

# Two-Thirds of Civil Protection Orders Are Never Violated; Better Court and Community Services Increase Success Rates

by Joan Zorza, Esq. and Nancy K.D. Lemon, Esq.\*

In 1994, the National Center for State Courts in Williamsburg, Virginia began a study in three communities of the effectiveness of restraining orders. Their findings, which include some surprises, have just been released. Susan L. Keilitz, Paula L. Hannaford, & Hillery S. Efke, *Civil Protection Orders: The Benefits and Limitations for Victims of Domestic Violence* (National Center for State Courts 1997). Their study builds on earlier studies that had shown that the effectiveness of protective orders depends on the specificity and comprehensiveness of the relief granted and how well the orders are enforced. The researchers compared three factors: the accessibility of the court process; the linkages to public and private services and sources of support; and the criminal record of the abuser.

Participants included 285 battered women in Denver, Colorado; Wilmington, Delaware; and Washington, DC. The researchers also spoke with judges and court personnel, police, prosecutors, and victim services staff, and they checked court files and observed the civil protection order hearings. They interviewed all 285 women petitioners by telephone approximately one month after they received a temporary or permanent order, conducted follow-up interviews with 177 of the same women about six months later, and checked the civil case files and the criminal history records of the men named as abusers.

Many of the women had been severely abused. Over half of them had been threatened or injured with a weapon, over half had been beaten or choked, and 84% had been slapped, kicked or shoved. Almost a quarter of the women had been abused for more than five years and the women who had been beaten the longest experienced the most intense violence. This is consistent with battered women's obser-

\*DVR Editor Joan Zorza is a liaison to the American Bar Association's commission on Domestic Violence, and writes extensively about violence against women. Nancy K.D. Lemon, Associate Editor of DVR, is a Lecturer on domestic violence at Boalt Hall School of Law, University of California at Berkeley, and a consultant and writer.

vations that violence escalates in intensity, frequency and duration over time.

## Criminal History of Abusers Related to Severity of Abuse

This study found that 64.8% of the abusers had prior criminal arrest histories, which is roughly similar to what has been found in other communities that have reviewed abusers' criminal histories. Furthermore, over half of these abusers' crimes (52.9%) involved violence (i.e., simple assault, weapons charges, domestic violence and other violence), 29.5% were drug and alcohol-related crimes, and 49.6% had histories of other crimes.

---

*Although abusive men with violent criminal histories were more likely to violate the protective orders, interestingly, their partners were more likely to report more positive feelings of well-being after obtaining the final orders.*

---

When an abuser had a criminal history of both violent and drug or alcohol-related crimes, his abuse of his partner was likely to be far more severe and his partner was considerably less likely to be available for the second follow-up interview. These findings reflect a need to offer safety planning to every battered woman the first time she appears in court, particularly if her partner has a criminal history involving prior violence or substance abuse.

The effectiveness of protection orders was measured on two scales: the petitioner's subjective feelings of well-being and safety, and whether the order was violated. Overall, the study found that nearly 75% of petitioners had increased feelings of well-being soon after the order was issued, rising to 85% after six months. At six months 92.7% of the women plaintiffs reported feeling better about themselves and 80.5% felt they were safer. At both interviews, 95% of the women stated that they would seek an order again.

## Success Rates of Protective Orders

Though the results varied somewhat among the sites of the study, overall 72% of the petitioners stated that their orders were not violated within the first month. While this decreased to 65% after six months, this is still a very significant success rate. In addition, at the follow-up interviews, only 8.4% of the women reported being physically re-abused (versus 2.6% at the initial interviews). In Denver, where the police were most likely to arrest abusers, physical re-victimization was only experienced by 2% of the women, considerably lower than the 10.9% and 11.9% rates

reported by women in Delaware and the District of Columbia. Consistent with studies documenting that batterers attending intervention programs shift to psychological abuse, 4.4% of the women in this study reported psychological abuse at their initial interviews, and 12.6% reported it six months later. Abuser stalking also increased from 4.1% at the initial interviews to 7.2% six months later.

The most common problems reported by the women at both interviews was that the abuser called the victim at home or work (16.1% and 17.4% respectively), or came to her home (9%). Only 5.4% of the victims reported more than two types of problems from their abusers.

Although abusive men with violent criminal histories were more likely to violate the protective orders, interestingly, their partners were more likely to report more positive feelings of well-being after obtaining the final orders. This suggests

*PROTECTION ORDERS, from page 51*

that more aggressive criminal prosecution may address the violence more effectively, whereas the civil restraining order may better bolster the victim's self-esteem and feelings of security.

### **Initial Protective Orders Are Successful Even When Permanent Orders Not Obtained**

Many of the women who did not return for their permanent orders stated it was because their partners had stopped bothering them (35.5%) or had left the area (10%). While 17% claimed to have reconciled, only 2% said they had not returned to court because their abuser had threatened them and another 2% did not return because their abuser had persuaded them to drop their case. In addition, one-quarter of the women who did not return for permanent orders had help devising a safety plan at that first hearing; this should be standard procedure for all women seeking temporary orders of protection.

