

CIVIL PROTECTION ORDER:

**How is This Piece of Paper
Going to Protect Me?**

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Civil Protection Order: How Is This Piece of Paper Going To Protect Me?

Pamela married David when she was fifteen; after fourteen years of an abusive marriage, Pamela left David. David sought her out at her job, assaulted her and tried to abduct her. David kept threatening to kill Pamela. She got a restraining order against David. When Pamela called the police about David violating the protection order she was told, "Well, that's a civil matter. You have to handle that with your own lawyers" (Swisher, 1996, p. 42). Later, David gunned Pamela down in the parking lot of a restaurant (Swisher, 1996).

INTRODUCTION

Everyday women die from domestic abuse; the victims' stories "[m]ake absorbing TV movies, and the reports always 'shock and sadden' the press and public alike" (Swisher, 1996, p. 42). "[S]ome bereaved relative explains to reporters that the murder victim *did* call the police, she *did* get an order of protection, she *did* leave the man, and yes, she *did* say over and over that he was trying to kill her" (Swisher, 1996, p. 42).

Nationwide, it is estimated 1.5 million women are assaulted by intimate partners annually (Tjaden & Thoennes, 2000). Women are often advised to seek an order of protection when involved in an abusive relationship of domestic battery. Yet, only twenty percent (20%) of women who are victims of

intimate partner violence in the United States seek protection orders (Holt, Kernic, Lumley, Wolf, Rivara, 2002).

In obtaining an order of protection women have faith that the legal system will protect them from further violence (Fischer & Rose, 1995). Women want to believe the implicit message behind an order of protection is "I can leave you, and you can't hurt me for it" (Fischer & Rose, 1995, p. 416).

Yet, if stories like Pamela's are so common, why get an order of protection? How is a piece of paper going to protect a victim of family violence?

Although the answer to these questions may depend on the state jurisdiction the victim resides in, this paper will address the basic premise for the issuance of a civil order of protection to a victim of family violence, the relief provided, enforcement practices, and the effectiveness of an order of protection as a means to prevent future abuse.

DEFINITION OF A PROTECTION ORDER

A protection order includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court (other than a support or child custody order issued pursuant to State divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other Federal law) whether obtained by filing an independent action or as a pendente lite order in another

proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection (VAWA, 1994, 18 U.S.C. § 2266).

(A pendente lite order is a pending order contingent upon the determination of a lawsuit; for example a divorce preceding or criminal case) (Gilbert Law Dictionary, 1994). Depending on the jurisdiction, the terminology for an order of protection varies. Some protection orders may be called an injunction, restraining order, a stay away order, a no-contact order, an emergency or temporary protection order (International Association of Chiefs of Police [IACP], 2002). An emergency or temporary order is also called an ex parte order, and is usually for a short specific time period.

Orders of protection can be either criminal orders or civil orders. Normally, an order of protection is procured in a civil court proceeding and is utilized for domestic violence situations. However, protection orders can also be imposed by the presiding judge as a condition of bond and/or probation in a criminal case (Crowell & Burgess, 1996). These type orders are commonly issued in criminal charges for assault, battery, harassment, terroristic threatening, or stalking (P. McDaniel, personal communication, October 18, 2002). For the purposes of this paper, civil protection orders will be addressed.

CONCEPT OF A CIVIL PROTECTION ORDER

A civil protection order is intended to help protect victims from experiencing further harm or harassment by their abusers (Davis & Smith, 1995). It can be viewed as a contract between the victim of abuse and the legal system to provide her safety; it will not to force a change in the behavior of the batterer (Horton, Simonidis, Simonidis, 1987). As such, civil protection orders do not ensure a violence free relationship; the victim cannot continue to live with a violent partner and use the order as a guarantee of protection should he break his promise that "it will never happen again" (Hilton, 1993, p. 101). A civil protection order is most effective when the victim is committed to terminating the relationship with the batter (Horton, Simonidis & Simonidis, 1987).

HISTORICAL OVERVIEW OF CIVIL PROTECTION ORDERS

Historically, courts have had the power to issue injunctive orders for many years. However, until recent enactment of specific domestic violence statutes, such orders were rare because they were considered an "exceptional imposition on citizenry rights" (Buzawa, & Buzawa, 1996, p. 187). The courts felt their primary purpose was to decide matters of law and try issues of fact (Buzawa & Buzawa, 1996),

not mediate private family matters. Therefore, civil orders of protection were utilized as a response to domestic violence, because of the reluctance of the criminal justice system to handle it as a criminal matter (Klein, 1996).

