

## Saving Lives in Domestic Violence Cases

Amy's\* boyfriend had paranoid schizophrenia and became violent when he stopped taking his medication. First, he slammed Amy's head against the wall. Next, he threatened to kill her. Finally, he came after her with a chainsaw. The ending of this story could have been a horrific tragedy. But the Protection from Abuse order that LASP helped obtain for Amy changed the narrative and enabled her to begin to rebuild her life. This story is only one of hundreds of domestic violence cases that LASP staff and volunteer attorneys handled last year.

LASP's volunteer attorneys play a key role in helping people like Amy. Domestic violence cases are particularly well suited for pro bono work. Petitioning for a PFA doesn't require an abundance of time or research, yet the impact is tremendous. Research shows that PFAs reduce violence and abuse, and a recent report by the Institute for Policy Integrity finds that victims who are able to access civil legal services are significantly more likely to obtain a protective order. Civil legal attorneys can also help with custody and housing, related legal issues that challenge a client's ability to escape an abusive relationship.

October is Domestic Violence Awareness Month, a time to renew our commitment to ensuring the basic human right to be free from violence. Twelve million people a year are victims of intimate partner violence. This is a powerful number and represents the lives of people like Amy who want nothing more than to live in peace and dignity, free from abuse. The civil legal services that LASP delivers can provide that first step to a better life.

*\*Neither the clients' actual names nor photos are used.*

*From the LASP Case Files\**



PHOTO © LAURA ZALENGA, CREATIVE COMMONS

**LASP successfully intervened when an elderly woman was threatened by her brother. Domestic violence can affect anyone, at any age.**

Ms. P\*, an elderly widow, reached out to LASP when she was threatened by her brother who was addicted to alcohol. Her brother had moved in and out of his siblings' homes, finally settling with Ms. P when he agreed to stop drinking. However, he quickly broke his promise. As his alcoholism worsened, he went into rages and threatened to burn Ms. P's house down.

Ms. P's LASP attorney helped her file a Protection from Abuse petition. The order was granted, and her brother was evicted from her residence. Ms. P. was able to rebuild a life of peace and security knowing that her brother was prohibited from coming back to the home.

**Serving Bucks, Chester,  
Delaware and Montgomery  
Counties Since 2001**

[www.lasp.org](http://www.lasp.org)

## **Mission**

The mission of LASP is to provide quality legal representation to low-income and vulnerable people from Bucks, Chester, Delaware and Montgomery Counties, to empower them to solve problems without legal representation through legal education and increased access to the courts, and to change community practices and systems that cause or aggravate poverty.

## **Nancy R. Paul**

President

## **Elizabeth Wood Fritsch, Esq.**

Executive Director  
610-275-5400 x117

## **Central Administration**

625 Swede Street, Norristown, PA 19401  
610-275-5400

***“To deny any person their  
human rights is to challenge  
their very humanity.”***

**Nelson Mandela**

Please Note: Articles in this newsletter are intended to provide general information and not specific legal advice. If you have a specific legal problem, you should consult an attorney or call our toll-free Helpline at 1-877-429-5994.



## Domestic Violence Law Issues

*Domestic violence cases LASP handles may have broader influence by creating case law or educating the legal community. With hundreds of calls placed to domestic violence hotlines in Pennsylvania on any given day, these changes potentially impact thousands of Pennsylvanians each year.*

### **Setting Precedent**

#### ***Better protections in marital sexual assault cases***

In 2014, the Superior Court of Pennsylvania rendered an opinion on a case involving a LASP client that contributed to a clearer understanding of what constitutes marital sexual assault and abuse under the Protection from Abuse Act. In this case, a wife had been forced to have sex with her husband, and when she refused, he cut off financial support for her and their child. LASP helped the wife obtain a PFA order which the husband appealed, arguing that a finding of abuse under the PFA Act cannot occur without physical force, and that exchanging sex for support is not force and thus not abuse.

In its ruling, the superior court upheld the PFA, affirming two things. First, that when a spouse is forced to engage in non-consensual sex, that act constitutes abuse; and secondly, withholding financial support in exchange for sex equals forcible compulsion.

This important decision adds greater protection for women under the PFA Act. Laurie Baughman, Senior Attorney at Pennsylvania Coalition Against Domestic Violence, which lent technical support to LASP during the appellate process, said that this was an **“amazing case for precedent and gave us strong interpretive language around sexual assault.”**

“At PCADV,” she added, “we’ve used this case as part of our updates about the PFA Act, in webinars, and for trainings.”



# Fact Sheet

**Issues in Domestic Violence Law | Fall 2015**

## **Prepared by Legal Aid of Southeastern Pennsylvania**

This fact sheet is intended to provide general information and not specific legal advice. The law often changes. Each case is different. If you have a legal problem, you consult an attorney or call the LASP at 1-877-429-5994.