The significant success from merely obtaining the initial protection order (i.e., the 45.5% of the cases where the abuser either stopped his abuse or left the area) and the safety plans devised at the temporary order stage, demonstrate the benefits of coming to court even if the women do not follow through in obtaining final orders. At a minimum, the courts should stop viewing women who fail to return as abusing the court process, and instead recognize the power of the courts to deter merely as a result of the abuser knowing that his victim can return to court should he not stop his abusiveness.

### **Protection of Battered Women With Children**

Women with children reported a higher number of violations of orders than did women without children; at the follow-up interviews only 61.7% of women with children reported having no problems, compared to 79.4% of women without children. Sadly, judges often grant abusers visitation, usually without any restrictions at the final order stage, leaving the abusers free to continue legally abusing many of the women. Judges denied visitation in only 8% of the cases at the final order stage and ordered supervised visitation in only 4% of cases. In 4% of cases the court prohibited the abuser from contacting a child, yet it is unclear

whether these abusers were the fathers of the children, stepfathers or the mothers' boyfriends. Few judges made the abuser vacate or remain away from the home (7.9% and 55.3%, respectively) at the final hearing. And despite federal law making gun possession illegal by the abusers, the court rarely ordered abusers to relinquish weapons (none in Denver and the District of Columbia, and only 14.7% in Delaware).

**Editor's note:** *Because the study was conducted by an organization tied to supporting the judiciary, the researchers were constrained from criticizing the judges for inadequately protecting the women and children.*

tempt cases heard resulted in a finding of contempt.

In addition, courts should inform women of all the services available in the community to help them. While 77.5% of the women participants received some type of assistance either before or after they obtained their order, most depended on relatives and friends for this assistance, with few receiving other services. Furthermore, the assistance that the women received was usually in the month before they got their orders, and not afterwards. The only exceptions were counseling and support groups, which women utilized somewhat more often after they had obtained court pro-

---

## *Women with children reported a higher number of violations of orders than did women without children.*

---

### **Recommendations of Study**

The study includes many useful recommendations. For example, it recommends informing domestic violence victims that the longer the abuse continues, the more severe it will probably become. It also recommends that when the petitioner first comes to court, the court should help her create a safety plan, since many battered women in the study did not return for the long-term order.

Another recommendation was that judges issue more orders requiring substance abuse counseling or batterer's counseling, especially in cases where the respondent has a history of arrest for substance abuse or violence, since these respondents are most likely to violate the protection order. Thus, judges issuing civil orders need access to this criminal information. Forms should be revised to reflect the full relief and enforcement options available.

Judges should also inform victims of the various ways to enforce their orders, including contempt actions. For example, the courts could provide easy information with each order on how to enforce the order. Battered women rarely used the contempt process to enforce their protection orders. In 87.7% of the cases, many of which involved violated orders, women never filed contempt motions. Even more disappointing was the fact that only 13 cases had one contempt motion filed and two cases had more than one contempt filed; only five of the nine con-

tective orders. All of the community's services should be made available to women seeking court protection, including police, prosecutors, victim assistance, victim counseling, shelters, *pro bono* legal services, employment and education counseling, and housing services.

The marked discrepancy in police arrest rates of respondents (87.1% in Denver, 55.0% in Delaware and 41.2% in the District of Columbia) illustrates the need for better, more aggressive and consistent use of ascertaining probable cause to arrest abusers. The police must also be consistent in informing victims about obtaining civil protection orders and enforcing existing orders. The study criticized the District of Columbia police who got high marks for telling women about the availability of civil protection orders, but at the expense of seldom arresting the abusers. Similarly, the study stresses the need for more aggressive prosecution policies, and the need for domestic violence training as an integral part of law enforcement education (not just in the police academies).

This very interesting and useful study concludes by noting that "the effectiveness of civil protective orders is inextricably linked to the quality of the system of government and community services in which protection orders operate. Issuing a protection order is only one part of the remedy." A full copy of the study is available from the National Center for State Courts, 300 Newport Ave. (23185), P.O. Box 8798, Williamsburg, VA 23187-8798 at (757) 253-2000. ■



## **Authorized Electronic Copy**

This electronic copy was prepared for and is authorized solely for the use of the purchaser/subscriber. This material may not be photocopied, e-mailed, or otherwise reproduced or distributed without permission, and any such reproduction or redistribution is a violation of copyright law.

For permissions, contact the **Copyright Clearance Center** at  
<http://www.copyright.com/>

You may also fax your request to 1-978-646-8700 or contact CCC with your permission request via email at [info@copyright.com](mailto:info@copyright.com). If you have any questions or concerns about this process you can reach a customer relations representative at 1-978-646-2600 from the hours of 8:00 - 5:30 eastern time.