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Civil Court Responses to Intimate Partner Violence and Abuse

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Civil Court Responses to Intimate Partner Violence and Abuse

Ruth E. Fleury-Steiner, M. Kristen Hefner,
and Susan L. Miller, Editors

Cognella Series on Family and Gender-Based Violence

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CHAPTER TWO

Understanding Civil Protective Order Effectiveness, Barriers, and Arguments

Justice or Just a Piece of Paper?

TK Logan

Mary tried to obtain a civil protective order against her ex-husband three different times. Finally, after he broke into her home, the court granted her the protective order. She didn't hear from him again. She believed the protective order worked in giving her freedom and peace in her life because her ex-husband finally realized there would be consequences for his behavior toward her.

After receiving a civil protective order, Susan's husband, Todd, told her he would change. They reconciled because she loved him, and she thought it was the best thing for their child. However, Todd continued to abuse her. She left the home with the child and filed for divorce. After she left, Todd obsessively tracked, contacted, and pursued her. Each time Todd tried to contact her, she called the police. The police responded quickly and effectively, arresting him each and every time she called. One year after filing for the protective order, Todd had been arrested 6 times and had stopped bothering her. Susan felt positive about her interactions with the justice system and felt that without the protective order, she would not have been able to terminate the relationship successfully.

Jessica got a civil protective order because she wanted Eric to know she was tired of the abuse. She felt validated that the judge believed her and gave her the order. However, it did not stop Eric from calling, threatening her, or stalking her on a daily basis. The few times she had called the police, they were not helpful, often telling her that they couldn't arrest him unless they actually saw

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him violating the protective order. Six months after she obtained a protective order, Eric had violated it over 150 times, and Jessica had spent almost \$4,000 fixing property that he had damaged.¹

The stories represent three different experiences based on a similar intervention—a civil protective order (PO). Many people believe that civil POs are nothing more than “just a piece of paper.” However, to some victims, that paper represents validation—that a court of law believes they have been abused (Harrell, Smith, & Newmark, 1993; Logan, Walker, Hoyt, & Faragher, 2009). To others, like in Mary’s case, that paper represents boundaries for how they should be treated and what should happen if the abuse and violence continue (Cattaneo, Grossman, & Chapman, 2016; Harrell et al., 1993). And for others, like Susan, the PO is a way of showing their abusers that they are not going to put up with abusive behavior any longer, and it may help them in separating from their abusers (Cattaneo et al., 2016; Fischer & Rose, 1995; Logan, Walker, Shannon, & Cole, 2008; Logan et al., 2009). POs also provide an additional tool for law enforcement and courts in dealing with abuse and stalking. However, POs are not perfect, as underscored by Jessica’s experience. They, or the implementation of the statutes governing POs, have limitations and challenges, as there are with many systems. This chapter examines the research on POs by addressing five main questions: (1) What are the benefits of civil POs? (2) Are civil POs effective? (3) What are some of the main barriers to obtaining and enforcing civil POs? (4) What are the most common ways the value of civil POs are diminished? (5) What are some key implications for future research and practice?

What Are the Benefits of Civil POs?

Civil POs provide victims of partner violence with a time-limited judicial injunction that directs the abuser to refrain from further abusive behavior (Logan, Shannon, Walker, & Faragher, 2006c). The term “POs” includes a class of civil remedies that have different labels depending on the jurisdiction, including emergency POs, domestic violence orders, peace bonds, personal protection orders, protection from abuse orders, restraining orders, or temporary POs. All states have enacted laws authorizing the issuance of general civil POs for partner violence, although eligibility

¹ These scenarios are blended from several cases to highlight experiences while protecting confidentiality (Logan et al., 2006c; 2009).

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criteria and specific PO stipulations differ by state (Richards, Tudor, & Gover, 2017). There are several advantages to civil POs (Logan et al., 2006c, 2009) including the following:

1. POs, unlike criminal processes, focus on preventing future abuse rather than punishing past abusive acts. Thus POs may be a better fit with victim goals, particularly those who are more interested in being free from abuse and violence rather than punishing the abuser.
2. POs allow judges to craft the order to meet specific victim needs, such as safety needs or provisions for child custody, visitation, and support.
3. There may be fewer financial and time costs associated with obtaining a PO. More specifically, because the overall purpose of the PO is to prevent future violent behavior, there is a lower burden of proof (i.e., preponderance of evidence) than would be required for criminal charges (i.e., beyond reasonable doubt). Also, civil POs can be obtained through a direct individual petition process (*pro se*) and can be resolved quicker, unlike other legal proceedings, which often require a legal representative to petition the court, such as for child custody, housing, or other protective measures that might be sought through divorce attorneys. A quicker resolution is critical given the level of violence, abuse, and threats endured by victims.
4. Punishment can be faster because PO violations can be addressed with a contempt of court charge or through an arrest and charges by law enforcement. Contempt hearings are typically concluded quicker than criminal trials (Lemon, 2001; Zlotnick, 1995). In addition, many states have PO statutes that provide police with the authority to arrest for violation of its terms rather than having to determine probable cause as to whether another crime (other than a PO violation) has been committed (Buzawa & Buzawa, 2002).

Are Civil POs Effective?

The question of how effective civil POs are is inherent in the statement that POs are “just a piece of paper.” However, when thinking about the effectiveness of the PO, it might be useful to take a broader perspective than a simple it does, or does not, “work.” The understanding of whether POs “work” can be answered with multiple questions, including the following:

- (1) Do POs stop violence and abuse? (2) Do POs reduce violence and abuse?

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(3) How do victims feel about POs? (4) How do POs affect children? (4) What are the costs of POs for victims and society? (5) Do POs increase arrests, prosecutions, and convictions when they are violated? (6) What factors impact the effectiveness of POs?

Do POs Stop Violence and Abuse?

There have been many studies over the past two or more decades that report that between 23% and 70% of POs were violated during the study follow-up period. However, that means that between 77% and 30% of POs were *not* violated (Logan et al., 2006c; Logan & Walker, 2009a, 2010a). A meta-analysis of PO violations found that, across 32 separate studies, 60% of POs were *not* violated (Spitzberg, 2002). Two other studies that examined PO violations found that half, or close to half, did not experience a violation of the PO (Logan & Walker, 2009a, 2010a). One study that found only half of the POs were violated in the 6-month follow-up period reported that the violation rate did not differ for those with children in common with the abuser compared to those without children in common or whether they were from rural or urban jurisdictions (Logan, 2018). That same study asked women why they thought their (ex)partners did not violate the PO, and 80% of those who did not experience violations said their (ex)partners did not want trouble with the law, 18% said their (ex)partners realized they were serious about stopping the abuse, and 15% said their (ex)partners had moved on and didn't care anymore.

