# The Cycle of Violence and the Courts:

The Good, The Bad, and The Ugly

Supporting Survivors Summit October 25, 2024

#### **Panelists**

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# The Cycle of Violence and the Courts: The Good, The Bad, and The Ugly

Dynamics and Prevalence of Domestic Violence

| Allegheny County Court Systems

**III** Criminal Court Process

IV Impact of Criminal IPV in Family Court Cases

# DV Dynamics in the Justice System

#### **Domestic Violence: A Pattern of Control**

Domestic Violence is about **POWER** and **CONTROL**.

Physical Abuse is only one tactic among many used by batterers to enforce their control over a victim. Other methods include emotional abuse, psychological coercion, isolation, economic control, immigration status-related abuse, sexual assault, and stalking or harassing behavior.



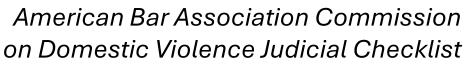
## Domestic Violence: A Pattern of Control (contd)

Domestic Violence is **chosen** behavior and is rarely caused by substance abuse, genetics, anger, stress, illness, or problems in the relationship, although these factors are often used as excuses and can exacerbate violent behavior. Abusers may justify their actions by blaming the victim, but courts should not accept this as a justification.



### Common Effects of Abuse / Trauma on Victims

- Fear of offender violence
- Denial, detachment, lack of affect
- Rage
- Blames self or circumstances
- Rationalizes batterer's behavior, minimizes violence
- Unaware of legal and social options
- Isolation from family, friends, and/or from others who share the victim's language, faith, culture
- Self-medication by use of alcohol and/or drugs
- Low self-esteem, shame
- Depression, anxiety, suicidal thoughts
- PTSD, exhaustion
- Use of defensive/protective violence
- Difficulty managing daily tasks because of obstacles created by the abuse





# **Common Perpetrator Attitudes and Conduct**

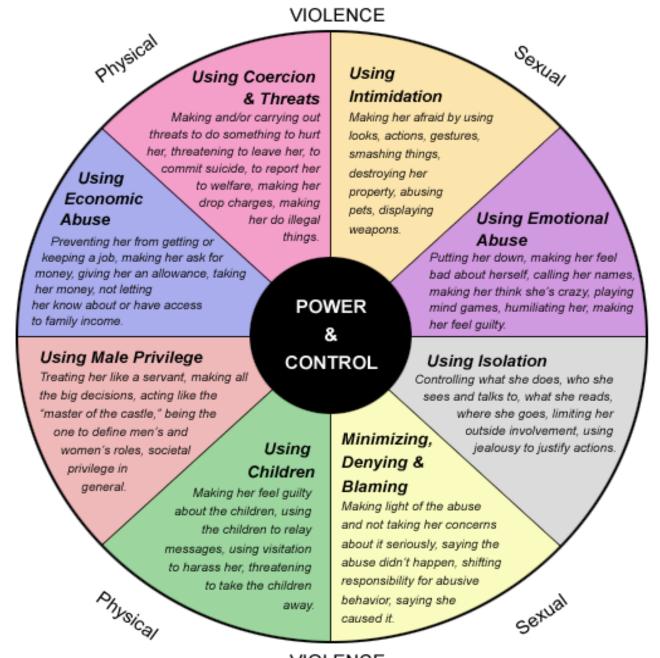
- "Jekyll-Hyde" personality polished and likeable at in public but abusive at home
- Intimidating
- Consistent, persistent attempts to control victim
- Self-centered, narcissistic, claims to be the "real" victim
- Minimizes and denies own behavior & instead blames victim, circumstance or others
- Dependent on victim, jealous and possessive
- Low self-esteem, inadequate or desperate feelings once caught
- Promises "It won't happen again" or "I didn't mean it"
- Authoritarian, uses children to "spy" on other parent
- Substance abuse



#### The Power and **Control Wheel**

Developed by the *Domestic* Abuse Intervention Project in Duluth, Minnesota.

The Power and Control Wheel illustrates the tactics an abuser uses on the victim. Constantly surrounded by threats and/or actual physical and sexual abuse, the victim is subjected to the various tactics listed in the spokes as the abuser attempts to exert complete power and control over the victim.



VIOLENCE

# The Cycle of Violence

The Cycle of Violence depicts a pattern often experienced in abusive relationships. The three phases repeat over and over. Domestic violence is a pattern of abuse in an intimate relationship that escalates over time.