Early civil protection orders often lacked clarity and had limited scope concerning qualification, relief provided, and enforcement provisions (Finn & Colson, 1990). However, in the last fifteen years, increased public awareness of the social problem of family violence has caused the expansion of legislative coverage and applicability of civil protection orders. "For example, in 1983 only seventeen (17) states provided protection against abuse by an unmarried partner living as a spouse" (Finn & Colson, 1990, p. 7), and only twenty-nine (29) states recognized *attempted* physical abuse as a basis for issuing a protective order (Finn & Colson).

Today, "[a]ll fifty states and the District of Columbia have now enacted laws providing victims of domestic violence direct access to courts via protective orders" (Hart, 1992; National Council, 1992 as cited in Buzawa & Buzawa, 1996, p. 188). Since individual state statute authorizes the issuance of civil protection orders, each state regulates the eligibility of who may apply for an order, what offenses permit the issuance of an order, the kinds of relief granted

by the order, and provisions for enforcement of the order (Finn & Colson, 1990).

PETITION BASIS FOR CIVIL PROTECTION ORDERS

The victim of domestic abuse must petition the court either through an attorney (usually the prosecutor of the jurisdiction), or the victim may appear pro se (the victim represents herself) (Finn & Colson, 1990). Depending on jurisdiction, some states do not require a filing fee to apply for an order of protection; other states have provisions to waive the filing fee if the victim is determined to be indigent (Finn & Colson, 1990). Many states statutorily provide the Court the discretion to order the respondent (abuser) to pay any costs or attorney fees incurred by the victim in obtaining a civil order of protection (Finn & Colson). The victim is required to attest to the abusive nature of the relationship, citing specific dates and times of incidents. The presiding Judge then determines the issuance of the order.

Petitioner

Domestic abuse is most commonly viewed as male-on-female, husband-on-wife. However, it can also include other family or household members, which not only comprises the current spouse, it can also include a former spouse, parents, in-laws, children, other blood relatives, and same sex cohabitants

(Finn & Colson, 1990; Zorza, 1994). Most orders may be obtained by anyone who cohabitated together at any point in time, had a child in common, or if statutorily provided, individuals that have been in a dating or intimate relationship (Zorza, 1994). An adult family or household member can be a petitioner on behalf of an abused family or household member who is a minor or who has been adjudicated incompetent (Domestic Abuse Act of 1991).

Each state's statutes differ in the latitude provided judges in determining who is eligible to petition the court for a civil protective order. The petitioner (the person applying for the order) and the respondent (the person the order is against [the abuser]) must meet the definition of a domestic relationship specified by the respective state statute to qualify for a civil order of protection. Statutes range from very specific to very broad eligible petitioners (Finn & Colson, 1990).

"For example, the Minnesota statute makes all of the following eligible for relief: '...spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time'" (Finn & Colson, p.7). Alaska limits

petitioners to those "individuals who are living or previously lived in a spousal relationship with the respondent" (Finn & Colson, p. 10). In some states, victims may be ineligible for a protection order if she is residing in a separate residence (Finn & Colson); this is of particular concern since women who leave their abuser are at a seventy-five percent (75%) greater risk of being killed than those who stay with their abuser (National Coalition Against Domestic Violence, 1998). A few states, such as Texas and West Virginia, do not permit a civil order of protection to be issued if an action for legal separation or divorce is pending between the parties; Missouri law automatically terminates a civil order of protection when a decree of legal separation or dissolution of marriage is entered (Finn & Colson). Several states specifically provide that the petition can be filed regardless of any pending litigation between the parties; other state statutes are silent on this issue (Finn & Colson).

Qualifying Abuse

Actual physical abuse is not the sole requirement to obtain a civil order of protection. Some states permit victims to petition on *threatened* physical abuse and *attempted* physical abuse (Finn & Colson, 1990). Sexual assault, malicious damage to the personal property of the abused party, coercion, harassment, reckless endangerment, financial

deprivation, stalking and unlawful imprisonment can be considered domestic violence, and provide adequate grounds for the issuance of a civil protective order (Finn & Colson; Valente, Hart, Zeya, & Malefyt, 2001).

The qualifying time between an abusive incident and the request for a civil protection order petition ranges from forty-eight (48) hours up to 180 days depending on the state (Steinman, 1991). However, most judges use their own discretion. Judges have reported "[t]hey have found that victims often need several days or even weeks after the incident to learn about the availability of civil protection orders; to seek encouragement from family, friends, or victim advocates to initiate legal action; and to reach an invariably difficult decision to petition for an order" (Finn & Colson, 1990, p. 11)

Standard of Proof

As a civil proceeding, civil rules of procedure usually apply; the evidence need only be established by the preponderance of the evidence, and not beyond a reasonable doubt as in a criminal court. Some states have specific statutory standards of proof; Maryland requires "clear and convincing" evidence of abuse, and Wisconsin requires "reasonable grounds" (Finn & Colson, 1990, p. 14).

