



TESTIMONY RE: DOMESTIC VIOLENCE AWARENESS AND PREVENTION  
BEFORE THE SENATE DEMOCRAT POLICY COMMITTEE  
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Thank you for the opportunity to speak with you today about domestic violence awareness and prevention and the legal issues impacting survivors of domestic violence throughout the Commonwealth. My name is Danni Beinschroth. I am a survivor of gender-based violence, a domestic violence advocate, and an attorney with eleven years invested in the movement to end gender-based violence. I currently serve as the Legal Services Manager of the Pennsylvania Coalition Against Domestic Violence, the state-level domestic violence advocacy organization in Pennsylvania. Before coming to the Coalition, I was an attorney for the Domestic Violence Service Center in Wilkes-Barre, PA, where I represented survivors of domestic violence in civil legal matters in Luzerne, Carbon, and Wyoming counties.

In my role at PCADV, I oversee and manage PCADV's various legal projects including the Civil Legal Representation (CLR) Project. The CLR Project consists of 17 full-service law offices that offer legal representation for victims of domestic violence in family law cases, including Protection from Abuse (PFA) and custody cases, and other civil legal matters such as housing and immigration. The Legal Services Team also runs PA Safe Law, a no-cost civil legal information helpline that assists survivors of crime across the Commonwealth. PA Safe Law aims to simplify the legal process for survivors through direct assistance and referrals to our in-county partners and programs for assistance

based on their specific legal needs. PCADV also provides technical assistance and training in collaboration with the Pennsylvania State Police (PSP) on the Protection from Abuse Database (PFAD), the statutorily created statewide registry of valid protection orders statewide. PFAD helps inform the courts, law enforcement, and dispatch of valid protection orders so that these orders and their terms enforced throughout the state and survivors' protection ensured. Lastly, my role includes providing training to various members of the legal system such as: law enforcement, court personnel, judges, and attorneys on domestic violence laws and practice, and technical assistance to our network of member programs, and their staff navigating the legal system and helping the survivors they serve do the same. PCADV's Legal Services Team is aware of the experiences of advocates, attorneys, and the survivors they serve in navigating the legal system and taking advantage of the legal protections available to them in PA Law. I hope to highlight these experiences in my testimony today as I talk about the legal issues impacting survivors of domestic violence and their families in Pennsylvania.

## **I. Accessibility and Victim Experience**

Before I touch on the PFA Act, I urge the lawmakers here today to envision a response for survivors of domestic violence that is much more than the PFA Act or the criminal justice process. As such, when we think about the legal response to domestic violence victims, I encourage folks to think about a holistic response that includes more than just the PFA Act or law enforcement response and focus on other areas of importance to victims of domestic violence such as medical advocacy, economic sufficiency, pay equity, and affordable housing. PCADV's recommendations here don't ask you to think about establishing new laws but request that you take steps to ensure uniform implementation of existing laws in Pennsylvania meant to protect domestic violence victims and provide them access to the system and Courts. PCADV believes Pennsylvania already possesses many

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of the tools it needs to ensure equal access and procedural justice under our existing laws covering victims of domestic violence. They need to be applied consistently across the Commonwealth.

One of the reasons why the PFA Act is so popular is the accessibility of this form of relief to victims of domestic violence. Victims can file at any time of day for a PFA, they're charged no fees for filing or service of the order, the legal standard is lower than that of a criminal charge, and our member programs often provide valuable emotional support in guiding them through the court process, so they don't face this experience alone. Many counties offer accessibility options for victims, which have become more acceptable and commonplace since the Covid-19 pandemic.

However, accessibility options serve a limited purpose if they are not consistently and regularly offered to PFA petitioners. Failing to provide access to the benefits of the PFA Act fails misses many of the existing safeguards already contained within the law to protect victims and ensure their full participation. Our work with systems and survivors makes us aware of the accessibility challenges that still exist for survivors who want to take advantage of the PFA process. The Center for Court Innovation (CCI) and the Administrative Office of the PA Courts released the Pennsylvania Protection Order Project Statewide Report ("the Report") in 2021. The Report highlighted issues we hear directly from domestic violence victims and programs about their challenges in accessing the PFA process. Filing hours for temporary protection orders are not uniform across the state, and many court's PFA intake hours are inconsistent and arbitrary.<sup>1</sup> Under the PFAA, when a Court of Common Pleas is available or open, is when a petitioner can file for a temporary PFA. However, many courts still maintain early cut-off times for filing PFAs. This practice frustrates and dissuades survivors from seeking protection when

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<sup>1</sup> Center for Court Innovation. *2021 Pennsylvania Protection Order Project Statewide Report*, 2021.

they need it the most.<sup>2</sup> . For example, we are aware of courts that stop taking filings for temporary PFAs early in the day, diverting victims to the emergency PFA process when the court is still open. This practice can dissuade the victim from further participation, and because the emergency PFA is limited in its validity and spectrum of relief (until close on the day next available and lack of relief terms such as firearms relinquishment), it can leave a victim without proper protection.

