

## **Legal Remedies for Spousal Abuse: Victim Characteristics, Expectations, and Satisfaction**

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*Since 1980 legal remedies for spouse abuse have been established in various forms in every state. Social service agencies and shelters currently encourage victims to utilize restraining orders which now carry criminal consequences for the batterer, yet little empirical data have been reported concerning their use. The present paper describes two research studies—one conducted in Dane County (Madison area), Wisconsin, the other in Sacramento County, California—that provide new helpful information for these referring agencies and offer findings which reflect which victims use these legal remedies, what their expectations are, and how satisfied the victims were with the results. A final section discusses implications for change or clarification in policy, process, and education on the use of these legal remedies.*

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**KEY WORDS:** legal remedies; spouse abuse; victim characteristics.

### **INTRODUCTION**

Research in the area of domestic abuse has moved from the problem identification stage and is currently focused on causality and treatment issues (Gelles, 1980). Meanwhile, new policies and legal remedies have been established in every state (e.g., Child Protection Laws, Domestic Abuse Acts, Temporary Restraining Orders) and a legal definition of child and spousal abuse has been created (Lerman et al., 1981). Public agencies and other interest groups have targeted their services toward prevention and treatment of victims based on these legal guidelines. Yet, many spouses, parents, and professionals today see a variety of physical methods as accep-

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table forms of control and would not consider these methods as abusive or reportable though legal policy may define them as such (Davis, 1984).

The research to be discussed herein was undertaken with the premise that all new legislation has certain stated purposes for specific populations under particular conditions. At present enforcement of these new laws is based on the important assumption that the "family," "spousal," or "private" definition of abuse is congruent with the legal definition. Since the victim and other social service agencies are the gatekeepers to identifying, practicing, and enforcing these legal standards, existing spousal and professional caregiver's definitions to a great extent actually determine what practices and behaviors will be tolerated or reported rather than the law itself (Kuhl, 1983).

Although legal remedies are available to most victims, it appears that these solutions are usually a course of last resort. Restraining orders, according to Ellen Pence, the director of the Minnesota Battered Women's Program, currently are the least utilized domestic abuse remedy and are mostly taken out by younger women who have been involved with their partners for shorter periods of time (Beilin, 1983).

The two studies described here are the first reported efforts to identify the victims and focus on that critical relationship in which the rules of the ecosystem (legal system) are imposed on the microsystem. This investigation identifies the victim characteristics (Who are they?), expectations (What do they want?), and level of satisfaction (Did they get what they wanted?) of victims seeking relief under the new Spousal Abuse Act.

## BACKGROUND

The legislative and judicial position on spouse abuse is highly complex. Safety is the only issue, however, that the police and courts are mandated to address (Goldstein, 1977). For victims, on the other hand, safety is usually only one of two critical concerns; the other is the value of the relationship (Gelles, 1976; Strube and Barbour, 1984).

The victims in this research selected a remedy which emphasized the physical seriousness of the criminal offense between two persons and not the social or psychological relationship involved. It must therefore be emphasized that the legal issue is physical safety. This legal emphasis will thus address only a limited range of victim needs. This range is the essence of the legal contract into which the victims and the criminal justice system are entering. Herein lies the critical difference often between the intent of the law and the expectations of victims.

In taking out a restraining order, the victim makes a contract with the court to leave the relationship for a specific period in exchange for legal protection. The defendant must stay away from the victim, but the victim

too must not pursue further relationship issues. The restraining order is in effect continuously, not just upon demand. This inconsistency of policy interpretation poses many problems in enforcement. The duality of victim intent and singularity of policy purpose will be a recurring discordant theme in attempting to blend the two (Beilin, 1983; Goldstein, 1977).