### *Se habla español.*

*Asistencia Legal del Sureste de Pennsylvania provee servicios legales civiles gratis para ciudadanos de bajos ingresos de los condados de Bucks, Chester, Delaware, y Montgomery.*

**Domestic violence** is a pattern of abusive behavior within an intimate relationship that is used by one partner to gain power or control over the other partner. This behavior can include physical, sexual, or psychological violence, and emotional abuse.

## Domestic Violence

Domestic Violence can affect people of all races, income levels, religions, genders, sexual orientations and ages. Safety planning is essential. Speak with a counselor at one of the domestic violence hotlines listed on this Fact Sheet to develop a safety plan.

### **What is a PFA order?**

A protection from abuse order is a civil order signed by a judge that prohibits abusive behavior.

### **What types of PFA orders are there?**

There are three types of PFA orders. If courts are closed, you can get an emergency order. This remains in effect until the courts re-open, when a hearing is scheduled to grant an ex parte temporary order. "Ex parte" means that the judge will make this decision based only on the information you provide, without the abuser being in court. This temporary order will last until your full court hearing for the final PFA where the abuser has an opportunity to testify and present evidence. A final PFA order lasts up to 3 years and can be extended under certain circumstances.

### **How does a PFA order protect the victim?**

A protection from abuse order can:

- order the abuser not to abuse, harass, or stalk you, your relatives or your minor children;
- order the abuser to be removed from the home where you both live and grant you possession of the home;
- award temporary custody or visitation rights of your minor children;
- order the abuser to pay financial support to you or your children;
- prohibit the abuser from having contact with you or minor children,
- order the abuser to turn in any firearms, other weapons, and ammunition to the police, if s/he used them or threatened to use them during the abuse, and prohibit him/her from getting additional firearms;
- order the abuser to pay you for reasonable losses resulting from the abuse (this may include the cost of medical/dental care, relocation and moving expenses, attorney and counseling costs, as well as loss of earnings or support); and
- grant any other appropriate relief you request. *(from WomensLaw.org)*

*The Pennsylvania Protection from Abuse Act was enacted in 1976 to provide protection and relief to victims of domestic violence.*

# Fact Sheet

*Issues in Domestic Violence Law | Fall 2015*

## Domestic Violence WHAT YOU NEED TO KNOW

### ***What are my options?***

- If you are in a life-threatening situation, call 911.
- For an emergency Protection from Abuse order you must go directly to your county courthouse.
- For legal help with PFAs, call your county LASP office, listed below. For other types of legal service related to domestic violence, call the LASP hotline at 877-429-5994, Monday - Friday, 9am - 1pm.

### ***What is the Protection from Sexual Violence and Intimidation Act?***

The Protection from Sexual Violence Or Intimidation (PSVI) Act, went into effect in Pennsylvania on July 1, 2015. The PSVI Act applies to victims who are not family and household members, extending protection to include victims of sexual violence who do not have an intimate or family/household relationship.

### ***I'm not a U.S. citizen. Will I be deported if I seek help?***

It is safe to call a domestic violence helpline which can provide you with the safest options for your situation. In addition, under certain circumstances, the U.S. Immigration and Customs Enforcement offers protection for non-citizen victims of domestic violence. Non-citizens can apply for special status to stay in the country legally. Please consult with an immigration attorney or domestic violence hotline for more information.

### ***What about my housing situation?***

The Violence Against Women Act includes protections against eviction for those living in most affordable housing programs. It's discriminatory to deny housing to a woman for violence committed against her.

## 24-Hour Domestic Violence Hotlines

### ***Bucks County***

A Woman's Place 800-220-8116

### ***Chester County***

Domestic Violence Center of Chester Co. 888-711-6270

### ***Delaware County***

Domestic Abuse Project of Delaware Co. 610-565-4590

### ***Montgomery County***

Laurel House 800-642-3150

Women's Center of Montgomery County 800-773-2424

## LASP Legal Assistance

For help in obtaining a Protection from Abuse order, contact the LASP office in your county:

### **Bucks**

Doylestown 215-340-1818

### **Chester**

West Chester 610-436-4510

### **Delaware**

Chester 610-874-8421

### **Montgomery**

Norristown 610-275-5400

Pottstown 610-326-8280

## Domestic Violence Law Issues

### **Federal v. State Law**

#### ***Raising awareness of federal law protections***

Seth Weber spent 26 years as an assistant U.S. Attorney for the Eastern District of Pennsylvania prosecuting federal criminal cases. Weber now handles many PFA cases as a pro bono attorney in LASP's Bucks County office, and his deep knowledge of federal law has proved useful in this work.

