



# Petitioning for a Domestic Violence Order of Protection: An Examination of Abuse Descriptions, Outcomes, and Multiple Petition Filings

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## Executive Summary

The popular media and the scholarly literature have both evaluated the utility of civil protection orders as a tool for curbing domestic violence and limiting its physical and emotional consequences. Much of the prior research has focused on the effectiveness of orders (see Carlson, Harris, and Holden, 1999; Holt et al., 2002, 2003; McFarlane et al., 2000). Some research has examined the factors that influence whether orders are granted or denied, noting that lack of petitioner follow through is the most common reason that initial requests for orders do not result in a permanent order (see Malecha et al., 2003; Roberts, Wolfer, and Mele, 2008; Zoellner et al., 2000). This research has generally overlooked the dynamic nature of the petition process, examining one particular element of the process (e.g., violations or dropped petitions) rather than the process as a whole. Specifically, prior research has failed to examine how petitioners navigate the petition process, whether elements of the process itself affect how petitioners frame the abuse they experience, and how the protection order process plays out once a request for an order is initiated. Additionally, focusing on a specific part of the process means researchers have overlooked a particularly unique set of cases, those involving multiple petitions for protection over time.

### Purpose

This project utilizes case-level data to explore the petition process and examine how and why domestic violence victims use the civil court system to file for a Domestic Violence Order of Protection (DVOP). We assess in some detail case-level features that are implicated in the decision to seek court protection from domestic abuse and in the success of that court intervention. We concentrate on three primary objectives in the current research: 1) to identify the nature of abuse incidents that lead victims to pursue protection orders, 2) to examine the processing of protection orders, including requests made to and granted by the court, whether temporary orders are extended or not, and the nature of and response to reported violations, and 3) to examine cases involving multiple filings to explore abuse, relationship patterns and court outcomes over time. This research is a first step towards evaluating whether and how well the system is set up to meet the needs of petitioners, by focusing on the process, in relation to its outcome rather than focusing exclusively on the outcome.

### Data Collection

The data for this research are derived from protection order requests processed at the Domestic Violence Division of the Bernalillo County Court House in Albuquerque, New Mexico. We randomly selected 190 cases from all cases involving one single adult respondent and one single adult petitioner filed in 2002.<sup>1</sup> While each case file involves a single petitioner and respondent, it may include multiple petitions for protection. Except when specifically examining cases with multiple filings, we focus on the petition filed in 2002.

Data includes both quantitative and qualitative elements. The data are culled directly from the case file, which includes the *Petition for an Order of Protection* and all other forms resulting

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<sup>1</sup> Our intent was to limit the data to likely cases of intimate partner violence; the automated data did not provide relationship type that would allow us to definitively do so. Most cases did involve intimate partners.

from petition processing. While the quantitative data provide some descriptive information, the findings are primarily derived from the qualitative case narrative data. Case narratives are comprised of the petitioner's written description of the abuse and the events documented in each case file. In addition to collecting case file data, we observed both the petition and the DVOP hearing process. The purpose of these observations was simply to inform our analysis and recommendations.

This document provides a brief reporting of key findings for this project. Both a more detailed description of the research method and a complete presentation of findings are available in the full report.

## **Sample Description**

Most petitions involve intimate partners (90%); the remaining 10% involve non-intimate family members. The sample is primarily comprised of female petitioners (83%) and male respondents (84%). The average age of both petitioners and respondents is around 35 years. Over half of the cases reference one or more minor children (61%). Most respondents are reported by the petitioner to be Hispanic (58%) or White (26%). Exactly half of the respondents are described by petitioners as either employed or self-employed.

## **Key Findings**

### Objective 1: Nature of abuse incidents leading victims to pursue protection orders

- Reporting of abuse

We categorized the abuse reported by petitioners into three primary types: physical abuse, threats/verbal abuse, and intimidation/harassment. Most petitioners (63%) report some form of physical abuse, either alone or in conjunction with other forms of abuse. We found that whether the abuse is reported as a single incident or ongoing varies with the type of abuse. Cases involving physical abuse are more likely to be reported as a single incident, even when there is an indication that there has been ongoing physical abuse. Conversely, when no physical abuse is reported, the abuse (threats/verbal abuse or physical intimidation/harassment) is typically described as ongoing. It appears that petitioners assume one instance of physical abuse is enough to support their request for court protection, while petitioners who experience non-physical abuse are more apt to describe this abuse in detail to make their case for the necessity of court intervention.

- Articulation of perceived risk of future abuse

In addition to the details of abuse petitioners are prompted to provide, many articulate their perceived risk of future abuse, even though they are not prompted to do so. Orders of protection are granted to protect petitioners from future abuse, not to punish respondents for alleged prior abuse. So, whether or not it is intentional, petitioners who make statements regarding their future risk of abuse do generally establish a stronger case in support of their request for an order of protection.

Over 90% of petitioners in this sample make some statement regarding their perceived risk of future abuse. These risk assessments appear in the abuse narratives in two ways. First, some petitioners include statements in the narratives regarding fear of future harm to self, others or property. Second, petitioners characterize the respondent as a dangerous person in general. This is done by indicating that the respondent owns weapons, uses alcohol/drugs which contribute to violence, and/or has tendencies towards violence due to a defined mental health issue or “bad temper.”

## Objective 2: Processing of protection orders and court response to reported violations

- Requests made and granted

Domestic Violence Orders of Protection are meant to prevent respondents from continuing to abuse the petitioner by ordering them to refrain from abuse and stay away. However, these orders can and often do provide more than these basic provisions. Petitioners can make additional requests related to such things as housing, finances, and child care. All written requests are made at the time of the petition filing. Requests can be granted at the time of the temporary order (TO) is issued and/or at the time of the extended order (EO) hearing. We found that requests regarding children and personal safety are generally granted with the TO. However, other requests, specifically those related to financial support and custody/child exchange are granted with the EO. While not all requests are granted, our findings suggest that the court is generally responsive to petitioner requests, granting most requests for relief that are reasonable and justified. Additionally, though petitioners do not frequently request counseling for respondents, it is often required by the court as a condition of the DVOP.

- Granting/expiration of extended order

A little less than half (47%) of the cases result in an extended order that reaches expiration. Among those petitions that do not last through expiration, most (79%) are dismissed at the petitioner’s request or because the petitioner fails to appear at the extended order hearing. Few cases (21%) are dismissed by the court, but when they are, it is most often due to insufficient evidence.

There are many factors that may distinguish the 47% of “successful” orders (those that reached expiration) from those that were dismissed by the court or dropped by the petitioner. In this sample, we found that the variables related to the successful filing of a protection order petition include party/relationship characteristics, abuse and incident characteristics, court processing characteristics, and requests made to the court. Specifically, orders reaching expiration more often involve male respondents, parties that have already terminated their relationship, and cases that do not involve minor children. These are cases in which future contact is less likely since the parties have separated and have no children in common. The no contact provisions of the DVOP may be more cumbersome and unrealistic in cases involving parties that have not yet separated or who have children in common, leading to more limited system follow through. Petitions that include reports of physical abuse, weapon use, and alcohol and/or drug use are more likely to be dropped or dismissed before expiration. In addition, follow through is less

likely when either the respondent is not served with the summons to appear and/or the respondent fails to appear at the hearing. Finally, when petitioners request financial support from or counseling for the respondent, they are less likely to follow through with the process, and therefore less likely to be granted an extended order of protection.

- Violations of protection orders

Documented DVOP violations are notably uncommon among the cases in our sample. In total, 20 cases in our sample (11%) involve at least one reported violation. Most (N = 15) of these allegations include reports of violation of the no contact order, although none of the reported violations in our sample involve physical abuse. In the majority of these cases (65%), the court finds that a violation has occurred. Violations are more likely to be reported among the “successful” cases (those that had an order in place through its expiration, N = 15). The limited number of reported violations may indicate that DVOPs effectively protect petitioners from subsequent abuse. However, most violations only come before the civil court if one or both parties file a motion alleging violation; this occurs in 80% of the violations reported here. In some cases, the respondent is arrested and is required to be released by the Domestic Violence Court judge. The court is made aware of a violation this way in 20% of the cases. It is likely that petitioners call the police when violations occur, particularly when physical abuse is involved, and the violation is heard in criminal court with no civil court overlap. Where violations are non-physical, petitioners may not want to take the time to report the violation, may not know how to report the violation, and/or may be complicit in the violation and not want to report it—i.e., the couple may be trying to reconcile. Based on our observations, respondents are told that violation of the order may result in arrest and jail time. However, it appears petitioners are not given instructions on the procedures for reporting violations to the court beyond written instructions to call 911 if the other party violates any provision of the order. This lack of instruction to petitioners may account for the small number of violations reported to the court.

### Objective 3: Relationship patterns, characteristics of abuse, and court outcomes over time in multiple filing cases

- Multiple filings

Almost 30% of the sample involves cases with multiple filings. Multiple filings include two or more petitions for protection brought forth in the same case by the petitioner, the respondent or both. There is evidence to suggest that many of these cases involve parties who are engaged in complicated and ongoing abusive relationships and are legitimately using the court to seek protection from abuse.

Most multiple filing cases involve a single filer who successfully files at least one DVOP petition (i.e., a petition that is granted and expires). Cases that do not include any DVOPs that last through expiration generally involve couples who have reconciled or involve abuse that centers on children. Some cases involve dyadic filings: those cases where both parties file for protection from abuse. Compared to other multiple filing cases, dyadic filings are less likely to be successful and more likely to have one or more dismissals for lack of evidence. Dyadic filings often include filings by males, who are typically less likely to file for orders of protection

and whose filings may be questioned by the court. Additionally, dyadic filings often involve child related issues, which also may raise concerns about the veracity of the claims.

Overall, we find that the nature of the ongoing abuse (physical versus non-physical) is tied to the relationship and nature of contact between the parties. Physical violence is more likely in ongoing intimate partner relationships and among those who are in the process of separating, while other forms of abuse are more common among couples who have already separated. This suggests that physical abuse is partly opportunistic and emphasizes the importance of the no contact provisions that characterize DVOPs. Of course, where relationships are ongoing, compliance with these no contact provisions is complicated.

In a small number of multiple filing cases, the relationship between the parties is a non-intimate familial one. These cases are often drug related, and involve intimidation as well as property damage. They are less likely to involve physical abuse. The reasons for continued contact among non-intimate petitioners and respondents are similar to those observed in intimate party cases. Non-intimate petitioners are often involved in relationships where the respondent is financially dependent on the petitioner and they often share a residence.

## **Recommendations**

The order of protection process is complicated by its heavy reliance on victim initiation and follow through. While recognizing that following through with an initial request for court protection is not always in the best interest of all petitioners, there are some ways to improve follow through for those who would benefit from a DVOP.

- Increase victim advocacy: advocates can provide emotional support, help victims understand and successfully navigate the court process and refer victims to agencies that provide material support.
- Increase access to information: offering a packet that includes information about court procedures including filing procedures and how to report violations to the court may help petitioners better understand and utilize the process. Verbal instructions on reporting violations to the court should also occur at the time the protection order is granted. Additionally, the written packet should include information about community resources, including places to obtain material support as well as places to seek legal advice.
- Enforcement of existing order: The police are more likely than the court to be notified in the case of a violation. However, data show that police are not likely to arrest respondents who violate protection orders unless there is evidence of physical violence. Where there is probable cause, police should be encouraged to make arrests for violations that do not include physical violence, as mandated by state statute. Where probable cause is not evident, police can encourage protected parties to file a motion alleging violation with the court.
- Further assessment of the conditions under which DVOPs are most effective and for whom they are most effective is essential for intervention planning.



## **Chapter 1: Background and Research Design**

Distinct from most offenses, domestic violence is defined by both the presence and/or threat of battery *and* the relationship between the involved parties. Under New Mexico law domestic violence includes: aggravated assault, battery, and aggravated battery when committed against a “household member.” The law defines household member as “a spouse, former spouse or family member, including a relative, parent, present or former step-parent, present or former in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship” (NM Statute 30-3-11). Co-habitation is not required to meet the definition of a household member. The civil court statutes for domestic violence orders of protection (DVOP) in New Mexico define domestic abuse even more broadly, and include stalking or sexual assault (even when committed by a non-household member) and/or an incident by one household member against another that consists of or results in: “physical harm, severe emotional distress, bodily injury or assault, a threat causing imminent fear of bodily injury, criminal trespass, criminal damage to property, repeatedly driving by a residence or work place, telephone harassment, harassment, or harm or threatened harm to children” (NM Statute 40-13-1). While these laws provide the basis for formal intervention in incidents of domestic violence, prior research has shown that interpersonal violence among related parties is typically ongoing and patterned, and therefore not defined by a single incident. Because of both the personal relationship between parties and the patterned nature of the abuse, approaches to prevention and interventions for domestic violence are particularly important and at the same time pose many unique challenges.

Annually, approximately 20% of women who are abused, raped, or stalked by partners in the U.S. obtain a protection order (Tjaden and Thoennes 2000). Victims are most likely to seek these orders when exposure to violence is repetitive and/or particularly serious (Carlson, Harris and Holden, 1999; Gondolf et al., 1994; Jordan, 2004; Zoellner et al., 2000). As such, these protection orders represent a potentially important resource for victims who fear imminent risk. However, at least in New Mexico, data suggests that even those at high risk do not commonly seek protection orders. Most victims of intimate partner homicide in New Mexico never sought orders of protection, and among those who did, the order was typically expired at the time of the homicide (Bauer et al., 2007). However, whether policies and practices that encourage more victims to seek protection orders would be useful is unclear since there is limited research evaluating the effectiveness of protection orders in reducing subsequent violence.