Historically, there also has been much support for the feminist contention that the criminal justice system held firmly to the doctrine of spousal immunity (Breslin, 1978; Eisenberg and Micklow, 1976; Walker, 1983; Herskowitz, 1966). The courts have traditionally treated the family as a single entity (Straus, 1974; Federal: February 1982; Provincial: July 1982) and denied that violence is a fundamental part of family life. If the courts felt limited by the legislature, the police policy and practices (enforcement) also have been strongly dictated by the differential prosecutorial practices of family-related crimes. In the early 1970s, the criminal justice system began to recognize the pervasiveness of family conflict (Bard and Zacker, 1974; Parnas, 1967) and the importance of police response to these family matters. The criminal aspect of wife-battering as a matter of legal procedure, policy, and prejudice is recent (Breslin, 1978; Connidis, 1982; Jaffe *et al.*, 1986; Jensen, 1978).

### THE PROTECTION ORDER LAWS

Until recently, the only protective devices available to battered wives were immediate arrest, delayed arrest, peace bonds, and injunctive orders as part of divorce proceedings. Divorce and legal separation were the civil remedies available. *Ex parte*, preliminary injunctive orders were also available as part of divorce procedures. In all of these older remedies enforcement was a major obstacle, as violations were usually punishable by civil contempt proceedings. These injunctive orders had been characterized as relatively ineffective (Lerman *et al.*, 1981).

By 1983, new protection orders (also referred to as temporary restraining orders, TROs, or injunctions) had been adopted in 32 states, allowing the police to evict an abuser from a residence shared with a victim, and grant them the power to arrest. New civil and criminal remedies now exist to protect battered spouses in 49 states and the District of Columbia. These new orders identify abuse as a criminal act rather than a civil concern (Lerman, 1981). This was a critical policy change. They attempt to change the interactional context of the family system and to prevent the recurrence of acts of violence (Gelles and Cornell, 1985).

In Dane County, Wisconsin (Madison area), and Sacramento County, California (Sacramento area), as in most other areas in the United States, prior to the introduction of the new Domestic Abuse Act (940.33 Wisconsin Stats and Section 540 of the California Code of Civil Procedure),

restraining orders between mates were civil matters. With the new TRO and arrest policy, victims in these two specific locales were eligible for protection after completing a four-step court process and paying \$39 and \$95, respectively, (or obtaining waiver of fees).

## METHOD

### Subjects

The results of two companion studies carried out independently of one another are offered here to provide both a broader data base and a comparison of similarities and differences in the findings.

#### *The Dane County Sample*

Subjects included the total population of 120 domestic abuse victims in Dane County, Wisconsin, seeking Temporary Restraining Orders under Chapter III, Laws of 1979, during the 4-month period from August 1, 1982, through November 20, 1982. Of the 120 victims applying for Temporary Restraining Orders, only 68 received Interlocutory Injunctions. Of these, 54 respondents answered the first self-administered questionnaire, and 50 answered both the initial questionnaire and the follow-up questionnaire within 6 months of the TRO. Only three victims refused to participate in the study.

#### *The Sacramento Sample*

This sample consisted of victims of domestic violence and abuse, who obtained assistance in filing for a temporary restraining order through Sacramento County District Attorney's Office, Victim/Witness Program, from June 1, 1981, through August 3, 1983. All clients filled out an information card complete with their name and address. Approximately 700 clients were assisted in completing the temporary restraining order forms between the above specified period.

### Measures

Based on Patton's (1980) methodological approach using a triangulation of multiple data sources, a content analysis was conducted in the Wisconsin study of the victim's petition for relief, participant observa-

tions of the court hearings were recorded, a 68-item Domestic Abuse Inventory was administered to each victim following her court appearance, and a 128-item follow-up questionnaire and structured interview was given by phone within 6 months. These instruments started with basic demographic material and proceeded to identify relationship and abuse history. Relationship factors included: (1) marital status, (2) number of years living together, (3) number of children together, and (4) current plans with respect to mate and future of relationship. Abuse history focused on frequency, severity, and type of abuse (measurement adapted from Straus Conflict Tactic Scale) and police response. In the second questionnaire, relationship and abuse factors were approached in the same manner as in the previous instrument. Overall satisfaction and level of compliance were then measured. The final questions focused on the victim's perceptions of the restraining orders. Categories and expectations were generated by the previous data, and victims were asked to respond to these categories. Additional open-ended questions allowed victims to reflect and to offer suggestions on the process of obtaining the TROs and injunctions.