Civil protective orders originate out of civil powers of a general or specialized court's authority to resolve family and marital problems (Buzawa & Buzawa, 1996). Hearings are designed to prevent future unlawful conduct rather than punish past criminal behavior (Finn, 1989 as cited in Buzawa & Buzawa, 1996, p. 189).

Although a civil protection order is not to punish the abuser, criminal charges may originate from the precipitating incident of abuse that led the petitioner to request an order. The abusive act itself would then be subject to the standard of proof applied to criminal law and the applicable imposition of criminal sanctions under a domestic abuse statute in that particular jurisdiction.

ISSUANCE OF CIVIL PROTECTION ORDERS

Temporary protective orders are issued prior to a permanent order; the temporary order provides relief prior to the necessary formal hearing for a permanent order (Buzawa & Buzawa, 1996). Temporary orders are issued at an emergency or ex parte hearing, which does not require the abuser to be notified or present (Fischer & Rose, 1995; Buzawa & Buzawa). These orders are usually issued for durations of ten to twenty days depending on the jurisdiction (Finn & Colson, 1990). The temporary order does not become effective until legal notice has been served on the defendant. The notice contains the

date and time of the formal hearing and the provisions of the order imposed by the presiding judge. Usually there is language that the notice must be served within a specific number of days prior to the scheduled hearing. If the respondent is not located to serve notice, usually a new hearing date can be set (J. Mitchell, personal communication, October 16, 2002). Service of notice preserves the respondent's constitutional rights to due process afforded by the 14th Amendment of the Constitution of the United States of America. Official service of the notice is usually a function of local law enforcement officers.

The victim must return to court at the specified hearing time to obtain a permanent order. At the permanent hearing, the respondent (abuser) has the opportunity to contest the issuance of the order or any relief provisions within it (J. Mitchell, personal communication, October 16, 2002).

Historically, permanent orders of protection usually ranged from about six months to one year in duration (Finn & Colson, 1990). However, because of increased awareness of domestic abuse, some states have statutorily amended or extended the duration time for a valid civil order of protection to be in effect. Arkansas Statute §§ 9-15-205(b) provides for a "...fixed period of time not less than ninety-days (90) or more than two (2) years in duration..." and has

provisions for subsequently renewing the order (Domestic Abuse Act 1991, p. 337). Massachusetts has statutory language for judicial authority to permit time extensions for "any time reasonably necessary" (Perry, 2001, p. 55). The Massachusetts Supreme Judicial Court has held in *Crenshaw v. Macklin*, 722 N.E.2d 458, an order of protection can be initially issued as a non-expiring (infinite) permanent order (Perry, 2201).

CIVIL PROTECTION ORDER RELIEF

To be effective, both temporary and permanent orders of protection need to include all authorized protection allowed under the law to prevent further abuse. Orders must be concise and specific to ensure the offender is aware of *all* prohibited acts (Finn & Colson, 1990). Each state has its own statutory provisions to impose relief; some states are very limiting while others may grant the judge the latitude to grant any constitutionally defensible relief that is warranted (Finn & Colson). Some of the most common relief includes: eviction of offender, no-contact, temporary child custody and visitation, monetary support for child and/or spouse, mandatory counseling (Steinman, 1991), and seizure of firearms (PCADV, 2000).

Eviction of offender

A key provision of a protection order grants the police the authority to evict an abusive person from a common residence (Barnett, Perrin, & Perrin, 1997). Eviction relief is based on the premise that violence may escalate with continued access to the victim. Therefore, "[s]afety concerns dictate that the offender not be permitted to continue to live with the victim" (Finn & Colson, 1990, p. 33). Judges usually issue injunctions in a temporary order based on an "immediate and present danger" (Finn & Colson, p. 41). Eviction can be stipulated in the ex parte (temporary) order and in the permanent order of protection (Finn & Colson).

No-contact Provision

In addition to evicting the offender, the judge can specify a no-contact provision in the order requiring the offender to have no contact with the victim (Finn & Colson, 1990). This provision specifically prohibits the offender from certain locations, such as the home and work place of the victim; it can also exclude the abuser from the school any household child is attending, and the home of the victim's relatives (J. Mitchell, personal communication, October 16, 2002). Within this injunction, some states permit the Judge to specify a minimum distance that the abuser must maintain from the victim and specified locations (Finn & Colson). A

no-contact provision prohibits any telephone calls or written correspondence to the victim; it also prohibits contact made by anyone acting on behalf of the offender such as his parents, relatives, friends, or associates (Finn & Colson).