Clearly, victims who seek protection orders do so with the hope that the court can offer them a measure of protection. Both interview and court record based research conducted at the local level across jurisdictions in the U.S., provide some evidence that protection orders do reduce the risk of subsequent victimization (Carlson, Harris, and Holden, 1999; Holt et al., 2002, 2003; McFarlane et al., 2000). However, the effectiveness of protection orders is potentially limited by numerous factors. One barrier to developing formal strategies for alleviating the risk to victims is a lack of system follow-through on the part of victims. Petitioners for DVOP must return to court for a hearing to secure an extended order of protection. This generally takes place within 2 weeks following the issuance of the temporary order. In one study, only 60% of women securing temporary orders returned for extended orders (Harrell and Smith, 1996). Other research finds petitioner requests for dismissal to be the most common reason applicants do not receive an extended order of protection (McFarlane et al., 2004).

## The Current Research

The current research originates from a previous project, where we examined whether particular formal interventions for domestic violence were successful in deterring future incidents of domestic violence. Using law enforcement and court data documenting domestic violence incidents occurring in Bernalillo County, New Mexico in 2002, we examined the following formal interventions: police intervention only, protection order filing only and a combination of the two. In general, we found the likelihood of subsequent violence was similar for those who secured orders of protection from the civil court, those who called on law enforcement, and those who invoked both the court and law enforcement interventions. We expected the civil process to offer more protection since it is a longer term intervention and is designed to restrict contact between parties. One reason that we do not see this is that individuals who sought protection orders from the court, whether in isolation or in addition to law enforcement intervention, frequently do not see the process through to completion. Numerous petitioners either let their temporary orders expire or request dismissal of extended orders before their expiration. We know little about the reasons why these petitioners discontinue their pursuit of protection orders. However, some studies that have investigated reasons for petitioner withdrawal find that dismissals are related to the relationship status between the involved parties, emotional attachment, and the types and severity of abuse (Fernandez et al., 1997; Roberts et al., 2008; Zoellner et al., 2000). The prior project used automated data, which was limited in terms of person characteristics and incident details. Further, it did not include important variables such as the relationship between the parties and details about the protection order hearing and the order itself. The current project adds to the prior research by gathering individual, relationship, incident, and court processing details of a subset of cases from our prior work. These data allow us to provide an in depth analysis of the use of the DVOP process among this same group of petitioners.

## Purpose Statement

The civil protection order process is dependent upon petitioner participation. Petitioners must petition the court for a hearing, show up at the hearing, provide evidence that domestic violence has occurred, and return for any subsequent hearings to review existing orders, motions on order provisions, and/or motions of violation. Additionally, a petitioner may request the dismissal of protection orders at any point during the process. Research suggests that a substantial portion of protection order petitioners drop out of the process and that at least some attrition from these proceedings is due to petitioner frustration or practical obstacles to participation (Buzawa and Buzawa, 1990). This research explores **how the protection order process contextualizes the way in which petitioners for DVOPs report abuse, request relief, and utilize protection orders as an intervention resource.** The goal is to get a clearer sense of when, why and how victims utilize protection orders. This is a first step towards evaluating whether and how well the system is set up to meet the needs of petitioners.

Given the petitioner-driven nature of the protection order process, we explore **how petitioners present, in their own words, the salient aspects of the abuse incident(s) leading them to seek a protection order.** We examine the petition document, which includes a solicitation of

information about the abuse experienced by the petitioner. While petitioners are prompted for certain types of information (physical abuse, threats, other types of abuse), the solicitation is quite general. The reported abuse narratives likely do not report all incident details; however, they do represent the elements of the abuse petitioners believe to be most relevant to their experience and to their request for court intervention.

A protection order is the outcome of a process that requires continuous petitioner participation. There is a substantial amount of research on the effectiveness of protection order intervention. This body of work assesses the relationships between a variety of petitioner, respondent, incident, and case characteristics; exploring how these characteristics affect both the issuance of a protection order and the likelihood of subsequent abuse. However, there is little to no work exploring the protection order process itself. As such, **we also examine how the nature of petitioner reported abuse is embedded in case processing procedures and how these two dynamics result in a number of possible outcomes.**

The majority of cases involve a single request for protection; however, a notable minority of cases involves multiple filings. These cases offer a unique opportunity to **explore the dynamics of abuse over time.** They also offer some insight into system strengths and weaknesses with respect to some of the key issues that complicate the restraining order process and related outcomes, e.g., party reconciliation, children in common, and continuing abuse- since these issues are oftentimes salient in repeat filings.

## **Research Design**

The current research focuses on the civil protection order process. Specifically, how and why petitioners use the system and how well the system meets their needs. In prior research, we utilized automated data from the court to assess the “success” of protection orders as compared to arrest. We found, however, that “success” is difficult to quantify and likely linked to case-specific details not available in electronic record. Here, we examine in some detail, case-level features that are implicated in the decision to seek court protection from domestic abuse and in the success of that court intervention. These details, available in the hard copy court case files, allow us to address three primary objectives: 1) to identify the nature of abuse incidents that lead victims to pursue protection orders, 2) to examine the processing of protection orders, including requests made to and granted by the court, whether temporary orders are extended or not, and the nature of and response to reported violations, and 3) to examine cases involving multiple filings to explore abuse, relationship patterns and court outcomes over time. This section outlines our procedures for case selection, data collection, and data analysis.

### Case Selection

We selected a sub-sample of cases from our previous work on intervention effectiveness and collected additional information from the associated protection order case files. In order to understand the current sampling strategy we describe the sampling strategy used in the first phase of the research. Originally, we included all 2002 petitions for a DVOP that involved one single adult respondent and one single adult petitioner. We kept cases where multiple petitioners were identified, so long as only one victim was an adult and the remaining petitioners were

juveniles. In focusing on adult petitioners and respondents, our aim was to weed out petitions among non-intimate partners. However, the automated data do not document the relationship between the petitioner and respondent so we could not determine whether the adults were intimate partners. The final sample included 996 cases. The current study began with two hundred (200) randomly selected cases, representing 20 % of the original court-involved sample.

We deleted ten cases from the study sample, resulting in a final sample of one hundred ninety (190) cases. The reasons for case removal vary. One case was excluded because the petition document was missing.<sup>2</sup> In another case, the paperwork was also incomplete and we were unable to discern the outcome of the petition. The remaining eight cases were removed from the analysis because they involved only child abuse rather than abuse occurring between adults<sup>3</sup>.

### *Case Characteristics*

Using the information available in the automated data, we compare the characteristics of the new study sample to those of the population from which it was drawn. We do not find any statistically significant differences between the sample and the original study population. Table 1.1 presents case and individual characteristics as they appear in the population and those of the sub-sample selected for the current project.

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<sup>2</sup> This case was included in the automated data because it showed an opening of the case in 2002; however, there was no petition in the file once the document was pulled. An order was granted, but due to the centrality of information in the petition to the project, this case was eliminated from the analysis.

<sup>3</sup> We removed the child abuse cases from our sample because our interest is in adult cases of domestic violence. In the initial sample design we made decisions that were meant to eliminate child abuse cases. These 7 cases are likely in the sample due to misclassification in the automated data and therefore are in no way representative of the population of such petitions.

Table 1.1. Comparison of Individual and Case Characteristics of the Study Sample to the Study Population

	Population	Sample
<i>Individual Characteristics</i>	(N = 996)	(N = 190)
Respondent Mean Age in Years (SD)	34 (10.1)	36 (11.2)
Petitioner Mean Age in Years (SD)	34 (11.2)	35 (12.1)
<i>Sample Characteristics</i>	(N = 996)	(N = 190)
Respondent-Male	82%	84%
Respondent- Female	17%	14%
Petitioner- Male	15%	15%
Petitioner- Female	82%	83%
<i>Respondent DV Court History</i>	(N = 996)	(N = 190)
Respondents with DVOP Priors	8%	8%
Respondents with Subsequent DVOP	26%	26%
<i>Petition Characteristics</i>	(N = 996)	(N = 190)
Counter petition	6%	4%
Extended Order Granted	54%	60%
Alleged Violations	9%	11%
<i>Order Characteristics</i>	(N = 535)	(N = 113)
Stipulated	45%	39%
Mutual	2%	1%
<i>Order Closing</i> <sup>4</sup>	(N = 970)	(N = 186)
Expired	41%	48%
Dropped by Party	28%	26%
Dismissed by Court	31%	26%

Similar to the population of cases, the cases for the current study largely involve female petitioners filing for protection from male respondents. The average age of both petitioners and respondents is around 35 years. Only 8% of respondents in the sample have been involved in any prior DVOP case, including cases with different petitioners; while 26% of respondents have at least one subsequent petition filed against them within 4 years of the sample selection event. Approximately 60% of petitions in the sample result in an extended order of protection. Forty-percent of the extended DVOPs in the sample are stipulated (parties agree to terms of order but do not admit that abuse occurred and the order is not registered with NCIC), and less than one percent is documented as mutual (or restraining both parties).<sup>5</sup> Less than half of the filed petitions in our sample result in an extended DVOP that reaches expiration. Twenty-six percent

<sup>4</sup> Four of the orders obtained as a result of the 2002 petition were still in effect at the time of this research.

<sup>5</sup> This has since changed; all orders are now registered with NCIC.

of cases are dismissed at the petitioner's request (either before the extended order hearing or after an order is granted) and another 26% are dismissed by the court.<sup>6</sup>

### Data Collection

The automated data provide us with the general characteristics of case processing, but give limited case-specific details. In particular, the automated record tells us very little about the individuals involved in DVOP cases, including their relationship to one another as well as the nature of the abuse leading to the protection order filing. Some of these details are included in the hardcopy case files maintained by the court. We document these characteristics and the case chronology in narrative form.

We collected the data between May 13 and July 11, 2008. We sent the court records administrator a request for thirty case files each week. We provided the administrator with the filing date, court case number, and case title for each requested file. The clerk's office staff retrieved these files and made them available in the Domestic Violence Division office. It took two SAC staff members approximately 3 days to complete data abstraction for each 30 file request.

### *Case Files*

The Domestic Violence Division of the Bernalillo County Court House processes protection orders in Albuquerque/Bernalillo County. Persons wishing to obtain a protection order come to this office to retrieve, fill out, submit, revise, and request dismissal of civil petitions for protection orders. The case files are also stored at this office. The contents of each file vary depending on the action taken in each case. The court has seven distinct forms to document case sequence: *Petition for an Order of Protection*, *Counter-petition for Order of Protection*, *Temporary Protection Order*, *Order of Protection* (extended/ registry order) or *Stipulated Order of Protection*, *Order of Dismissal*, and *Custody, Support, and Division of Property Order Attachment*.

All petitioners fill out a *Petition for an Order of Protection* against domestic violence. This form provides much of the data used for the current study. A temporary order is usually granted on the day the petition is filed. The *Temporary Protection Order* details contact provisions between the parties until a hearing for an extended order occurs. Additional forms in the case file may be present depending upon the events following the initial petition. If an extended order hearing is held, the case file includes either the *Order of Protection/ Stipulated Order of Protection*, (when the extended DVOP is granted) or *Order of Dismissal* (when the order is not granted). The *Order of Protection* and *Stipulated Order of Protection* contain information about prohibitions and provisions ordered by the court. The *Order of Protection* also includes information about the hearing, including which parties were present and whether either party was represented by counsel. Cases resulting in a stipulated order do not have this information. The *Custody*,

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<sup>6</sup> The automated data codes for case closing include: order expired, order dismissed by party, and order dismissed by court. While we know that the court dismisses petitions for a variety of reasons (petitioner fails to appear, insufficient evidence of domestic abuse, parties do not meet statutory definition of household member) the automated data do not consistently indicate the reason for dismissal beyond these primary codes.

*Support, and Division of Property Order Attachment* details the findings made by the court with respect to these issues. If an order is not granted, the *Order of Dismissal* provides the reason for dismissal (petitioner failed to appear, allegations are not “domestic abuse” according to statute, lack of evidence, etc.).

### *Data Collection Procedures*

Our data collection procedures included two steps. First, we collected data about cases utilizing case abstraction forms. The data elements captured with these forms were primarily quantitative. Second, we constructed case narratives based on the petitioner’s description of the abuse and the events described within each case file. These provide the qualitative component of the data collected. We describe these two data collection methods in detail next.

In order to collect uniform details from each case file, we developed a data abstraction form on which researchers entered key data elements culled from the case files (See Appendix 1: Data Abstraction Forms). As noted above, most of the data elements we collected are detailed on the petition form. These include: request for interpreter, relationship between parties, information on children, other cases involving the parties, description of the abuse, substance use, prior abuse, and requests for relief. Other data elements, particularly those that relate to the DVOP process, were culled from one or more of the additional forms included in the case file. These include: whether or not an extended order was granted, and if not, the stated grounds for dismissal. Among cases granted an extended order, we recorded details such as party participation in the hearing; exceptions to contact prohibitions; any custody, support, and property provisions; and the number and type of documented violations. Each completed abstraction file contains the cover sheet, abstraction form, a counter petition abstraction sheet (where applicable), and a page for notes.<sup>7</sup>

In addition to the data abstraction forms, we developed a guide for writing case narratives. The narratives allow us to include abuse descriptions and case processing information for all petitions in each file, including those occurring prior to and/or following the sample selection event. These case narratives also allow us to situate our observations in a broader context than the abstracted data alone. For each case in the sample, we produced a chronological account of case activity. The narrative includes a description of the abuse incident that led the petitioner to file for an order of protection written in his or her own words. By recording the case narratives, we were able to capture non-standard case activities. For example, some, but not all, respondents wrote a response to the petition providing their account of the incident and requesting that the petition be denied. The case narrative guide and a sample case narrative can be found in Appendices 2 and 3, respectively.