"I was in court in Bucks County to obtain a PFA order for my client," recounted Weber. "The client's husband was a hunter, and his lawyer asked the judge for permission for him to be allowed to keep the gun."

While Pennsylvania law says that a judge has discretion under the PFA Act to decide whether someone can keep a firearm, there is also federal law that states that a person who is under a PFA is prohibited from possessing a gun, and can be arrested for the same. Sometimes local, county and state judges are not aware of conflicts between state and federal laws. By filing a motion in Bucks County that addressed this conflict, and requesting that the hunter's firearm be relinquished to the Sheriff's office, Weber said, "What I did was hopefully make the judges aware that there is this federal law. If judges know about the law they are less likely to allow a person under a PFA order to keep their firearms."

### **Thinking Outside the Box**

#### ***Protecting access to police reports***

Weber has encountered other challenges while representing PFA clients. Recently he requested police reports for a victim he was representing. "In the three and half years I have been working on PFA cases, I have never been refused documents on domestic violence," Weber noted. This time, however, the Bensalem, PA Police Department refused to turn over the records, and filed a motion to quash his subpoena. The police department claimed that the incident reports were investigative reports under the Criminal History Record Information Act (CHRIA), and could only be provided to a criminal justice agency. Weber, they asserted, did not qualify as a criminal justice agency.

"The very first words to describe a criminal justice agency under CHRIA are 'Any court,'" he said. "I started thinking outside the box; a subpoena is not actually from me, the lawyer. I am only the messenger. A subpoena is actually an order of the court, and must be considered a criminal justice agency. Thus, the police department is required to provide these records." This was the argument Weber made to the presiding judge of the Bucks County Court of Common Pleas who agreed and ordered the police department to release the records. This case could set a precedent for future Bucks County domestic violence cases.

## LASP County News & Notes

### **Bucks**

LASP attorneys presented information about civil legal issues to women in recovery at Libertae in Bensalem, PA. Libertae offers services related to addiction and other behavioral health disorders for women and their families.

### **Chester**

LASP Chester County recently partnered with Safe Harbor of Chester County, an emergency shelter for homeless men and women, to provide a free Birth Certificate Clinic. LASP and volunteer attorneys processed 42 birth certificate requests.

### **Delaware**

LASP is grateful to the E. Wallace Chadwick Memorial Fund and the Ethel Sargent Clark Smith Memorial Fund for their donations enabling LASP to improve its Chester office.

### **Montgomery**

Erica Briant, the Equal Justice Works AmeriCorps Legal Fellow at LASP, facilitated a CLE Expungement Clinic with the Montgomery County Clerk of Courts office, District Attorney's office and the Public Defender's office. The CLE drew a capacity crowd of 75 attorneys, 20 of whom joined LASP's Pro Bono program.

**Bucks County**

50 N. Main Street, 2nd Floor  
Doylestown, PA 18901  
215-340-1818

1290 Veterans Hwy, Box 809  
Bristol, PA 19007  
215-781-1111

**Chester County**

222 N. Walnut Street  
West Chester, PA 19380  
610-436-4510

**Delaware County**

410 Welsh Street  
Chester, PA 19013  
610-874-8421

**Montgomery County**

625 Swede Street  
Norristown, PA 19401  
610-275-5400

248 King Street  
Pottstown, PA 19464  
610-326-8280

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## Free Legal Help

Legal Aid of Southeastern PA provides free civil legal services for low-income residents of Bucks, Chester, Delaware and Montgomery counties.

**For free help, call:**  
**1-877-429-5994**  
**Mon-Fri, 9 am-1pm**  
**TOLL-FREE**

**Se habla español.**

Asistencia Legal del Sureste de Pennsylvania provee servicios legales civiles gratis para ciudadanos de bajos ingresos de los condados de Bucks, Chester, Delaware, y Montgomery.

**LASP offers educational brochures on these topics. To order copies, in English or Spanish, call the Helpline.**

Advance Healthcare Declarations and Living Wills  
Bankruptcy  
Child Support  
Credit Reports  
Custody  
Divorce and Separation  
Evictions  
Expungements/Pardons

Food Stamps  
Grandparent Custody Rights  
Issues in Aging  
LIHEAP  
Medical Assistance  
Power of Attorney  
Preventing Foreclosure  
Protection from Abuse  
Public Housing  
Repossessions  
Security Deposits  
Supplemental Social Security (SSI)  
Unemployment Comp  
Utility Services and Tenants Rights

## Community Education and Outreach

LASP offers community legal education, staff in-service training and outreach about our services to a variety of groups in our four-county region. To schedule a LASP representative for an upcoming event, call Kesha James, Esq. at 610-275-5400 x131.