The Report also highlighted the high rate of consent agreements entered in PFA cases.<sup>3</sup> Many PFAs in Pennsylvania are resolved through a "Consent Agreement." Under the PFA Act, the court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the petitioner or minor children, and include relief, such as child custody or firearms relinquishment, and grant any other appropriate relief sought by the petitioner<sup>4</sup>. While consent agreements may be suitable in some cases, they are not always appropriate, especially in domestic violence cases. This is because an overarching feature of domestic violence is the power imbalance between the parties, and that one party, the abusive party, is often the holder of all the power and control within that relationship. In these cases, the consent agreement they enter isn't an agreement but a shield that protects the abusive partner from facing any measures that level real accountability from provisions that force firearms relinquishment or those that ask the defendant to complete abusive partner intervention programming.<sup>5</sup> In Consent Agreements, abusers do not admit guilt, and the judge makes no findings. Victims often find it difficult to prove abuse occurred through a consent agreement alone. This can disadvantage them in other legal proceedings where the abuse is relevant such as custody,

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> 23 Pa C.S.A. §6108

<sup>5</sup> Center for Court Innovation. *2021 Pennsylvania Protection Order Project Statewide Report*, 2021.

immigration, or criminal matters. PCADV does understand the risk of retraumatizing survivors by asking for their testimony in a final PFA hearing.<sup>6</sup> However, by relying on such reasoning to push consent agreements, courts may unintentionally push petitioners to enter one when it is not appropriate.

Another access challenge often faced by victims is the pre-screening practices many courts use to screen survivors out of the PFA process. Pre-screenings happen off the record, deny petitioners the opportunity to be heard before a judge, and are not captured in collected data.<sup>7</sup> A pre-screening practice we are familiar with is courts asking petitioners questions to determine if they qualify for a PFA before they file. If the court does not believe the petitioner qualifies for an order, they may instruct them to go to the police or seek another form of relief. If they can file, the court staff may inform the judge that they do not believe the petitioner qualifies for relief. Another practice we are familiar with is requiring that a victim speaks with either law enforcement or a victims' services provider before filing for a PFA to ensure that they qualify. The use of pre-screening practices raises serious due process concerns around victims' abilities to seek protection under the PFAA.

However, as the Report said, this also highlights the concern of how legal system actors see the PFA process as being abused by victims of domestic violence.<sup>8</sup> Stakeholders see a high rate of PFAs in a community and see this as a sign of abuse of the process and orders granted with little evidence or merit. Increased filing rates not only show the rate of domestic violence victimization in a community but, they indicate the high level of access a local system provides to victims and their

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

families who need protection. Victims and domestic violence advocates in these communities know where, when, and what they need to file a PFA, and are more likely to participate in the process when necessary. Pre-screening practices meant to increase court efficiency and effectiveness often only push petitioners away from participating in the process and create additional and unnecessary barriers for petitioners seeking protection under the PFA Act.

Finally, I would be remiss to mention a topic that has gained heightened attention in the wake of the Covid-19 pandemic around courts' acceptance of virtual hearings and technological aids to increase litigant access to and participation in court (including PFA) system processes. The Report highlighted a reluctance among courts to utilize these options that have run counter to national trends, in which other states have nearly universally adopted virtual hearings in response to Covid-19 and plan to continue their availability.<sup>9</sup> The aids offered are not uniform across courts in Pennsylvania currently. Some offer full remote participation with limited issues with others mandating in-person attendance with limited or unclear exceptions. Again, a lack of uniform accessibility options or a clear process to request those options statewide create a significant barrier to victims participating in court processes. Failure to offer this accommodation often affects the most vulnerable victims such as those with accessibility challenges, victims living in rural areas, those with transportation or childcare challenges, and those living with disabilities, to name a few.

## **II. Policy Suggestions.**

As I said earlier, PCADV firmly believes that existing Pennsylvania laws and practices can address many of the challenges that victims of domestic violence experience through their

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<sup>9</sup> *Id.*

participation in the PFA process and the legal system. We believe that what is needed is effective implementation of the law, statutes, and court rules that exist to ensure due process and procedural fairness for every survivor who chooses to seek protection from the courts. The first and probably most crucial way to do this is by investing in robust and comprehensive education on the dynamics of domestic violence for all legal system stakeholders. Due to the unique dynamics of domestic violence, court staff must understand and develop skills related to a wide range of legal and social issues including victim recantation, lethality assessment, admissibility of evidence of past violence, and children exposed to violence.<sup>10</sup> PCADV believes that every stakeholder involved in the protection order process or works with victims of domestic violence should receive regular training to remain current on the latest best practices and law changes. PCADV has almost 50 years of experience developing and delivering domestic violence education to legal system actors who serve survivors of domestic violence. We've been instrumental not only in the creation of new laws and policies impacting victims of domestic violence in Pennsylvania but also in the implementation and training of systems on the same laws. Consistent with the research and our experience and expertise working with victims of domestic violence and their children, PCADV urges the Legislature to consider requiring judicial consultation with the federally designated state-level experts on domestic violence and sexual assault when developing a curriculum to educate legal system actors on these issues.