SAC staff typed the narratives directly into word processing software and saved them as text files during the abstraction sessions. We also constructed a narrative coding sheet for the easy identification of cases with characteristics consistent with our present research objectives (See Appendix 4 for a copy of the narrative coding form). Upon completion, we coded the narratives

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<sup>7</sup> The cover sheet records identifying information. The case abstraction form documents the details of the 2002 petition and its outcomes. Counter petitions are only present in the file when the respondent files a complaint stating that he or she was the victim of abuse perpetrated by the petitioner.

using yes/no categories for a number of factors, including: intimate partner relationship, children involved, child abuse alleged, child witness to the abuse, case involves a custody dispute, alcohol and/or drugs are involved, prior abuse is evidenced, abuse is physical in nature, abuse involves property theft and/or damage, abuse takes place in-person, police are contacted as a result of the incident, couple reconciles over the course of the proceedings, and case dismissed for lack of evidence.

### *Reliability*

SAC staff checked all of the data for errors, inconsistencies, and missing information. We then compiled a list of cases in need of clarification. Twenty-five (25) files had either missing information or inconsistencies between the abstraction form and the narrative. These files were requested a second time to verify information. The types of information rechecked include, but are not limited to: the ages of the children involved, whether anyone else had custody of the children, residence of the child, the order expiration date (this should have been automated, but in one case, it was not), and the reason the respondent was not served.

We also completed a more formal assessment of reliability. A ten percent sample of cases was selected for a reliability check using the random sample generating procedure available in SPSS software. Two staff members then gathered the data a second time for all 20 cases in this sample. We conducted a line by line comparison of the narratives and checked every data element on the three forms (the cover sheet, the data abstraction and coding sheets) with the original data. Staff recorded all identified discrepancies.

Overall, we found the abstraction and narratives to be reliable. Because we utilized multiple strategies for recording information, we were able to resolve most discrepancy issues. However, there were some errors in coding (e.g. recording a 6 instead of a 7 or recording the wrong date). Seven of the 20 cases had at least one coding error on the data abstraction sheet. However, these data elements are also captured in the case narrative, and any errors in the original coding were rectified.

We also checked the narrative coding sheets for discrepancies between the original abstraction coding and that of the reliability sample. Ten cases had at least one discrepancy. Some of these included differences in interpretation, of which the team was already aware. We developed standardized definitions of the data elements to rectify these discrepancies. These items included such things as abuse type, whether the parties reunited and whether the police were called. The last of these, whether the police were called, was sometimes coded as yes if the respondent was in jail, even if the file did not clearly indicate that the police had been called to the incident. Since the respondent's presence in jail could not be definitively tied to the incident unless it was noted that the police were called during the incident, this was recoded to no. Once the definitions were clarified, we re-coded all cases using the new definitions.

The reliability check revealed the data to be unreliable only in regard to some of the details of both temporary and extended orders provisions. Two types of provisions in particular are problematic: details regarding exceptions to no contact orders and the details of property division and exchange provisions. That specific requests are made and/or granted is reliably documented,



as well as whether there are exceptions to no contact between the parties when an extended order was granted. However, we did not reliably record specific details about the requests, such as the type of no contact exception allowed. We did not anticipate explanations or details regarding basic provisions (like property exchange) to be documented; as such there was no space on the abstraction form dedicated to these details beyond whether or not property provisions are made. At times, abstractors put this information in the notes (and narrative) and at other times they did not. Neither of these data elements is central to the questions of the current research.

### Data Entry and Analysis

One staff member entered the data from abstraction forms and coding sheets into an SPSS data file. We then generated a random ten percent sample using the random sample procedure in SPSS. We used this sample to identify cases to be checked for accuracy in data entry. A second staff member checked each data element in the database compared to the hardcopy data. We found only one error in data entry.

As noted, staff directly typed case narratives into a Word document during data abstraction at the courthouse. We then uploaded the narrative text files into ATLAS.ti qualitative analysis software and systematically coded the abuse and case processing characteristics. The unit of analysis for this research varies. In Chapters 2 and 3, the primary unit of analysis is the 2002 protection order filing. In portions of Chapter 4, the primary unit of analysis is the first filing entered in the case file. In the remainder of that chapter, the case file is the unit of analysis. Our interest there is to consider each case in the context of the complete filing history between the involved parties. We use the abstracted quantitative data primarily for descriptive purposes. We use the characteristics in the abstraction data set to identify and categorize the cases on key dimensions of interest. While we refer to this descriptive information, the findings are primarily derived from the qualitative case narrative data.

### Observations

Once the project was completed, staff were given the opportunity to observe the domestic court process. Staff observed clerk interactions with petitioners and respondents who came to the court to file DVOP related paperwork or to attend hearings. Staff also observed hearings during DV commissioners evaluated the merits of petitioner requests for extended orders in the presence of both the petitioner and the respondent. In addition to observation, staff had a chance to talk to the clerks and commissioners and get some clarity on process and decision making details that were not entirely clear from the review of case files. This occurred on two different days with a total of four staff members, two on each day. The observations are used to supplement the conclusions drawn from the hard copy data as well as to help inform policy recommendations. Thus, while not a major component of this research, the conclusions drawn from observations are important.

### **Descriptive Statistics**

In this section, we describe the data we gathered from the hard copy files that were not available in the automated data for the population of cases. These data are specific to this sample and

cannot be compared to the population. Data include the relationship between the parties, the presence of children and whether they are shared between the petitioner and respondent, respondent characteristics, history of abuse and involvement with other legal cases.

### Relationship Characteristics

Studies of domestic violence typically focus only on intimate partner relationships; we also targeted intimate partners. We define intimate partners as spouses, ex-spouses, girlfriends/boyfriends, ex-girlfriends/boyfriends, dating partners, and those who have children together. Non-intimate partner cases are those that involve other relatives. In our sample, the majority of petitions were filed against intimate parties. Our sampling strategy aimed to identify intimate partner DVOP filings by focusing on cases involving a single adult petitioner and a single adult respondent. However, since the automated data does not include the relationship between petitioner and respondent, this sample includes petitions involving couples in various types of relationships. Although we were unable to restrict the sample to intimate partners, 90% of the cases in the analysis involve either current or ex-intimate partners. The remaining 19 cases involve non-intimate parties. We observed the following non-intimate relationships in the sample: siblings (N = 5), in-laws (N = 3), parents (N = 2), adult children (N = 6), grandchildren (N = 1), and nieces and/or nephews (N = 2). Table 1.2 shows the relationship between the petitioner and respondent. Most intimate partners were not married, and had never been married, at the time of the sample selection event.

Table 1.2. Relationship between Parties (N = 190)

	%
Married	35
Not married	55
Non Intimate Partners	10

There is no single question in the case file that explicitly asks the petitioner to state whether the relationship between the parties is current *at the time of the incident*. The *Petition for an Order of Protection* asks petitioners to record their relationship status with the respondent and their residence. However, neither clarifies whether each respective status refers to the time of the incident or the time of filing. In some cases, the petitioner leaves the respondent immediately following the incident, which creates ambiguity regarding both relationship status and residence. For example, some petitioners define their relationship to the respondent as an ex-boyfriend and identify a separate address for him, but at the same time report that the incident took place at the couple's home and request that the respondent be evicted from the residence. Because of these kinds of inconsistencies, we use the relationship status reported by the petitioner to make a designation of current or former intimates, unless there is evidence to the contrary. We define current relationships as those where the petitioner lists his or her relationship to the respondent as husband/wife, boyfriend/girlfriend or indicates that they live together with their child(ren). We designate couples as ex-intimates where either the petitioner identifies the respondent as an "ex" or the petitioner identifies the respondent as the "parent of her child(ren)" and documentation of custody, residence, and other information suggest that the parties are no longer together. Approximately 50% of the "intimate partner sample" involved parties who are listed as current partners (N = 84), 85 petitioners report the respondent as a former intimate partner, and 2 cases

involve intimate parties for whom the current versus former designation could not be determined.<sup>8</sup>

Within the intimate partner sample, 29% were currently married at the time of the incident. Another 10% of the petitioners in the sample had been married to the respondent but were divorced at the time of the incident. The majority of petitioners filing against either a current or former intimate partner had never been married to the respondent; most of these were separated (41%). Table 1.3 shows the distribution of the intimate partner sample by marital status.

Table 1.3. Marital Status for Intimate Partner Sample (N = 171)

	%
Husband/Wife	29
Ex-husband/Ex-Wife	10
Intimate Partner	20
Ex intimate partner	41

### Children

Though our sample selection criteria require the primary petitioner and respondent be adults, the sample includes cases where a child is involved. In total, 61% of cases involved at least one minor child (N = 116). Table 1.4 shows the relationship of children to the parties and the nature of child involvement in cases in our sample. Among cases involving children, most (77%) include one or more joint children, or biological/adopted children of both the petitioner and respondent. The remaining (23%) of cases involving minors include children of either the petitioner or the respondent, but who are not related to both parties. Among cases involving a child, 42% of petitioners indicated that a child was either present at the location of abuse, witnessed the abuse, or was also abused by the respondent.

Table 1.4. Cases Involving Children (N = 116)

	%
Joint Minor Children	77
Minor children, not shared	23
Children Present During the Abuse	42

### Respondent Characteristics

Petitioners are asked to provide the court with a description of the respondent and his or her known whereabouts including residential and work locations. This is done in order to facilitate service of process of the temporary order and hearing documents to the respondent. The *Service of Process Information Sheet*, while a part of each file, is not an official form. As such, the information is not entered in the automated file. Furthermore, the petitioner is asked to report this information for the respondent, but not for themselves. As such, the only petitioner

<sup>8</sup> For the purpose of analyses these 2 cases were grouped with the former-intimate partner group. In both cases the petitioner lists the relationship to respondent as the parent of his/her child(ren). While neither petitioner designated the respondent as a current or ex-intimate partner, both abuse narratives suggest that the couples are no longer together.

characteristics available are sex and age, which we reported in Table 1.1. We abstracted the respondent's employment status and race/ethnicity for each case using this information sheet.

The question soliciting respondent race is open-ended allowing petitioners to write in the race/ethnicity of the respondent as they perceive it. As a result of this format, responses are not standardized. We collapsed the responses into six categories. Table 1.5 provides a breakdown of respondents' race.<sup>9</sup> The majority of respondents in our sample are Hispanic (59%). Twenty-six percent of respondents are White. The remaining respondents were reported to be Black, Multi-racial, Native American, or Asian.

Table 1.5. Race of Respondent (N = 188)

	%
Asian	3
Black	5
Native American	3
Hispanic	58
White	26
Multi-Racial	4

We summarize the respondent's employment status as reported by the petitioner in Table 1.6. Just under half of all respondents were employed at the time of the petition. Approximately 40% were reported to be unemployed. Eleven percent of petitioners listed the respondent's employment as either "unknown" or left the question blank.

Table 1.6. Respondent's Employment Status (N = 190)

	%
Employed	45
Self-employed	5
Unemployed	39
Unknown/Missing	11

While we were not able to directly assess whether the respondent has a substance abuse problem, petitioners are asked whether drugs and/or alcohol were involved in the incident on the *Petition* form. Forty-eight percent of the petitioners in our sample indicate that drugs and/or alcohol were involved in the abuse incident (N = 91). However, only 15 petitioners commented on the respondent's substance use in their description of the abuse. These narratives often began with some statement regarding the respondent's substance use, for example: "He was very drunk..." or "He was drinking." Other petitioners speak directly to the effects of substance use on the respondent's demeanor: "He got drunk and got angry" or the respondent "came to my home high on drugs...He was extremely agitated." In two cases, the petitioner confronted the respondent

<sup>9</sup> The prior project utilized law enforcement data in addition to that provided by the court. The law enforcement data provides a racial classification for involved parties as perceived by the law enforcement officer. In the current project, race of respondent was missing on the service of process information sheet in four cases. For two of these cases, a matching incident involving the respondent was available in the police record; we imputed respondent race using the police record. In both circumstances, respondent race is suggested by someone else and may not represent how the respondent would classify him/herself.

because his intoxication level put their children at risk. One petitioner reported that she came home from work and the respondent “was drunk and high on cocaine” while he was watching the couple’s son. When confronted, he physically abused her while she was holding the child. This type of confrontation was also present in another case where the petitioner reported that the respondent “dropped daughter on her head while under the influence of alcohol.” When confronted, the respondent hit the petitioner in the head and threatened her with a knife. In five cases, the petitioner indicated either a child was present or put in harm’s way by the respondent’s substance use.

### History of Abuse and Court Involvement

The *Petition for an Order of Protection* document also includes information about prior abuse and prior court involvement between parties that is not available in the automated data. Petitioners are asked to check a box indicating whether or not there has been prior abuse between themselves and the respondent. Seventy-five percent of petitioners in the sample report that they had been abused by the respondent in the past (N = 142); and 18% report there had been no prior abuse (N = 34). The petitioner failed to indicate whether or not prior abuse occurred in the remaining cases. While most report prior abuse, only 13 case files include a prior petition between the parties involved in the sample selection event. A number of petitioners indicated that the parties had been involved in “other” cases (i.e. divorce/custody, criminal, and other DVOP). However, the documentation of this information was inconsistent and does not allow for a detailed description of “other” case involvement.

### **Report Outline**

The findings for this research are reported in three chapters that correspond to our three broad research questions. Chapter 2 details and compares the types of abuse reported by petitioners, their assessment of future risk as well as how the status of the relationship between the parties shapes the abuse. In Chapter 3 we examine various outcomes, including whether requests to the court are granted, whether petitioners successfully secure extended orders and how violations are reported to and disposed of by the court. Chapter 4 focuses on repeat filings made within a single case, including the abuse and outcomes over time. We conclude the report with a summary of key findings and a discussion of relevant policy and research implications in Chapter 5.

