pa.C.S.A. § 6110.

Note: The hours listed for the preparation and filing of a PFA are due to amount of time necessary to complete the intake process.

Rule 1901.3A. Commencement of Action.

- (a) The notice of hearing and order, petition and temporary Protection from Abuse order substantially in the form required by Pa.R.C.P. 1905(a), (b) &(c), shall be available from Family Court Administration.**
- (b) All private counsel petitions for Protection from Abuse shall be reviewed by Family Court Administration prior to submission to the Family Court signing Judge for entry of a Temporary Ex Parte Protection Order.**

Note: Chester County currently uses the Protection from Abuse Database (PFAD) for the preparation of petitions and orders online. Hardcopies of these forms are available to those individuals who do not have access to the PFAD system.

Rule. 1901.4.A. Service and Registration of Order.

Plaintiff shall file a certified copy of any Temporary or Final Protection from Abuse order with the appropriate police departments. The expiration date of the order shall be included in the order. A photocopy of a certified order shall be considered a duplicate original and sufficient to constitute the court's original authorization for enforcement. A cover sheet shall be attached on the copy of the orders sent to the police substantially in the form required by C.C.R.C.P. 1905.A.(a).

Rule 1901.5.A. Enforcement. Bail. Arraignment. Notice. Prosecution.

(a) A police officer may arrest a defendant for violation of a protection order upon probable cause which shall be supplied by the victim, officer, other witnesses or combination thereof. If necessary, the officer may verify the existence of said order by phone or radio with the appropriate police, PSP Database or court. The complaint for indirect criminal contempt shall be substantially in the form prescribed in C.C.R.C.P. 1905.A.(c). The probable cause affidavit shall be substantially in the form prescribed in C.C.R.C.P. 1905.A.(b).

(b) Upon arrest, the defendant shall be taken into custody and taken to the district justice in whose district the violation occurred, or other assigned district justice, for arraignment and the setting of bail. The arresting officer shall not release the defendant from custody without taking him or her before the proper district justice. The district justice shall have exclusive jurisdiction for all arraignments for the offense of indirect criminal contempt for violation of protection from abuse orders. All applications for an increase or decrease in bail shall be heard by the Court of Common Pleas.

(c) Arraignment -The arraignment shall be held in the same manner as required under Pa. R.Crim.P. 540 except that no preliminary hearing will be scheduled. The defendant shall be notified that:

(1) He or she is being charged with indirect criminal contempt for violation of a protection from abuse order;

(2) He or she has the right to be represented by counsel and if unable to afford private counsel and otherwise qualifies, counsel will be appointed by the court; and

(3) A hearing will be held in the Court of Common Pleas of Chester County on the next available date for such hearings pursuant to subsection (d).

(d) Hearings - All hearings for indirect criminal contempt for violation of protection from abuse orders shall be heard at such times and manner as directed by the Court. In no case shall the hearing take place more than ten (10) days from the date of arraignment.

(e) Notice - At the conclusion of the arraignment, the defendant or counsel of record for the defendant, if present, shall be given a written notice of the hearing in the form prescribed by C.C.R.C.P 1905A.(d). A copy of the complaint and notice of hearing in the form prescribed by C.C.R.C.P 1905.A.(e) shall be given or mailed by regular and certified mail to the plaintiff at the address shown on the complaint, and by regular mail to the arresting officer and the District Attorney of Chester County.

(f) Following arraignment, the office of the District Justice shall deliver the original of all papers to the Clerk of Court of Chester County. The office of the District Justice shall deliver copies of all papers to the Family Court, the District Attorney of Chester County, and the Public Defender of Chester County.

(g) Family Court shall determine whether defendants listed for indirect criminal contempt hearings are currently incarcerated and shall notify the Sheriff of Chester County of the names of any incarcerated defendants scheduled for hearing for transport to the courthouse.

(h) The District Attorney of Chester County or his designee shall prosecute all charges of indirect criminal contempt for violation of protection from abuse orders. Any designation of another to prosecute shall be in writing.

Rule 1901.7.A. Decision. No Post-Trial Relief. Expungement. Return of Relinquished Firearms, other Weapons and Ammunition.

