

An Examination of Protective Order Violations: A Look at a Western State in the United States

Heather Melton*

Department of Sociology, University of Utah, Salt Lake City, UT, USA

*For Correspondence: Heather Melton, Department of Sociology, University of Utah, Salt Lake City, UT 84112, USA,
Tel: +18015813108; E-mail: heather.melton@soc.utah.edu

Received Date: Jan 04, 2018; Accepted Date: Mar 29, 2018; Published Date: Apr 07, 2018

Copyright: © 2018 Melton H. This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

Research Article

ABSTRACT

Intimate partner abuse continues to be a major problem and remains widespread in the United States. While a variety of responses and services are utilized to deal with this issue including criminal justice, legal, community, therapeutic and others, one common remedy a victim might use is a protective order. Yet more research is needed on many aspects of protective orders as they relate to intimate partner abuse. This paper explores protective order violations in a Western state in the United States that occurred in 2012. It examines the characteristics of the reported violation itself and what impact the characteristics of the violations have on how the courts respond. Findings include that violations are characterized by in-person contact most often at a residence in which multiple crimes were committed. Additionally, offenders were more likely to be convicted if they offended in one particular county in the state and if the offense was in-person. Implications of the findings will be discussed.

Keywords: Intimate partner abuse, Protective order violations, Court response

INTRODUCTION

Intimate partner abuse continues to be a major problem and remains widespread in the United States. In fact, the National Intimate Partner and Sexual Violence Survey reports that 22.3% of the women surveyed and 14% of men experienced severe physical abuse in their lifetimes. According to the National Violence against Women Survey, a well-cited survey, 20% of women and 7% of men will experience intimate partner abuse in their lifetimes [1]. Clearly intimate partner abuse is a problem. In the past, intimate partner abuse has been seen as “private matter” and not something the legal system has dealt with. Thanks in part to the women’s movement in the 1960s, research, and lawsuits, changes were made beginning in the 1980s and today most states deal with intimate partner abuse as a criminal matter. Alternatively, with raised awareness on intimate partner abuse and the criminal justice response came legislation in many states authorizing the use of protective or restraining orders for intimate partner abuse. Today, protective orders are commonly being used as legal remedy for victims of intimate partner abuse [2,3]. Yet more needs to be known about protective orders and protective order violations. This paper focuses on protective order violations, providing both a description of what those violations look like as well as how characteristics of the violation are related to the court handling of the cases.

LITERATURE REVIEW

Protective orders are intended to prevent future acts of violence against the victim by an intimate partner. They are typically obtained in civil court by a victim of interpersonal violence and designed to protect that victim from harm by prohibiting contact between that victim and the specific person from whom they feel threatened [4-6]. While there is a great deal of variation in the process across jurisdictions, in the case of civil protective orders, victims typically must apply and show evidence of prior violence or threats to qualify. While details do vary, in general they include at least two elements of protection: 1) any act of violence or threat of violence; and 2) contact with the offender. Additionally, federal law stipulates that persons against whom a protective order has been filed be prohibited from purchasing or possessing

a firearm^[7]. Violation of any of the conditions specified by the protective order can lead to an immediate arrest, a fine, or both and may be referred to as a protective order violation^[8-10]. Research on protective orders has focused on several different issues. Of interest for this paper is the research on effectiveness and enforcement.

Effectiveness

Most studies so far have focused on evaluating protective order effectiveness and have done so through a variety of methodologies. One common approach is to compare the frequency of contact with law enforcement and specific aspects of violence experienced before and after the protective order had been in place^[9].