Child Custody & Visitation

Child custody and visitation rights can also be stipulated in the order of protection. In the majority of cases, temporary custody of minor children is awarded to the victim in an ex parte order; final custody arrangements are determined at the hearing for the final order of protection (Finn & Colson, 1990). The victim usually receives temporary custody because this prevents unnecessary contact with the offender to restrict future violence (J. Mitchell, personal communication, October 16, 2002). It also protects the children from any potential violence directed toward them. To safeguard the victim and children, the judge can deny any visitation rights if there is concern for the physical and emotional well being of the children, or the judge can impose supervised visits (Finn & Colson). Specific guidelines can be established regarding children visitation rights. Normally, specific time, place, and duration of visits are included in the order. These may include neutral pick-up and drop off locations, or involvement of a third party for protection of the victim (Finn & Colson).

Depending on jurisdiction, the judge may restrict the offender from taking drugs or ingesting alcohol before or during visitation (Finn & Colson, 1990). The victim may even have the right to refuse visitation if the offender is more than twenty or thirty minutes late (Finn & Colson).

Monetary Support

According to Valente et al. (2001), economic deprivation constitutes domestic abuse. Therefore, financial dependence by the victim on the abuser may keep her in a violent relationship. The victim's fear of not having financial means to support herself or her children can be mitigated by court ordered financial support.

The court can direct child support payments in both temporary and permanent orders (Finn & Colson, 1990). According to Finn and Colson, some states have provisions for spousal support, payment for alternate housing for the victim, monetary compensation, and court costs and attorney's fees. However, this type of monetary support for the victim does not appear to be a widespread relief provided by civil protection orders (Finn & Colson). Even though state statute may authorize spousal support, local custom can often prevail, and Judges' may be reluctant to impose such monetary relief for a victim of domestic abuse. One study of court orders from women seeking protection orders revealed that the court

awarded spousal support to only 13% of women" (Rowe & Lown, 1990 as cited in Barnett, Miller-Perrin & Perrin, 1997, p. 193).

Mandatory Counseling

Over one-half of the states and the District of Columbia authorize the judge to order mandatory counseling for the offender (Steinman, 1991). According to Iovanni and Miller (2001) almost forty percent (40%) of abusers had significant substance abuse histories. Therefore, it would appear that mandated chemical dependency treatment programs should be a prerequisite to attending domestic violence counseling. The abuser needs to be sober enough to address his violence problem (Finn & Colson, 1990). Then, mandated counseling for the abuser to learn how to manage his anger and learn how to relate to his partner in non-abusive ways could be constructive in modifying his abusive behavior (Finn & Colson).

In order to be an effective intervention measure in preventing family violence, counseling imposed by the court requires a tracking system to monitor attendance (Finn & Colson, 1990). Prevalent budget constraints on many jurisdictions with already limited manpower and resources may preclude mandated counseling as being economically feasible. Additionally, an antiquated judicial attitude that it's "...not

the court's responsibility to 'cure' the offender..." (Finn & Colson, p. 44) may prevent imposition of court ordered counseling.

When court ordered counseling is monitored and sanctions are imposed for failing to attend or comply with court mandates, then this provision can be utilized as an additional tool in curtailing domestic violence. It can reinforce to the offender that unacceptable behavior will not be tolerated; the abuser is held responsible for his actions.

Firearms and Ammunition Seizure

Research reflects that a woman is more likely to be killed by her spouse, an intimate partner or a family member, and when males kill intimate female partners, more than half use firearms (Violence Policy Center, 1997 as cited in Valente et al., 2001). Additionally, research has shown that firearms are often used to intimidate, injure or kill victims of domestic violence (Valente et al.).

In light of these facts, the seizure of firearms as a civil protection order relief came about under the 1994 Violence Against Women Act (Valente et al., 2001). Federal law under Title 18 U.S.C. 922(g)(8) prohibits the possession of firearms or ammunition by an abuser subject to a valid order of protection. This prohibition is only effective during the time that the order of protection is in existence

(PCADV, 2000). However, there is an exemption that permits law enforcement and military personnel to possess their service weapon for official use on duty (PCADV).

