

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE PHILADELPHIA POLICE DEPARTMENT AND THE PHILADELPHIA SHERRIFF'S OFFICE
REGARDING RESPECTIVE DUTIES AND RESPONSIBILITIES TO COMPLY WITH PENNSYLVANIA ACT 79.**

A. PARTIES

This agreement is entered into between the Philadelphia Police Department, hereinafter referred to as "PPD," and the Philadelphia Sheriff's Office, hereinafter referred to as "Sheriff."

B. PURPOSE

Pennsylvania Act 79, relating to Protection from Abuse Orders, Firearm Relinquishments, additional criminal investigative responsibilities of law enforcement and the implementation of the Protection from Abuse Database system (PFAD), creates additional duties and responsibilities for law enforcement across the Commonwealth. However, unlike other counties in the Commonwealth, in Philadelphia, these duties are distributed between the Philadelphia Police Department and the Philadelphia Sheriff's Office. Therefore, to best serve the victims of domestic violence in Philadelphia, it is imperative that the parties agree and have clear understanding of each agency's duties, responsibilities created by the Act 79 and avoid the duplication of efforts.

C. BACKGROUND

The Philadelphia Sheriff's Office shall be the primary entity responsible for serving Protection from Abuse Orders issued by the Court. The Philadelphia Police Department shall be the secondary entity responsible to serve Protection from Abuse Orders, when requested by Complainants.

D. PROCEDURE

1. Philadelphia Sheriff's Office Duties and Responsibilities

A. Protection from Abuse Orders (PFA)

1. On a daily basis, obtain all PFA Orders issued by the Philadelphia Courts that need to be served and compare with the list of all Protection from Abuse Orders entered into the Statewide Protection from Abuse Databases system (PFAD).
 - a. The Order will provide the following address of the Sheriff's Office/PPD where firearms, ammunition and/or firearms licenses can be relinquished or documentation that relinquishment was made to a third party by law can be delivered:

Philadelphia Sheriff's Office:

100 South Broad Street 5th floor Mon-Fri 7am-3pm.

Weapons can also be surrendered at the follow PPD Divisional Detective Unit between 3pm and 7am, Mon-Fri, Saturdays, Sundays and holidays 24/7.

PPD Detective Division locations are as follows:

- Central Division - 400 N. Broad Street (6th District)
- East Division – 3901 Whittaker Avenue (25th District)
- Northwest Division-5960 N. Broad Street (35th District)
- Northeast Division – 9359 Krewstown Road
- Southwest Division – 5510 Pine Street (18th District)
- South Division – 2301 S. 24th Street (1st District)

NOTE: Any firearms licenses received by the Sheriff's Office will be forwarded to the PPD Gun Permits Unit for revocation proceedings, if not already initiated.

2. Immediately address, with the Court, any discrepancies to ensure all Orders required to be served have been received from the Court.
3. Update the PFAD system for each PFA order served by the PPD.

NOTE:

PPD will notify the Sheriff of all PFA Orders served by PPD Officers to avoid duplicating service. The Sheriff's Office has created a dedicated email to receive this information from the PPD and PPD policy has been amended requiring every district to make notification via this email address.

4. Prior to attempting any service, conduct a preliminary investigation, including, but not limited to determining whether the order can be actually served. *(Does the order contain a legitimate address, name or other identifying information to effectively serve the defendant?)* If insufficient information is provided to serve the order, Sheriff's office will notify the Court via the dedicated email address that has been established and will add this information into the PFAD system.
5. Make a good faith effort to determine whether the defendant is listed as the owner of any firearms, possesses any ammunition and/or firearms license.
6. Determine whether the defendant is in custody.
7. Update the PFAD system for any PFA service, whether any firearms were relinquished and recovered by the Sheriff, or any affidavits of non-firearm ownership.
8. If Probable Cause exists to believe the defendant has refused

to relinquish any firearm and/or ammunition, forward the information to the PPD Gun Permits Unit who will coordinate and monitor a criminal investigation by the appropriate Division Detective Unit.