Findings on effectiveness, as measured by subsequent violence, are mixed. Studies appear to find that protective orders may be effective for some victims of intimate partner abuse but not all. A 2008 study conducted through interviews with complainants determined that while “orders are generally ineffective in reducing the rate of abuse or violence” they did find that orders were effective in cases where the victim had less of a History of family violence or where the abuse experienced was less serious in general^[11]. The study called for clearer documentation detailing the abusive behaviors, firmer sanctions, mandatory responses to violations, symmetry between civil and criminal remedies, and measures to more elegantly address child-related concerns, among other things^[11]. Another study found that permanent protective orders are associated with decreased police-reported violence, but temporary protective orders are not^[12]. Victims with protective orders have been found to be more likely to contact police for non-assaultive incidents, and police were more likely to charge multiple-count and felony-level requests for those victims^[13]. Another study found that most women deemed the protective order as effective, but almost 25% reported a violation shortly after issuance of the order and all women surveyed regardless of demographics “reported high rates of physical and psychological violence”^[14]. The rural White women in this particular study reported “more victimization, more protective order stipulations, and feeling less safe compared to their urban counterparts”^[14]. In another study, 40% of women studied did not experience protective order violations, but the remaining 60% experienced ongoing violence^[2]. However, most women reported the protective order as being effective and providing a sense of safety^[2]. Findings from this study are indicative of the overall impression left from studies examining similar things - protective orders are valuable for the sense of security they lend complainants, but have a long way to go in terms of actual effectiveness and in fulfilling victim needs^[2].

Enforcement

Research on enforcement is also mixed. There is some evidence that intimate partner abuse calls are taken more seriously when there is a protective order in place and arrest rates are higher for IPA calls that include a violation of a protective order^[10]. However, the arrest rates still remain low^[15]. Some have argued that this might be because police are reluctant to arrest in protective order violations situations due to the fact that they are civil injunctions rather than criminal^[16]. Finally, several studies show that when arrest is used, the vast majority of the cases are dismissed or not sentenced in full accordance with state and federal sentencing guidelines^[4,15]. Little research has explored court response to protective order violations^[4].

Regardless of all the prior research, little research actually explores what protective order violations look like and how the courts respond to them. This study explores two questions in relationship to reported protective order violations. First, it examines the characteristics of the reported violation itself. For example, what methods of violation are being used? Are multiple methods being used? Who is involved? How are the courts responding? Second, it explores what impact the characteristics of the violations have on how the courts respond (i.e., do certain characteristics or situations more likely to end up in a conviction, and so on). Implications of the findings will be discussed.

METHOD

This study examines reported protective order violations in Western state in the United States. Court records were accessed through a database maintained by the courts. One of the researchers created a SPSS database from the information provided in the court records for all reported protective order violations in this state in 2012 in which a defendant has been arrested and charged with violating a protective order. The information was gleaned from variety of court records including the information, police reports, the protective order itself, jail intake forms, letters to the judge, or other information being kept in this database on either the defendant or the victim. The data includes personal information (ages and genders) of both victims and defendants, the county the violation took place in, as well as details of the violation (what methods used-in person, phone, email/social media, or other violation-location of the violation, whether children were involved, whether there was a weapon, whether an assault occurred, other crimes, multiple charges, and so on). The data also includes the court's rulings on these cases (convicted/not convicted). The data was entered and coded by two researchers. The researchers met regularly and one of the researchers checked the work to assure data integrity and validity. Descriptive, bi-variate, and multi-variate statistics were used to analyze the data. For

the bi- and multi-variate analysis, the data was coded as follows: judgement (1=convicted; 2=not convicted/dismissed), gender (0=male; 1=female), County (1=Large Metro County; 2=any other county), and in-person violation (1=in-person; 2=not in person).

FINDINGS

The results (presented in **Table 1**) from the data show that a slight majority of the defendants were not convicted (55.9%), with 44.1% of the cases the court ruled that the defendant was convicted. A large majority of defendants were male (87%), while 13% were female. Of the victims in which the gender is known, victims were overwhelmingly female (90.2%), with a small percentage (9.8%) of male victims. The largest age group of offenders was 25-45 (35.8% of offenders fell into this age category). Smaller age brackets included offenders younger than 25 (12.7%), offenders age 35-44 (29.8%), offenders age 45-54 (17%), and offenders 55 and older (4.7%).

