



Spotty enforcement of protection orders means domestic violence victims can't count on police, advocates say

Published: Tuesday, February 21, 2012, 7:49 AM Updated: Tuesday, February 21, 2012, 4:44 PM



By **Rachel Dissell, The Plain Dealer**

CLEVELAND, Ohio -- More than 30 years after Ohio created comprehensive **domestic violence** laws, spotty enforcement of protection orders still leaves victims vulnerable.

Particularly perilous is some law enforcement officers' and agencies' reluctance to respond to civil protection orders, issued mainly by domestic relations courts.

"They see it as a civil matter and they don't see it as having the same oomph of a criminal order," said Alexandra Ruden, a Legal Aid Society of Cleveland lawyer and expert on domestic violence law.

Legally, the civil orders hold the same weight and deserve the same attention as the criminal ones, she said.

But too often that isn't what happens, according to judges, magistrates, lawyers and advocates interviewed by The Plain Dealer.

Criminal protection orders are temporary and often follow an arrest for domestic violence. The civil orders do not require a crime to have been committed but are granted by a judge or magistrate who can issue a temporary order based on a petition that outlines the person's fears and evidence of harm.

A magistrate then holds a more complete hearing with both parties that can result in a protection order that lasts up to five years.



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Lisa DeJong, The Plain Dealer

A magistrate in a remote part of the 100-year-old Cuyahoga County Courthouse cellar issues protection orders in domestic violence cases.

In 2010, 472 domestic violence protection orders were requested in the county; 342 were issued.

Victims say police refuse help

It's common to hear from victims that they were shooed away by officers who tell them to go back to court or call their attorney after an order was violated, said Dan Clark, a former police chief who trains police in Cuyahoga County and across the country.

"They tell victims there is nothing they can do about it," he said. But that's not true. Clark said many of the officers are either uninformed or misinformed.

Ohio law says officers "shall" enforce the orders, not that they "may" enforce the orders.

Clayton Harris, president of the Cuyahoga County Police Chiefs Association, said that a disparity in responding to the orders might have been an issue years ago but that most departments should be well informed about their duties at this point.

"From what I know, if we are presented with an order we honor it," Harris said of the civil orders. "We don't treat them much differently."

The first time a person violates a protection order he or she can be charged with a misdemeanor. If the person repeatedly violates the order, he or she can be charged with a felony.

Complicating the problem are instances in which victims allow abusers to come back home to deal with children or other matters. If they haven't asked for the order to be dissolved and it is still in effect, it is still a violation.

In December, police, victim advocates, probation officers and judges gathered in Rocky River for a primer and discussion about their responsibilities. They heard about the possibly lethal results -- for victims and police -- that occurs when orders are ignored and an abuser becomes emboldened.

The city's Municipal Court got a federal grant to put on the training.

Rocky River Municipal Judge Donna Congeni Fitzsimmons told the group that victims have to be given a place to go to report even a minimal violation of an order. Otherwise, she said, more-serious violations will follow.

Study leads to call for more training

A county committee that reviews domestic violence or intimate partner deaths recently recommended more training about protection orders for all people who respond to domestic violence.

Committee Chairman Dean Jenkins said some on the panel were concerned about the civil orders not being entered into police databases quickly enough. He said that the committee reviewed two homicides from 2009 and found they had civil protection orders in place but that they didn't have enough information to determine whether they were properly enforced.

Ruden said discussions have been brewing across the state about how to simplify or clarify the rules for the five types of protection orders lawmakers have created.

"For survivors of domestic violence, they just want the violence to stop," she said. "But we can only address things with orders and criminal charges. It's not a perfect system."

Domestic Relations Court Magistrate Joan Pellegrin, who hears hundreds of petitions a year for civil protection orders, said police and sheriff's departments who blow off the orders don't understand the delicate and serious situations in which they are granted.

Though her job is to impartially hear the facts surrounding the request for protection, Pellegrin said her daily experience has taught her just how volatile many of the situations can be.

There have been shouting matches and scuffles in the hallway outside her office, in an isolated area of the basement of the Lakeside Avenue courthouse.

Both she and her assistant have escape routes mapped out. She has a panic button, but unless she specially requests it there is no security for her court hearings. Many times the parties don't even have lawyers as buffers.

"It happens all the time where law enforcement doesn't enforce these orders," Pellegrin said. "The trickle-down is that people lose faith in the system. And we can't have that."

Pellegrin says she has even had a sheriff from a neighboring county refuse to enforce her order, telling her, "This isn't worth the paper it's printed on. . . . Cuyahoga County can't tell us what to do."

Pellegrin said the court's lawyers sometimes have to call cities and remind them that they have to enforce the orders.

Victim must complain to court

But unless a victim comes back to court to complain about the order being ignored, not much is done.

Starting this year, a new court employee, who was hired with a federal grant, will act as a case manager, tracking the status of the cases involving an allegation of domestic abuse and assuring that judge and magistrate orders are followed.

An advocate employed by the Domestic Violence & Child Advocacy Center, with an office in the court's building, will assist people petitioning for protection and usher them through the process.

In other areas of the country, departments have been successfully sued for not enforcing the orders.

"Historically, police haven't wanted to get involved in custody or divorce disputes because they are seen as civil matters," said Mark Wynn, a former Nashville police officer who advises and trains police departments on the issue internationally. "But when you have domestic violence involved, it is a different issue."

Some states have recognized that the time before a couple in a violent relationship separate is so dangerous that they passed laws allowing police officers -- who consult by phone with a judge -- to write 72-hour emergency protection orders for victims, Wynn said.

"People are finding they are much better to err on the side of safety," he said.

Clark said concern about law enforcement's response to crimes that primarily affect women is growing across the country.

Victims are not satisfied with how they are being treated and are filing lawsuits, he said. In some cities, such as New Orleans, federal officials have looked into allegations and found evidence of widespread gender bias.

"I know there's a lot of emphasis on guns and drug crimes," he said. "But the violence-against-women crimes are just as costly."

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