B. Failure to Relinquish Firearms, Ammunition and/or Firearms License

Despite any denial of ownership or possession of firearms/ammunition by a defendant, if any complainant alleges that the defendant possesses firearms/ammunition, or if any other Probable Cause exists that the defendant is criminally refusing to relinquish a firearm, ammunition or a firearms license the information will be forwarded to the PPD Gun Permits Unit to coordinate a criminal investigation.

C. Domestic Violence Convictions

If the Sheriff's Department becomes aware of any information pertaining to a defendant convicted of a felony or misdemeanor crime of domestic violence who has failed to relinquish any firearms, ammunition and/or firearms license, notify the Gun Permits Unit to coordinate the appropriate criminal investigation.

2. Philadelphia Police Department Duties and Responsibilities:

A. Protection from Abuse Orders (PFA)

1. Police Districts

District Police officers shall assist any victim/complainant in serving Protection from Abuse Petitions and/or Orders. The safety of the complainant will always be taken into consideration when serving a PFA Order.

- a. The service of all PFA Orders shall be governed by PPD Directive 3.9.
- b. When service of any PFA is made or firearms, ammunition or firearms license is recovered, District Operation Room Supervisors will ensure the incident report contains all relevant information, PFA numbers and docket numbers and will scan the report and any Property Receipts (75-3) to the Sheriff's Office at Sheriff.enforcement@phila.gov. A copy will also be sent to the Gun Permits Unit at Police.firearms.relinquishment@phila.gov.

2. Divisional Detectives

The recovery of any relinquished firearms, ammunition and/or Licenses to carry a firearm shall be processed by the Divisional Detectives. The assigned Detective will conduct a preliminary investigation to

determine the status of any firearm, complete the Property Receipt

marked "For Safekeeping" and will indicate in large letters "GUN RELINQUISHMENT – NO TESTING. All firearms will be forwarded to the Firearms Identification Unit, who will coordinate with the Sheriff's Office for the transfer of the Firearms to the Sheriff's Office.

NOTE:

Any illegal firearms seized (*i.e. stolen, obliterated serial numbers, etc.*) will be identified as evidence and processed through the PPD Firearms Identification Unit and the appropriate criminal investigation initiated.

3. Gun Permits Unit

The Gun Permit Unit shall serve as the unit within the PPD to manage and track all Protection from Abuse Orders served by PPD Officers, Firearm Relinquishments by PPD Officers, any necessary criminal investigations required and the necessary communication between the courts and the Sheriff's Office.

B. Failure to Relinquish Firearms, Ammunition and/or Firearms License

1. Gun Permits Unit

a. Probable Cause of Criminal Violation

Upon receiving information from the Sheriff's Department or independently developing information that a PFA defendant has intentionally failed to relinquish any firearms, ammunition and/or firearms license, Gun Permits shall:

- i. Coordinate with the Divisional Detective Unit of the defendant's residence to initiate a criminal investigation and monitor the status of the investigation for violation of the Uniform Firearms Act §6105 (a.1)(2) for failing to relinquish firearms within 24-hour of service.
- ii. Notify the Sheriff's Office that a criminal investigation has been initiated and follow up, when appropriate with the status of the investigations.

b. Open Relinquishment Order in PFAD

When a Firearm Relinquishment Order is issued and remains open in the PFAD system (*i.e. not otherwise closed out based upon an affidavit of non-ownership, inability to produce or the actual relinquishment of the firearms by the defendant*), Gun permits shall:

- i. Coordinate with the Divisional Detective Unit of the defendant's

residence to initiate a criminal investigation for violation of the Uniform Firearms Act §6105 (a.1)(2) for failing to relinquish firearms within 24-hour of service.

- ii. Notify the Sheriff's Office that a criminal investigation has been initiated and follow up, when appropriate with the status of the investigations.