If the abuser has been *convicted* of any qualifying misdemeanor domestic abuse crime, the abuser is permanently prohibited from possessing a firearm according to Federal law 18 U.S.C. § 922(g)(9). The law enforcement officer and military official use exemption is not provided under this law (PCADV, 2000). Unless the conviction has been pardoned, expunged or set aside, the abuser may never legally possess a firearm again (PCADV).

An increasing number of states are enacting legislation that reiterates Federal law. It permits for the denial or rescission of firearm licenses and the surrender or confiscation of firearms during the existence time of an order of protection and upon the conviction of a criminal misdemeanor domestic abuse charge (Zorza, 1994; PCADV, 2000).

Since provisions of a protection order are usually enforced under state jurisdictions, and since some states do not currently have statutes prohibiting firearms possession by domestic abusers, there appears to be a fallacy in that state or local law enforcement officers have no authority to enforce Federal law (C. Martin, personal communication, October 21, 2002). Inasmuch as it is highly unlikely that federal law

enforcement would enforce such a violation in a local jurisdiction, such a provision would more than likely only be enforced in a state that statutorily prohibits the possession of firearms during the time of a valid civil order of protection or by a convicted abuser.

ENFORCEMENT OF CIVIL PROTECTION ORDERS

Enforcement practices vary from state to state and may even vary from jurisdiction to jurisdiction (Finn & Colson, 1990). Although protection orders are issued in civil court, the violation of a protection order may, depending on statutory provisions, be treated as a criminal offense (Buzawa & Buzawa, 1996) rather than a civil proceeding for contempt of court. Many states have statutory authorization to treat order violations as a separate misdemeanor offense (Finn & Colson). In addition to the violation charge, "[t]he violator may also be charged with any other criminal acts committed in the process of violating the order, such as criminal trespass, breaking and entering, menacing threats, or assault and battery" (Finn & Colson, p. 57).

As a criminal charge, some states mandate an arrest for violating an order; other states permit discretionary arrest (Finn & Colson, 1990). A few states still require the violation to occur in the presence of a police officer to secure an immediate arrest (Finn & Colson). If an officer

does not witness the violation, an affidavit by the victim must be made to secure a warrant for the misdemeanor arrest of the offender (Finn & Colson). Notwithstanding, most states now have statutes that permit an officer to make a warrantless arrest if the officer has *probable cause* [italics added] to believe the offender has violated a protection order (Finn & Colson).

Criminal sanctions range from imposed fines to jail time or both. State fine amounts start at \$300 and go up to \$5,000; jail time can range from ten (10) days to three (3) years (Finn & Colson, 1990). Additionally, some states escalate criminal penalties for subsequent violations (Finn & Colson).

Without statutory law designating the violation criminal, the offense will be treated as proceedings for contempt of civil court. As such, a law enforcement officer does not have arrest powers. Therefore, no immediate protection is afforded to the victim if an additional act does not otherwise qualify as an arrestable offense (Finn & Colson, 1990). "The purpose of a civil contempt finding is not to punish but to secure compliance with the directives of the court" (Finn & Colson, p. 52). In this situation, "[o]ffenders may routinely violate orders, if they believe there is no real risk of being arrested" (Zorza, 1992, p. 523).

In the majority of the states it is the victim's responsibility to monitor compliance of a protection order (Finn & Colson, 1990); it is the victim's obligation to notify law enforcement of a violation. The effectiveness of enforcement is contingent upon the victim's willingness to report a violation, and a determined enforcement response by police prosecutors, and judges (Steinman, 1991).

Courts are divided as to whether reconciliation of the parties voids an order of protection (Zorza, 1994). Abusers' who violate an order of protection often use reconciliation as a defense (Zorza). Usually the courts have not permitted the reconciliation defense to negate a violation of the order; "Some states have enacted statutes explicitly providing that reconciliation does not invalidate a protection order" (Zorza, p.272).

Historically, protection orders did not afford protection if the victim moved or traveled to another state; often states would not enforce a protection order issued in another state claiming the lack of authority (Valente et al., 2201). This situation required that another order of protection be obtained in the new state (National Institute of Justice, 1996). State legislatures could not compel other states to enforce their protection orders (Valente et al.).

With the passage of the 1994 Violence Against Women Act, the Federal Government stepped in under the guise of victims not being able to engage safely in their "right to interstate travel" and passed a law requiring every state, territory and tribe to enforce protection orders regardless of issuing jurisdiction (Valente et al., p. 285). The Act's full faith and credit provision provided for a valid order of protection to be enforceable where it was issued and in all other jurisdictions (Valente et al.). This included all fifty (50) states, Indian tribal lands, the District of Columbia, the U.S. Virgin Islands, Puerto Rico, American Samoa, the Northern Mariana Islands and Guam (Pennsylvania Coalition Against Domestic Violence [PCADV], 1996). The full faith and credit provision is enforced under United States Code 18 U.S.C. § 2265.