Adapted from the original concept of Lenore Walker. *The Battered Woman*. New York: Harper and Row. 1979.

#### **Tension Building**

Minor incidents of physical / emotional abuse.
Victim feels growing tension.
Victim tries to control situation to avoid violence.
'Walking on eggshells." Victim cannot control abuser.
Longest phase.

Minimizing the abuse or acting as if it did not happen. Denial keeps the cycle going.

#### Denial

Perpetrators, victims, and society at large minimize violence in relationships. **Explosion** 

The actual abuse: physical, sexual, emotional, verbal, financial, ...

#### Honeymoon Phase

Abuser sorry and apologetc. sort Abuser makes promises. vio "Hearts and flowers." Idealized and romantic. This phase often disappears with time.

disappears with time.

# Prevalence of Intimate Partner Violence

# Prevalence of Intimate Partner Violence (IPV)

#### **Nationally:**

- According to the National Intimate Partner and Sexual Violence Survey, 1 in 3
   women and 1 in 4 men will be victims of physical violence by an intimate
   partner
- Though IPV victimization has fallen since the mid-90s (similar to other violent victimization trends), recent research suggests that intimate partner violence increased by 8% nation-wide during the pandemic
- In 2020 and 2021, the National Crime Victimization Survey estimated that between 50-60% of victimizations of intimate partner violence were not reported to police

# **DV Incidents Reported in Allegheny County**

- An average of 92 calls for domestic violence each day
- 33,728 calls to 911 for domestic violence in 2023
  - A 3% increase from 2022
- Year-over-year trends in 911 calls for domestic violence have been steady for the last seven years

This data excludes Penn Hills and West Mifflin municipalities, as they have their own emergency management system

# **Emergency PFAs Filed in Allegheny County**

- In 2023, there were 3,512 filings for Emergency Protection from Abuse (PFA) Orders
- Emergency PFA Orders are issued by Magisterial District Judges and provide short-term protection
  - Until the close of business on the day the Family Division of the Court of Common Pleas, PFA Department, reopens
- Year-over-year trends in emergency PFAs have been steady since 2018, with a 7% increase in 2021 that has since come back down

### PFA Petitions Filed in Family Court in Allegheny County

- In 2023, 3,785 PFA Petitions were filed in Family Court and 3,246
   Temporary PFA Orders were granted
  - Of that, 220 were Hearing-Date-Only Orders and 274 were denied
- 3,509 Final PFA Hearings were scheduled:
  - 1,114 Final PFA Orders
  - 1,349 withdrawals by Petitioners
    - Including Non-PFA Consent Orders and Withdrawals
  - 751 dismissed when Petitioner did not appear
  - 90 dismissed after a hearing



## IPV is a Safety & Risk Factor in Child Welfare Cases

- Child welfare case workers in Allegheny County assessed intimate partner violence as a safety and risk factor on 43% (830) of all new child welfare cases in 2023
- Up 13 percentage points from 2019
  - Not clear whether this increase is due to higher fidelity to the instrument or an actual increase in prevalence, but does indicate that the child welfare space offers opportunities for intervention that may not come to the attention of the criminal legal system



## New Criminal Filings for Intimate Partner Violence

- From September 2023 to August 2024, there was an average of 206
   new criminal filings involving IPV each month, accounting for 11%
   of all new criminal filings
- In May 2022, Allegheny County Pretrial Services began identifying all new criminal filings related to domestic violence
- In August 2023, Allegheny County Pretrial Services began separating out cases involving intimate partner violence from other domestic violence



# When our systems fail, the consequences can be dire: Intimate Partner Violence Homicides

- From 2013 through 2015, Allegheny County had the highest number of DV-related fatalities of all counties in the Commonwealth of Pennsylvania
- From January 2017 through September 2022, intimate partner homicide claimed 45 lives, accounting for 7% of all homicides and 30% of all homicides with female victims
- Between 2019 and 2022, 27% of alleged perpetrators in child deaths had a history of IPV as an aggressor or survivor