Three hundred forty-seven (62.1%) violations happened through in-person contact. One hundred sixty-eight (30.1%) happened over the phone, 15 (2.7%) happened over email, and 29 (5.2%) happened through some other method not specified. Interestingly, numerous cases involved violations with multiple incidents. Including those incidents, the number of in-person interactions increased to four hundred fifteen (64.5%) while only 35.5% occurred exclusively over phone, email, or other indirect method of communication. Most violations (556, or 87.0%) only involved one form of contact (in-person, phone, email or other). Seventy-five (11.7%) violations involved two forms of contact, 7 (1.1%) involved 3, and 0.2% (a single case) involved 4 methods.

Of the 427 cases where location information was available, 388 occurred in a single location and 39 occurred in two or more locations. Of the cases involving in-person contact for which location information was available, 307 cases took place at a residence - not necessarily the victim's residence. Seventeen violations occurred at a place of work (usually the victim's), 36 happened inside a car, 28 happened in a public space (such as a park, city street, etc.), and 84 happened in locations outside the categories provided. Four hundred and twenty-seven (427) cases had location information, but since several cases involved violations in multiple locations, the data is based on 472 location instances.

Six hundred seventy-two (62.8%) cases only included one charge, but a significant number (398, or 37.2%) of cases involved multiple charges. Multiple-charge cases would frequently happen when a violation involved a crime other than the violation itself, such as assault, drug possession, or trespassing. It also happened when the protective order had been violated multiple times, and multiple violations were bundled into a single case.

Interestingly, while the large county in terms of size makes up a small percentage of the state, this county accounts for a disproportionate amount of protective order violation cases. Specifically, 44.6% of cases were filed by this county's police while 55.4% were filed by police in other counties. While 79.1% did not include children mentioned in the violation description, 135 (20.9%) did. Only 12 cases (which amounted to 1.9%) included a weapon in the description (a knife or gun). Over ninety-eight percent did not mention a weapon.

Table 1. Descriptive variables.

Variable	N	(n)%
Verdict	N=2162	
Convicted (1)		(953)44.1%
Not Convicted (2)		(1209)55.9%
Gender of Offender	N=1058	
Male offender (0)		(920)87%
Female offender (1)		(138)13%
Gender of Victim	N=650	
Male victim (0)		(64)9.8%
Female victim (1)		(586)90.2%
County	N=2162	
Salt Lake County		(964)44.6%

Other		(1198)55.4%
Offender Age	N=965	
0-24		(123)12.7%
25-34		(345)35.8%
35-44		(288)29.8%
45-54		(164)17%
55 and older		(45)4.7%
In Person Violation	N=643	
Yes		(415)64.5%
No		(228)35.5%
Type of Violation	N=559	
In Person		(347)62.1%
Phone		(168)30.1%
Email		(15)2.7%
Other		(29)5.2%
Violation Type Quantity	N=639	
1 violation method		(556)87%
2 violation methods		(75)11.7%
3 violation methods		(7)1.1%
Locations of Violation	N=472	
Residence		(307)65%
Workplace		(17)3.6%
Car		(36)7.62%
Public space		(28)5.93%
Other		(84)17.8%
Place of Violation	N=427	
Residence included		(307)71.9%
Anywhere else		(120)28.1%
Residence only violation		(272)63.7%
Anywhere else		(155)36.3%
Violation location count	N=427	
1 location type		388(90.9%)
2 or more location types		39(9.1%)
Number of Charges	N=1070	
1 charge		(672)62.8%

More than 1 charge	(398)37.2%
--------------------	------------

The bi-variate results did not yield many significant results. However, that may be a significant result in itself. Conviction was not related to age, county, location of the incident, children present, weapons present, or number of charges. However, it was significantly related to whether the incident involved an in-person violation (more likely to be convicted if there was an in-person violation) and the offender's gender was approaching significance (with males more likely to be convicted).

Regardless of the above, a logistic regression revealed that when controlling for other variables both county and whether or not the violation was in person are significantly related to whether the defendant is convicted (**Table 2**). Specifically, outside of the large county, there were increased odds of defendants being not convicted ($p < 0.01$) and increased odds to be found not convicted if the violation was not in person ($p < 0.05$). Put another way, they are more likely to be convicted if they were from the large and the violation was in-person. This has important implications.

Table 2. Logistic regression with convicted/not convicted as the dependent variable.