Do POs Reduce Violence and Abuse?

Some studies find overall reductions in abuse or police-reported incidents after a PO is issued (Holt, Kernic, Lumley, Wolf, & Rivara, 2002; Holt, Kernic, Wolf, & Rivara, 2003; Keilitz, Hannaford, & Efkenman, 1997; Kothari et al., 2012; McFarlane et al., 2004). Using a violation/no violation dichotomy is one way of looking at the data. Another consideration is to examine whether there are reductions in violence and abuse among those who experience violations. One study found that even among those with PO violations, fewer victims experienced control, economic abuse, threats, and physical and sexual assault after the PO (see Figure 2.1; Logan, 2018). And among those who experienced any of those abuse tactics, they experienced those tactics significantly fewer times after the PO (see Figure 2.2). When women from that study were asked why they thought their (ex)partners violated the order, 36% said their (ex)partners didn't take the order seriously or wanted to control, harass, or check up on them; 27% said their (ex)partners wanted to talk or get back together; and 8% said their (ex)partners wanted them to drop the order (Logan et al., 2009).

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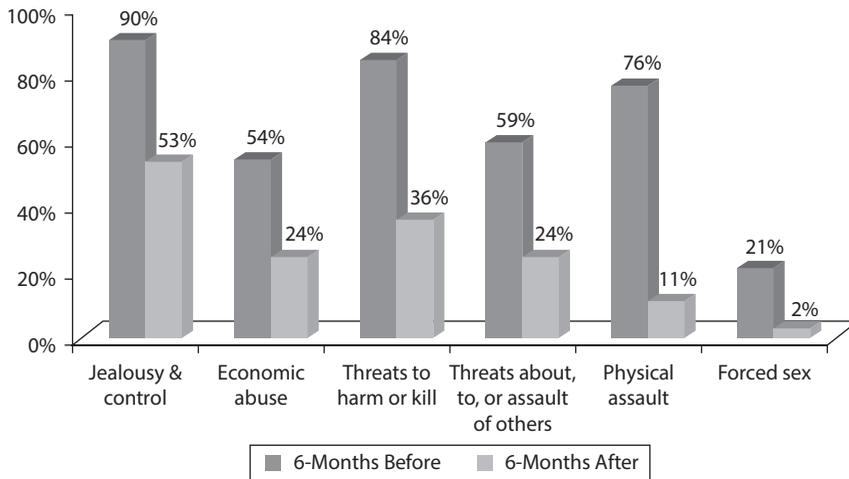


FIGURE 2.1 Abuse tactics experienced before and after the PO, for those who experienced violations

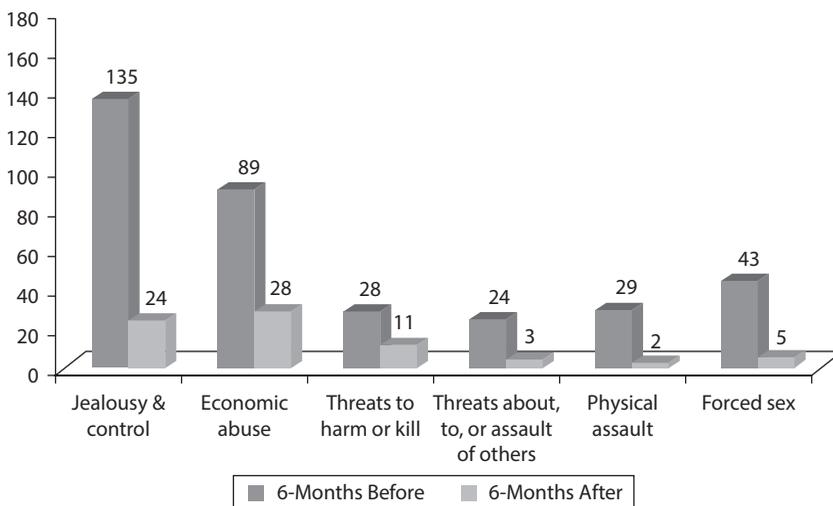


FIGURE 2.2 Days abuse tactics experienced before and after the PO, for those who experienced violations

How Do Victims Feel About POs?

Logan and Walker (2010a) found that 95% of those who experienced no violations and 77% of those who experienced any violations felt the PO was effective. These results are consistent with an earlier study that the majority of women reported that the PO was extremely (51%) or fairly (27%)

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effective, while only a small proportion did not find the PO effective (14%) or were not sure of its effectiveness (7%) at the 12-month follow-up (Logan & Walker, 2009a). That same study also found that 77% of the sample felt fairly or extremely safe, 10% did not feel safer, and 12% were not sure about their safety 12 months after the PO was issued.

Victims with POs also report significant reductions in fear that their abusers would physically harm them or someone close to them, that their abusers would continue to control and harass them, or that their abusers would do something that would harm them socially or financially (Logan & Walker, 2010a). The reduction in fear may constitute an important gain in quality of life and reduction in health and mental health sequela resulting from fear, anxiety, and stress from abuse, which can have long-lasting effects (Logan, Walker, Jordan & Leukefeld, 2006a). Consistent with this hypothesis, women reported significantly reduced days of depression, anxiety, and stress; significantly fewer days with trouble sleeping; and significantly reduced use of substances (including alcohol, illegal drugs, and prescriptions) to manage stress from the abuse 6 months after the PO was obtained (Logan & Walker, 2010a).

How Do POs Affect Children?

Few studies have examined the effect of POs on children. There are several ways that partner abuse can affect children. First, abuse can interfere with a mother's ability to parent, and thus when abuse is reduced, the mother can focus on the child rather than on the abuser (Logan, Cole, Shannon, & Walker, 2006b; Nixon, Tutty, Radtke, Ateah, & Ursel, 2017; Rossi, Holtzworth-Munroe, & Rudd, 2016). Second, partner abuse often occurs where children can see and hear the violence and abuse, and witnessing abuse may have detrimental effects on children (McTavish, MacGregor, Wathen, & MacMillan, 2016; Vu, Jouriles, McDonald, & Rosenfield, 2016). Third, children can be directly targeted by the abuser with threats and violence (Hamby, Finkelhor, Turner, & Ormrod, 2010, 2011). Fourth, children can be used as another way of controlling the victim. One study found that in the 6 months before the PO, 67% of mothers reported that their children saw or heard violence, 35% said their children saw police at the house because of abuse, 6% reported their abusers had physically assaulted their children, and 35% of abusers had threatened to interfere with the children by calling child protective services, taking full custody of the children, or kidnapping the children (Logan, 2018). In the 6 months after the PO was obtained, only 14% said their children saw or heard abuse, 4% saw the police because of abuse, and none reported that their children were assaulted. Further, only 10% experienced threats about their children.