In the Sacramento study, a less exhaustive 25-item self-administered questionnaire and cover letter was sent to 600 victims who had filled out the aforementioned information cards. It was returned by 144 victims (24%) and gave basic demographic and abuse information which has established certain interesting trends and information about these new procedures.

## RESULTS

Both sets of data are presented. More detailed information on the Wisconsin victims is provided as a result of the in-depth nature and length of that study.

### Characteristics of the Victims

#### *Social Characteristics*

The victims in Wisconsin were all women. During the course of the study, four men applied, but TROs were denied because of an inability to establish abuse to the judge's satisfaction. They were seen as retaliatory or punitive rather than safety-oriented. In four instances, mutual restraining orders were granted. In Sacramento 87.5% of the victims were female.

Victims in both studies were generally young, with 60% of the Wisconsin and 59% of the Sacramento women being 30 years of age or younger. The average age for a female filing for a temporary restraining

order was 30.42 and 31.90 respectively. Most of the women in both areas had been married to the defendant. The average length of time the victims (Wisconsin) had lived with the defendant was 5.28 years, but the majority (58%) had been with their partner 5 years or less. Two victims were involved in an abusive relationship over 20 years. The single women tended to be younger also (all were under 30), and 10 had never been married.

The Dane County victims had a mean of 2.25 children, but the number of children parented jointly averaged only one per couple. Sixteen (32% homes had step-children living in them. After receiving restraining orders, 83% of the women had custody of all the children, and half had very young families with children under 6 years of age.

Eighty percent of the Wisconsin women had received a high school diploma or equivalent certificate. However, half the victims described themselves as having no particular job skills, and 56% of the women were currently unemployed. Half of the women were receiving AFDC payments. Additional financial information was vague and under-reported. In-depth comparison data in these areas were not reported for the California sample. However, the majority of women who filed in both studies did so with the aid of the fee waiver. Nearly 75% of the California women had the \$95 fee waived and 62% of the Wisconsin women received waivers.

In Labell's (1979) Hubbard House study of 512 women in Florida, it was concluded that most of these victims were motivated toward help. Certainly, the Wisconsin study showed a similar direction, but to a far greater degree. Labell (1979) found that 72% of the victims in her study had sought help from others, with 51% being family members, friends, or neighbors. In Dane County, the TRO victims brought their abuse to the attention of a number of public agencies or representatives all outside the family, and were actively pursuing relief. These victims seemed committed to go to whatever extreme, no matter how visible, to ensure safety. A long history of extensive agency involvement testifies to the demands and extremes the level of abuse had escalated their desire for change. These women had actively sought relief from a large combination of community services prior to the restraining order.

The Minnesota studies being conducted under the auspices of the National Institute of Criminal Justice have referred to the restraining order as being the "least utilized remedy" and a "choice of last resort." Certainly this study would indicate that the victims do indeed comprise a small proportion of Dane County abuse victims, and certainly they had long exhausted family and friends and community resources as well without satisfaction. All victims were in contact with at least one community agency or resource, and the average number of services contacted was 3.48 per victim.

## Abuse History

In the Dane County study, the victim had to establish her legitimacy and convince the court that her petition met the standards of midlevel battery which the legislature specified.

The Domestic Abuse Act authorizes a judge to issue a temporary restraining order to an abusive or potentially abusive person, if the parties are living or have lived in a spousal relationship.

The nature of the law is such that it demands knowledge, if not agreement, that the restraining order exists as a statement that abuse has occurred or may reasonably occur.

