

2.7.3 Service of Civil Process

I. POLICY

It is the policy of the Johnstown Police Department that all personnel comply with the provisions of this general order.

II. PURPOSE

This general order is to establish guidelines for police officers executing the criminal process in accordance with the Pennsylvania Rules of Criminal Procedure.

III. PROCEDURE

In General, the only civil processes that may become the responsibility of the Johnstown Police Department are the following:

A. Protection from Abuse Orders

1. A complaint report shall be initiated in the records management systems whenever someone presents a Protection From Abuse Order to the police department. It is important to determine if the order has been served. The complaint will document all pertinent information associated with the order and the parties involved, including:
 - a. Date and time received.
 - b. Type of legal process
 - c. Nature and source of document.
 - d. Names of parties involved.
 - e. Individual receiving the document.
 - f. Identifying number, such as, a docket number.
 - g. Date of expiration.
2. The copy of the Protection From Abuse Order will be turned over to the records department and maintained in a file. This file will be accessible to all personnel on a twenty-four [24] hour a day basis.
3. Protection From Abuse Orders will be served by Johnstown Police Officers on defendants living or working in the City of Johnstown or within the jurisdiction under the following circumstances:
 - a. Emergency Protection From Abuse orders issued by the district judge.
 - b. When requested to serve, or assist in service, by the Cambria County Sheriff's Department.
4. All foreign protection orders shall have the presumption of validity in this Commonwealth and officers shall make arrests for violations thereof, in the same

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manner as set for violations of protection orders issued within this Commonwealth. Officers shall rely upon any copy of a foreign protection order, which, has been presented to the officer by any source. Officers should attempt to verify the existence of a protection order. The fact that a foreign protection order has not been filed with a Prothonotary or entered into the Pennsylvania State Police registry shall not be grounds for an officer to refuse to enforce the order.

B. Indirect Criminal Contempt

1. Based upon probable cause, officers shall arrest a defendant for violating an order issued by a court within our judicial district, issued by a court in another judicial district within this Commonwealth, or a foreign protection order issued by a comparable court. The violation does not have to occur in the presence of the officer.
2. A violation of a protection from abuse order [23 Pa. C.S. 6113] shall be on a separate criminal complaint from any other charges that may have occurred. The probable cause should refer to the issuing court and the number assigned to the Protection From Abuse Order. A copy of the order should be attached to the criminal complaint.
3. When there is probable cause that a violation of a Protection From Abuse order has occurred and the defendant is present, the officer shall immediately effect an arrest. When there is probable cause that a violation of a Protection From Abuse order has occurred and the defendant is not present, the officer shall make a reasonable effort to apprehend the defendant. If the defendant cannot be located within a reasonable amount of time, the officer shall file a criminal complaint and request an arrest warrant be issued for the defendant.
4. Following arrest, the defendant shall be taken for an arraignment before the common Pleas Court in the judicial district where the contempt is alleged to have occurred. When the court is unavailable, the officer shall take the defendant before the local or on call District Judge.
5. Subsequent to an arrest, the officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse.
6. Officers shall make every reasonable attempt to notify victims when a defendant has been arrested for a violation of protection order. Officers should also provide victims with offender status information after the completion of the arraignment, such as, was the defendant released or committed.

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C. Child Custody Orders

1. The Johnstown Police Department will not service child custody orders.
2. Police Officers may become involved in child custody orders when it is necessary to arrest a person actively attempting to remove a child from a court appointed custodian, pursuant to section 2904 of the Crimes Code as it relates to interference with the custody of children.

D. Eviction Orders

1. The Johnstown Police Department will, upon request, assist the Cambria County Sheriff's Department or Pennsylvania State Constables in the execution of eviction orders.
2. The Cambria County Sheriff's Department and the Pennsylvania State Constables control all other civil processes in support of the judicial function.

Effective Date:

Date: March 16, 2007

By Order Of:

Craig Foust
Chief Of Police