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When examining the effect of the PO on the children among only those with PO violations, there were similar trends. Among those with any violations, 73% said their children had witnessed the abuse before and 23% after, and of those reporting that their children witnessed abuse, they witnessed abuse fewer times (55 times before and 1 time after). Further, 7% reported that their children were assaulted 6 months before the PO was obtained and 0% reported that their children were assaulted after the PO was obtained. Also, 41% reported that they had experienced child interference threats before the PO while only 16% were threatened with child interference after the PO was obtained. Among those who reported child interference threats, they were threatened fewer times (27 times before and 10 times after).

What Are the Costs of POs for Victims and Society?

Although there are individual and societal costs to victims in obtaining a PO, there are also costs of partner violence and abuse to victims and to society. One study found that it took an average of 6.5 hours for victims to obtain a PO (including both the temporary and more permanent orders), that 57% missed work or other important activities, and that the average transportation costs were about \$23 (Logan, 2018; Logan et al., 2009). Thus, while it is true that POs cost victims in terms of time, travel, and inconvenience, as well as in personal costs (e.g., embarrassment and fear), these costs must be considered within the broader context of the cost of partner abuse. Partner abuse costs victims and society billions of dollars each year. For example, one study estimated that partner violence costs exceeded \$8.3 billion (in 2003 dollars) in a 1-year period, which included \$460 million for rape, \$6.2 billion for physical assault, \$461 million for stalking, and \$1.2 billion in the value of lost lives (Max, Rice, Finkelstein, Bardwell, & Leadbetter, 2004). These costs are underestimates because key costs were not included, such as civil and criminal justice system costs, and because of methodological reasons, such as the costs were estimated in 2003 dollars, not current dollars accounting for inflation.

In thinking about the cost of partner abuse, there are two categories that should be considered: direct and indirect costs (Logan, Walker, & Hoyt, 2012). *Direct costs* are those that require actual payments by individuals or institutions, such as health services, mental health services, victim-specific services, and criminal justice system costs, such as arrests and convictions. *Indirect costs* include resources and opportunities that were lost to victims as a result of abuse and violence, including productivity (e.g., lost time at work, lost time for caregiver duty, lost time for other activities), transportation costs, and lost personal property or property

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damages. This category also encompasses a larger cost that can be termed health-related quality of life, sometimes referred to in civil litigation or as part of victim impact testimony as “pain and suffering.” This cost is often overlooked and downplayed by society rather than recognized as a substantial cost to the victim and her children.

One way to frame reduced costs after an intervention is to think of them as *avoided costs*. In other words, if it is assumed that costs before the PO intervention are stable, then it is assumed that the costs would have continued without the PO intervention (Logan et al., 2012). Thus any reduced costs because of the PO intervention can be thought of as avoided costs. One study found that POs were associated with significantly reduced direct (civil and criminal justice system costs, transportation costs, damaged property) and indirect costs (lost time from work, family, or civil responsibilities and health-related quality of life days) after the PO was obtained (Logan et al., 2009; Logan et al., 2012). That same study estimated the average justice system cost of a PO to be \$354 per petitioner, a very low cost to the justice system compared to the costs associated with partner violence for each person each year of abuse. For the entire sample of that study, it was estimated that for every \$1 spent on the PO issuance, there were \$30.75 of costs that would have been incurred had the PO not been issued (avoided costs), but this was only estimated for a 1-year period, although the average relationship duration in that study was over 6 years. That study went a step further and estimated that, including changes in quality of life, POs saved taxpayers in one small state \$85 million in a 1-year period (in 2007 dollars), which is an underestimate because it does not include all of those with POs issued before that year and were still in effect.

Do POs Increase Arrests, Prosecutions, and Convictions When They Are Violated?

The answer to this question is more complicated because each one is a different, although related, process through the justice system. As noted earlier, the PO provides police and the criminal justice system with a tool to address partner abuse; however, research results suggest that there is room for both improved responses to PO violations throughout the criminal justice system responses and for better research on POs and criminal justice system outcomes. Before examining the research more in-depth, it is important to note that not all individuals with civil PO violations choose to report those violations. For example, one study found that only 60% of domestic violence incidents were reported to the police between 1998 and 2002 (Durose et al., 2005). Logan et al. (2009) found that only 65% of women with PO violations reported those violations to law enforcement.

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However, those who reported violations experienced more severe violence and abuse than those who did not report violations.

When examining arrests for PO violations, one study found that of the 2.1 million incidents of family violence reported to the police, only 36% resulted in an arrest (Durose et al., 2005). Similarly, Logan et al. (2009) found only 27% of reported violations resulted in an arrest. Another study found that PO violations led to arrests in only about half of the incidents, even though there was a mandatory arrest law (Mignon & Holmes, 1995). Kane (1999) compared domestic violence incidents with and without POs and concluded that, overall, a PO violation led to about a 5% higher arrest rate when compared to the arrest rate in cases without a PO.

A more recent study found that abusers with POs against them were more likely to be arrested for domestic violence than abusers without a PO (Richards, Jennings, Tomsich, & Gover, 2014). Another study found that when there was a PO in place, police were more likely to file multiple counts and felony-level charges than in cases without POs (Kothari et al., 2012). However, several studies have also found that PO violation charges have no significant effect on conviction or recidivism rates (Frantzen, San Miguel, & Kwak, 2011) or that charges in cases with PO violations had no differences in conviction rates when compared to cases without PO violations (Kothari et al., 2012).

Another study found half of the PO violation charges that were filed were dismissed outright, and of those who plead or were found guilty, the abusers did not receive sentencing sanctions consistent with the full extent of the law (Diviney, Parekh, & Olson, 2008). Specifically, that study found that although all abusers should have been sentenced to batterer intervention programs, only a quarter were actually so ordered. Also, while federal law bans domestic violence abusers from acquiring or possessing firearms, only 5% in that study were ordered to surrender firearms. Another study using national data found that among convicted felony assault defendants, domestic violence offenders were more likely to be sentenced to jail rather than prison than non-domestic assault offenders, and of those sentenced to prison, 45% of domestic violence offenders received a sentence of more than 2 years compared to 77% of non-domestic assault offenders (Durose et al., 2005).

What Factors Impact the Effectiveness of POs?