The following victim responses were taken directly from the first four applicants' complaint forms. They are representative of the sample.

He slugged me in the face and damaged my left eye. Had to have surgery on my nose as bleeding wouldn't stop... On July 20, he beat me at home and said, 'I will slit your throat.'

On June 26 — attacked me and threw me on the ground and ripped my clothes. When I tried to leave, he stopped me and told me he'd kill me if I tried to get a divorce. On July 16, he broke furniture, kicked out the window and door in the house and then went and smashed in the door on my car. The neighbors called the police.

The defendant threatened me with physical violence many times. On July 5, 1982, he threatened to kill me and to take one of the children, my son, and never return.

7/2/82 — returned home and there was a big argument over who would pay the baby sitter... threw keys at me and cut my face. I went and hid in the bathroom and he broke down the bathroom door with a closet pole. He has threatened me with knives in the past and I am afraid of great bodily harm. Please keep him away from my relatives.

While each of the Wisconsin victim's manner of presentation varied considerably, the level and type of alleged abuse quickly established these women as violently abused. None were trivial or of questionable legitimacy. Thirty-six (72%) of the victims indicated a history of abuse, and none appeared to be an isolated event. Sixty-four percent of the complaints stated that the defendant had "hit" the plaintiff; 50% directly stated that they had been "beaten;" 18% were threatened with knives. These petitions were the first indicators of the chronic level of abuse. All victims received TROs except two.

The researchers in the Sacramento study reported that when the clients were asked what kind of abuse was inflicted against them, 13% said that there were threats, 17% experienced physical injury, while 68% had a combination of threats, physical violence, and mental trauma inflicted on them.

### *Levels and Frequency of Abuse*

In the Dane County study in the 3 months prior to obtaining a TRO, over one-third of the women were abused 10 times or more with 16% reporting over 25 incidents of abuse. During this same period, 26% called the police at least one time and 14% reported many incidents of abuse (over 15). Thirty-two percent received medical treatment for abuse once or twice during these 3 months, and four women (8%) reported over five trips for medical care. Three arrests were made.

By contrast, of the 144 respondents who participated in the (Sacramento) study, 36 of them or 26.9% of the sample reported that they were unhurt. The majority of the victims, 71 (53%) reported that they had only minor injuries inflicted on them. Minor injuries included: black eyes, fat lips, bruises, abrasions, bloody noses, and minor cuts and burns. Ten or 7.5% reported that they were treated at hospitals and released. Injuries in this category included: fractures, broken bones, severe lacerations, severe burns, chipped teeth, physical abuse of the genital area (i.e., being kicked in the vagina with a boot), and severe blows to the head. Five victims or 3.7% of the sample had to be hospitalized. Three of the victims in this study reported that they sustained a permanent disability as a result of the abuse.

To provide an in-depth standardized self-report of the level and type of abuse experienced by the Wisconsin victims, a short version of Straus' Conflict Tactic Scale was administered (Lockhart, 1985). It was employed to distinguish three broad levels of violence (mild, moderate, severe), and not to extrapolate further. Again, these reports were extreme. Only two victims did not fall in the "severe" abuse region (see Fig. 1).

### **TRO Status**

After the follow-up period, 88% of the Wisconsin victims still had restraining orders in effect. Only two were dropped by the plaintiffs because, "it didn't help," and "husband returned home but left again." Eighty-two percent stated that they planned to keep the restraining order in effect for its full term. Overall it can be stated that 78% showed no ambivalence with regard to full enforcement of the TRO. They unequivocally wanted to terminate the relationship and did not vacillate during the follow-up period. The fear of some lawmakers that many victims might use the TROs for punitive or retaliatory purposes where abuse is not an issue, rather than protection does not have any support from either study. However, while 88% of the Wisconsin victims did not see the restraining order as punitive, 86% of the abusers did. In a small number (20.25%) of cases, it was hoped that this extreme remedy might force the abuser to "change" or "seek help" but protection was also a combined issue.