If a valid order of protection were issued in one state and violated in another, then the state where the violation occurred would enforce the order as if it had been issued in its own state (PCADV, 2000). In order for an order of protection to be considered valid, it must have been issued by a court that has jurisdiction over the proceeding, and the respondent (abuser) must have had notice and an opportunity to be heard at a formal hearing (PCADV).

Implementation procedures of full faith and credit vary among jurisdictions. According to a brochure on full faith and credit by the Pennsylvania Coalition Against Domestic Violence, "...a handful of jurisdictions require registration for purposes of enforcement" (2000, p.10). Under Arkansas Statute § 9-15-301, "A *certified* copy of an order of protection issued in another state *may [italics added]* be filed in the office of the clerk of any circuit court in this state." Certification is required for filing purposes only. Arkansas Statute §9-15-302 extends full faith and credit to out of state protection orders. Yet, Federal law does **not** require an order of protection be certified, registered, or filed in the state other than the issuing state for enforcement purposes (PCADV). The premise being that it may not always be practical or possible to register or file an order prior to seeking enforcement in an emergency situation (PCADV).

The benefit of registering or filing an order of protection in another state that the victim travels to or has moved to is the creation of a public record. After registration or filing, the order of protection may be filed in a local or statewide computer registry. A national registry for protection orders was created by the Federal Bureau of Investigation (FBI) in 1997 under the National

Stalker and Domestic Violence Reduction Act (PCADV, 2000; Office for Victims of Crime, 2002). However, state participation is voluntary (PCADV), and only nineteen states have entered orders in the National Crime Information Center's (NCIC) Protection Order File (Office for Victims of Crime). A computer registry provides law enforcement agencies with a quick verification tool for enforcement purposes, and the NCIC registry assists in the fulfillment of the full faith and credit of protective orders.

PROTECTION ORDER EFFECTIVENESS

Studies that have addressed the effectiveness of protection orders as a deterrent to future violence, for the most part, indicate there is little protection from re-abuse. "It is unrealistic to assume that the mere existence of a restraining order will deter every abuser in every case" (State Bar of California, 1996, p. 282).

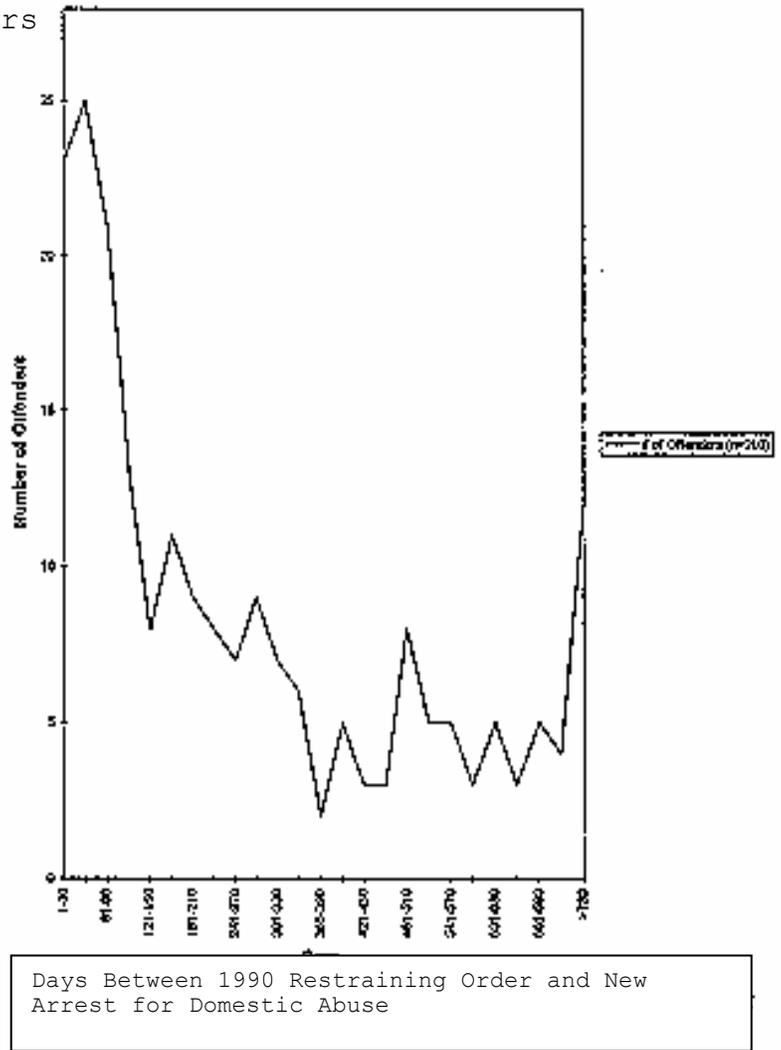
Massachusetts Study of Protection Orders