There are two unique points where this question is important. First, what factors influence violations of the PO, and second, what factors influence PO violation enforcement. As noted earlier, many initial POs are not violated, so understanding factors that are associated with violations

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is important to reduce the risk of violations as well as to help petitioners plan for their safety. Over the past two decades, a variety of research has been done examining factors associated with PO violations with differing samples, methods, measures, and operationalization of violation (e.g., official police data versus victim-reported violations). Also, as the research on POs has developed over time, different factors have been used to examine effectiveness.

Having children in common with the abuser has been related to increased PO violations in several studies (Carlson, Harris, & Holden, 1999; Harrell et al., 1993; Harrell & Smith, 1996). One study found that women with children were almost twice as likely to experience PO violations (Harrell & Smith, 1996) and another study found that women with children in common with the violent partner were four times more likely to report PO violations than women without children (Carlson et al., 1999). It is hypothesized that increased violations are likely because of continued access to the victim and conflict over custody and visitation (Carlson et al., 1999; Harrell & Smith, 1996; Logan, Walker, Jordan, & Campbell, 2004).

Several abuser factors have also been associated with increased PO violations, including abuser age, with younger abusers more likely to violate the PO than older abusers (Klein, 1996; Richards et al., 2014). Although in general, abusers with POs against them tend to have high rates of prior charges and convictions, a greater number of charges, convictions, and POs were associated with increased PO violations (Cattaneo & Goodman, 2005; Klein, 1996; Keilitz, Hannaford, & Efkenman, 1997).

Several relationship factors have also been associated with PO violations, including prior violence severity and relationship status. Specifically, severity of physical and sexual abuse has been associated with PO violations (Cattaneo & Goodman, 2005; Harrell et al., 1993; Logan et al., 2009). Further, one study found that violation rates were higher for women who continued a relationship with violent partners compared to those who did not (Logan et al., 2008). That same study found that among those who continued relationships with abusers, physical abuse severity was a significant predictor of PO violations while fear was associated with PO violations among those who did not continue in relationships with abusers.

Those abusers who stalked victims in the 6 or 12 months before the PO were more likely to violate the PO (Logan, Shannon, & Cole, 2007; Logan & Walker, 2010b). More specifically, Logan et al. (2008, 2009) were able to examine many of the factors associated with PO violations together, including area (rural versus urban), abuser age, abuser race, number of felony and misdemeanor charges the abuser had the 6 months before the PO was granted, relationship to abuser (ever married versus never married),

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years total spent in the relationship at baseline, any kids in common with the abuser, physical violence severity 6 months before the PO, any forced sex 6 months before the PO, number of days spent in the relationship with the abuser during the follow-up period, and whether victims were stalked 6 months before the PO was obtained (Logan & Walker, 2010a). Only the number of days of stalking victimization 6 months before the PO was significantly associated with the number of PO violations.

When examining factors that might impact more effective enforcement, two main factors will be discussed here. The first factor is increased victim injury. Several studies have found that victim risk drives the arrest decision more than having a PO violation alone (Kane 1999, 2000). Specifically, Kane (2000) found that when a PO was violated and victim risk was high (level of threats and injury potential for harm), the arrest rate was about 76%. But when a PO was violated and victim risk was low, the arrest rate was 44%.

The second factor is jurisdiction. Research suggests that, even within states, the implementation of laws can vary by jurisdiction, which means enforcement of POs may be better in some jurisdictions than in others (Logan, Shannon, & Walker, 2005; Logan et al., 2009). One study that examined rural and urban jurisdictional differences found both urban advocates and criminal justice representatives reported POs worked better and were enforced at higher rates than rural advocate and criminal justice key informants (Logan et al., 2009). Rural key informants reported there were fewer PO violation arrests, fewer prosecutions, and fewer guilty convictions for PO violations than urban key informants. When official data were examined, the trends in key informant perceptions were confirmed, with the rural areas having fewer domestic violence–related arrests and fewer charges, as well as fewer convictions of PO violations than the urban area.

There were also several key differences for victims living in rural compared to urban jurisdictions, although there were no differences in PO violations (half reported no violations regardless of jurisdiction). Even though rural women experienced more violations on average ($M = 15$) than urban women ($M = 9$), there were no differences by jurisdiction for those who reported any violations to the police (62% overall).

Yet fewer rural abusers were arrested (21%) than urban abusers (38%) as reported by the victim. Of those arrested, fewer rural abusers had any formal charges in their record at follow-up (14%) compared to those with reported arrests in the urban area (83%). Taking a broader perspective, of those who reported any violations to the police, 56% of the urban abusers had domestic violence–related charges in their records 6 months after the PO was issued compared to 6% of the rural abusers (Logan, 2018).

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What Are Some of the Main Barriers to Obtaining and Enforcing Civil POs?

Research shows that there are significant barriers that victims face in obtaining POs and in trying to have POs enforced. These barriers change over time, at different stages of the process, and vary by jurisdiction. This section will explore three main categories of barriers: acceptability, accessibility, and enforcement.

Acceptability Barriers

This category of barriers is related to personal barriers or barriers that may stop someone from even attempting to obtain a PO, such as embarrassment, fear of the abuser, concern about not being believed, and lack of personal resources.

Embarrassment

PO petitions typically require a written statement of the abuse, and there is also typically a hearing where the abuse is discussed in front of a judge in an open courtroom. Women indicated that they were embarrassed and concerned that they might be looked down on if they talked about the abuse to others, as partner abuse is often thought of as a private family matter (Chaudhuri & Daly, 1992; Fischer & Rose, 1995; Logan, Stevenson, Evans, & Leukefeld, 2004; Logan et al., 2009; Ptacek, 1999). Chaudhuri and Daly (1992) reported that one-fifth of the women in their sample were embarrassed by the public nature of the hearing, which included allowing a room full of strangers to listen to intimate details of their lives.

Fear

With every protective step victims take, there are always trade-offs, particularly with regard to safety (Logan et al., 2006b; Thomas, Goodman, & Putnins, 2015). With POs, victims must often be in the courtroom with the abuser, which creates anxiety and fear. Further, fear of retaliation by the abuser and his friends or family are also potentially very powerful barriers to seeking or keeping POs (Chaudhuri & Daly, 1992; Fischer & Rose, 1995; Harrell et al., 1993; Kaci, 1994; Keilitz et al., 1997; Logan et al., 2004, 2005, 2009). It is not known how many women never seek POs or obtain the temporary order but do not obtain the more permanent order because of fear. Sometimes abusers directly harass victims to keep them from reporting the abuse or to get them to drop the POs and/or criminal charges. This is sometimes referred to as witness intimidation (Cruz & Garvey, 2014; Dedel, 2006).