(a) Expungement: Petitions requesting the expungement of a dismissed Protection from Abuse proceeding or the return of seized weapons shall be in accordance with C.C.R.C.P. 206.1.(a)., *et. seq.*

(1) Copies of the petition requesting expungement and any final order granting expungement shall be served upon the original Petitioner in the Protection from Abuse proceeding, the Chester County Family Court Administrator, the Sheriff of Chester County and any deputized Sheriff's department, the District Attorney of Chester County, and any state and/or local police department initially served.

(2) Upon receipt of a final order expunging a protection from abuse proceeding, the recipient shall immediately delete from their records any information pertaining to the underlying petition for Protection from Abuse. No proof of compliance shall be required.

(b) Return of Weapons: (1) In any Protection from Abuse case where weapons have been ordered relinquished, an order vacating, dismissing or permitting the withdrawal of the matter shall include the following provision for the return of weapons:

The Sheriff of Chester County shall return all weapons, firearms and ammunition as enumerated on the itemized list of seized weapons provided to the Defendant by the Sheriff at the time the original seizure was ordered provided:

- (a) The Defendant can show proof the Petitioner has been notified of the Defendant's request to return seized weapons;**
- (b) The Defendant must be given a clearance by the Pennsylvania State Police Instant Check System Unit or through the National Instant Criminal Background Check System (NICS), requested by the Sheriff's office;**
- (c) The weapons are not evidence of a crime;**
- (d) The Defendant is not otherwise prohibited from taking possession of the seized weapons, firearms or ammunition.**

(2) In those cases wherein a Final Protection from Abuse Order has been entered, upon expiration of the Order, and after notice to the Plaintiff, the Defendant may apply to the Sheriff of Chester County for a weapons return form.

(3) The weapons return form required 23 Pa.C.S. §6108.1 and C.C.R.C.P. 1901.7.A. shall be in the following form:

Protection Order Number: _____

**THE COUNTY OF CHESTER
OFFICE OF THE SHERIFF
201 W. Market Street, Suite 1201
P.O. Box 2746
West Chester, PA 19382-0989**

FREDDA L. MADDIX
Sheriff

KEVIN D. DYKES
Chief Deputy

FIREARM RELEASE REQUEST

A. REQUESTED INFORMATION:

LAST NAME: FIRST NAME: MIDDLE INITIAL: SUFFIX: ____

ADDRESS: CITY: STATE: ZIP CODE:

DATE OF BIRTH (MM/DD/YYYY): SOCIAL SECURITY NO.: RACE: SEX: _____

DRIVER LICENSE NO.:

HOME PHONE NO.: MOBILE PHONE NO.: EMAIL ADDRESS:

**Please note that this process may take up to fifteen (15) days to complete. If your Firearm Release Request is denied, you have the right to petition the Court pursuant to 18 P.C.S.A § 6105.1.*

B. ACKNOWLEDGEMENT OF RETURN (Sign in the presence of Law Enforcement Officer/Designee):

By signing below, I am confirming that if the request is approved, I am taking possession of the firearm(s), other weapon(s), and/or ammunition referenced in the above Protection Order Number and that they are in the same condition as when they were relinquished. I agree I will not hold the Department or Agency identified below liable for any damage or reduction in value of the firearm(s), other weapon(s), or ammunition.

I also certify that I am not prohibited by state or federal law from possessing of a firearm for any reason. I understand that no relinquished item will be returned to me unless I successfully pass a background check via the Pennsylvania Instant Check System (PICS) or National Instant Check System (NICS) check or comparable check in the state of my residence.

Requestor Signature: _____

Date: _____

Returning Officer/Designee signs below:

Officer/Designee Signature: _____

Date: _____

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C. DEPARTMENT/AGENCY USE ONLY:

CHESTER CO. SHERIFF'S OFFICE PHONE NUMBER: _____ **ORI:** _____

STREET ADDRESS: _____ **CITY:** _____ **STATE:** _____ **ZIP CODE:** _____

PROCESSING DEPUTY/DESIGNEE NAME: _____ **DATE** _____ :

PROTECTION ORDER NO.: _____ **DATE ORDER ISSUED (Attach copy):** _____

DATE ORDER CANCELED/EXPIRED _____ :