## Chapter 2: Petitioner Reported Abuse

Research on the types of abuse characterizing domestic violence incidents and violent relationships more broadly focuses on a variety of questions: What types of abuse are present in domestic relationships in the general population? What types of abuse lead victims of domestic violence to seek formal intervention? How does the type of abuse experienced by those seeking protection orders differ from victims who utilize other types of intervention like shelters or criminal complaints? The results of the National Violence Against Women Survey (NVAWS) suggest that physical battery<sup>10</sup> is the most commonly experienced type of abuse for both women and men (Tjaden and Thoennes, 2000). Twenty-two percent of women and around 7.5% of men report at least one physical battery by an intimate partner in their lifetime. Almost 8% of women report at least one sexual assault (lifetime) by an intimate partner, compared to .3% of men. Just below 5% of women report being stalked by an intimate partner, compared to only .6% of men. But, not all of the women and men who experience an act of domestic abuse seek formal intervention. Rather, help seeking behavior appears to be conditioned by the severity and frequency of the abuse. Those reporting the most severe and frequent incidents of abuse are found to be more likely to engage in help seeking behavior (Sabina and Tindale, 2008).

Interviews with women seeking intervention for domestic violence indicate that some types of abuse are more likely to lead to a protection order filing than others. Findings from a survey of Seattle victims of domestic violence, who either sought assistance from the police or petitioned for an order of protection, suggest that victims seeking protection orders are more likely to report the most recent incident as including threats of violence, physical abuse, and threats and/or abuse towards friends or family members when compared to those seeking police intervention (Holt et al., 2003; Wolf et al., 2000). These same studies report that victims seeking protection orders are less likely than those seeking police intervention to report both weapon use and injury. At the same time, Sabina and Tindale (2008) find that victims who report severe incidents of abuse as well as those who note that their offenders exercise significant power and control over them are more likely to seek a protection order. Given these findings, it appears that the characteristics of the abuse incident as well as whether the abuse is isolated or chronic shape help seeking behaviors. Those who perceive themselves to be at risk for continued or future violence are more likely to seek protection orders than to call on the police. However, those in immediate danger are more likely to call on the police.

Both broad population surveys and research utilizing the post-intervention interview methods fail to capture the ways in which the type of abuse is contextualized by intervention procedures and processes. Our approach here is to examine in depth the range of behaviors and circumstances reported by persons involved in domestic violence situations who petition for a protection order. Protection order petitioners and populations utilizing other forms of intervention differ on a number of characteristics. In addition to differences in the abuse experience, women seeking protection orders also differ from those using other interventions on personal and relationship characteristics. Wolf et al. (2000) examined these characteristics by conducting interviews with women seeking either law enforcement or court intervention in Seattle, WA. They find that those seeking protection orders are more likely to be employed full time, to be married (but

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<sup>10</sup> Physical abuse includes: having something thrown at you, being pushed, grabbed, shoved, slapped, hit, kicked, bit, being beaten up, threatened with a gun or other weapon (Tjaden and Thoennes 2000).

separated) at the time of the incident, to have a child with their abuser and are older on average than female victims seeking law enforcement intervention (Wolf et al., 2000). Similar to victims in Seattle, Washington, petitioners seeking protection orders in Bernalillo County are, on average, older than those who call police. Unfortunately, the automated data in New Mexico do not include information on relationship status or employment and therefore cannot be compared to the data reported by Wolf et al.

Given the complexity of factors that make up the social context in which both domestic violence and intervention efforts take place, scholars have called for additional research focusing on the victim perspective (Bennett, Goodman and Dutton, 1999 (prosecution); Rodriguez, Quiroga and Bauer, 1996 (medical care); Stephens and Sinden, 2000 (policing)). Asking victims, survivors, and perpetrators about their experiences greatly increases our understanding of the patterned nature of domestic violence (Pence and Paymar, 1993). Examining petitioner accounts of incidents leading to protection order filings can also provide insight into how domestic violence victims evaluate the interplay of abuse and relationship dynamics and assess future risk to themselves and others. Reinforcing and improving current DVOP strategies for protecting petitioners requires a better understanding of these dynamics. In this chapter, our goal is to explore how petitioners present, in their own words, the salient aspects of the abuse situation. Specifically, we examine:

- **the characteristics of the abuse incident(s) among persons seeking a protection order**
- **the perceived risk of future abuse as articulated by the petitioner, and**
- **how the characterizations of abuse differ in terms of the context and characteristics of the relationship between the petitioner and respondent**

We examine these questions using the sample of DVOP petitions described in the first chapter. The approach in this chapter is cross-sectional, meaning we examine only the incident(s) being reported in the 2002 petition (Chapter 4 will examine cases with multiple petitions in depth). While the focus is on the abuse as reported in the petition document, we derive some of the information from other documents within the case file. In the following section, we describe the petition process, its associated documents, and briefly discuss data collection and analysis procedures specific to the derivation of findings for this chapter. The findings are divided into three primary sections that correspond to the questions outlined above.

## **The Protection Order Process and Abuse Reporting**

In New Mexico's Second Judicial District, protection order paperwork is processed at the County Court House. Applicants must fill out a *Petition for an Order of Protection*. The petition document contains three primary sections: party information, description of the abuse, and requests to the court. In the first section, petitioners list the name of the person they are filing against, their relationship to this person, any children that the parties have together, and where the children currently reside. In the description of the abuse (what we are referring to as the abuse narrative), petitioners list the date, time and place of the abuse incident. Some petitioners list one incident, while others indicate a range of dates during which the abuse occurred. The petitioner is prompted to report the abuse that led him/her to seek an order of protection with three open-ended items. The prompts include: 1) "physical abuse", 2) "threats which caused

fear that you or any household member would be injured” and 3) “other abuse.” The petitioner is not provided with prompts regarding specific acts of abuse. As such, some reports are brief and include a list of abuse elements. For example,

*Physical Abuse:*

“Hair pull, bruises, got bitten all over my face, squeezing my hands”

*Threats which caused fear that you or any household member would be injured:*

“Said he would destroy me”

*Other abuse:*

“Got kicked in the ribs once when he was drunk”

Approximately 40% of petitions in our sample involve the listing of abuse elements with little to no comment on the chronology or circumstances of the incident. In the other 60% of petitions, petitioners provide more detail and context, making statements that contextualize the abuse by indicating chronology of events, or by describing the circumstances of the incident. For example,

*Physical Abuse:*

“About 2 weeks ago, he got drunk and got angry and punched me in the head, knowing that I’m pregnant and then jumped on my car when I was trying to get away”

*Threats which caused fear that you or any household member would be injured:*

“When I wouldn’t let him stay at my house, he called on 11/27/02 and said “ok bitch” when I see you I’m going to kill you”

*Other abuse:*

“Always threatens me that if he see me with someone else he will kill them and me”<sup>11</sup>

In addition to describing the abuse incident, the form asks petitioners to note whether the parties are involved in any other court cases, whether or not the respondent was on either drugs or alcohol at the time of the incident, if there were any witnesses to the incident, and whether or not prior abuse had occurred in the relationship. The petitioner is also prompted to note what type of relief they wish to receive from the court. Check boxes are provided for types of relief requests.

After completing the *Petition* form, the petitioner fills out a *Service of Process Information Sheet*, which indicates where the respondent is currently living, what he or she looks like, and whether (and if so, why) he or she should be considered dangerous. This form aids the agency serving the order of protection. Once all forms are filled out, the petitioner meets with a court commissioner to go over the petition. The commissioner clarifies any missing and/or ambiguous information. The petition is then given to a judge who issues a *Temporary Order of Protection*. A temporary order is granted when both the incident reported and the relationship between parties meet statutory requirements for an act of domestic abuse, as defined in New Mexico

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<sup>11</sup> For the remainder of the report we present narrative examples in a single paragraph form, without the prompts provided on the form.



Statute 40-13-2. The temporary order is valid until the date of the extended order hearing. Statutorily, this should occur within ten days of the issuance of the temporary order. In order to secure an extended order of protection, the respondent must be served with the temporary order and order to appear, the petitioner must appear at court on the date of the hearing and the court must determine there is sufficient evidence to grant the order of protection.

### Limitations of the Abuse Narratives

We encountered two specific limitations in using these data to construct abuse narratives. First, the form layout guides petitioner abuse descriptions by asking for separate accounts of physical abuse, threats, and other types of abuse. As shown in the examples above, within these categories there are no limitations to what can and/or should be reported. These guides, however, do lead some petitioners to divide their reporting of abuse by type. The limited amount of space under each prompt also seems to encourage brief recounting of the elements of abuse. One frequent response to the “other abuse” prompt is the listing of categories of other types of abuse. For example, many petitioners report “verbal abuse” but do not go on to describe the content, timing, or frequency of this abuse in relation to the incident(s) being reported. This creates some difficulty in determining the chronology and/or combination of abuse elements. Furthermore, petitioners frequently report multiple incidents in one narrative. To address these issues we copied the abuse description in the case files verbatim. We then coded the types of abuse presented in each narrative irrespective of their placement or context. Additionally, we approach the narrative as a single unit of analysis, a description of a set of events leading to the current filing, rather than analyzing each incident in the narrative separately.<sup>12</sup>

The second limitation concerns the completeness of the abuse descriptions. We recognize that the reported abuse is not exhaustive, and may only represent part of the reality experienced by the petitioner. Although incomplete, the details petitioners report are important as they represent those details that are most salient to them or those that they believe are most salient to the court officer processing their request for protection. Furthermore, we combine the elements of the abuse scenario reported in the designated space with other petitioner comments about the abuse scattered throughout the petition paperwork. This includes explanations for specific requests to the court as well as comments made in other documents (i.e. service of process information sheet) that are filled out during the petition process. This additional information can include important aspects of the abuse that is not delineated in the section requesting a description of the abuse.

### **Petitioner Reported Types of Abuse**

We coded the abuse narratives for fourteen acts or characteristics of the abuse incident(s). Although each narrative may include multiple instances of an act, we coded the narrative only

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<sup>12</sup> In 2002, petitioners were instructed to limit their abuse reports to incidents occurring in the previous 30 days. At times, petitioners reported other events and these reports were marked out. When possible, we included these reports in our data collection. However, to maintain consistency across cases, in the analyses that follow we focus on the reported abuse that was considered by the court. The exclusion of events dating back more than 30 days was never part of the protection order statute and was instituted as an administrative practice. We have been informed by court officials that this practice has been abandoned.

once for each type. Table 2.1 provides a list of the abuse characteristics, the operational definition for each code, and the proportion of cases where each type is reported. The majority of cases in the sample include at least one act of physical abuse. Over 60% of petitioners reported either an actual or attempted physical battery. An additional 5% reported either an actual or attempted sexual assault. More than half of all petitioners indicated that the respondent made at least one threat of physical harm, and almost 34% reported experiencing verbal abuse. While only 14% reported that the respondent has stalked or followed them, almost 22% indicated that the respondent has engaged in constant monitoring and harassment using the telephone, internet, or other media. Most cases involve multiple abuse acts. Of the 11% coded for a single act ( $N = 21$ ), six petitioners reported either physical or sexual abuse, another 6 cases contained reports of threats of physical violence, 4 petitioners reported phone, online, and/or mail harassment, 1 case each reported stalking, verbal abuse, property damage, threat to harm self or others, and some other kind of threat.

Table 2.1. Characteristics of Abuse (N = 190)

Abuse Characteristic	Definition	%
<i>Physical Abuse</i>		
Physical violence	Reports of actual or attempted physical contact between the respondent and the petitioner. In addition to hitting, grabbing, kicking, etc...this includes other potential acts that may cause physical harm such as wielding a weapon and running the petitioner off the road in a vehicle.	63
Sexual assault	Reports of actual or attempted sexual contact that the petitioner reports as unwanted.	5
<i>Physical Intimidation</i>		
Stalking or in-person harassment	Reports of respondent persistently following the petitioner, staking out petitioner's residence, workplace, or other known locations, unwelcome visits and respondent refusing to leave when asked.	14
Online, phone, or mail harassment	Persistent calling, e-mailing, or use of the mail to threaten or harass the petitioner.	22
Breaking and entering or trespassing	Reports respondent either attempted or completed a break-in of the petitioner's residence.	11
Property damage	Reports that the respondent caused damage to either the petitioner's property or shared property. We coded this liberally to include large items (broke down door) and small items (tore telephone from the wall).	17
Imprisonment or obstruction of communication	Reports that respondent either attempted or actually prevented the petitioner from leaving or respondent obstructed petitioner attempts to call police or otherwise call for help.	19
Child abduction	Reports either the respondent actually physical abducted minor child(ren) or that he/she attempted to abduct a child.	4
<i>Threats/Verbal Abuse</i>		
Verbal abuse or name calling	Reports that respondent verbally abuses petitioner by degrading petitioner or calling petitioner obscene names.	34
Threats of physical violence	Respondent is reported to have threatened to bring physical harm to the petitioner, this includes death threats.	54
Threats of violence to self or others	Respondent is reported to have threatened to bring physical harm either to him/herself or to someone other than the petitioner.	19
Other Threats	Respondent is reported to make threats to steal or damage property, to have petitioner fired from a job, to abduct child(ren), have petitioner kicked out of his/her residence, and other unspecified threats.	23
<i>Other Characteristics</i>		
Weapon	Reports that a weapon is used in the incident leading up to the current petition and identifies how the weapon was used.	11
Property theft	Reports that respondent stole property from the petitioner. This could include anything from food to automobiles.	4

## Multi-Characteristic Abuse

In the literature, domestic violence is defined as a specific type of violence due in part to the relationship between parties, but also due to its systematic and controlling dimensions (Johnson, 2008). Pence and Paymar (1993) and others (Johnson, 2008) explain that physical violence is only one strategy used by perpetrators of domestic abuse to control their victims. Perpetrators also commit acts of intimidation, engage in coercion and threats, emotional abuse, isolation of the victim and economic/resource deprivation. Controlling intimates may also involve children in their coercion (via threats to or actual abuse of children or influencing children to back them up) and engage in minimization of the abuse, denial of the abuse, and victim blaming. In heterosexual, intimate partner relationships, the pattern of coercive control often involves the assertion of male privilege. In these instances, physical abuse reinforces a male's power to control his female partner. In many cases, actual physical abuse is infrequent, but non-physical forms of control are routine and reinforce the ever-present threat of physical violence (Johnson, 2008; Neilson, 2004). In this section, we explore the ways the types of acts petitioners describe interact with one another, prompting the petitioner to seek help.