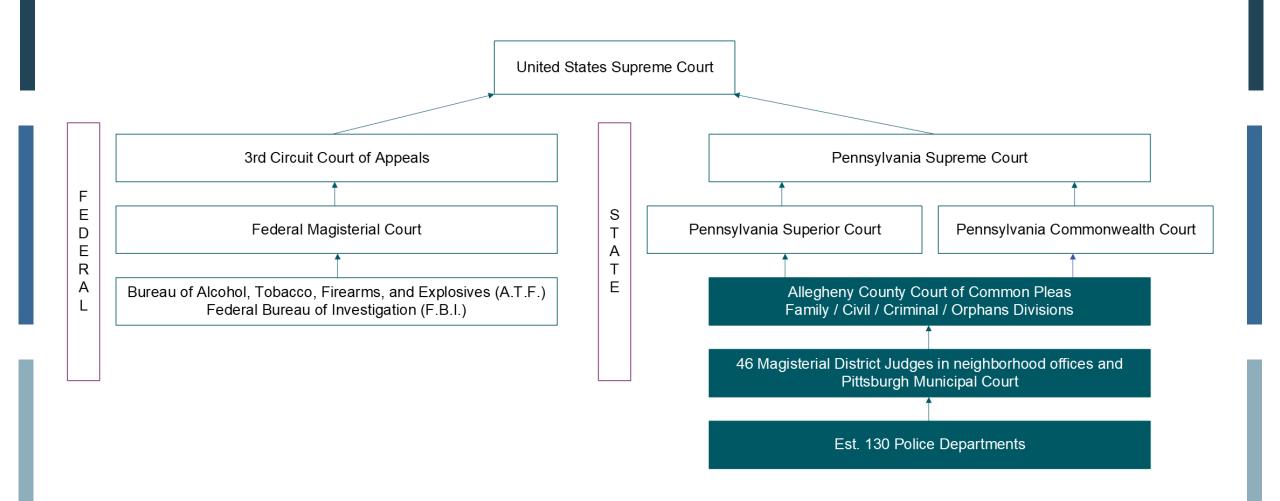
### **Intimate Partner Homicides in Allegheny County in 2023**

- There were nine intimate partner homicide incidents in 2023, with ten victims. This accounted for 9% of all homicides in 2023, 4% (3) of male homicides and 44% of female homicides (7)
  - 4 of the 9 incidents were murder-suicides
- Two incidents occurred in the city and seven outside of the city
  - McKeesport (2), Pitcairn, Penn Hills, Wilkins, Monroeville, and Swissvale



# Allegheny County Court Systems

# **Allegheny County Court System**



## ... Any Specialty DV Work?

Approximately 130 police departments in the County

- Protocols and Quick Reference Guides for police response to DV/IPV from DA and STOP Violence against Women Coordinating Team
- Police policy for DV Response required by the PFA Act
  - Model policy from Chiefs of Police Association is available but may need to be updated
- Specialty DV Officers in a few departments
  - Pittsburgh Police Bureau has a DV Unit
- Maryland Lethality Assessment Program (LAP) used by almost half of the police departments to screen victims at high risk of being killed by an intimate partner – goal to connect victim to a DV program for services

# Lethality Assessment Program (LAP) Screen

#### DOMESTIC VIOLENCE LETHALITY SCREEN FOR LAW ENFORCEMENT



PASAYS NO MORE.COM

Officer:		Date:	Case #	e #:		
Victim:		Offender:				
	victim declined to be screene					
☐ Check here if	the officer could not administ	er the screen				
	THE RESERVE OF STREET				a proper	
	to any of Questions #1-3 is an				_	_
<ol> <li>Has he/she/they ever used a weapon against you or threatened you with a weapon?</li> </ol>				☐ Yes	□ No	□ Not Ans/Unk
Has he/she/they threatened to kill you or your children?			☐ Yes	□ No	☐ Not Ans/Unk	
Do you think he/she/they might try to kill you?				☐ Yes	□ No	☐ Not Ans/Unk
"Yes" responses to at least four of Questions #4-11 is an automatic High-Danger Assessment						
4. Does he/she/they have a gun or can they easily get one?				☐ Yes	□No	□ Not Ans/Unk
Has he/she/they ever tried to choke you?				☐ Yes	□ No	□ Not Ans/Unk
6. Is he/she/they violently or constantly jealous or does he/she/they control most of your daily activities?				☐ Yes	□ No	□ Not Ans/Unk
7. Have you left him/her/them or separated after living together or being married?				☐ Yes	□ No	☐ Not Ans/Unk
8. Is he/she/they unemployed?				☐ Yes	□ No	☐ Not Ans/Unk
Has he/she/they ever tried to kill himself/herself/themself?				☐ Yes	□ No	
10. Do you have a child that he/she/they knows is not his/hers/theirs?				☐ Yes	☐ No	
11. Does he/she/they follow or spy on you or leave threatening messages?			☐ Yes	□ No	☐ Not Ans/Unk	
Is there anything else that worries you about your safety? (If "yes") What worries you?						
An officer may ma situation.	ake a High-Danger Assessmer	nt if the officer be	lieves the victim i	is in a po	tentially	/ lethal
	☐ Victim is High-Danger based on score					
☐ Victim is High-Danger based on officer belief						
	Victim is not assessed as Hi			<i>(</i>		
If victim is High-Danger, did officer make a call to the hotline?						A GOLD
Did the victim speak with the hotline advocate?				☐ Yes	□ No	BASE LERGER
	ove and the criteria for determining the olence by a current or former intimate					