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Concern About Not Being Believed

Those seeking POs may also be concerned that nobody will believe them, and they will have faced their fear and embarrassment for nothing in the end (Logan et al., 2009). This would be consistent with what their abusers had repeatedly told them—that nobody would believe them. Concern about not being believed may be particularly salient if they had previous negative encounters with justice system officials where they felt blamed, not believed, or were treated with indifference or in a condescending manner (Fischer & Rose, 1995; Logan et al., 2004, 2005).

Lack of Personal Resources

Women who lack personal resources or support for leaving the abusive relationship may believe it is pointless to pursue a PO. If, for example, victims heavily rely on the abuser for financial support, they have limited social support, there are limited community resources, or they cannot find safe and separate housing, then they may be less likely to seek help through the justice system in general (Chaudhuri & Daly, 1992; Kaci, 1994; Logan et al., 2004, 2005). Many victims were isolated from support networks and tangible resources during the relationship, and those resources may or may not be available after seeking help for the abuse (Logan et al., 2004, 2006a; 2006b; Logan & Walker, 2017b; Wilson, Smith, Tolmie, & de Haan, 2015).

Accessibility Barriers

Even when victims overcome their personal barriers and attempt to obtain a PO, there are a host of system barriers that they are likely to face, including meeting statute eligibility requirements, bureaucracy, gatekeeper negativity, perceived lack of credibility, and lack of responsiveness to their needs.

Statute Eligibility Requirements

Civil POs have specific eligibility requirements that differ by state. For example, some states allow same-sex partners to obtain POs while others do not (Logan et al., 2008; Richards et al., 2017). Other eligibility criteria may include the level of severity or injury, type of abuse alleged, or perceived threat of future violence (Agnew-Brune, Morocco, Person, & Bowling, 2017; Durfee, 2009; Jordan, Pritchard, Wilcox, & Duckett-Pritchard, 2008). Eligibility is determined by state laws, but within those state laws, there may be differential implementation of the laws depending on jurisdiction, specific case components, and the judge determining case outcomes (Agnew-Brune et al., 2017; Fleury-Steiner, Miller, Maloney, & Postel, 2014; Logan et al., 2009; Lucken, Rosky, & Watkins, 2015; Person, Morocco, Agnew-Brune, & Bowling, 2018).

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Bureaucracy

Another barrier is difficulty in navigating the system (Bell, Perez, Goodman, & Dutton, 2011; Logan et al., 2009). What is not clear is how many victims seek POs but get frustrated or overwhelmed by the bureaucracy and just give up. Entering into a new system, particularly when in a state of heightened anxiety and fear, can be intimidating. In general, women who obtained POs reported not knowing what to do or where to go; being confused about the process, conditions, or terms of the order; having difficulty filling out the required paperwork; and not having any help through the process (Logan et al., 2005; Durfee, 2009). One study found that one-third of victims indicated that the judge did not allow them to ask questions at the hearing, 15% indicated they were confused about something after the PO hearing, 12% believed the abuser did not understand the terms of the PO, and 8% discovered errors with the PO after it was issued (Logan et al., 2009).

That same study also found that some victims were expected to take their PO forms from office to office, and in some cases, they were required to find the judge themselves to get the emergency PO signed (Logan et al., 2005). Some of these victims felt the “runaround” was used as an attempt to deliberately frustrate their efforts to obtain a PO. Also, in most cases, before the PO can be enforced, the respondent must be served with notice of the order. There can be problems with getting the order served, with one study showing some jurisdictions having a nonservice rate as high as 91% (Logan et al., 2004, 2005, 2006c).

Gatekeeper Negativity

Negative gatekeepers, or individuals who provide access to POs, such as court clerks, law enforcement, and judges, can create a hardship for victims who are facing a multitude of barriers, ongoing violence, and other life stressors, as well as potentially limited or negative social support for seeking a PO (Bell et al., 2011; Ptacek, 1999). In some cases, even when women meet PO eligibility, gatekeepers discourage them from pursuing a PO (or even outright deny them the opportunity). Specifically, one study found that about 1 in 4 victim service professionals reported negative gatekeeper attitudes were barriers for those seeking POs (Logan et al., 2009). For example, one professional explained that “[barriers include] what I like to call ‘judicial rudeness,’ specifically the people who work in the court system who are rude to victims. This kind of rudeness may make a victim walk out and not file for a PO or cause a victim to withhold information from the petition to avoid having to explain themselves to the already rude clerks (Logan et al., 2009, p. 48).” Victims in that same study also recounted

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gatekeeper negativity. One victim said, “I went after hours and the woman asked me if I wanted to wait until the next day. She asked me if it was an emergency! Had all four kids with me and they were really rude and got an attitude with me (Logan et al., 2009, p. 89).” Another victim indicated, “[The court] clerk tried to discourage me from getting an emergency PO. She told me it would take a lot of time to fill out the paperwork. She was very rude and even asked me why I didn’t just stay away from the PO partner (Logan et al., 2009, p. 89).” And another said, “[The court] clerk made me feel like my life was not important (Logan et al., 2009, p. 89).”

Once the initial petition is filed, then it goes before a judge. Judges can also be negative and intimidating toward victims (Bell et al., 2011; Logan et al., 2009; Moe, 2000; Ptacek, 1999; Person et al., 2018). Judges also may have certain biases that influence their decisions. One bias that was repeatedly mentioned was when a victim had previously dropped a PO, with several key informants labeling these women as “frequent flyers” (Logan et al., 2009). Judges may be more reluctant to issue another PO in these cases. Even so, several studies suggest that few women drop their orders. For example, one study found that 4% in the 6 months after the PO was issued were dropped, and in another study with a 12-month follow-up, only 9% were dropped (Logan et al., 2009; Logan & Walker, 2010a). Further, women who drop orders may be at greater risk because of threats and fear of personal and family safety (Logan et al., 2004, 2009).

Another judicial bias that was mentioned by key informants was that women obtain POs for revenge or “to get something,” which ignores the importance of maintaining women’s safety through meeting their other tangible needs, such as financial, residential, and child custody concerns (Logan et al., 2009). One study found that on one hand, judges feel that when children are involved, there is a need for increased protection, but on the other hand, children may provide parents with a motive to use the PO as a step in getting the “upper hand” or obtaining sole custody of the child (Agnew-Brune et al., 2017; Logan et al., 2009).