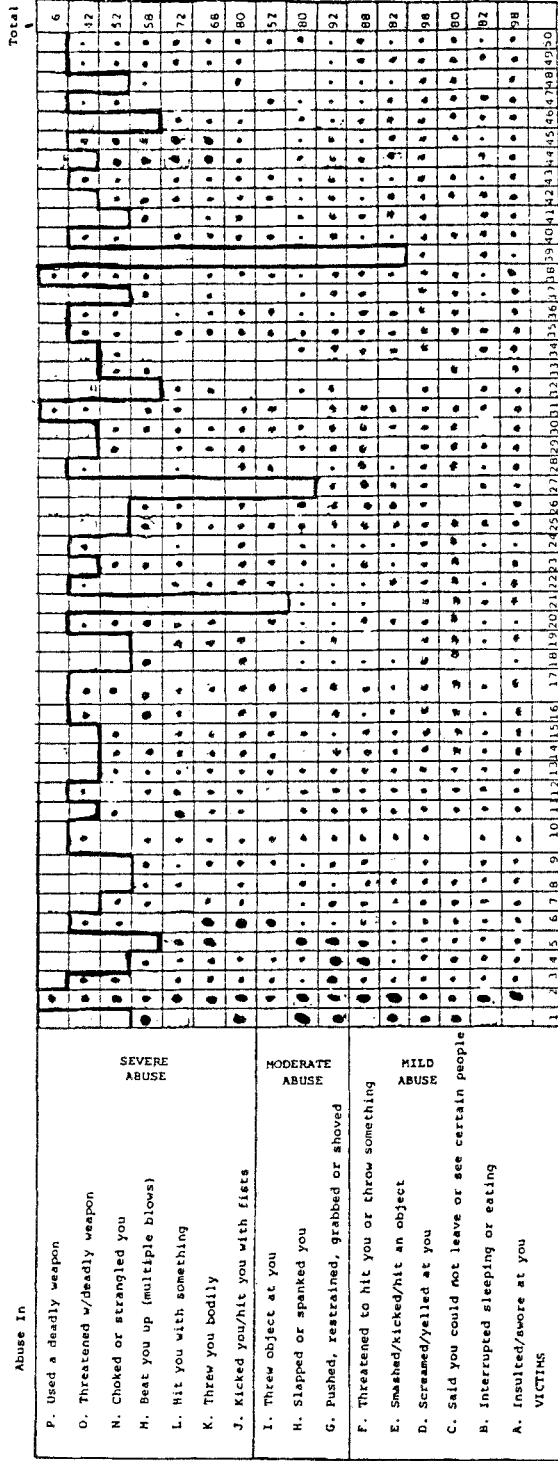


Fig. 1. A visual analysis of the level and type of abuse (N = 50).

### **Police Contacts**

The most interesting finding in both studies is a significant reduction of police contact. In Dane County, only 44% of the victims reported further police contact post-TRO. In Sacramento, 50% had filed no further police complaints. This lack of contact indicates a high level of defendant compliance in a population which has been highly volatile. Those defendants were reported as not harassing, calling, or otherwise violating the order. Those victims reporting violations to the police average just over two calls per victim in both investigations. The majority of these reports were in the area of phone harassment and visitation violations. Severe property damage and life-threatening acts were reported by 8% of the victims. However, this figure must be compared with the 94% report of a high level of abuse when the TRO was obtained. The amount of general community agency involvement dropped remarkably as well and most victims stated they felt safer.

### **Amount of Contact**

Thirty-eight percent of the Wisconsin victims had no further contact with the defendants and were fully compliant while 24% had infrequent contact (one contact or less per week). Twenty-two percent of the victims saw the defendant frequently (two or more contacts per week), and 16% were living with the defendants at the end of the study. Similarly, results of the Sacramento study showed that the victim allowed the defendant to return to the home in only 19% of all reported cases.