In our sample, eighty-nine percent of petition abuse narratives include a combination of abuse characteristics (N = 169). Among the cases with multi-characteristic abuse, the number of dimensions ranges from 2 to 8, with an average of 3 characteristics per narrative. Given the patterned and ongoing nature of domestic abuse, that petitioners report both numerous and diverse abuse acts in describing the incident(s) leading up to the petition is not surprising.

To get a sense of how these different types of abuse appear in petitioner narratives, we collapsed the more frequently appearing characteristics into three broad categories of abuse: 1) physical and sexual assault, 2) stalking, monitoring, and physical intimidation, and 3) threats and/or verbal abuse. The ***physical abuse*** category involves petitioner reports of either physical contact between parties as described in the table above and/or an actual or attempted sexual assault.<sup>13</sup>

Some form of physical abuse is present in 63% of cases (N = 119). The ***physical intimidation/harassment*** category includes cases where the petitioner reports stalking, online, phone, or mail harassment, and/or some form of physical intimidation which may include breaking and entering, trespassing, property damage, actual or attempted imprisonment, preventing petitioner from calling for help, and/or an actual or attempted child abduction. These behaviors are grouped together because each represents a concrete act of control, which may require physical presence but does not necessarily involve physical violence between parties. Physical intimidation/harassment was present in 57% of case narratives (N = 109). The third category of abuse is ***threat/verbal abuse***. This category includes narratives that report: verbal abuse, name calling, degrading comments, and/or at least one of the categories of verbal threats identified in the table above. At least one act defined as threats/verbal abuse was observed in 86% of case narratives in our sample (N = 164).

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<sup>13</sup> Although most studies keep this as a separate category, we have only 9 cases involving sexual assault. We also look at these separately but for comparing multiple dimensions it was not informative.

Figure 2.1. Abuse Characteristics Reported in Petitioner Narratives (N = 190)

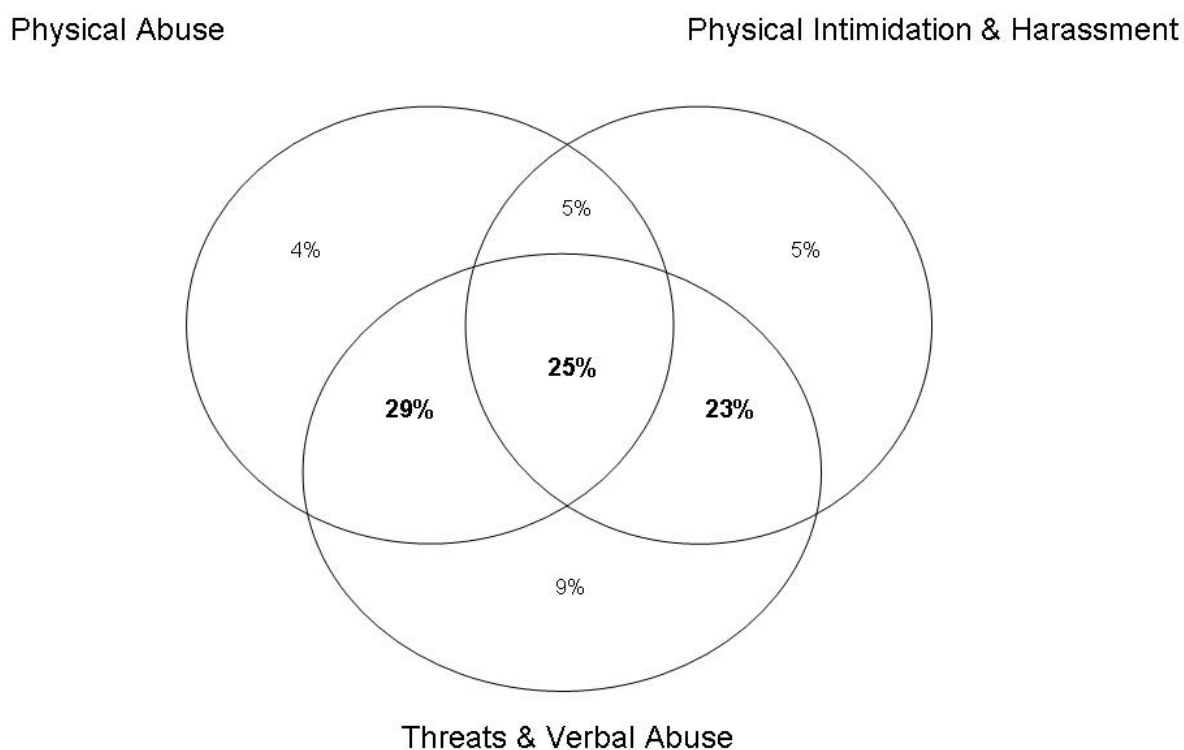


Figure 2.1 depicts the distribution of cases by the categories of reported abuse. Eighty-two percent of the case narratives included abuse acts from at least two categories. The majority of cases fell into the three center categories: 1) physical abuse with threats/verbal abuse, 2) threats/verbal abuse with physical intimidation, or 3) physical abuse, threats/verbal abuse, and physical intimidation. By focusing on the interplay of different abuse acts, we find that even within these groups there are a variety of abuse scenarios that lead to protection order filings. We are able to understand how this sample of petitioners make a case for obtaining an order of protection and the actions prompting them to seek this intervention by examining the different types of abuse they report.

#### Abuse Types, Chronology, and Interplay between Abuse Types

Petitioners alleged some physical abuse in 63% of cases. When physical abuse alone is reported, it is generally, but not always, severe, including biting, choking, punching, stabbing and sexual assault. In most cases, other types of abuse (threats/verbal abuse and intimidation/harassment) are alleged in conjunction with the physical abuse. When used alone, the type and severity of physical abuse does not appear to differ significantly from cases involving multiple types of abuse.

The presence of physical abuse is related to the types of threats/verbal abuse and physical intimidation/harassment reported by petitioners in this sample. That is, these other forms of abuse can look somewhat different depending on whether physical abuse is present. In this section, we explore the ways these three types of abuse are used in conjunction with one another and separately.

### *Physical Abuse and Threats/Verbal Abuse*

One way that physical abuse relates to other types of abuse is found in the chronology of events in the petitioner's description of the incident. Specifically, threats/verbal abuse may occur prior to, during, or after the physical abuse. The use of threats and their chronological order relative to physical abuse can be an important indicator of how these types of abuse are used together to control, or attempt to control, the petitioner. In some cases, the threat is made first and the physical abuse is reported as follow through on that threat. For example, one petitioner reported that a physical altercation with the respondent was preceded by a threat to "kick my ass." In other cases, the threats are reported as occurring in conjunction with the physical abuse. Petitioners frequently report that respondents threaten to continue or escalate abuse if they attempt to leave or seek help from others. One example of this dynamic is demonstrated by the report of a petitioner who wrote that the respondent "slammed head against wall, tried to cut/stab me with a knife, punched me in chest and back, threw me on floor" and "threatened to kill her and son if she called the police." Finally, some petitioners report continued threats/verbal abuse after an abuse has occurred. One petitioner wrote that since the incident where the respondent physically abused her, the respondent has "made 3 threats to kill me and my family."

In addition to the chronological aspect of the abuse, the type of threats may differ depending on whether physical abuse is present. Specifically, death threats against the petitioner occur more often in cases involving physical abuse than in those that do not involve physical abuse. Thirty-six percent of cases involving physical abuse included a death threat directed at the petitioner as compared to 24% of cases where physical abuse was absent. While marginally significant ( $p \leq .10$ ), this difference is an important one. When physical abuse is used in conjunction with death threats, it heightens the concern about whether the respondent will try to make good on that threat. It may be that the death threat is the impetus that brings the petitioner to court. Perhaps this combination of abuse elements is a red flag for some petitioners, increasing their concern that the severity of the abuse could escalate to the point that she/he could be killed.

When used in conjunction with physical violence, the respondent is more likely to levy death threats against the petitioner or the petitioner and someone else than against him or herself. Conversely, when physical abuse is not present, a higher percentage of petitioners reported that the respondent made threats to kill self or others, but not the petitioner (10% versus 1%,  $p \leq .01$ ). Among the cases that involve any type of threats, a slightly higher percentage of petitioners report non-violent threats—such as trying to get the petitioner fired from their job, threats to take children, etc.—when physical violence is absent. While not statistically significant, it is noteworthy given the finding that death threats levied against the petitioner occur most often in conjunction with physical abuse.

### *Physical Abuse and Intimidation*

When physical abuse accompanies physical intimidation/harassment, with or without threats/verbal abuse, there are some notable differences compared to cases involving intimidation without any physical abuse. The most frequent type of intimidation occurring when physical abuse is present is obstruction/imprisonment, followed by property damage and breaking and entering. Petitioners report that respondents prevent their escape, prevent calls for help, and hold them hostage. Thus, in cases involving physical abuse, the type of intimidation is most commonly shows of force- breaking things and imprisonment/obstruction of communication (incident-based) etc. Conversely, when there is no reported physical abuse, intimidation more often involves ongoing harassment (telephone) and monitoring (stalking).

Petitioners who describe all three types of abuse- physical abuse, threats/verbal abuse and intimidation/harassment- include more detailed narratives when compared to the sample of cases overall. On the one hand, it may be that petitioners provide more details because the abuse scenarios are more complex. On the other hand, this could suggest that if more detail were provided by petitioners, more cases would fall into this category.

### *Single or Extended Incident and Its Relationship with Abuse Type*

Some petitioners describe abuse as occurring on a single date; others note abuse occurring on multiple dates. This is not the same as whether prior abuse has occurred, however. Rather, this indicates whether the petitioner documents a single incident or ongoing incidents that prompt this particular filing. Single incidents are defined as occurring on a single day, as indicated by the petitioner, who provides a date for the abuse. This includes incidents in which the location may change or a time gap may occur, but take place on one date. For example, in one case, the incident began with a phone call and later in the day the respondent came to the petitioner's home to continue the abuse. This all occurred on the same day and is considered one incident. Whether the abuse describes a single incident or extended incidents is important because it offers insight to what prompts a petitioner to seek assistance from the court.

There is variation in the type of abuse petitioners report depending on whether the abuse is a single incident or ongoing. Physical abuse is more often associated with a single incident as compared to reports that do not involve physical abuse. This difference is statistically significant ( $p \leq .001$ ). However, in a number of cases there are indications that other types of abuse are also ongoing, especially verbal abuse or threats. In other words, a single instance of physical abuse often occurs in the context of ongoing verbal abuse.

Ninety-eight of the petitioners (51%) recorded a single date on which the abuse occurred. Despite recording a single date, twenty-eight of these petitioners also described other abuse occurring prior to that date, after that date, or both. For example, one petitioner described having been physically abused on a particular date. She then described threats that the respondent made prior to the current physical abuse, but did not include dates for these incidents.

All of the 28 cases in which petitioners record a single date but actually describe other abuse incidents, include allegations of physical abuse. In fact, the date references the physical abuse

incident. The other types of abuse these petitioners describe typically include verbal abuse or threats. For example, in one case, the petitioner noted that the respondent punched her in the skull on a particular date at a specific time. In addition, she wrote that he:

“Makes me leave at his convenience. Drinks a lot makes me clean up after his weeklong parties made me wait 2 days to get something to drink. Won’t give me the key to lock the house. Always make me feel scared to go to store because he locks me out.”

Although the physical abuse is the incident for which she provides a date, there is clearly ongoing abuse. This suggests that, at least in some cases, it is the physical abuse that prompts petitioners to seek help. Petitioners may have been enduring the verbal abuse, threats, and/or intimidation for some period of time- sometimes even years, as noted by one petitioner- but it is the physical abuse that motivates them come to the court or the abuse that they emphasize. Moreover, for many of these petitioners, the physical abuse described may not be the first time the petitioner has been subjected to physical violence.

The second relationship we find between abuse type and single versus extended incidents involves physical intimidation and harassment. Some offenses included in the intimidation/harassment category involve ongoing abuse by definition. These are the cases involving stalking or harassment. The remaining types of abuse that are included in the intimidation/harassment category include physical intimidation, such as property damage or obstruction of communication. These are equally likely to be single incidents or ongoing. However, when combined with physical abuse, we do find some patterns. When physical abuse is present, the report of intimidation is usually related to a single date. When physical abuse is not present, the intimidation tends to be ongoing. This reflects the types of intimidation that coincide with physical abuse incidents. We found no differences in the reporting of verbal abuse/threats as single or ongoing, whether used alone or in combination with other types of abuse.