Note: The questions above and the criteria for determining the level of risk a person faces is based on the best available research on factors associated with lethal violence by a current or former intimate partner. However, each situation may present unique factors that influence risk for lethal violence that are not captured by this screen. Although most victims who are assessed as "High-Danger" would not be expected to be killed, these victims face much higher risk than that of other victims of intimate partner violence. All domestic violence is serious. This Screen should not be used to determine whether someone is a victim or is at risk of re-assault.

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© Lethality Assessment Program, a project of the Maryland Network Against Domestic Violence (MNADV). Use of the Lethality Screen without training approved by MNADV is prohibited.

August 2016

# ... Any Specialty DV Courts?

# There are 46 Magisterial District Judges in neighborhood offices; some rotate through Pittsburgh Municipal Court

- DV Sessions for Criminal Preliminary Hearings at Pittsburgh Municipal Court
  - Developed in 1987 to support victim safety and offender accountability
  - Not intended to be a diversion court
  - Cases prosecuted by the **District Attorney's DV Unit** under a vertical prosecution model, with same specialist prosecutors handling the trials

## ... Any Specialty DV Courts at Common Pleas Level?

There are four divisions in the Allegheny County Court of Common Pleas: Family, Civil, Criminal, and Orphans

#### **DV Criminal Division:**

- Repeat Batterers Court for IPV offenders prosecuted by DA's DV Unit, cases referred to DV probation officers as needed
- ICC violations prosecuted by DA's DV Unit and heard in Criminal Court if double jeopardy issues and/or criminal relief needed

#### Family Court:

PFA Unit and Courtroom



# Help for Victims of Domestic Violence in the Pennsylvania State Court System

Civil court cases, such as civil protection orders

- Caption of case: Plaintiff vs. Defendant
  - Plaintiff initiates the case and is responsible to move it forward
  - Plaintiff gets to decide how and whether to proceed

#### **Criminal** court cases

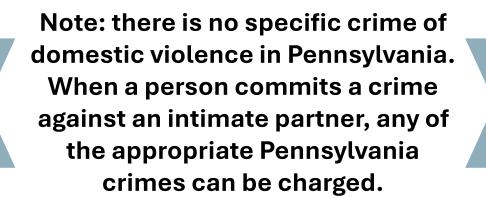
- Caption of case: Commonwealth of Pennsylvania vs. Defendant
  - Moving party is the Commonwealth of Pennsylvania, represented by the prosecutor – the District Attorney's Office
  - Victim is a witness for the prosecution

# **Criminal Court Process**

## **Commonly Charged Crimes in Domestic Violence**

Some examples of commonly charged crimes in cases of intimate partner violence, as outlined in the Pennsylvania Crimes Code – Chapter 18 Pa. C.S.

- Simple Assault
- Aggravated Assault
- Recklessly Endangering Another Person
- Terroristic Threats
- Stalking
- Harassment
- Strangulation
- Sexual Assault





### **Criminal Court Process**

#### **Police Initiated**

- Warrantless arrest under PA Crimes Code § 2711 – or – other authority – or –
- Arrest by warrant

#### **Victim Initiated**

 Private criminal complaint – warrant or summons issued



### § 2711 of PA Crimes Code

### **Warrantless Arrest**

Warrantless arrest is authorized if all of the following are present:

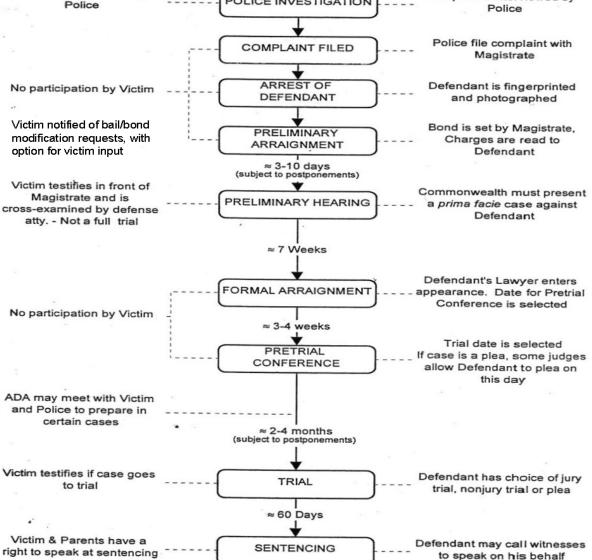
- Crime of one of the following: Simple Assault, Aggravated Assault, Recklessly Endangering Another Person, Terroristic Threats, Stalking, Involuntary Manslaughter, Strangulation, and
- Relationship between Victim and Defendant:
  - Relationship must be one of those for family or household member as defined under the PFA Act, and
- Probable Cause must exist, plus
  - Corroboration or –
  - Recent physical injury



# **Criminal Case Proceedings**

Allegheny County
District Attorney's Office

# State Criminal Court Proceedings in Allegheny County VICTIM'S PARTICIPATION Victim is interviewed by Police POLICE INVESTIGATION Suspect is interviewed by Police Police file complaint with Magistrate No participation by Victim ARREST OF DEFENDANT Defendant is fingerprinted and photographed



### Criminal Cases - Bail/Bond

After a defendant is arrested, there is a preliminary arraignment when it is determined whether defendant will be held in jail or released until the preliminary hearing and trial

#### Defendant will either:

- Remain in jail (because they cannot make bail/bond)
- Be released on bond or Released on Own Recognizance (ROR)

#### Release on bond can be conditioned on:

- No Contact Orders
- No Violent Contact Orders
- Other Conditions

Note: victim can sign up for jail release notification

#### **Act 71 Notifications for Bail/Bond Modifications**

- Act 71 of 2022 requires arresting officers to provide the name and contact information of victims for certain enumerated offenses
  - All DV and IPV cases fall into this category
- The victim must be provided notice of any proceeding to modify bail conditions under § 201(2)(iii)(B)
- Pretrial Services notifies victims/ District Attorney's Office will assist
- Victim service agencies working with victims may also help to notify the victims, particularly if victims have registered for jail release notification

# ICC Criminal History Report – Filling a Gap

- Effective July 20, 2023, Allegheny County Pretrial Services began providing an Indirect Criminal Contempt (ICC) Criminal History Report to the Magisterial District Judge (MDJ) at the time of preliminary arraignment – because ICCs are not filed initially as criminal cases, reports had not been provided to MDJs in past
- The ICC Criminal History Report will not make a release recommendation
- Allegheny County Pretrial Services cannot supervise a defendant on an ICC case only nor will it be presented for any additional modification hearings
- Arrest for Violation of Order
- Provides both pending criminal charges and convictions



# **Criminal Preliminary Hearing**

Pittsburgh Municipal Court – or – Magisterial District Judge's Office

#### Possible outcomes:

- Held/waived for criminal court trial
- Postponed
  - E.g. for counseling/Battering Intervention Program/drug & alcohol treatment
- Plead or found guilty of summary offense
- Dismissed or withdrawn



# Allegheny County Court of Common Pleas – Criminal Court

Outcomes at pre-trial proceedings or trial can include:

- Postponement
- Guilty verdict or plea
- Probation
- Battering Intervention Program or other intervention programs
- Jail time
- Dismissal



# Battering Intervention Program in Allegheny Co.

Certified and monitored by Allegheny County Department of Human Services

#### Current programs:

- 1. Women's Center & Shelter's MENS Group
- 2. PERSAD Center for Individuals who qualify as LGBTQ+
- 3. Renewal Violence intervention for men and women
- 4. Wesley Family Services violence intervention for men in the community and men who are incarcerated



# Impact in Family Court Cases

# **Impact in Family Court Cases**

Examples of Family Court relief accessed by DV crime victims:

- Civil Protection Orders:
  - Protection from Abuse, Protection from Sexual Violence, or Protection from Intimidation
- Custody
- Support
- Divorce
  - Including equitable distribution and alimony
- Juvenile Court (child abuse / dependency issues)