### **Victim Satisfaction**

In the Wisconsin study, victim satisfaction was 86% with half of the women rated as "very satisfied." Only seven victims were not satisfied, and one was very dissatisfied. When asked if they felt their decision to obtain a restraining order was a good one, 94% responded positively. This amount of satisfaction is quite remarkable, given the history of these abuse victims and the drastic change in behavior demanded by this remedy.

There has been a common thread of personal commitment throughout the study, and these women had a mental set by the time they took out the restraining order that demanded a change at whatever cost it took. They emphasized that it was not a remedy for the faint-hearted. "It's a real dramatic move to the relationship." "This won't work for everybody. You've got to be ready to call the police if you take out a restraining order." "You can't just use it when you feel like it."

Only two victims dropped their TRO in less than a month. Both were abused during follow-up and stated they hoped for changes which didn't occur. Three women sought counseling with their husbands and experienced no abuse. Of the seven couples who were living together at the end of the study, only one had experienced abuse and stated she was dissatisfied with the TRO. Two women reported dramatic positive changes.

## DISCUSSION

Originally, the legislature, enforcement agencies, and community services providers were unsure that these new policies were a reasonable form of protection. Who are the victims? These women are members of the "hard-core" abused who are using TROs as a remedy of last resort. The "hard-core" abused woman is a victim who has experienced severe abuse over time and who has gone the full societal gamut of remedy-seeking. She has exerted much more than a superficial attempt to change her relationship.

According to a large number of victims, the Domestic Abuse Act has provided a refuge, immediate safety and peace of mind. The *commitment* involved in this remedy is particularly interesting. It is this "will" or desire to change that sets them apart. While ambivalence toward a partner is understandable in troubled relationships and recurs in the shelter studies, it is not positively correlated with success and satisfaction with TROs, nor does a legal remedy allow for it. Most victims stated they wished to "end the relationship" and the follow-up study revealed that their behavior supported that desire.

The few women who did not wish to end their contact were asking for a remedy the law does not currently provide. Counseling and therapy are not a built-in condition or specified outcome of the TRO. The restraining order is a contract with the victim for safety. It is a contract demanding her assistance. This decision is singular. A TRO implies total victim compliance as a given. Anything less cancels the agreement. When a violation occurs, it is time to call the police, not time to make a new decision. Ambivalence provides a time of possible risk and danger at the victim's discretion, not in accordance with the law. It is clear that relationship concerns rest with the treatment community, not the courts.

For this reason, it is best not to urge victims to take out restraining orders until they are emotionally compliant. When a person's life depends on swift actions by the police, all parties must be congruent with the law. This is not an off-again/on-again measure. Fifty percent of these highly abused victims had no further contact with their abusers. This is quite a

testimony of success for those having an extensive abuse history! However, those reporting the most satisfaction and the least contact were also those victims stating that they wanted "to end the relationship." Overall, victims stating they wanted to continue or expressed ambivalence were less satisfied and more "at risk."

What did the women taking out TROs really want? Most victims appeared to want separation and safety. They wanted to "end the relationship." Considering the dramatic change in behavior that is involved, these findings are quite remarkable. For most victims at present, the restraining order seems to be working well, and the women in both studies appear to be satisfied. The following suggestions result from tabulating the major concerns, observations, conflicts, or personal statements regarding TRO's.