	B	S.E.
County	-.445	.168**
Offender Gender	.216	.256
Age	.002	.008
Violation in Person	-.336	.174*
Pseudo R Squared		.023
* $p < .05$, ** $p < .01$, $p < .001$		

DISCUSSION

This study answered two questions: what are characteristics of reported protective order violations and how are those characteristics related to the response of the courts to the violation. First, it should be noted that there were a large number of violations that resulted in arrest in this Western state. Over 2000 arrests occurred. While this likely underrepresents the true number of violations that occurred (i.e., most probably do not get reported), this is still important. The typical arrested protective order violator in this study involved in person-contact at one location (most often a residence) in one large county where assaults, children or a weapon were not mentioned. A large number of cases included other crimes in addition to the protective order violation. Similarly to other research, a majority of the violators were male while the victims were female [3,5,10]. Finally, the majority of the violators were not convicted. This addresses the issue of enforcement. While clearly protective orders are being violated, not all of the violators are being held responsible for those violations. While this study could not examine arrest (all the violators in this sample were arrested for their violation), this study can address how the courts handle the cases. This could indicate that the majority of these reported violations are, in fact, not true violations. However, more likely this represents some breakdown in the process between arrest and conviction. The fact that the majority of the defendants who are arrested and charged are not convicted, sends a potential message that these cases are not necessary being treated seriously. This supports prior research [4]. Most of the violations are occurring in-person. This indicates that regardless of other methods being used, victims of intimate partner abuse continue to need protection from physical violations. Additionally, some are experiencing multiple methods used. Again, evidences that the protective orders need to continue to cover a breath of behaviors ranging from physical contact to electronic. The fact that many of the violations are occurring in one large county in the state is not surprising. This county accounts for almost 1/3 of the total population of the state. However, it does seem to be disproportionately represented in protective order violations (i.e., accounting for more than 1/3rd of the violations). The fact that a large number of cases involved other charges is also important information for law enforcement and those responding to protective order violations. Law enforcement needs to be prepared for and aware of other crimes that may be occurring with the protective order violation. Often these were for drug offenses, trespassing or other assaults [17,18].

Knowing this descriptive information is important for several reasons. It helps inform law enforcement of what to expect when responding to these cases. It informs the courts about what protections need to be in place when protective orders are obtained. These findings indicate that physical space, particularly residences; continue to be important locations for violations to occur. This is particularly important given increases in technology that allow for surveillance of

people. Regardless, in-person violations appear to be the norm. Interestingly, children and weapons were rarely mentioned. It is unclear if this is because they were rarely involved in the violations or rather an oversight on the part of law enforcement. This needs to be explored. Finally, descriptive information of typical protective order violations could be very useful for victims to know who are going through this process. Knowing that they may be most likely to experience in-person violations at their home might be useful information to know from the beginning of the process. Victim advocates and others who are providing services for victims could use this information to help victims to make informed decisions about their safety and everyday lives ^[19,20].

The second question addresses the court handling of these cases. Again, interestingly most of the variables did not predict whether a defendant was convicted. Thus, age, gender, number of charges, location of offense, weapons use, children present, or assault did not impact whether or not the defendant was convicted. However, protective order violators are more likely to be convicted if it is an in-person violation and more likely to be convicted in the large county. This potentially has important implications. There are many reasons why these two variables might be significant. In regards to the type of violation, it could be that when a violation is in-person, the police are better able to investigate and show evidence of the violation, and thus, they are more likely to get a conviction. If that is the case, then better techniques or training is needed to investigate other types of violations. It may be that these are seen as difficult tasks and thus less time and resources are put into investigating and gathering evidence to support a guilty verdict. This should be remedied. Relatedly, it could be that when a violation is in-person, the victim feels more strongly about the violation and thus is more involved in the case than with other types of violations. In terms of county, the finding that is the large county, violators are more likely to be found guilty than those in all the other counties in the state, indicates that there is perhaps some difference in how agencies are responding to those crimes. This needs more research. The large county may have more resources and training available to law enforcement. Thus, in turn, might assist them in investigating and putting forth the strongest case. If this is the case, then more resources and training are needed in the other counties, particularly the more rural areas of the state.