While the type of abuse and emphasis differs in these narratives, the purpose of describing the abuse is to obtain an order of protection. Petitioners know explicitly or implicitly that they must establish that they are in danger and need help. Petitioners must convey the seriousness of the situation. This may be one reason some petitioners note a single date of abuse corresponding to physical abuse when the abuse clearly extends beyond that incident. Another way petitioners go about establishing the danger they are in is by articulating their perceived risk. In nearly all of these abuse narratives, regardless of the type of abuse they describe, petitioners indicate some fear of future violence. In the next section, we describe the ways petitioners convey their perceived risk of future attacks.

## **Assessment of Risk**

The protection order case file provides us with an opportunity to examine the ways in which those who seek protection orders assess their risk for future harm. The petitioner is not directly asked whether he or she is afraid or fears additional abuse. Despite this, assessments of risk appear throughout the case documentation. The documenting of future risk is important since orders of protection are granted to protect petitioners from future abuse, not to punish respondents for alleged prior abuse. Moreover, the written petition is what the commissioners



and/or judges see when deciding whether to issue a temporary order of protection. The more detailed and descriptive the narrative, including assessments of future risk, the stronger the case for an order of protection. Petitioners make these assessments in the *Petition for Order of Protection from Domestic Abuse* form primarily in three places: the abuse narrative, requests to the court, and in response to a “why not” question for those who reported that they did not notify the respondent of the filing. In addition, we garnered assessment of risk from the *Service of Process Information Sheet*. One question on this form asks if the respondent should be considered dangerous. While the intent of this question is to establish whether the respondent represents a potential danger to the person serving the summons, petitioners most often interpret the questions as asking whether the respondent is a danger to the petitioner. The responses to all of these questions often provide justification for soliciting the order of protection. Moreover, they often establish a case for future risk, sometimes based on past abuse. In total, 92% (N = 175) of petitions in the sample contain a statement of either fear or risk in at least one of these areas. We categorize these statements into two primary groups: 1) indications that the respondent poses a future risk to the petitioner, the respondent or loved ones, and 2) characterizations of the respondent as a dangerous person.

The first way in which petitioners provide evidence of future risk is via statements regarding fears of how the respondent may harm the petitioner, others, and/or their property in the future. There were 147 cases in which the petitioner indicated that he/she was in fear of future abuse. This included statements such as:

“he said he was going to hurt me if he lost his job.”  
“he’s abused me in the past and I’m afraid of what he’ll do now that he’s out of jail.”  
“he will try and has tried to kill me.”

Additionally, about 32% of petitioners (N = 60) included statements indicating they feared the respondent would do something to their child(ren). Primarily, these concerns take the form of abducting the children. This was conveyed with statements such as:

“He may attempt to take custody of our children...”  
“I fear he may take action (physical or verbal) against myself or my child.”  
“he would beat me up and kidnap the kids.”  
“fear he’ll have nothing to lose, he may put kids in harm or take children.”

The second type of risk assessment is the characterization of the respondent as a dangerous person. There are three main ways that this is established. First, petitioners note that the respondent owns weapons. For example, one petitioner stated the respondent was dangerous because “he must own around 12 guns.” There are eleven cases in which the petitioner notes that the respondent owns a weapon, or weapons, of some sort. Weapons documented include guns, machetes, and knives. Second, the petitioner describes the respondent as someone who uses alcohol or drugs, and the alcohol/drugs contribute to or cause the respondent to become violent. There are 37 cases involving references to the respondent being dangerous due to alcohol or drug use. For example, one petitioner explained that the respondent is dangerous:

“when she is drinking alcohol. She turns violent.”

The last way petitioners establish the respondent's general dangerousness is by stating that he/she has tendencies towards violence, such as an explosive disorder or a "very bad temper" in general or has some other sort of mental health issue. There are 46 cases in which the petitioner makes particular note of the respondent's temper or mental health, making this the most frequent assessment of the respondent's dangerousness. This is evidenced by statements such as:

"He has a very violent temper and will kill someone or harm them if mad."

"She suffers from bipolar has been diagnosed. She told me she wanted to kill me. Calls parents devils, said she was going to kill my dog."

"he has obsessive compulsive disorder and can become violent easily."

The ways petitioners establish future risk varies, but most do establish it, either directly or indirectly. The act of appearing at the court to obtain a protection order itself indicates that the petitioner fears future abuse. However, most petitioners provide further evidence of future risk of abuse.

## **Relationship Context**

Studies on both the occurrence of domestic violence and effectiveness of intervention incorporate measures to assess the effects of relationship characteristics and dynamics on abuse type and outcomes. This research almost exclusively focuses on differences in the experience of violence, intervention utilization, and outcomes for married couples and cohabitating heterosexual couples. Findings from this literature suggest that the risk of violence is greater for non-married cohabitating couples when compared to their married counterparts (Caetano, Vaeth, and Ramisetty-Mikler, 2008; Brownridge, 2008); but the types of abuse experienced by women do not differ significantly by marital status (Shannon, Logan, and Cole, 2007). Seeking a protection order is often either the impetus for ending a relationship or part of the separation process (Logan et al., 2008). At the same time, other research suggests that many victims of domestic violence avoid seeking help because they are worried that any help they receive will be conditional on leaving the relationship. This belief that they will have to leave the relationship to receive help can be a barrier to domestic violence help-seeking behavior (Fugate et al., 2005). Moreover, contrary to the findings by Sonis and Langer (2008) other studies (Carter, 2002) find that separation can be the most dangerous time in a violent relationship, exposing victims to increased risk of violence. This research suggests that a preponderance of the intimate partner domestic violence cases seen in court, then, would include couples who are either in the process of separating or have separated. Moreover, among those that are in the process of separating or have separated, we may expect to see more severe violence. In our sample, 51% of petitioners in intimate partner relationships indicated they were separated at the time the petition was made.

Domestic violence laws include more than heterosexual intimate partners. While the research focuses almost exclusively on these relationships, in most states, including New Mexico, domestic violence laws apply to a much wider range of domestic relationships. The statute defines a household member as "a spouse, former spouse or family member, including a relative, parent, present or former step-parent, present or former in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship" (NM Statute 30-3-11). Thus, the law includes same-sex intimate partners as well as violence among relatives. Parties do not even have to be cohabitating to be considered household members. While some research

analyzes domestic violence among same-sex intimate partners (Landolt and Dutton, 1997; Mize and Shackelford, 2008), there is little to no research examining non-intimate domestic violence. Some exceptions include studies of abuse and neglect of dependent elders (see Hudson and Carlson, 1998) and the literature that explores youth sibling violence (see Felson, 1983). However, this literature does not address domestic abuse against non-dependent family members.

While findings of prior research provide some evidence that relationship characteristics matter, these works focus generally on relationship characteristics of intimate partners as correlates of intervention outcomes. The existing literature does not address how the types of abuse are shaped by relationship characteristics outside of particular intimate partner relationships. In this section we address two primary shortcomings of this research. First, we assess the types of abuse articulated by non-intimate parties and discuss the circumstances under which the abuse occurs. Second, we will examine relationship and abuse characteristics simultaneously rather than in isolation from one another. In particular, we explore the role of relationship status and separation dynamics in abuse reporting.

### Abuse against Non-Intimate Parties

Although our sample selection process was aimed at eliminating non-intimate partner filings (i.e. child abuse), the random selection of cases with a single adult petitioner and a single adult respondent yielded 19 petitions involving non-intimate adult parties. We observed the following non-intimate relationships in the sample: siblings (N = 5), in-laws (N = 3), parents (N = 2), adult children (N = 6), grandchildren (N = 1), and nieces and/or nephews (N = 2). While these cases are likely not representative of the population of non-intimate protection order filings, we observe a pattern of domestic violence that is understudied. Non-intimate partner narratives are characterized most often by reports of physical and verbal intimidation. Overall, we find that non-intimate party cases are less likely to involve an act of physical abuse when compared to intimate party cases (37% compared to 66%;  $\chi^2 = 5.999$ ,  $df = 1$ ,  $p = .014$ ). Further, alcohol and/or drug abuse is a prominent theme in the narratives of petitioners who sought protection from non-intimate family members.

There were 13 reports identifying the respondent's alcohol and/or drug abuse as instigating the abuse. These most often involved threats and physical intimidation against other household members. For example, one petitioner reported that her father "was mixing liquor with meds" and threw objects at her threatening to do "whatever it takes" to get his sons back. The other twelve cases involved respondents who engaged in harassment and threats of harm to family members when intoxicated. In most of these cases, the respondent was living in the petitioner's home. These petitioners also frequently reported that respondents stole money and household items to pay for drugs and/or alcohol. One petitioner reported that his son, who lived with the petitioner and his wife, threatened to burn down their home, stole tools, and fought with the members of the household. He also noted that the respondent used drugs. There was no report of physical abuse in this case. Rather, the petitioner indicated that the respondent verbally abused the petitioner and obstructed him from phoning the police. Petitioners filing against non-intimate relatives frequently reported respondent threats or attempts to "burn down the house" or cause damage to petitioner's home like putting "holes in walls" and "breaking windows." The

absence of physical abuse distinguishes reports of abuse involving non-intimate parties from the intimate partner cases, where petitioners more frequently report substance abuse co-occurring with physical abuse.

### Abuse against Intimate Parties

Petitioners who were currently in an intimate relationship with the respondent (either married or not) at the time of filing were more likely to report physical abuse than those who define their relationship to the respondent as former intimate (83% compared to 48%,  $p \leq .000$ ). Petitioners involved in a current intimate partnership were also more likely than ex-intimates to report all three types of abuse occurring concurrently (36% compared to 18%,  $p \leq .05$ ). Cases involving current intimates are less likely to involve reported threats and stalking alone when compared to cases involving ex-intimates (14% compared to 29%,  $p \leq .05$ ). These findings suggest that physical abuse is more common in cases where the respondent has physical and/or frequent access to the petitioner. Marital status and the current status of the relationship are related to physical intimidation/harassment. Petitioners who were married but separated at the time of the petition, either temporarily or permanently, were slightly more likely to report physical intimidation/harassment than those who were still together (77% vs. 54%); this was not statistically significant. Among couples who had never been married, the percentage of cases involving physical intimidation/harassment did not differ significantly by current relationship status.

Examining the abuse narratives using the current versus former distinction also suggests that separation dynamics are related to petitioner reports of abuse. Two dynamics in particular contour petitioner abuse reports: post-relationship intimidation and child custody disputes.

#### *Post-Relationship Intimidation*

Post-relationship intimidation is common in abuse reports from petitioners who recently separated from the respondent. At times, petitioners note a recent break-up simply to provide context for the incident: “we’ve been separated for a week.” Others identify respondent attitudes and behaviors about the petitioner’s attempts to end the relationship as a key component of the abuse. For example, one petitioner wrote that the respondent:

“has been sending me threatening e-mails saying I can’t get away with ending the relationship & I will pay for it & that I will have to wait and see what happens to me... Said he had bought 2 guns 3 weeks ago and will shoot the next person who hurts him. Said I should know 30% of Domestic Violence in relationships end with one of them in the cemetery. Said he would shoot someone close to me to prove to me that he loves me. He said he cannot let me get away with not being his friend and I’ll find out what will happen to me...”

In some cases, the petitioner describes failed attempts to break off the relationship. For example, following a description of a physical confrontation, one petitioner reports that he has “tried to terminate the relation [with his partner] to no avail.” In other cases, petitioners report specific threats about the consequences of leaving: “she threatened to lie to the police if I didn’t get back with her” or the respondent threatens suicide when the petitioner tries to leave. Thus, some petitioners who have been experiencing abuse attempt to end the relationship before seeking a

protection order. They come to the court for assistance when the respondent continues the abuse in an attempt to either persuade the petitioner to return or as punishment for ending the relationship.

### *Custody Disputes*

Child custody disputes represent a second dynamic that shapes both when and how petitioners utilize the protection order process among couples who have separated. Ninety intimate partner cases (53% of all intimate partner cases) involved parties with shared biological children.<sup>14</sup> Cases involving shared children are evenly split between the current and former intimate partner groups. Overall, cases involving a custody dispute are less likely to include an act of physical abuse when compared to all other cases where the petitioner shares a child with the respondent (52% vs. 82%,  $p \leq .01$ ). However, it is among those pairings where a recent separation (either temporary or permanent) has occurred that child custody issues are often articulated as a characteristic of the abuse against the petitioner. A number of petitioner narratives include “threats to take children” as a component of the abuse. Some petitioners report that the respondent threatens to harm them unless they “sign over custody” or give in to respondent requests regarding visitation. In some cases, child support negotiations and court proceedings are also identified as instigating abuse incidents. In a few cases, petitioners seek protection orders because the respondent has kidnapped or attempted to kidnap the child(ren) or kept them over their allotted visitation time without contacting the petitioner.

## **Chapter Summary**

The descriptions of abuse that petitioners provide in petitions for protection orders represent the characteristics they deem important to their request for protection. In most cases, regardless of the type of abuse, the petitioner indicates that there has been prior abuse between parties. Abuse is persistent or ongoing for most of the cases in the sample. There are a few examples of isolated incidents, but overall, the domestic violence is patterned. Indeed, there are only ten cases in which the petitioner indicates a single incident occurred and does not note prior abuse. This is consistent with literature suggesting that victims seek domestic violence orders of protection for prolonged domestic violence, not for isolated incidents.

The form layout tends to lead petitioners to prioritize physical components of the abuse (both physical abuse and intimidation) over verbal abuse and threats. However, petitioners indicate that threats and verbal abuse are ongoing while the physical aspects of the abuse are incident based. Further, the form does not ask about verbal abuse in particular and therefore this is identified by petitioners but often not described in detail, although we do have some reports of name calling and degrading comments. Given this, it seems likely that verbal abuse is even more common among violent couples than is evident in these data and that it is the contextual backdrop within which physical abuse occurs.