PCADV also recommends that courts review their court procedures and practices to ensure procedural justice and fairness for all. The CCI defines procedural justice as the perceived fairness of

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<sup>10</sup> Jaffe, Peter. "Enhancing Judicial Skills in Domestic Violence Cases." *Futures Without Violence*, 2010, [www.futureswithoutviolence.org/wp-content/uploads/ejs-report-nov-12.pdf](http://www.futureswithoutviolence.org/wp-content/uploads/ejs-report-nov-12.pdf).

justice procedures and interpersonal treatment of victims/petitioners and defendants/respondents.<sup>11</sup> For many victims of domestic violence, the court experience is more influential than the actual case outcome.<sup>12</sup> Many PA courts can adapt their processes to respond to victims of domestic violence and improve their court experience. For example, this can be as simple as eliminating the use of pre-screening practices by court staff in PFA cases. This can also look like providing a clear process for litigants around requesting an accommodation like a virtual hearing or increasing the safety measures and precautions for victims to ensure they don't encounter an accused abuser in court. Research shows that litigants who feel the court process treats them respectfully are more likely to comply with court orders and engage with the system in the future.<sup>13</sup> These changes can happen without creating new laws and by simply encouraging courts and providing them with the supportive capacity to review and modify the procedures they have in place to meet the needs of all litigants.

This promise of procedural justice also includes courts considering and ordering weapons relinquishment in PFA cases. When an abuser has access to a firearm, the likelihood they will kill their victim is five times greater.<sup>14</sup> As such, courts need to recognize the grave risk posed to victims in letting an accused abuser retain control over firearms and order weapons relinquishment when appropriate. Act 79 of 2019 strengthened much of the PA law around firearms relinquishment in PFA cases by removing family and household members as acceptable third-party safe keepers, requiring

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<sup>11</sup> Malangone, Danielle. "Integrating Procedural Justice In Domestic Violence Cases: A Practical Guide." *Center for Court Innovation*, 2017, [www.innovatingjustice.org/sites/default/files/documents/Practice-Guide-PJinDV.pdf](http://www.innovatingjustice.org/sites/default/files/documents/Practice-Guide-PJinDV.pdf).

<sup>12</sup> Id.

<sup>13</sup> Tyler. Tom and Yuen J Huo. *Trust in the Law: Encouraging Public Cooperation with the Police and Court*. 2002

<sup>14</sup> Everytown for Gun Safety, *Guns and Violence Against Women: America's Uniquely Lethal Intimate Partner Violence Problem*, Oct. 17, 2019.



mandatory relinquishment after a final hearing, and shortening the period in which convicted abusers must relinquish their firearms, among other things. However, we continue to hear of courts who refuse to order weapons relinquishment in PFA cases when appropriate or required. PCADV's recommendation on this issue remains like our previous recommendations, and we feel stakeholders need proper education to understand the risk posed to victims of domestic violence when a firearm is present and that courts consistently order firearms relinquishment when appropriate.

PCADV's final suggestion does propose the potential opportunity to create new protections for what we feel is a gap in the existing protection order law in the state for victims of stalking. Under current law, victims of stalking must possess a family/household member relationship under the PFA Act or allege that the abuser committed an act of sexual violence against them to qualify for protection. Stalking is very common. Research reports about 1 in 6 women and 1 in 17 men reporting to have experienced stalking in their lifetimes.<sup>15</sup> Due to this we feel there is a need for this protection to include more victims. In addition, PCADV staff that speaks with victims through our PA Safe Law Project report often hearing from stalking victims who need legal protection but cannot qualify for one of the existing orders for whatever reason. PCADV recommends the Legislature explore the idea of expanding those who qualify for a protection order to victims of stalking by either a stranger or acquaintance or where there is no sexual violence alleged.

## **I. Conclusion**

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<sup>15</sup> United States Department of Health and Human Services. Centers for Disease Control and Prevention. National Center for Injury Prevention and Control. *National Intimate Partner and Sexual Violence Survey (NISVS): General Population Survey Raw Data*, 2010. Inter-university Consortium for Political and Social Research [distributor], 2016-06-09. <https://doi.org/10.3886/ICPSR34305.v>

PCADV is grateful for this opportunity to provide information and feedback on legal issues impacting domestic violence awareness and prevention in PA. This is a topic that demands diligent attention. We look forward to continuing to work with committee members, and other stakeholders on how to successfully implement our current PA law impacting victims of domestic violence, and on devising new solutions to holistically respond to domestic violence and the needs of victims throughout the Commonwealth.

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