This study does have some limitations. The largest being that it is dependent on the official record available through the court records. It was very clear that there were discrepancies between jurisdictions and cases. For some there was a lot less detailed information about the case. This, in itself, is interesting and perhaps indicates need for some reform in how these records are kept or recorded. Additionally, the data is dependent on protective order violations that actually get reported the police. We know that many violations occur that are not reported to the police-there may be qualitative differences between what is reported to the police and what does not. However, it is important to explore this based on what actually is reported. Finally, this study is limited to one state. Other states might have varying results. Regardless of the limitations, it is important to study protective orders and protective order violations in all ways possible.

CONCLUSION

Intimate partner abuse, protective orders and protective order violations are a major issue in the United States. Given that law enforcement and those responding to intimate partner abuse are likely to encounter a large number of these cases, we must be sure that they have the knowledge and resources to be able to effectively deal with these situations.

REFERENCES

1. Tjaden P and Thoennes N. Prevalence and consequences of male-to-female and female-to-male intimate partner violence as measured by the National Violence Against Women Survey. *Violence Against Women*. 2000;6(2): 142-161.
2. Logan TK and Walker. Civil protective order outcomes: Violations and perceptions of effectiveness. *J Interpers Violence*. 2009;24(4):675-692.
3. Moracco KE, et al. Who are the defendants in domestic violence protection order cases? *Violence Against Women*. 2010;16(11):1201-1223.
4. Diviney CL, et al. Outcomes of civil protective orders: Results from one state. *J Interpers Violence*. 2009;24:1209-1221.
5. Kethineni S and Beichner. A comparison of civil and criminal orders of protections as remedies for domestic violence victims in a Midwestern county. *J Fam Violence*. 2009;24:311-321.
6. Sorenson SB and Shen. Restraining orders in California. A look at statewide data. *Violence against Women*. 2005;11(7):912-933.
7. U.S. Code, Title 18 §921.

8. Chaudhuri M and Daly K. Do restraining orders help? Battered women's experience with male violence and the legal process. In: Buzawa E, Buzawa C editors. *Domestic violence: The Changing Criminal Justice Response*. 1992;227-252.
9. Carlson MJ, et al. Protective orders and domestic violence: Risk factors for re-abuse. *J Fam Violence*. 1999;14(2): 205-226.
10. Melton HC and Nordmeyer. Intimate partner abuse: Cases involving protective orders versus those that do not. *The Open Criminology Journal*. 2014;7:1-7.
11. Grau J, et al. Restraining orders for battered women: Issues of access and efficacy. *Women Polit*. 2008;4(3):13-28.
12. Holt VL, et al. Civil protection orders and risk of subsequent police-reported violence. *JAMA* 2002;288(5):589-594.
13. Kothari CL, et al. Protection orders protect against assault and injury: A longitudinal study of police-involved women victims of intimate partner violence. *J Interpers Violence*. 2012;27(14):2845-2868.
14. Logan TK, et al. Relationship characteristics and protective orders among a diverse sample of women. *J Fam Violence*. 2007;22(4):237-246.
15. Klein A. Re-abuse in a population of court-restrained male battered after two years: Development of a predictive model. In: Buzawa E, Buzawa C (Eds.) *Domestic Violence: The Criminal Justice Response*. 1996:192-213.
16. Rigakos GS. Situational determinants of police responses to civil and criminal injunctions for battered women. *Violence Against Women*. 1997;3(2):204-216.
17. Agnew-Brune C, et al. Domestic violence protective orders: A qualitative examination of judges' decision-making processes. *J Interpers Violence*. 2017;21(13):1921-1942.
18. Logan TK, et al. Protective orders in rural and urban areas: A multiple perspective study. *Violence Against Women*. 2005;11(7):876-911.
19. McFarlane J, et al. Protection orders and intimate partner violence: An 18-month study of 150 black, Hispanic, and white, women. *Am J Public Health*. 2004;94(4):613-618.
20. Zoellner LA, et al. Factors associated with completion of the restraining order process in female victims of partner violence. *Journal of Interpersonal Violence*. 2000;15(10):1081-1099.