Perceived Lack of Credibility

Another accessibility barrier is that court personnel and judges may not perceive victims as credible (Lucken et al., 2015). One study found that over 85% of advocate and criminal justice system key informants mentioned victim credibility as an important barrier to obtaining a PO, including things like negative victim characteristics (e.g., substance use, prior criminal history), lack of evidence, and that the case was not presented well (Logan et al., 2009). For example, one study found that 70% of petitioners with attorneys were granted the PO compared to 58% of

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petitioners without attorneys, and the authors attributed that difference to how well the petition was framed and written (Durfee, 2009). Additionally, that study found attorney petitions included supplemental materials and that they used a larger framework in which the abuse was situated rather than presenting the abuse as one isolated incident which helped increase credibility. Another study found, from comparing petition descriptions and a later interview with victims about that same incident, that victims were more likely to report threats (72% versus 61%), threats of harm to other people (43% versus 23%), control (59% versus 17%), witnesses to abuse and violence (47% versus 10%), and sexual violence (9% versus 1%) in the interviews suggesting victims may not think to include all of the pertinent information when writing their initial petitions (Logan, 2018). While judges are looking for victim credibility cues, they are also looking for respondent credibility cues. Respondent credibility is increased if the abuser is employed and/or is represented by an attorney (Fleury-Steiner et al., 2014; Lucken et al., 2015; Person et al., 2018). Judges may also worry about the negative effect their decisions may have on abuser's employment (Agnew-Brune et al., 2017).

Lack of Responsiveness to Victim Needs

As mentioned earlier, one advantage of POs is the ability to craft the order to meet specific victim needs. However, it is not clear how well this benefit of POs is being carried out or whether they are more likely to be one size fits all. For example, although most states include stipulations for temporary provisions of custody and visitation, judges do not always use these provisions (Sheeran & Meyer, 2010). One reason is that victims may not know to ask for these provisions. One study that examined petitions found that almost half (45%) of the urban and 68% of rural mothers with minor children in common with their abusers asked for temporary custody and only 26% asked for temporary child support in the initial petition (Logan, 2018). Interviews with those same mothers found that overall, 25% of urban mothers and 70% of rural mothers with minor children in common with their abusers were awarded temporary custody (Logan, 2018). Of those awarded temporary custody, none of the urban and 18% of the rural mothers were awarded child support or any other form of monetary support. Further, half of the urban women who asked for temporary custody in the initial petition were granted it compared to 5% who did not ask for it in the initial petition, while 87% of rural mothers who asked for temporary custody received it compared to 39% of rural mothers who did not initially ask for temporary custody in the petition. However, there was no difference for those who asked for temporary child support

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and being granted temporary support. Other studies have also found that custody and visitation within POs were often informal or ambiguous and that the court provided limited information or support to abused mothers (Fleury-Steiner et al., 2014). Thus asking for specific stipulations may be helpful in getting them but isn't a guarantee.

Barriers to PO Enforcement

There are several barriers to enforcing POs that are discussed in the literature, including victim backlash, limited consequences for violations, and difficulty enforcing child custody and visitation stipulations.

Victim Backlash

One study found that about half of both victim service and criminal justice system key informants indicated that problems with enforcing the order included victims allowing contact with the respondent and that victims do not report violations (Logan et al., 2009). Further, some believe that victims even “entice” abusers to violate the PO (Fritsche, 2014; Logan et al., 2009). And these perceptions can have negative consequences for victims. For example, law enforcement may arrest both the victim and the abuser, and these actions may discourage victims from calling the police for future PO violations (Logan et al., 2009). One author noted that victims have been arrested or fined for initiating contact with the abuser, even though the PO is not a legal prohibition from contact on the victims' part (Jeske, 2017). It should be noted that victims may respond to their abusers by contacting them for many reasons, including safety, but the system may interpret the responding as initiating contact because they do not look at the larger picture of what is happening (Logan et al., 2006). For example, a victim may ignore phone calls from her abuser, but when he starts harassing other relatives, she may contact him so he will leave them alone (Logan et al., 2006b). There may be other reasons victims initiate contact with their abusers, such as child-related or financial reasons. Again, having a PO against an abusive partner is not a prohibition against the victim.

Limited Consequences for Violations

Another barrier to PO enforcement is that the consequences of violating orders are sometimes limited. Half of criminal justice professionals (47.2%) and three-quarters of victim advocates (74.1%) mentioned police sometimes do nothing when orders are violated (Logan et al., 2009). The key informants mentioned several different reasons for a lack of enforcement, including limited police resources, low departmental priority, difficulty in finding the abuser, and limited police knowledge about partner violence and what

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constitutes a violation. Even when abusers are arrested, sometimes the jail time may be minimal, and charges are often dropped (Logan et al., 2009). When there are no consequences for violating POs, abusers may continue or even escalate violence and abuse, further increasing victim risk.

Difficulty Enforcing Child Custody and Visitation Stipulations

Even when custody and visitation are addressed within the PO, there can be problems in enforcing those stipulations. Kohn (2016) argues that custody and visitation provisions are rarely enforced either through contempt of court charges or through criminal proceedings because of a lack of willingness and possibly a lack of ability to exercise consequences for not carrying out the orders. One particularly famous case of this lack of enforcement ended with the death of three children in which police did not enforce (or really even try to enforce) the PO after the father kidnapped the children out of the mother's yard and failed to return the children (i.e., *Town of Castle Rock v. Gonzales*). This lack of enforcement was upheld in the U.S. Supreme Court, which ruled that due process principles did not create a constitutional right to police protection, despite the existence of a court-issued restraining order (Ballou, 2017; Kohn, 2016; Teitelbaum, Coogan, & Rosenbaum, 2006). Further, it is not clear how custody and visitation terms are handled by police and judges when there is an ongoing custody dispute or when there is a court order through family court outlining visitation and custody, particularly when the PO differs from those guidelines.

What Are the Most Common Ways the Value of Civil POs Are Diminished?

Although research suggests that POs do work for many victims, that they are cost-efficient, and that victims appreciate the orders, they are often viewed negatively. The most common ways the value of POs are diminished include negative and narrow framing, suggesting that there is something different about victims who obtain POs, diminishing POs because there has not been a study with a random assignment, not acknowledging the role stalking plays in PO effectiveness, and acknowledging that POs may work in one jurisdiction but not in others (Logan, 2018).

Negative and Narrow Framing

Part of the reason people may not believe that POs help victims may be because PO effectiveness is consistently and repeatedly negatively framed. The media focuses on stories about how POs failed victims, often ending

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in a victim’s death. There is rarely a media report highlighting cases where POs made a difference for someone (Logan et al., 2006c). At the same time, researchers also continue to frame POs negatively, stating, for example, that 40% of POs were violated rather than 60% were *not* violated.