DATE RELINQUISHED: _____ **DEPARTMENT/INCIDENT/CASE NO.:** _____

DEFENDANT OTHERWISE PROHIBITED? **YES NO**

PICS CHECK CONDUCTED? **YES NO** **PICS NO:** _____

FIREARM RETURNED? **YES NO**
If NO, explain in comments*

RECIEPT PROVIDED **YES NO**

FIREARMS EVIDENCE IN A CRIME? **YES N O**

PARTIAL RETURN? **YES NO**
If YES, explain in comments*

PLAINTIFF NOTIFIED? **YES NO**
If YES, attach copy of Certificate of Service indicating that at least 14 days have passed since request

DATE PLAINTIFF NOTIFIED:

METHOD OF NOTIFICATION:

DISTRICT ATTORNEY NOTIFIED? **YES NO**
If YES, attach copy of Certificate of Service indicating that at least 14 days have passed since request

DATE DISTRICT ATTORNEY NOTIFIED:

METHOD OF NOTIFICATION:

COMMENTS:

(4)(a) In the event the Defendant is deemed ineligible to regain possession of firearms, other weapons or ammunition, the Defendant may appeal the decision of the Sheriff by filing a verified Petition seeking the return of weapons accompanied by a rule returnable and a copy of the itemized list of property issued by the Sheriff at the time of the original seizure.

(b) Hearings requesting the returns of weapons shall be scheduled within ten (10) business days.

Note: For further discussion relating to expungement of Protection from Abuse records, see Carlacci v. Mazaleski, 798 A2d 186 (2002).

Rule 1905.A. Forms for Use in Protection from Abuse Actions. Notices. Probable Cause Affidavit. Indirect Criminal Contempt Complaint. Continuance.

(a) The form required by C.C.R.C.P. 1901.4.A shall be substantially in the following form:

	: IN THE COURT OF COMMON PLEAS
Plaintiff	: CHESTER COUNTY, PENNSYLVANIA
vs	: NO.
	: CIVIL ACTION - LAW
Defendant	: PROTECTION FROM ABUSE

TO THE POLICE

Under the Pennsylvania Protection from Abuse Act, 23 P.S. § 6101, et seq. you are authorized to arrest the Defendant for a violation of the order,

without warrant, upon probable cause, whether or not the violation was committed in your presence. The defendant is to be taken forthwith before a District Justice for preliminary arraignment. The Defendant can be found at the following address:

_____ during the hours of _____ a.m./p.m. to _____ a.m./p.m.

Order effective from _____, 20 ____ to _____, 20 ____.

(b) The form required by C.C.R.C.P. 1901.5.A.(a) - Probable Cause Affidavit shall be substantially in the following form:

PROTECTION FROM ABUSE INDIRECT CRIMINAL CONTEMPT AFFIDAVIT

On _____, 20____, _____
(Name of Defendant)

did commit the following in violation of a protection from abuse order entered by a Judge of the Court of Common Pleas of Chester County, Pennsylvania on _____, 20 ____ , No. _____.

The acts committed were:

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Witness

Affiant

Date: _____

Name: _____

Address: _____

(c) The form required by C.C.R.C.P. 1901.5.A.(a) Complaint for Indirect Criminal Contempt shall be substantially in the following form:

**IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY,
PENNSYLVANIA**

Plaintiff : No.
:
v. : Civil Action
: Indirect Criminal Contempt
Defendant : for Violation of Protection From Abuse

Order

COMPLAINT

I, the undersigned, do hereby state under oath:

1. My name is _____ and I live/work at _____ ;

2. I accuse _____ , who lives at _____ , with violating a protection from abuse order entered by Judge _____ on the _____ day of _____ , 20____ . (attach copy of order if available);

3. The date (and day of the week) when the accused committed the offense was on or about _____ .

4. The place where the offense was committed was in the County of Chester;

5. The acts committed by the accused were: (place an X before the appropriate statement(s))
_____ attempting to cause or intentionally, knowingly or recklessly causing bodily injury to _____

-or-

_____ using physical menace to put _____
in fear of imminent serious bodily injury,

all of which were in violation of the protection from abuse order entered in accordance with the Protection from Abuse Act, 23 Pa.C.S. §6101 et seq.;

6. If the defendant has not already been arrested, I ask that a warrant of arrest be issued and that the accused be required to answer the charges I have made.

