

DOMESTIC VIOLENCE: Protective Orders and the Role of Police Enforcement

How frequently does domestic violence occur in the United States?

In the United States, between one and five million women suffer nonfatal violence at the hands of an intimate partner each year.¹ Domestic violence affects individuals in every racial, ethnic, religious and age group at every income level, but it is overwhelmingly a crime against women. Women are five to eight times more likely to be the victims of domestic violence than men.² Women are also far more likely to be murdered by their partners: approximately one-third of the women murdered in the United States each year are killed by an intimate partner.³

What protection is available to women who are victims of domestic violence?

Victims of domestic violence can seek civil protective orders, which are available in every state in the United States.⁴ These orders are generally available on an emergency basis through a simple application to a court that can be completed without the help of an attorney. If the judge agrees that the individual seeking the order is in

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danger, he or she will issue an emergency protective order. An emergency protective order is temporary, generally lasting only a couple weeks, but after a hearing at which the abuser has a chance to tell his or her side of the story, a judge can issue an order that will last for months or years. Protective orders generally prohibit an abuser from harming or contacting the holder of the order. Protective orders can also address child custody and visitation, possession of a joint residence, payment of child or spousal support and the like.

What happens if a protective order is violated?

If a protective order is violated, but the situation does not warrant an emergency intervention, the individual who has the protective order can go back to the court that issued it, and the judge can hold the abuser in contempt and impose fines on the abuser or imprison him or her.

Alternatively, if a protective order is violated and it is an emergency situation, the holder of the order can call the police. Every state has criminal penalties for violations of civil orders of protection.⁵ Moreover, 31 states have mandatory arrest laws, which generally *require* that police make an arrest when there is probable cause to believe that a person has violated an order of protection or otherwise committed particular domestic violence crimes.⁶

Are protective orders frequently violated?

Yes. Protective orders are an important tool for keeping victims of domestic violence safe, but it is important to recognize that they are not a guarantee that violence will

stop. Women who obtain protective orders should make safety plans accordingly. One study found that protective orders are violated in 67 percent of rape cases, 50 percent of physical assault cases and 69 percent of stalking cases.⁷

Because protective orders are often violated, women who obtain them rely on and expect the police to protect their safety—one study found that even though 86 percent of battered women seeking protective orders believed their assailant would violate the order, 95 percent were confident the police would respond rapidly to the situation.⁸

When police enforce a protective order, does this make victims of domestic violence safer in the long run?

Yes. When police respond to a violation of a protective order, the risk that an abuser will violate the order again is reduced. Abusers who are arrested for violating protective orders are approximately 30 percent less likely than abusers who are not arrested to assault their partners again.⁹

Do police always enforce protective orders appropriately?

Unfortunately, even though police enforcement of protective orders can significantly decrease the risk of further violence, sometimes police do not provide meaningful enforcement.

For example, studies show that often police do not make domestic violence arrests, even in states with laws that require an arrest when there is reasonable cause to believe a protective order has been violated. Nationally, one study found domestic

violence assailants were arrested or detained by the police less than half the time - in 47 percent of rape cases, 36 percent of physical assault cases and 28 percent of stalking cases.¹⁰ Another study found that only 20 percent of domestic violence cases resulted in the police arresting the assailant.¹¹ Mandatory arrest laws were found to increase the likelihood of arrest by only 5 percent.¹²

Why is police enforcement of protective orders important?

Police enforcement of protective orders is important because it shows abusers that there are consequences for violating an order. Moreover, when police fail to enforce protective orders, it means that the women who hold these orders may be endangered by a false sense of security.

Women who believe that their protective order promises police protection are probably less likely to take steps such as going into hiding that they might take if they knew that the police would not respond to a violation of the order. In some instances, the establishment of a protective order will lead an abuser to retaliate against a victim of domestic violence. When police do not adequately enforce protective orders, they can actually increase the danger to victims of domestic violence.

What should victims of domestic violence do to keep themselves safe?

Even if an individual has obtained a protective order, it is still important that she make safety plans to protect herself from further abuse. Local domestic violence programs can help with this planning. For instance, if the police are non-responsive, is there a friend or neighbor who she can turn to for support? Will changing locks and schedules provide greater safety? Making these plans before an emergency occurs can be very important.

Contact Information

For more information about police response to domestic violence victims, contact:

American Civil Liberties Union
Women's Rights Project
125 Broad Street, 18th Floor
New York, New York, 10004
(212)-549-2644
womensrights@aclu.org

If you are being abused and need immediate assistance, call the National Domestic Violence Hotline, at **1-800-799-SAFE**.

Endnotes

¹ Ctrs for Disease Control & Prevention, *Costs of Intimate Partner Violence Against Women in the United States* 1 (2003), http://www.cdc.gov/ncipc/pub-res/ipv_cost/IPVBook-Final-Feb18.pdf (estimating 5.3 million intimate partner assaults against women ages 18 and older in the United States each year); see also Patricia Tjaden & Nancy Thoennes, U.S. Dep't of Justice, NCJ 181867, *Extent, Nature, and Consequences of Intimate Partner Violence: Findings From the National Violence Against Women Survey* (July 2000), <http://www.ncjrs.gov/pdffiles1/nij/181867.pdf>.

² Lawrence A. Greenfeld et al., U.S. Dep't of Justice, NCJ-167237, *Violence by Intimates* 28 (1998) <http://www.ojp.usdoj.gov/bjs/pub/pdf/vi.pdf>.

³ Callie Marie Rennison, Bureau of Justice Statistics, NCJ 197838, *Intimate Partner Violence, 1993-2001*, 1 (Feb. 2003), <http://www.ojp.usdoj.gov/bjs/pub/pdf/ipv01.pdf>.

⁴ See Nat'l Network to End Domestic Violence, *State Protection Order Laws* (2005) (collecting statutes).

⁵ Nat'l Network to End Domestic Violence, *Criminal Violations* (2005) (collecting statutes).
⁶ *Id.*

⁷ Patricia Tjaden & Nancy Thoennes, Nat'l Inst. of Justice, *Extent, Nature, and Consequences of Intimate Partner Violence: Findings From the National Violence Against Women Survey*, NCJ 181867 52 (July 2000), <http://www.ncjrs.gov/pdffiles1/nij/181867.pdf>.

⁸ Karla Fischer & Mary Rose, *When "Enough is Enough": Battered Women's Decision Making Around Court Orders of Protection*, 41 CRIME & DELINQUENCY 414, 417 (1995).

⁹ Christopher Maxwell et al., Nat'l Inst. for Justice, NCJ 188199, *The Effect of Arrest on Intimate Partner Violence: New Evidence from the Spouse Assault Replication Program* 9 (July 2001), <http://www.ncjrs.gov/pdffiles1/nij/188199.pdf>.

¹⁰ Tjaden & Thoennes, *Extent, Nature, and Consequences of Intimate Partner Violence*, at 29.

¹¹ Greenfeld et al., at 20.

¹² David Eitle, *The Influence of Mandatory Arrest Policies, Police Organizational Characteristics, and Situational Variables on the Probability of Arrest in Domestic Violence Cases*, 51 CRIME & DELINQUENCY