It may be that people know others who have had POs that did not “work” for them. It is certainly true that POs do not work for all people all the time—no intervention does. Further, POs are not a safety plan; in fact, one should plan for safety even more when obtaining a PO, whether it is granted or denied. Police, judges, and victim advocates can also be very negative about POs. Police and judges often only see women when the PO fails to work for them at that given time (Logan, 2018; Logan et al., 2009). If the PO works, a victim is very unlikely to call the police or to get on a judge’s docket and thank him or her for helping her to gain peace and freedom from control, abuse, and violence. Even victim advocates are less likely to see women when the PO is working for them; in fact, they too are typically only seeing those victims for whom the system is failing. Thus many professionals are seeing POs from a very narrow view, one that comes with heightened emotion because it is frustrating and upsetting to see someone repeatedly asking for help and continuing to be exposed to violence. However, the big picture view is one that recognizes that many women are helped by the PO, and they are no longer engaged in the agencies and services for victims, while the victims who professionals continue to see are a portion of those with POs who need additional support.

There Is Something Different About Victims Who Obtain POs

It is true that victims who ask for POs must be persistent; they must be willing to overcome embarrassment; they have to face their fears and potentially risk their safety, and they are probably a bit naive to believe that the system can actually help them. But other than that, not a lot is known about differences between those who request POs and those who do not. Overall, we know that not all partner abuse victims need or want a PO, that those who obtain POs have a range of abuse experiences as well as come from diverse backgrounds, and not all victims who request POs will be granted one (Logan et al., 2006c; 2009).

It is not even clear, from the current research, how many partner abuse victims ever obtain a PO. Understanding how many victims obtain POs is actually a two-part question. The first part of the question is how many victims request or petition the court for a PO, while the second part of the question is of those who request a PO, how many obtain one? One study of 2,691 partner abuse victims who had reported a partner abuse incident to the police and who did not have a prior PO found that 12.1% of those

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women received a PO during the 12-month study follow-up period with 5.2% of those orders being temporary and 6.9% receiving a full PO using official justice system data (Holt et al., 2002). Another study found that 16.4% of those sexually assaulted, 17.1% of those physically assaulted, and 36.6% of those stalked by their (ex)partners obtained a PO after their last incident of abuse (Tjaden & Thoennes, 2000).

Because there are no national prevalence studies of POs, there is an incomplete picture of characteristics for those who do or do not obtain POs, which leaves key questions about the fairness in the distribution of POs. Further, although some studies show a nearly equitable distribution of African American, White, and Latina women filing for POs, other studies show larger proportions of specific race/ethnic groups filing petitions for orders (Logan et al., 2006c; Messing, Vega, & Durfee, 2016; Russell, 2012). The diversity in racial characteristics of petitioners may partially be related to different racial characteristics of the locality where the study took place. For example, one study included women requesting POs in a large urban area (Philadelphia), which had a diverse sample (Zoellner et al., 2000), while another study included a sample of rural and urban women with POs from a mostly white, rural, southern state (Logan, Shannon, Cole, & Walker, 2006d). Another study found undocumented Latinas living in shelters were less likely to know what a PO was or how to obtain one compared to citizen/resident Latinas, suggesting that certain underserved populations are not as likely to access the full scope of protections available for partner abuse (Messing et al., 2016).

There Has Not Been a Study With Random Assignment

Random assignment has been the gold standard in intervention research to more clearly determine causality (Shadish, Cook, & Campbell, 2002). When it comes to interventions for partner abuse victims, it wouldn't be practical or ethical to randomly assign victims to POs. However, it isn't always necessary to use random assignment to determine the effect of an intervention. For example, there has never been random assignment to evaluate the effectiveness of a parachute, and yet we do not question their effectiveness (Smith & Pell, 2003). When examining the research on PO effectiveness, it should be noted that the results are robust and consistent across studies and across time, making it less likely that the changes in violence and abuse are simply coincidental. One study looked at three groups of victims 6 months after a PO (no violations, violations but no stalking (average of seven violations), and violations and stalking (average of 18 violations)), and the results followed a linear pattern, finding those with more violations had more abuse, violence, fear, and distress,

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thus suggesting that POs do have an effect on abuse and the quality of life for women and their children (Logan et al., 2009). Furthermore, one of the advantages of POs is that they are voluntary rather than forced. It is not clear whether the results of PO effectiveness would be the same if the order was forced on victims. In addition, because nobody knows how the respondent is going to react when a PO is obtained, each victim must decide for herself whether, and when, obtaining a PO is a step she may want to take. Research suggests that victims choose certain courses of action based on their personal assessment of risk or danger, and often their risk predictions are accurate (Cattaneo, Bell, Goodman, & Dutton, 2007).

Not Acknowledging the Role That Stalking Plays in PO Effectiveness

Stalking negatively impacts the PO's effectiveness as well as the quality of the lives of victims and their children (Logan & Walker, 2009b, 2010b, 2016, 2017a). Two studies found that about half of victims are stalked before the PO and that 35%–45% of those stalked before the PO was issued did not experience stalking after the PO. However, 45%–65% did experience continued stalking, and those victims experienced significantly more violations, abuse, and violence (Logan, 2010; Logan & Walker, 2017a). Stalking is a danger cue, particularly when it overlaps with separation, which is when the PO is often issued (Logan et al., 2004; Logan & Walker, 2004). Victims who are stalked see themselves as being at higher risk for re-abuse and are likely to be correct in their assessment (Cattaneo et al., 2007). Also, cases with stalking increase societal and victim costs of partner abuse (Logan & Walker, 2017a; Logan et al., 2012). For example, one study found police spent about 180 hours with victims who were stalked in the 6-months after the PO was issued compared to 50 hours for those who experienced violations but not stalking, yet there were no differences in the rate of domestic violence–related charges (20% of both groups). When stalking occurs after a PO is issued, there are repeated calls to police, high victim fear, and ongoing violence and abuse (Logan & Walker, 2017a). Thus to many professionals, it may appear that POs are not effective. These cases, where stalking occurs after a PO is in effect, are very dangerous cases, and they need even stronger enforcement.