C. Domestic Violence Convictions

1. The Defense Bar in Philadelphia has indicated that they may not permit their clients to admit or deny ownership of any firearms, ammunition and/or firearms licenses, whether legal or illegal, based upon their 5th Amendment rights. As such, the Court will most likely not receive a list of firearms owed or possessed by the defendant or any affidavits of non-ownership from these defendants. Therefore, the Court is required by law to issue a Firearms Relinquishment Order (*See, Appendix A for a sample order*), even though the defendant may not own or possess any firearms. These Orders provide written notice to each defendant explaining their responsibility to relinquish any firearm, ammunition or firearms licenses within 24 hours to the Philadelphia Sheriff/Police or to surrender the same to a third party authorized by law or risk additional criminal sanctions.

a. Court - Firearm Relinquishment Orders

1. The Court will issue an order for Firearm Relinquishments Order in domestic violence-related convictions and will insert all available information pertaining to the defendant, including the date and time by which the defendant must make any relinquishment.
2. This Order will inform the defendant that they can no longer legally possess any firearms, ammunitions and/or firearms licenses and that the defendant and must relinquish such within 24 hours to the Philadelphia Sheriff, Police or a third party authorized by law.
3. This Order will also provide the following address of the Sheriff's Office/PPD where firearms, ammunition and/or firearms licenses can be relinquished or documentation that relinquishment was made to a third party by law can be delivered:

Philadelphia Sheriff's Office:

- 100 South Broad Street 5th floor Mon-Fri 7am-3pm.

Weapons can also be surrendered at the follow PPD Divisional Detective Unit between 3pm and 7am, Mon-Fri, Saturdays, Sundays and holidays 24/7.

PPD Detective Division locations are as follows:

- Central Division - 400 N. Broad Street (6th District)
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NOTE: Any firearms licenses received by the Sheriff's Office will be forwarded to the PPD Gun Permits Unit for revocation proceedings, if not already initiated.

4. The court will scan a copy of all Firearm Relinquishment Orders to both the PPD and the Sheriff's Office at Sheriff.enforcement@phila.gov AND Police.firearms.relinquishment@phila.gov

b. PPD Responsibility

1. Gun Permits Unit

- a. Upon receipt of the Firearms Relinquishment Order, the PPD Gun Permits Unit will make a good faith effort to determine whether the defendant is listed as the owner of any firearms, possesses any ammunition and/or firearms license.
- b. If it appears that the defendant does not own any firearms, ammunition and/or firearms licenses, PPD Gun Permits Unit will notify the Court at OJRRelinquishment@courts.phila.gov , the District Attorney at DA GVTF ACT79@phila.gov and the victim by phone or US mail.

NOTE:

If the victim indicates that the defendant does, in fact, possess firearms and/or ammunition, the PPD Gun Permits Unit will initiate a criminal investigation via the appropriate Detective Division and will notify the Court at

OJRRelinquishment@courts.phila.gov and the District Attorney's Office at DA GVTF ACT79@phila.gov .

- c. If PPD discovers that the defendant owns or possesses any firearms ammunition and/or firearm licenses, PPD Gun Permits Unit will coordinate with the Sheriff's Office to determine whether the defendant has relinquished the firearms, ammunition or firearms licenses within the 24 hours of being ordered to do so or provided other documentation confirming the firearms, ammunition and or firearms licenses were surrendered to a third party as authorized by law.
- d. If the defendant failed to relinquish as required, the PPD Gun Permits Unit will notify the Court at OJRRelinquishment@courts.phila.gov , the District Attorney at and the victim by phone or US mail. PPD Gun Permits Unit will initiate a criminal investigation via the appropriate Detective Division.
- e. If the Gun Permit Unit independently becomes aware or is notified by the Sheriff's Department pertaining to a defendant convicted of a felony or misdemeanor crime of domestic violence who has failed to relinquish any firearms, ammunition and/or firearms license, Gun Permits Unit will coordinate with the Divisional Detective Unit of the defendant's residence to initiate the appropriate criminal investigation and notify the Court at OJRRelinquishment@courts.phila.gov, the District Attorney at DA GVTF ACT79@phila.gov and the victim by phone or US mail.
- f. If any firearms, ammunition and/or firearm licenses are relinquished, the Gun Permits Unit will ensure a copy of both the Relinquishment Order and the Property Receipt (75-3) is forwarded to the Court at OJRRelinquishment@courts.phila.gov and the District Attorney at DA GVTF ACT79@phila.gov so that the detailed information regarding the relinquished property can be property docketed by the Court.

NOTE:

The Property Receipt (75-3) contains all information required by Act 79 for the information to be properly docketed by the Court.