According to Andrew Klein (1996) in 1990 a research study was conducted on 663 women who petitioned for temporary restraining orders against a male partner in the Quincy court system of Massachusetts. Of the original 663 temporary petitioners, 75% requested and received a permanent order valid for one year; although, almost half of the victims that received a permanent order returned to court to drop the order

before the one-year expiration (Kline, 1996).

"Almost half of the abusers (48.8%) re-abused their victims within two years of the 1990 restraining order" (Klein, p.199).

Of these, 34% were arrested for the new abuse; most of the new abuse occurred within ninety-days (90) of receiving the restraining order (Klein). The recidivism rate tended to decrease thereafter



(Refer to Graph [Klein,

p. 199]). This study did find that abusers who violated the order to commit new abuse were more likely to be arrested than perpetrators who re-abused victims that did not have an active order of protection (Klein). Protective orders failed to prevent future abuse in about half of the cases in this study (Klein). Research finding did not indicate protection orders provoked more abuse, or decreased the severity, or the number of abuse incidents (Klein).

Colorado Study of Protection Orders

The Urban Institute conducted a study of 355 women who had filed petitions for temporary protection orders during the first nine months of 1991 in Denver and Boulder, Colorado (Harrell, Smith & Newmark, 1993). Interviews were conducted three months and one year after the initial order (Harrell & Smith, 1996). Forty percent (40%) of the initial petitioners did not return to request a permanent order; ten percent (10%) cited their reason as being that the temporary order did not work, so why bother getting a permanent order (Harrell & Smith).

Sixty percent (60%) of the original petitioners who were interviewed reported acts of re-abuse within one year of the initial order (Harrell & Smith, 1996). Many did not call the police; "About 60% of the women felt they could get the men to stop their violence on there own, 25% were too afraid to call, and others felt that police would not do anything" (Harrell & Smith as quoted in Iovanni & Miller, 2001, p.315).

Wisconsin & California Study of Protection Orders

Research in Dane County, Wisconsin and Sacramento County, California proclaims a "significant reduction of police contact" after the victims obtain protection orders (Horton, Simonidis, & Simonidis, 1987, p. 274). But, the data appears to indicate otherwise; forty-four percent (44%) of the Dane

County victims and 50% of the Sacramento County victims filed complaints with the police after receiving a restraining order (Horton, Simonidis, & Simonidis).

This study was based on interviews of 120 domestic violence victims seeking temporary orders in Dane County, Wisconsin and approximately 700 victims in Sacramento (Horton, Simonidis, & Simonidis). Questionnaires and interviews were conducted at the time of initial request and six months later (Horton, Simonidis, & Simonidis).

Although the violation percentages above indicate continued abuse, Wisconsin victims indicated an 86% satisfaction rate with the protection order, and 94% felt their decision to obtain an order was a good one (Horton, Simonidis & Simonidis, 1987).

Washington Study

Between August 1, 1998 and December 31, 1999, a study analyzed 2691 Seattle women who reported male intimate partner violence to the Seattle Police Department (Holt, Kernic, Lumley, Wolf, & Rivara, 2002). The researchers tracked the women for a twelve-month period to assess associations between obtaining a protection order and the risk of subsequent police-reported intimate partner violence (Holt et al.). According to Holt et al, the study was based on police department records and did not include victim interviews.

Comparisons were made between women who obtained temporary orders of protection (usually in effect for two weeks), permanent orders of protection (usually in effect for twelve months), and those victims who did not obtain an order of protection (Holt et al., 2002). Abuse was categorized as physical or psychological (Holt et al.).

The study showed that only fifty-seven percent (57%) of those women who filed temporary orders followed through to obtain a permanent order (Holt et al., 2002). The study indicated that victims with temporary protection orders were more likely to experience psychological abuse, and they were as likely to be victims of physical abuse as women who had not obtained any type of protection order (Holt et al.). However, the study found an eighty percent (80%) reduction in police-reported violence when the victim had acquired a permanent protection order (Holt et al.).