Acknowledging POs May Work in One Jurisdiction but Not in Others

Another way to minimize or diminish PO effectiveness is to agree that they may work in some states or jurisdictions but not in other states or jurisdictions. Two of the studies that were discussed throughout this chapter were conducted in Kentucky. Kentucky has higher than national average rates of partner abuse and stalking (Black et al., 2011). At the same time, Kentucky is ranked among the worst states in the nation on a number of indicators

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(Logan, Cole, Miller, Scrivner, & Walker, 2016). For example, Kentucky is ranked third in the nation for the highest drug overdose–related deaths and second in the nation for the highest smoking rates. Kentucky was ranked second in the nation for the highest number of self-reported poor physical health days in the past 30 days and fourth in the nation for the overall number of self-reported poor mental health days in the past 30 days. Kentucky is also in the bottom five of the worst states for overall well-being (which considers social, financial, and physical indicators). Further, 8.1% of the Kentucky population between 18 and 64 are on disability, which is the second highest in the nation. Kentucky also was ranked second in the nation for the highest percentage of children living in poverty. The PO effectiveness studies conducted in Kentucky also included women from an Appalachian rural area, which is even more impoverished than the state averages (Logan et al., 2009). Yet, even within these significant challenges, POs were equally effective in both rural and urban jurisdictions in terms of overall violations (50%), reductions in abuse and violence, and average perceived effectiveness. Clearly, there are jurisdictional differences and other factors that may make POs more or less effective, but POs should not be dismissed outright given the positive findings in research on their effectiveness. Rather, it is important to improve upon what is working and fix what isn't in each specific jurisdiction.

What Are Some Key Implications for Future Research and Practice?

The research on POs has come a long way over the past two decades, yet there are still many gaps in the research. There are also several key practice implications from the current research on POs.

Implications for Future Research

Although the research on POs has come a long way over the last few decades, there are still several key gaps in the knowledge base regarding POs, including the lack of national prevalence data, the limited information regarding safety when POs are filed; the lack of information regarding enforcement of PO stipulations, such as custody; and the limited information about how the PO system may be used as a way to further abuse victims.

As discussed earlier, one of the biggest gaps in the research on POs is the lack of national data that provides prevalence rates of how many victims petition for, and obtain, POs and characteristics of those who do and do not obtain POs. This information is vital in understanding the racial/ethnic as well as jurisdictional distribution of POs personal

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and situational characteristics that may influence or be associated with requesting and receiving POs, and outcomes, including abuse, quality of life, and satisfaction, for those who do and do not obtain POs.

Also, a better understanding of the safety risks and safety strategies when a PO is obtained would be helpful. There are several points in the process that may increase risk, including when a PO is obtained, the time between petitioning for the PO and actually obtaining a PO, and during or after a hearing for the full order. One study did not find that petitioning for the PO increased abuse but did find that the time period between the temporary PO and the hearing for the full order was particularly stressful for victims (Logan et al., 2009). Specifically, many women were not sure when their abusers would actually be served, so they were unable to prepare for their abusers' reactions, and they were not clear whether a specific contact or incident was technically a violation.

Having more information about enforcement, particularly enforcement of custody and visitation arrangements, and the effect of POs on children, would be useful. This is an area that has been neglected in most studies of PO effectiveness but has significant implications for victims and their children. Further, more research is also needed on how the PO system is used against victims, such as in cases where victims are accused of or arrested for violation of a PO when there isn't one against them, cases where abusers file POs against victims, or cases where both parties have POs (cross-petitions granted) when only one of the parties is an abuser.

Implications for Practice

The research also points to several implications that can inform those who work with partner abuse victims, including educating the community about PO effectiveness, targeting jurisdictional issues in the PO process and enforcement, and helping victims navigate the POs system.

Advocates and researchers need to continue to educate the public as well as key system personnel, such as police, prosecutors, judges, attorneys, victim service providers, and counselors, about the benefits of POs. As discussed earlier, even when professionals are presented with data showing that POs are effective for many victims, they continue to deny or minimize POs. Professionals who work with victims must realize that POs help many women but are only one tool in combating partner abuse, and they are not a safety plan. In fact, extra safety planning must be done when POs are sought and obtained. POs can be a very effective tool for many victims, and this message needs to be consistently repeated. Possibly helping professionals hear about cases where the PO made a difference for a victim and her children would be an important strategy, as well as

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acknowledging and countering the arguments used to diminish the value of POs as discussed earlier.

Further, addressing community- or jurisdiction-specific challenges and barriers for victims trying to obtain POs and trying to get POs enforced is possibly another strategy to build on the strengths of what POs offer victims. One way to improve PO enforcement in a specific jurisdiction is to examine each step in the PO process, including enforcement to identify strengths, gaps, and weaknesses to provide a map of areas to target for improvement, removing or reducing barriers, and providing training (Logan et al., 2009). One way to do this is for key community professionals to do a “walk through” of the system as a victim would while another way is to seek feedback directly from victims who have tried but were unable to obtain a PO, as well as those who obtained a PO.

As mentioned earlier, navigating the system is difficult, and victims need to be armed with knowledge, skills, persistence, encouragement, and support to pursue various avenues to keep themselves safe in the short term as well as the long term. When victims present for the PO, they may need help with articulating the need for the PO and asking for specific stipulations to meet specific victim needs (Durfee, 2009, 2015). It appears that having a coherent narrative, along with evidence, history, and other details, makes a difference in whether they are granted a PO. It is also important that evidence is organized and available to be entered into a court record if necessary. Helping victims understand how to ask for what they need may also be particularly helpful. For example, victims who are being stalked may need to ask for increased protection, such as banning the abuser from their workplace or, if they have moved, they may need extra protection to keep their new address confidential. With the technological advancements in today’s life, it may be critical to help victims request protections from technology, including smart home devices, Alexis or Google Voice, and GPS tracking and other devices, many of which can be controlled remotely (Bowles, 2018). The use of these devices may not be a violation in the traditional sense, but they are tools that abusers can use to monitor, interfere, and harass victims. Also, when there are children involved, victims may need help requesting additional stipulations, as well as information about potential difficulties in enforcing those stipulations.

Conclusion

POs are more than just a piece of paper to many victims and their children. They cost society very little, particularly compared to the significant

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personal and tangible costs of partner abuse to victims and to society. Most victims appreciate the PO and feel the order makes a difference in their lives. There is also evidence that POs positively affect children. However, the PO system is not perfect. Jurisdictions need to build on their specific PO process strengths while decreasing the personal and system barriers, as well as targeting better enforcement of the orders. Professionals need to keep in mind the larger picture of all victims who obtain POs rather than generalizing from those who experience violations and need extra support. Victims also need help navigating the system, particularly with how to frame the reasons they need the PO, preparing them for negativity from gatekeepers, and helping them understand that they need to be persistent in seeking help. When there are children in common, protection and system intervention all become more complicated. This is an issue that has been overlooked in research but needs to be addressed within everyday practice. Even within all of the limitations of POs, POs provide a viable tool for many victims in reducing and stopping partner abuse.

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