Though we cannot compare the dynamics of abuse reported by petitioners in this sample with the abuse experienced by those who do not seek an order of protection, it is important to note the

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<sup>14</sup> We focus on shared children because custody disputes are not relevant if the parties are not both related to the child, either biologically or through adoption.

characteristics of abuse that petitioners report. This helps us understand the circumstances under which victims might recognize their risk for subsequent violence. Additionally, it is important to know how they communicate that perceived risk to the court—most petitioners make it clear that the behavior is not an isolated occurrence and that it involves physical harm or the potential for physical harm.

We find that petitioners express concerns about risk in two ways. First, petitioners note the respondent poses a threat to them or to their immediate friends or family. This is done by explicitly stating how the respondent said he/she would harm the petitioner or others in the future. The second characterization establishes the respondent as a dangerous person in general. This is done in three ways: indicating the respondent has weapons, indicating the respondent has an alcohol or drug problem that prompts him or her to become violent, and by stating that the respondent has a mental health issue and/or that the respondent cannot control his/her temper. In these ways, the petitioner makes a case for needing the court's protection from future abuse.

The prior research on the dynamics of abuse in domestic violence relationships has been limited primarily to heterosexual intimate partners. Here, we expand on that by examining non-intimate partners, and among intimate partners, exploring the way the type of abuse reported is conditioned by the current status of the relationship.<sup>15</sup> While some research suggests that leaving an abusive partner decreases the risk of re-victimization (Sonis and Langer, 2008); other research indicates the opposite (see Johnson, 2008). Here, we find that physical abuse is more likely to occur in current relationships rather than former relationships. However, among cases in which the petitioner is attempting to sever the relationship, post relationship intimidation may occur and can be quite serious. In cases involving couples who have separated and are involved in custody disputes, the children are often a component of the abuse.

Overall, our analysis of the reasons petitioners provide for seeking court protection suggest fear for one's own safety or the safety of one's children is often what motivates petitioners to file for a DVOP. These fears generally stem from an ongoing pattern of verbal abuse or threats of violence punctuated by an incident that, for the petitioner, crystallizes the seriousness of the risk the respondent poses. In the next chapter, we examine how the system responds to petitioner requests for protection.

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<sup>15</sup> There were too few same-sex intimate partner relationships (N = 5) to analyze these separately.

### Chapter 3: Outcomes

One of the central research questions in the literature examining domestic violence orders of protection is whether they “work.” More specifically, once petitioners decide to file for an order, how well does the system meet their needs and help secure their safety? In this chapter we examine this question by assessing, in detail, the outcomes of the sample selection event for all cases in our sample. In particular, we assess three key outcomes: the court’s response to petitioner requests for relief, the securing of an extended order of protection, and violations of the extended order and the court’s response to these violations.

We begin by examining the requests the petitioner makes of the court when he/she files a petition. In addition to the standard “no contact” order, which orders the respondent to stay away from the petitioner, the petitioner may ask for additional forms of court ordered relief, including child custody, property and support provisions. Prior research finds a discrepancy between the type of relief requested by petitioners and that which the court grants; specifically, requests made by petitioners are more extensive than those granted by the court (Gondolf et al., 1994; Yearwood, 2005). This may be interpreted as a “lack of judicial responsiveness” (Yearwood, 2005: 162). Here, we explore not only which requests are made and granted, but also, to the extent possible, why requests are not granted to determine whether there is support for the idea that the civil courts are not being responsive to petitioners’ needs.

Next, we examine variation in whether or not petitioners secure extended orders of protection and follow them through to expiration. In a prior report, we explored whether the petitioner was successful in securing an extended order and the variables associated with this outcome. Here, we explore this outcome in more depth. We compare cases in which petitioners secure an extended order to those that drop out of the process without an extended order. Among those with an extended order, we compare cases in which the order expires to those in which the order is dismissed prior to expiration.

Finally, we examine the number and types of violations of extended orders reported to the court and the consequences imposed by the court. Violations reported to the court represent only a portion of the violations that actually occur, and therefore cannot be used to assess whether the protection orders in this sample are effective at preventing future violence. The court’s response is important, though, since this response is one way in which *petitioners* assess the utility of the order. The order gives the petitioner access to the court to report violations and to petition for relief and/or sanctions; thus, it is important to understand under what circumstances violations are reported and how the court responds.

#### Requests to the Court

All petitioners make specific requests for relief at the time they apply for an order of protection. The *Petition for Order of Protection from Domestic Abuse* form includes a checklist of nine items the petitioner may request. These include requests for no contact, housing, property, child custody, support provisions, damages and an “other relief” category for requests not specified on

the form. The court can grant requests either when the temporary order is filed, at the time of the extended order hearing, or both.<sup>16</sup>

### Requests Granted at the Time of the Temporary Order

All petitioners in our sample requested and were granted the basic no contact and no abuse provisions. Other requests made and granted through the temporary order are summarized in Table 3.1 below. Beyond the request for no contact by the respondent, petitioners most often made requests regarding children. There were 90 cases involving joint children; in 69 of these, the petitioner requested temporary custody of the child.<sup>17</sup> All but two (67) of the petitioners who requested temporary custody received it; another 12 did not request temporary custody but received it. Sixty-one petitioners who had joint children with the respondent also requested no contact between the respondent and the children. Interestingly, more petitioners were given temporary custody and granted no contact between respondent and child(ren) than requested it, (N = 79 and N = 70, respectively). There is no documentation in the files to explain why this occurs. While most petitioners are granted requests related to children, a few are not. There appear to be two reasons the court does not grant these custody or no contact requests. First, some cases involve a pre-existing custody arrangement. In these cases, the court may defer to the existing order. Second, in some cases, the child(ren) were not joint children of the petitioner and respondent, and therefore, the respondent had no custodial rights over the child(ren). This was the case for one petitioner who requested temporary custody and six petitioners who requested no contact between the children and respondent whose requests were not granted. All of these involved children who the respondent had no legally recognized relationship with.

Another common request petitioners made to the court was the eviction of the respondent from their joint residence. Eviction requests were granted in 30 of the 37 cases in which the request was made. It appears that in some cases, the request was not granted because the respondent had already vacated the home or the respondent was incarcerated. In at least one case, though, the respondent was evicted from the home despite being incarcerated. When the respondent was evicted, law enforcement was required to accompany him/her to retrieve personal belongings as noted in the files. In one case, the court did not grant eviction, but instead allowed the petitioner to have law enforcement escort her to retrieve her personal items from the joint residence. Twenty-six petitioners specifically requested that law enforcement officers assist them in retrieving their personal items. Fourteen of these requests were granted.

Few petitioners requested that the respondent provide him/her with alternative housing. Only six made this request and in no instance did the court comply with the request. It appears that in some cases, the petitioners who requested this did not need alternative housing. For example, in one case, the respondent was evicted from the joint home instead. In another, the respondent was living elsewhere, and apparently, the petitioner was occupying the joint residence. Only one

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<sup>16</sup> It should be noted that we only have access to written requests. It is possible that petitioners make verbal requests at the extended order hearing that may or may not be granted.

<sup>17</sup> In one additional case, the petitioner requested temporary custody of the child, but the child is not related to the respondent, bringing the total number of requests for custody to 70.



of these six cases resulted in an extended order; property provisions were not granted in this case and support requests were ordered to follow the ruling of a previous divorce case.

A relatively common set of requests involved financial support. Financial requests included child support, support to the petitioner or payment for damages as a result of the abuse. This was rarely granted at the time of the temporary order. Instead, support requests were typically considered at the time of the extended order hearing or afterwards.<sup>18</sup> However, in one case, the petitioner was granted the use of the family vehicle while the temporary order was in effect. While financial support items are not typically addressed at the time of the temporary order, it is important to have these requests noted as they may be addressed at the extended order hearing and do not appear to be documented at any other time.

Finally, forty-one cases involved requests for other types of relief. These are requests the petitioner adds to the petition document. Some examples of the types of requests petitioners made include financial relief, such as payment for specific bills; requests for the return of property; requests for counseling or divorce; requests not to contact friends or other family members; and in some cases, requests for third party exchange of children. In addition, some petitioners made redundant requests here, such as “stop calling me” or “stop emailing me.” There were seventeen of these redundant requests, none of which were granted. Excluding these redundant requests, only three of the remaining forty-one requests for “other relief” were granted. These requests included use of the family vehicle and child exchange, specifically, third party exchange and upholding existing visitation days and times. Some of the other requests for relief were addressed later at the extended order hearing, such as requests for counseling; while others were outside the purview of the domestic violence court, such as requests for divorce.

Table 3.1. Requests Made by Petitioners at Time of Temporary Order Filing

Requests to Court	Made by Petitioner	Granted at Temporary Order Filing	Petition Dropped before Securing EO
	N	N	N
Eviction from Residence	37	30	17
Provide housing for petitioner	6	0	5
LE chaperone to retrieve items	26	15	11
Temporary Custody of Children	70	79	32
No Contact between Respondent and Children	67	70	26
Child Support	55	2	18
Support to petitioner	20	0	9
Pay for damage for abuse	36	0	16
Other requests	41*	3	27

\* 58 made, but 17 were redundant requests

Most eviction and child custody/contact requests were granted by the court. In some instances, the petitioner did not receive the requested provision because it was not applicable. For example, one petitioner checked off every item on the list even when the item was not applicable

<sup>18</sup> It may be that requests for alternative housing are addressed at the time of the extended order as well. However, there were not enough cases requesting alternative housing that secured an extended order to speak to this.

or contradicted other requests. This is one reason some requests are not granted- they simply are not valid.

### Requests Granted at the Time of the Extended Order

The court granted the basic no contact provision in all cases where an extended order (EO) was granted (N = 113). However, in 30% of these cases, the court granted specific exceptions to this provision (N = 34). The majority of exceptions were related to joint children. The court allowed contact between the parties in the event of a medical emergency involving a joint child (N = 11) or for some other reason related to parenting joint children (N = 18). Other exceptions to no contact between the parties included: contact only through a third party (N = 3); contact to attend counseling together (N = 3); contact at a specified time to deal with financial matters (N = 1); permission to contact a family member who lives with the respondent (N = 1); and/or the court simply upheld the existing domestic matter order regarding contact, the nature of which was unspecified (N = 1).

Table 3.2. Extended Order Provisions (N = 113)

	%
Exception to no contact	30
Counseling ordered	30
Custody provisions	43
Support provisions	30
Property provisions	27

Joint children were involved in fifty-two of the cases in which an extended order was secured. In all but three of these cases, custody issues were addressed at the time of the extended order hearing (N = 49). The domestic violence court has the authority to change existing custody arrangements, even when an existing custody agreement exists. The court may award temporary custody to one party or may address visitation procedures, which could include the use of a third party to exchange children or require supervised visitation. In most cases, both parties were allowed to remain in contact with the children. However, in 27% of cases (N = 13), one party was forbidden from contacting the children.<sup>19</sup> The prohibited party was almost always the respondent; however, in one case, it was the petitioner. In some cases, contact was contingent upon certain conditions. For example, in one case the respondent was not allowed contact until the matter was addressed by another court. In another case, visitation was conditional on the respondent demonstrating that he was no longer using drugs. In two cases, there was documentation that indicated the prohibitions against contact with the children were eventually lifted; the remaining nine did not include any such documentation. When visitation or joint custody was granted, the court frequently required that exchanges occur through a third party (N = 22) or that visits with the respondent be supervised (N = 6).

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<sup>19</sup> We do not have documentation that explains why some parties are forbidden from contacting joint children.

Table 3.3. Child Custody Provisions for Parties with Joint Children (N = 52)

	%
<i>No Contact with Child</i>	25
<i>Visitation Allowed</i>	69
Visitation through 3 <sup>rd</sup> party exchange required	42
Supervised visitation required	12
Remain the same as ordered in prior custody agreement	4
Visitation procedures defined, but 3 <sup>rd</sup> party exchange not noted	6
Specific requirements not noted	6
<i>No Provisions Made</i>	6

The court ordered property provisions in 31 cases where an extended order was granted. Court ordered property provisions typically identified the specific property to be exchanged and how that should occur. For example, in a number of cases, the order specified that law enforcement accompany one party to retrieve his or her personal belongings. This type of property provision was made in 19 cases. In a few of these cases, the court specifically listed the items to be exchanged, i.e. specific movies or household items. The directive to surrender all keys to the residence was the next most common type of property provision. Additionally, there were three cases in which the petitioner was given some property of value- automobiles or the residence. Finally, there were two cases in which the respondent was required to pay for damages to property. Three cases involved some overlap of these provisions. For example in one case, the court issued property exchange instructions and required that the respondent pay for damages resulting from the abuse incident and surrender the keys to the residence.

The court specified support provisions in twenty-three cases; this primarily involved child support payments. In addition, the court upheld existing support provisions in four cases; in six cases, the court noted that support was to be determined at a later date. Thirty-seven petitioners who were granted an extended order requested child support when they filed for the temporary order. In twenty-seven of these cases, the court either ordered support (N = 19), upheld existing support requirements (N = 3) or indicated that support would be determined later (N = 5). An additional three petitioners received support allocations from the court, but had not requested it at the time of the temporary order. Support provisions were not granted in twenty cases involving joint children; ten of these included requests for child support from the petitioner at the time of the initial filing.<sup>20</sup>

While child support was the primary type of financial support awarded by the court, the court could also require the respondent to provide financial support for the petitioner alone. Eleven petitioners who were granted an extended order requested support for themselves. Six of these were awarded some kind of support, but only three included support to the petitioner (i.e. support checks to pay rent/mortgage and other bills). The other three were awarded child support but no support was designated specifically for the petitioner. There was only one case in which a

<sup>20</sup> We do not have documentation that explains why some parties are not granted child support.

petitioner who did not share children with the respondent requested support for herself; this petitioner was granted financial support at the extended order hearing.