2. Divisional Detective Responsibilities

A. Divisional Detectives Receiving Relinquished Firearms, Ammunition and/or Firearms Licenses - The Assigned Divisional Detective receiving any relinquished firearms or ammunition will:

- i. Conduct a preliminary investigation into the status of each firearm. Any illegal, lost or stolen firearms will be fully investigated and marked on the Property Receipt (75-3), "For Investigation" and will be processed by the Firearms Identification Unit.
- ii. Mark all lawful firearms, "For Safekeeping," on the Property Receipt (75-3). Also, in large letters in the body of the Property Receipt (75-3) the Assigned Detective will insert, "DOMESTIC GUN RELINQUISHMENT – NO TESTING REQUIRED."
- iii. Forward all domestic gun relinquished to the Firearms Identification Unit, who will make arrangements to have domestic relinquishments transferred to the Sheriff's Office as soon as possible.
- iv. Ensure a copy of the Property Receipt (75-3) is scanned to both the Sheriff's Office at Sheriff.enforcement@phila.gov AND PPD at Police.firearms.relinquishment@phila.gov

B. Divisional Detectives Requested to Initiate Criminal Investigations of Act 79/VUFA violations by GPU – The Assigned Divisional Detective will:

- i. Initiate a criminal investigation into the Act 79/VUFA violation as soon as possible.
- ii. Update the GPU with the status of the investigation and whether any Affidavits of Probable Cause for Arrest Warrants have been submitted to the DAO, the status of the Affidavits, whether Arrest Warrants have been issued, and whether any arrests have been made.

NOTE:

It is important that this information is communicated back to the GPU because this information must be relayed back to the Court and the GPU has been designated as the centralize conduit between the PPD, the Courts and Sheriff's Office.

3. The Firearms Identification Unit will:
 - a. Receive all domestic relinquished firearms and ammunition.
 - b. Not test any firearms received that are identified as *"DOMESTIC GUN RELINQUISHMENT – NO TESTING REQUIRED."*
 - c. Coordinate to transfer of any relinquished firearms and ammunition to the Sheriff's Office as soon as possible.

E. GENERAL TERMS AND CONDITIONS

1. TERM

This Agreement shall become effective upon signing by both Parties and remain effective until terminated by either Party. Either Party may terminate this Agreement with one hundred and twenty (120) days notice to the other Party. Investigations that have commenced will be completed, unless mutually agreed.

2. CLAIMS ACT - LIMITATION OF LIABILITIES STATUTES – NO WAIVER OF LIABILITIES

- A. Each party agrees that it will be responsible for its own acts and/or omissions and those of its officials, employees, representatives and agents carrying out the terms of this Agreement and the results thereof to the extent authorized by law and shall not be responsible for the acts and/or omissions of the other party and the results thereof.
- B. It is understood and agreed that each party's liability may be limited by the provisions of the Pennsylvania Political Subdivision Tort Claims Act ("PSTCA"), 42 Pa.C.S. §§8541 *et seq.* or other immunity laws applicable. The parties understand and agree that each party is relying on, and has not waived, the monetary limitations and all other rights, immunities and protections provided by the PSTCA. Nothing contained in this Agreement shall waive or amend, nor shall it be construed to waive or amend any defense or immunity that either party, their respective officials, and employees, may have under the PSTCA or any other

common-law immunity or limitations of liability, all of which are hereby reserved by the parties.

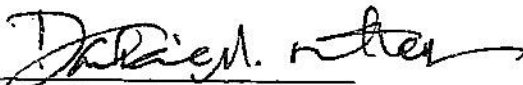
3. AMENDMENT AND MODIFICATION:

No alterations or variations to this Agreement shall be valid unless made in writing and signed by the parties.

4. THIRD-PARTY RIGHTS:

The parties to this Agreement understand that this Agreement does not create or intend to confer any rights in or on persons or entities not a party to this Agreement.

IN WITNESS WHEREOF, and intending to be bound hereby, the parties subscribe their signatures to this Agreement herein below.



Danielle M. Outlaw
Philadelphia Police Commissioner

4/19/22
Date



Rochelle Bilal
Philadelphia Sheriff

4-18-22
Date