### *On the Process*

(1) It is costly for those that pay, and most do not. Should these women have to pay for protection that is their right? One judge ordered the husband to pay all costs, but that was the exception. Many women do not know the fee can be waived and often do not pursue a TRO because they lack the money. (2) A general overview of the process by self-administered video-taped or personal interview should be offered to assist victims with filing, costs, expectations, and limitations to be anticipated. This could be a powerful tool in educating these victims about what a TRO can and cannot do. Many victims are uninformed about their role with respect to a protection order. (3) Many scheduling difficulties and problems serving defendants existed. A way to continue to seek service without having to refile and pay two or three times should be designed. (4) The waiting period is seen as an excellent screening device and serves a real psychological purpose for victims in determining their commitment to the TRO process. (5) Treatment alternatives and assistance for damaged families as well as the batterers should be offered. Many of the victims and abusers moved into new relationships during the course of this study and some had taken out a second TRO in the follow-up period. These actors continue to repeat the same patterns of learned behavior. If the couple is reunited, the family needs to develop new coping strategies. If they go in separate directions, change will be doubly important. One victim had two restraining orders in two months. She had obviously not improved her selection skills. One batterer had two restraining orders against him by different women. Certainly, for all his faults he still managed to continue linking up with partners. (6) A brief questionnaire given at the time the TRO is awarded may apprise court, police, and other interested parties of potential victim compliance and dangers to victims.

### *On TRO Information*

(1) Community-wide education should be offered. Victims need to be aware of services. A new aspect of the Domestic Abuse Act needs emphasis too, as the victims do not seem to understand their role with regard to the law. Victims should view the TRO as a contract that they have with the court. In many cases the agreement says the victim must not violate the restraining order – must not call, or write, or see the defendant. (2) Victims and community agencies must understand that the police are bound by the laws and cannot arrest without probable cause. This information may help victims with regard to police expectations; much dissatisfaction results because victims are not informed of the legal limits of enforcement. (3) The judge should review the conditions of the restraining orders with the victims at the close of the trial to be certain that the conditions are well understood.

### *On Police Education*

(1) Although the attitude of society cannot be changed overnight, an immediate education of the legal system and policing agencies should begin. Additionally, education coupled with an enforcing agency's accountability in the area of enforcement of temporary restraining orders would make them more effective. (2) Law enforcement agencies need to inform and regularly educate their staff that temporary restraining orders are available as an alternative in domestic dispute cases. Local agencies should make it *mandatory* that all officers who respond to domestic violence crises make it clear to the victims what a temporary restraining order is, what it can and cannot do, and where it can be obtained. Some departments now provide printed information cards for victims which briefly outline this lifesaving information. Currently, victims of domestic violence who have applied for and received temporary restraining orders received all kinds of diversified information as to what the officers can do. (3) Enforcing agency staff need to be made aware of the physical abuse, trauma, and fear to which the victims of domestic violence abuse are exposed. Law enforcement personnel need to be sensitive to the needs of the victim and the different areas of crisis intervention. What is being proposed then is the education of police officers in the area of domestic violence. Regular, biyearly inservice training should be implemented and instruction administered to law enforcement officers. Also, with education should come accountability. Peace officers should be held accountable any time they respond to a domestic violence crisis. (4) If a temporary restraining order is in effect, and there is a clear violation of the order and no action taken, the responding officer should report in writing why no action was taken or no follow-up made. If action

was taken, this should be reported also. The reports will then be turned over to the watch commander for review. (Nonparticipation can be cause for an adverse personnel action against the officer). Also, standard classification codes, indicating the incidence of domestic violence, should be identified so that reasonable statistics and accountability can be established.

### *On Policy*

(1) Legal remedies offering separation are only a temporary solution, and not a popular one. Society should have serious concern for these troubled families in transition because separation may be the most expedient measure, but it must not be seen as a remedial one. It is exceedingly naive in its long-term implications. While the social cost of maintaining violent couples separately may appear initially to be less costly, the long-term cost will be considerably higher. Restraining orders are only stop-gap measures and are insufficient by themselves. Without further treatment, violent partners tend to take violence with them to new relationships. (2) New approaches and new policies must be responsibly developed as a heuristic remedy. Ideally, aggressive intervention will help identify families at earlier stages in their abusive history and preserve the integrity of the legal system's new no-nonsense approach to family violence.

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