



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT

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ALAN G. DAVIS
CHIEF MAGISTRATE

POLICY DIRECTIVE 23-271

TO: ALL JUSTICE OF THE PEACE COURT EMPLOYEES

FROM: ALAN G. DAVIS *AGD*
CHIEF MAGISTRATE

DATE: JUNE 5, 2023

**RE: SERVICE OF PROTECTION FROM ABUSE ORDERS UPON
RESPONDENTS WHO APPEAR AT A COURT LOCATION FOR
CRIMINAL PROCEEDINGS**

Scope:

This Policy Directive provides guidance regarding the process by which the Justice of the Peace Court will serve Respondents with Protection from Abuse (PFA) Orders issued by the Family Court of the State of Delaware.

Justice of the Peace Court Policy:

Service of a PFA Order upon a Respondent is an important step for protecting victims of abuse. Through coordinated efforts with the Family Court, the Justice of the Peace Court is committed to ensuring that PFA Orders are served in a timely and effective way to help people seeking protection from abuse. This policy implements procedures to serve PFA Orders upon Respondents who appear at a Court location for criminal proceedings. The Justice of the Peace Court handles matters for other Delaware courts on a regular basis, and this support will extend to service of PFA Orders to benefit victims of abuse and the public.

Other Policy Directives and Legal Memoranda Affected:

There are no other Justice of the Peace Court Policy Directives or Legal Memoranda affecting the Court's service of PFA Orders.

Effective Date:

This policy shall take effect immediately and continue until further notice.

Discussion:

A PFA Order is a civil order issued by the Family Court of the State of Delaware prohibiting a person from committing certain acts of abuse against a victim, including threats, harassment, emotional abuse, stalking, physical violence, and other abusive actions.¹ A person who files a PFA Petition is called the Petitioner, and the person against whom the PFA Petition is filed is called the Respondent.

People in certain domestic relationships are eligible for a PFA Order, such as parents, children, brothers, sisters, grandparents, married persons, former spouses, people who are in a current or former substantive dating relationship, and others.² A PFA Order issues when the Family Court finds, by a preponderance of the evidence, a person has been the victim of domestic abuse, or is in imminent danger of becoming a victim. Sometimes the Family Court will issue a PFA Order by default when the Respondent fails to appear for the hearing, or there are emergency circumstances to issue the PFA Order without notice to the Respondent.

A PFA Order contains important legal remedies and resources to protect the victim, and typically includes a provision for the abuser to have no contact with the victim. It is therefore essential for the Respondent to be served with the PFA Order in a timely way to protect the victim from further harm, and to give the Respondent awareness of the terms of the PFA Order and the consequences for violating it. Service of the PFA Order also creates a record of the Respondent's receipt of the order and the Respondent's accountability for abiding by its terms.

The Family Court or law enforcement typically serves the Respondent with the PFA Order. However, there are occasions when Respondents are not served due to their absence from the Family Court proceedings, or their whereabouts are unknown.

The Justice of the Peace Court has contact with a large volume of citizens in the public. When a litigant appears in the Justice of the Peace Court, the Criminal Justice Information System (CJIS) system will identify if there is PFA Order against a person and whether it has been served.

Because service of a PFA Order is such an important protection for victims of abuse, the Justice of the Peace Court will serve a PFA Order upon a Respondent when the Respondent is present in the Justice of the Peace Court for criminal proceedings and the CJIS system identifies the PFA Order as unserved.

The Justice of the Peace Court's security officers (CSO) will complete the service as they are trained in de-escalation techniques and have the proper resources to ensure safety in service of process. Justices of the Peace and Court clerks will also be involved as follows:

¹ See, 10 Del. C. § 1041(1) for definition of "abuse".

² See, 10 Del. C. § 1041(2) for the definition of protected persons.

- (1) The clerk will review the CJIS system for persons appearing in the Justice of the Peace Court for criminal proceedings in the normal course of business.
- (2) If there is an unserved PFA Order noted in CJIS, the clerk will print the PFA Order and provide it to the Judge in a folder with the service document and a Frequently Asked Questions (FAQ) document from the Family Court.
- (3) The clerk will also notify the CSO on duty a PFA Order needs to be served.
- (4) The Respondent named in the PFA Order will be called into the courtroom, and the Judge will first handle the legal matters pending in the Justice of the Peace Court involving the individual.
- (5) The Judge will then inform the Respondent the CSO is serving a PFA Order issued by the Family Court against the Respondent. The CSO will be present in the courtroom at the time.
- (6) The CSO shall serve the Respondent with the PFA Order and the FAQ document, and request the Respondent sign to acknowledge receipt.
- (7) The CSO will sign the service document, noting the date and time of service, and return it to the Judge.
- (8) The Respondent will be directed to contact the Family Court with any questions about the PFA Order.
- (9) The clerk will enter service of the PFA Order in CJIS, documenting the PFA Order as served by "J.P. Court CSO".
- (10) The clerk will send the service document to the Family Court's designee, and for any further actions by the Family Court related to the PFA Order.

Conclusion:

This policy implements procedures for the Justice of the Peace Court to effectively serve PFA Orders upon Respondents who appear at a Court location for criminal proceedings. This policy is adopted to further support the coordinated efforts among Delaware courts so citizens may benefit from a fair, effective, and efficient legal system.

Cc: Honorable Collins J. Seitz, Jr.
Honorable Kathaleen S. McCormick
Honorable Jan R. Jurden
Honorable Carl C. Danberg
Honorable Michael K. Newell
Gayle P. Lafferty, State Court Administrator
Elizabeth Petrick, Justice of the Peace Court Administrator
Stephanie Parker, Justice of the Peace Court Deputy Administrator

Rebecca Trifillis, Justice of the Peace Court Staff Attorney
Jennifer Kline, Justice of the Peace Court Staff Attorney
Roger Roof, Operations Manager
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Kevin Jackson, Chief of Uniformed Services
Law Libraries: New Castle County, Kent County, Sussex County,
Widener University School of Law