Other Studies of Protection Orders

Protection orders were found to be ineffective in reducing the rate or severity of abuse in a study of 270 recipients of a temporary restraining order (Grau et al, 1985 as cited in Buzawa, & Buzawa, 1996). Although the "[v]ictims felt protective orders to be effective, there was no difference in rates of victimization between those with and

those without orders" (Grau et al, 1984 as cited in Crowell & Burgess, 1996, p. 120).

According to research sponsored by the National Institute of Justice which was conducted by the National Center for State Courts, violations of protection orders increased and reported effectiveness decreased as the criminal record of the abuser becomes more serious (Keilitz, 1997). This same study found that the act of applying for a civil protection order was associated with helping victims improve their sense of well-being (Keilitz).

However, a survey conducted by Dr. Lenore Walker contradicts the above referenced research studies. In Dr. Walker's book, The Battered Woman (as cited in State Bar of California, 1996), she found that eighty percent (80%) of the domestic abuse cases she surveyed indicated that the abuser did obey protection order terms. Dr. Walker stated, "in most cases restraining orders do stop violence, and very seldom is it necessary to follow up with contempt proceedings" (State Bar of California, p. 282). "Dr. Walker points out that next to arrest and prosecution, civil restraining orders are an extremely potent technique against abusers" (State Bar of California, p. 282).

FUTURE TRENDS OF PROTECTION ORDER ENFORCEMENT

Research may paint a bleak future for protection orders, but the continuation of efforts to expand awareness of the crucial need for prevention and intervention measures are imperative to protect victims of family violence.

It is awareness that has led to the past flurry of legislative enactments to address the protection needs of domestic abuse victims. Although it is doubtful uniformity will be achieved among states, federal legislation has the potential to enact "[c]omprehensive 'family violence prevention acts' to expand the array of coordinated criminal and civil remedies available to victims of wife battering and their children and to consolidate statutes involving divorce, orders of protection, custody, visitation, and the like" (Ford, Reichard, Goldsmith, & Regoli, 1996, p. 250).

It is obvious an order of protection without enforcement does not offer any safety to a victim of domestic abuse. Therefore, look for increased training programs in judicial fields to facilitate changing existing attitudes and stereotypes relating to domestic violence victims (Ford, Reichard, Goldsmith, & Regoli, 1996). As law enforcement perceptions change, new and additional policy implementations acknowledging the capacity and responsibility of officers to protect victims from continuing abuse will come about (Ford et

al., 1996). This could lead to the formation of specialized domestic violence investigative units within the police department to coordinate prevention and intervention tactics with other criminal justice agencies and social services (Ford et al.).

CONSLUSION

The development of civil protection orders as a means to combat domestic violence was promoted by women's advocates who found the criminal justice system resistant to arresting, prosecuting or sentencing abusers (Scheshter, 1982 as cited in Klein, 1996, P.211).

The victim of abuse sees the issuance of a civil protection order as a way to ensure her safety against domestic violence. However, an abuser who is determined to batter or kill his partner will not be deterred by a piece of paper (Steinman, 1991). "[T]he victim should always be cautioned that a restraining order does not create an invisible barrier of protection..." (State Bar of California, 1996, p. 282).

Many abusers do not take protection orders seriously because the criminal justice system does not seem to take them seriously (Klein, 1996). "[L]aw enforcement officers are reluctant to file reports or make arrests if they do not believe the prosecutor will follow through, or that the judge

will impose appropriate sanctions" (Finn & Colson, 1990, p. 63). Klein's (1996) Massachusetts study reiterates this notion. Of those arrested for violating a protection order, almost 33% were dismissed or nol-prossed, 10% were diverted without a finding of guilt, just over 25% were placed on probation, and 18% were jailed (Klein, 1996, p. 208-209).

The response of the police and the courts to violations of a protection order is vital to the order's effectiveness. Judicial response continues to improve inasmuch as increasing public awareness of domestic violence as a complex societal problem exerts pressure to augment the legal systems effort to offer relief to victims of family violence. State legislation has expanded the definition of eligible petitioners and broadened the categories of abuse that qualify for the issuance of a civil order of protection. The courts have become more specific and understanding of victim's need when granting provisions of relief, and jurisdictional coverage has extended beyond state lines through Federal legislation.

A civil protection order is a legal injunction portrayed in a piece of paper. It is not a guaranteed safeguard against domestic abuse. Nevertheless, with stringent legislative provisions, strict law enforcement and harsh judicial sanctions to stand behind that piece of paper, the victim of

domestic abuse is provided an avenue of recourse against the abuser's behavior, and afforded the opportunity to regain control over her life.

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