# Pennsylvania's PFA Act - 23 Pa. C.S. § 6101 - 6122

# **Protection from Abuse (PFA) Orders**

- 1976 Pennsylvania was first state in the country to enact a civil protection order statute
  - Now all 50 states, District of Columbia, all US territories, and many tribes offer this remedy
- Goal is early intervention in DV situations and prevention of future abuse through the use of civil orders
  - Not punishment for past abuse as in the criminal system
- Most frequently used legal remedy against domestic violence by victims

Sally F. Goldfarb, Re-conceiving Civil Protection Orders for Domestic Violence: Can Law Help End the Abuse Without Ending the Relationship, 29 Cardozo L. Rev. 1487 (2008)

# Pennsylvania's PFA Act - 23 Pa. C.S. § 6101 - 6122

# **Protection from Abuse (PFA) Orders**

- Purpose of Act is to stop abuse between family or household members and prevent future problems through the entry of <u>civil</u> protection orders
- Enforcement of safety provisions in the civil PFA orders is, however, criminal in nature with mandatory arrest by police and criminal sanctions including up to six months in jail
- Two main requirements to obtain PFA order:
  - 1. Relationship between victim and abuser
  - 2. Type of abuse



## Relief Provided by the PFA Act

Not to abuse, harass or stalk victim or minor children

Exclusion from victim's home

Stay away from victim's work, school

No contact with victim or minor children

Temporary custody of minor children

No firearms or other weapons

Award of spousal or child support

Damages for outof-pocket losses Other relief to stop abuse



#### Allegheny County's PFA Hearing System

	Emergency PFA Relief from MDJ	Standard PFA Relief from Court of Common Pleas, Family Division	
Name of Hearing	Emergency PFA	Temporary PFA	Final PFA
Where	Magisterial District Court or Arraignment Dv. at Pgh Municipal Ct. 660 First Ave., Pittsburgh, PA 15219 **Plaintiff can prepare Emergency PFA paperwork online before going to court (see court website)	PFA Unit Family Court 440 Ross Street, 3 <sup>rd</sup> Floor Pittsburgh, PA 15219	PFA Unit 440 Ross Street, 3 <sup>rd</sup> Floor Pittsburgh, PA 15219
When	Anytime other than weekdays from 8:00 a.m. to 11:00 a.m., when Family Court is open to accept PFA filings	Weekdays from 8:00 a.m. to 11:00 a.m., unless court holiday	Weekdays at 9:00 a.m. (Final Hearings not usually held on Fridays)
Type of Hearing	Ex Parte Hearing Victim must be in "immediate and present danger of abuse" from the defendant	Ex Parte Hearing Victim must be in "immediate and present danger of abuse" from the defendant	Defendant must have been served prior to hearing and standard at hearing is preponderance of evidence
Length of Order	Lasts until 5:00 p.m. (end of the business day) on the next day that Common Pleas Court is open	Lasts for up to 10 business days	Lasts for up to 3 years or for any lesser period of time
Relief Available	<ul> <li>No abuse</li> <li>No contact</li> <li>Exclusion from victim's home</li> </ul>	<ul> <li>No abuse and no stalking</li> <li>No contact</li> <li>Exclusion from victim's home</li> <li>Custody</li> <li>Weapons removal</li> </ul>	<ul> <li>No abuse and no stalking</li> <li>No contact</li> <li>Exclusion from victim's home</li> <li>Custody</li> <li>Weapons removal</li> <li>Child/spousal support</li> <li>Damages</li> </ul>



PFA Petitioners complete the PFA Petition and LAP Screen with a bit of privacy



Legal Advocates meet with PFA Petitioners to review the PFA Petition and to do safety planning



PFA Plaintiffs can meet with the PFA Safety & Information Specialist and their attorneys in private offices to prepare for the case

#### Miscellaneous PFA Provisions

- There are no filing or other fees for PFA plaintiffs
- Victims who seek relief do not have to disclose their addresses in the PFA case
- Communications between victims and domestic violence program advocates are confidential and privileged
- Pennsylvania must enforce the civil protection orders of other states



## **Arrest for Indirect Criminal Contempt (ICC)**

# **Violations of PFA Order Safety Provisions**

#### General rule – 23 Pa. C.S. § 6113(a):

- Police or sheriff <u>shall</u> arrest for violations of the safety provisions of PFA orders
  - Safety provisions: no abuse, exclusion from victim's residence, custody, no contact/stay away, weapons prohibitions, no stalking/harassment
- Arrest may be without a warrant upon probable cause whether or not the violation was committed in the presence of the police

#### Sanctions – 23 Pa. C.S. § 6114(b) – a sentence for contempt may include:

- A fine of not less than \$300 nor more than \$1,000 and imprisonment up to six months;
- A fine of not less than \$300 nor more than \$1,000 and supervised probation not to exceed six months;
- An Order for other relief as set forth in the chapter.