I verify that the statements made in the complaint are true and correct to the best of my knowledge, information and belief. I further understand that any false statements made herein are subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date _____

Signature of Affiant

The above subscribed affiant personally appeared before me on this date, signed the complaint in my presence and asserted that the facts therein are true and correct; and wherefore it appears that there is probable cause for the issuance of process.

Date _____

Issuing Authority (SEAL)

(d) The form required by C.C.R.C.P. 1901.5.A.(e) Notice of Hearing to Defendant shall be substantially in the following form:

NOTICE OF HEARING TO DEFENDANT

(Name of Defendant)

You have been charged with Indirect Criminal Contempt for an alleged Violation of a Protection From Abuse Order. A hearing has been scheduled in the Chester County Justice Center, 201 West Market Streets, West Chester, Pennsylvania, on the _____ day of _____, 20 _____. The hearing will be held in Courtroom No. _____ at 10:30 a.m. **FAILURE TO APPEAR AT THIS HEARING WILL RESULT IN THE ISSUANCE OF A WARRANT FOR YOUR ARREST.**

If you are found guilty of Indirect Criminal Contempt, you may be sentenced to prison for up to six (6) months and fined up to \$1,000.00 for each offense. You should be represented by a lawyer at this hearing. If you do not have a lawyer, you may call the Chester County Public Defender's Office at 201 West Market Street, West Chester, Pennsylvania, (610) 344-6940, any business day between 8:30 a.m. and 4:30 p.m.

IF YOU WANT A PUBLIC DEFENDER, APPLY IMMEDIATELY UPON RECEIPT OF THIS NOTICE.

VERIFICATION

I, _____, of _____,
(Dist. Ct./Police/other)
do hereby verify that the above notice was served upon

(defendant)
on the _____ of _____, 20_____, at _____
(a.m./p.m.). This service was made at

(location of service)

(Signature and Title of Server)

(e) The form required by C.C.R.C.P. 1901.5.A.(e) Notice of Hearing to Plaintiff shall be substantially in the following form:

NOTICE OF HEARING TO PLAINTIFF

(Name of Plaintiff)

(Name of Defendant)

has been charged with Indirect Criminal Contempt for an alleged violation of a Protection From Abuse Order wherein you are the Plaintiff. A hearing has been scheduled in the Chester County Justice Center 201 West Market Streets, West Chester, Pennsylvania, on the _____ day of _____, 20 _____. The hearing will be held in Courtroom No. _____, at 10:30 a.m.

You will be represented by the Chester County District Attorney's Office at this hearing. You may contact that office at (610) 344-6801 for information as to which Assistant District Attorney will be representing you

at the hearing. It is not required, but would be helpful, if you would list your present address and telephone number in the space provided so the District Attorney may contact you.

If you do not appear at the hearing, the charges may be dismissed.

Name:

Address:

Phone Number:

VERIFICATION

I, _____, of _____, (Dist. Ct./Police/other)

do hereby verify that the above notice was served upon

_____ (plaintiff)

on the _____ of _____, 20____, at _____ (a.m./p.m.).

This service was made at

(location of service)

(Signature and Title of Server)

(f) The format for requesting a continuance shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA
: NO.
:
Defendant : PROTECTION FROM ABUSE

MOTION FOR CONTINUANCE

AND NOW, this _____ day of _____, 20__, upon motion of _____, it is hereby requested that the hearing scheduled for _____ concerning Protection from Abuse be continued for the following reason(s):

The opposing party/counsel _____ (name) has been notified and AGREES/DISAGREES (circle).

Party/Counsel for

(Name)

(Telephone Number)

TEMPORARY ORDER AND ORDER FOR CONTINUANCE

AND NOW, this _____ day of _____, 20__, the continuance is GRANTED/DENIED and the hearing is rescheduled to the _____ day of _____, 20__ at _____ .m. in Courtroom NO. _____, Chester County Courthouse Justice Center, West Chester, Pennsylvania.

The Temporary Order for Protection from Abused dated _____, shall remain in full force and effect until further Order of this Court.

Failure of the Plaintiff to appear for hearing may result in dismissal of the Protection From Abuse Petition.

Failure of the Defendant to appear for hearing may result in the issuance of a final Protection From Abuse Order and an Order to pay costs.

BY THE COURT:

_____ J.

Note: All counsel seeking a continuance of a Protection from Abuse matter shall file an entry of appearance.