#### **What Do Victims Want?**

- Crossover matters often arise in Family Court at the same time that DV crime victims are participating in criminal court cases – usually as crime victim witnesses but sometimes as defendants:
- What do victims want and need in related cases of:
  - Custody
  - Divorce
  - Support
- Restrictions on the criminal side that impact these Family cases?



# Crime Victim Rights

#### 18 P.S. § 11.101

# Pennsylvania Crime Victims Act

Pennsylvania enacted the Crime Victims Act to assist victims by:

- Preventing feelings of re-victimization by the system
- Providing a venue to inform victims about their rights
- Providing family members with financial compensation



### 18 P.S. § 11.101 (cont.)

# Pennsylvania Crime Victims Act

Under the Crime Victims Act, victims have 13 basic rights, which include:

- The right to be restored to pre-crime economic status
- The right to be notified of significant actions or proceedings
- The right to be notified about offender escapes, releases or facility transfers
- The right to offer a victim impact statement at the sentencing of the defendant

Act 77 of 2022 amends the Crime Victims Act and provides that a victim has legal standing to assert and enforce a right enumerated in the Crime Victims Act or any other right afforded to the victim by law in a trial or appellate court or before an official body with jurisdiction over the victim's case



# Responsibilities of State and Local Law Enforcement Agencies under PA Crime Victims Act

- Within 24 hours of contact with victim, law enforcement agencies shall provide to the victim, in writing, basic information on the rights and services available for crime victims
- Law enforcement agencies shall within 48 hours of reporting give notice to the direct victim or, if appropriate, a member of the direct victim's family of the availability of crime victims' compensation
- In personal injury crimes, law enforcement shall notify the victim of the arrest of the suspect within 24 hours
- The arresting officer shall provide the name and contact information of the victim
  to the magisterial district court conducting the preliminary arraignment so that
  the victim may receive notice of any proceedings to modify bail conditions and
  exercise the opportunity to appear
  - Act 71 of 2022 amending the Crime Victims Act

#### **SAVIN**

#### PA Statewide Automated Victim Information Network

- Also known as and referred to as "Vine"
- Free, confidential, and automated service that keeps victims, law enforcement, and community members up to date on status of offender housed in county jail, state prison or under state parole supervision within the Commonwealth
- Victim can register to receive a phone call, text, email, or any combination of the three
- A victim of crime should be encouraged to register both with SAVIN and the Office of the Victim Advocate, as the victim may have the right to receive additional services and notifications not available to public

# DV Program Resources

#### **Domestic Violence Program Resources**

- Pennsylvania Coalition Against Domestic Violence (PCADV)
  - Umbrella agency for domestic violence programs that provides services for DV victims in all counties in Pennsylvania
  - See map of programs at <u>www.pcadv.org</u>
- National Coalition Against Domestic Violence (NCADV)
  - 1-800-799-SAFE (in English and Spanish)



#### **Allegheny County Domestic Violence Programs**

#### Women's Center and Shelter of Greater Pittsburgh

City of Pittsburgh and Allegheny County 24/7 Hotline: 412-687-8005; WCSCanHelp.org

#### **Center for Victims**

Mon-Yough area and Allegheny County 24/7 Hotline: 412-866-644-2882; <a href="https://www.centerforvictims.org">www.centerforvictims.org</a>

#### Alle-Kiski Area HOPE Center

Alle-Kiski Valley and Northeastern Allegheny County 24/7 Hotline: 724-224-1266; <a href="https://akhopecenter.org">https://akhopecenter.org</a>

#### **Crisis Center North**

Northern and Western Suburbs of Allegheny County 24/7 Hotline: 412-364-5556; <a href="https://www.crisiscenternorth.org">www.crisiscenternorth.org</a>



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# **Questions & Answers**