Counseling was ordered in 34 cases. Counseling can be ordered for the respondent, the petitioner or the children. Most often, it was the respondent who was ordered to counseling. In most cases, a single type of counseling, such as domestic violence counseling or drug abuse treatment, was ordered. The most frequent single type of counseling ordered was domestic violence or anger management counseling (N = 9); followed by drug and/or alcohol treatment (N = 5). In two cases, only the children were required to receive counseling, while in one both the petitioner and children were to receive counseling for trauma. There were eight cases in which the type of counseling the respondent was to receive was not documented; however, judging from the location of treatment, it is likely that these all address anger management or domestic violence counseling for the respondent.

In some cases, the court may order multiple types of counseling. For example, the respondent may be ordered to drug/alcohol counseling as well as anger management. Multiple types of counseling were ordered in nine cases. Counseling was ordered for the respondent only in most of these cases (N = 8). In one case, the respondent was ordered to receive drug/alcohol treatment and anger management counseling; the petitioner was to receive counseling for the domestic violence she endured. Both the respondent and the petitioner in this case were also required to attend parenting classes and drug and alcohol testing. Only four of the fifteen petitioners who requested counseling at the time of the temporary order secured an extended order; two of these include provisions for counseling. Thus, unlike other provisions, counseling is ordered much more often than it is requested.

Overall, our findings are consistent with prior research, which indicates petitioners request more types of relief than the court grants. However, our research suggests there are legitimate reasons the court may not grant petitioner requests. While in some cases it may be that the court is not responsive to petitioners' needs, in others, petitioners make unnecessary or inapplicable requests. Moreover, some requests, such as financial support, cannot be granted until an extended order hearing occurs or even subsequently. In the case of financial support, the court must know the parties' financial situation in order to make a determination about the amount of support that is reasonable and necessary. The current research suggests that by simply examining requests made and granted, we do not get a full picture of the court's ability and willingness to respond to petitioner's needs. The details in the case files examined here suggest that the court seriously and carefully consider petitioner requests for relief and grant those that are reasonable and justified. Moreover, in assessing the safety and security of petitioners and their children, courts sometimes order relief beyond that requested by petitioners.

### **The Success of the Petition: Is an Extended Order Granted and Does It Reach Expiration?**

In New Mexico and elsewhere, the protection order process is a civil matter, dependent upon petitioner initiation and continued participation. There are multiple paths the case can take after the petitioner files for a domestic violence order of protection. Cases can be dismissed at any point after the request for a temporary order either by the court or at the petitioner's request.

Consistent with prior research, we find that petitions are more likely to be dismissed at the petitioner's request than by the court. Over half of the cases in our sample were dismissed at some point prior to expiration, most of these due to the action of the petitioners. Prior research has found that petitioners drop orders for a variety of reasons (Malecha et al., 2003; Roberts, Wolfer, and Mele, 2008; Zoellner et al., 2000). Roberts, Wolfer, and Mele (2008) delineate five domains that encompass the reasons petitioners fail to complete the process. The first domain is resources. Petitioners are more likely to drop out of protection order proceedings when they are dependent on the respondent for food, shelter, etc. The second domain is emotional attachment. This category includes situations where petitioners believe the respondent will change, petitioners indicate they are not afraid of the respondent, and those who seek to reconcile. Malecha et al. (2003) also found that if the relationship is a current one, the petitioner is more likely to request dismissal of the petition. Third, the petitioner notes a concrete change. This includes descriptions of the respondent attending counseling, one party moving, separating or divorcing. The fourth domain includes family issues. For example, the petitioner withdraws for the sake of the children or because she is pregnant. The fifth domain is bureaucratic. Petitioners who become frustrated with the court process or perceive that the system is inadequate for dealing with the situation are more likely to withdraw from protection order proceedings (Roberts et al., 2008). The severity of the violence can also be a factor in the decision to drop the petition. However, the results of research examining this have been contradictory. Duterte et al. (2008) finds that increased violence is associated with pursuing a protection order; conversely, Fernandez, Iwamoto, and Muscat (1997) find increased violence has the opposite effect. Zoellner et al. (2000), find that it is the *perception* of the threat of violence that motivates petitioners to continue with the protection order process.

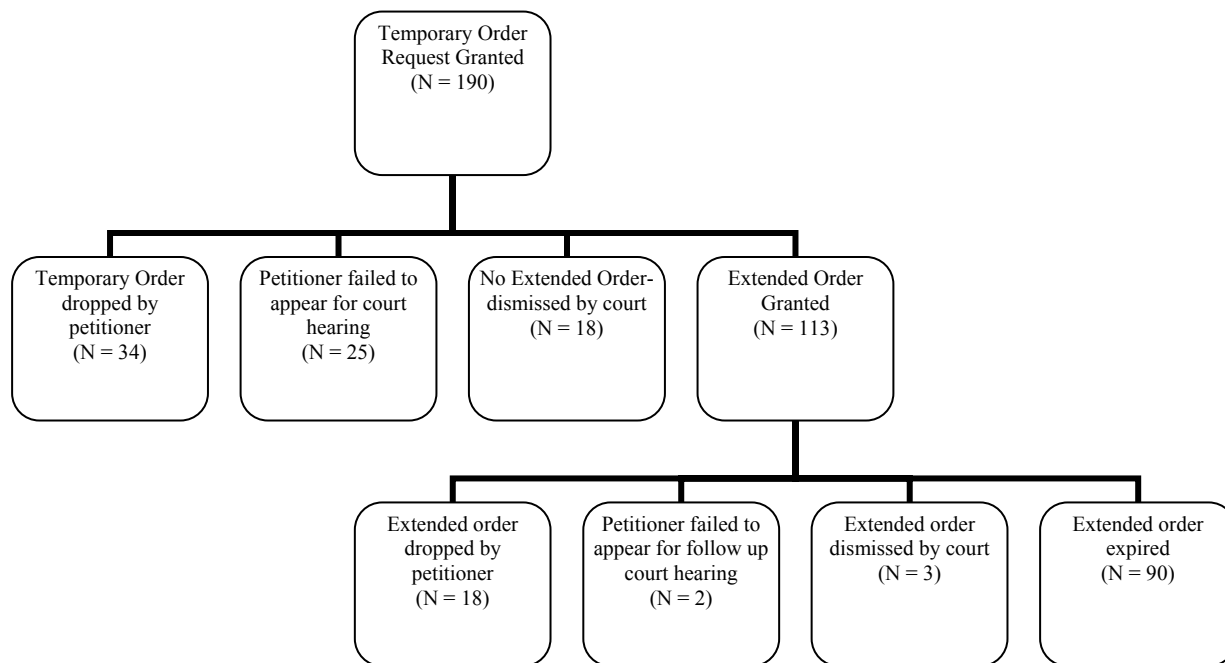
It is also useful to review the reasons victims drop legal charges against respondents since they are similar to the reasons associated with dropping protection orders. Research finds that victims frequently refuse involvement in domestic violence prosecution because they fear retaliation by the batterer (Dawson and Dinovitzer, 2001; Erez and Belknap, 1998; Ford, 1983). Others have identified victim/offender co-habitation, felony (rather than misdemeanor) charges, and victim substance use as negatively impacting victim participation in prosecution (Kingsnorth and Macintosh, 2004). Other explanations include victim financial dependence on the offender or other economic hardships, prior experiences with the criminal justice system, reconciliation with the offender, confusion and frustration with the court process, and fearfulness (Dawson and Dinovitzer, 2001; Bennett, Goodman and Dutton, 1999). Dawson and Dinovitzer (2001) find that older victims, victims who met with an advocate, victims who met with the prosecutor, and victims who provided video testimony prior to the trial are more likely to cooperate in offender prosecution.

Figure 3.1 illustrates the flow of cases through the court process as observed in this sample. After the temporary order is granted, the petitioner is given a date for the extended order hearing. Between the time the temporary order is granted and the hearing date, the respondent is served with a summons to appear in court. Before the hearing date, the petitioner may contact the court to request the petition be dismissed. Once the hearing occurs, there are three possible outcomes. First, the petitioner may drop the order, either by appearing at the court hearing and requesting dismissal, or by failing to appear. Second, the court may dismiss the petition. Typically, this is because there is insufficient evidence to find that domestic abuse has occurred. Third, the court

may grant an extended order. In this sample, most cases were dismissed prior to securing an extended order, most often due to petitioner request for dismissal or because the petitioner failed to show up at the hearing. Seventy-two percent of petitioner initiated dismissals occurred either before or at the protection order hearing (N = 59). Of these, 25 cases were dismissed because the petitioner failed to appear at the order hearing. We reviewed the case narratives for the reasons petitioners gave for requesting dismissal of the petition in the remaining cases (N = 34). Petitioners most often indicated they no longer viewed the respondent as a threat or simply no longer wanted the order of protection (N = 14). The next most common set of reasons reflected some concrete change. There were nine cases that fell into the category of concrete change, with reasons that included the respondent being in counseling (N = 4), on medication (N = 1), in jail (N = 1) or left town (N = 1). In an additional two cases, the petitioner requested dismissal because the couple had since separated. Five of the petitioners cited reconciliation as a reason for dropping the petition. Two were resolving matters on their own; both of these involved child custody exchanges and the parties had arranged safe exchange independently of the court. The remaining four petitioners did not give a reason for the dismissal request.

There were 18 cases dismissed by the court prior to the issuance of an extended order. Most of these were dismissed due to insufficient evidence (N = 15). The remaining three were dismissed because the respondent had not been served. In two of these cases, the court had rescheduled the extended order one or more times to try to serve the respondent before dismissing the case. In the third case, the petitioner showed up to the extended order hearing and was told that since the respondent had not been served, a new temporary order could be issued. The petitioner refused the new order and “became abusive to the staff, loud and disruptive to the court & members of the public awaiting hearing.”

Figure 3.1. Outcomes of Cases Flowing through the Court Process



Once the order is granted, it can still be dismissed either at the petitioner's request or at the court's discretion. If that does not occur, the order will expire. Among the cases in this sample, once an order is granted, it is less likely to be dismissed. While only 60% of petitions initiated resulted in an extended order, 76% of extended orders granted survived through expiration (N = 90). Like temporary orders, the petitioner was more likely than the court to initiate a dismissal of an extended order. The court only initiated dismissal in three cases after an extended order was granted. In all three cases, the court dismissed the order because there was evidence that both parties had violated it. For example, in one case, the couple had married after the restraining order was granted. Petitioners initiated the dismissal of an extended order either by requesting it (N = 18) or by failing to show up for a review hearing (N = 2). The reasons provided by petitioners for requesting the dismissal of extended orders were similar to the reasons provided by those requesting dismissal of a temporary order. However, there were three who specifically stated that they were dropping the extended order for the sake of the children.

Table 3.4. Reason for Petitioner Initiated Dismissal

Reason for Dismissal	Temporary Order	Extended Order
	N = 34	N = 18
	%	%
Not a threat	41	39
Concrete change	27	22
Reconciled	15	11
Working out on own	6	6
Family/child	0	17
Other	0	6
Unknown/unspecified	12	0

The length of time an order is in place can vary. Among cases in this sample, we found that if the couple has joint children, the order was typically granted for six months; if not, the order was typically granted for one year.<sup>21</sup> However, the order can be extended. In this sample, the longest order granted after extensions was 20 years, though this occurred after multiple case filings and does not represent the sample selection event filing.

#### Variables Related to Dismissals and Extended orders

Clearly, not all those who seek protection from the court use the protection order process to its full capacity. As noted above, there are many potential reasons why a case drops after the petitioner requests protection. However, once a petition is dismissed, the protections offered by the court are no longer available. Cases that drop out of the system prior to either the issuance or expiration of an extended order represent a challenge to the system's capacity to protect petitioners. In this section, we explore the case-level dynamics that are related to whether or not an order, once requested, proceeds to expiration. We define cases as successful if they are not dismissed prior to the expiration of the order. Thus, any case dismissed either prior to securing an extended order or after securing the extended order but prior to expiration are not considered

<sup>21</sup> This is a statutory requirement: if the order includes custody or support provisions, it is effective for no more than six months, but may be extended for good cause (see 40-13-6-B); however, custody provisions may be in effect for a different length of time.

“successful.” We examine petitioner and respondent demographic and relationship characteristics, incident characteristics, and case processing characteristics, to assess whether any of these variables are related to system follow through/success.

### *Party/Relationship Characteristics*

We begin by examining the individual and relationship characteristics that might be associated with the likelihood of system follow through. Only one variable significantly increases the likelihood of system follow through/success: cases involving male respondents were more likely to be successful. Interestingly, the sex of the petitioner is not significant.

On the other hand, three variables decrease the likelihood of system follow through/success: the couple is in the process of reconciliation, in an ongoing/current relationship at the time of filing, or have children. All of these variables represent circumstances in which the likelihood of contact between the parties is high, making “no contact” provisions difficult to follow. While only a handful of petitioners noted they dropped the petition in order to facilitate reconciliation, reconciliation was evident in many more cases.

Table 3.5. Party/Relationship Characteristics

	No Success	Success
	N = 100	N = 90
	%	%
<i>Gender</i>		
Female petitioner	82	87
Male respondent**	81	91
<i>Race of Respondent</i>		
Minority	79	69
<i>Relationship Status</i>		
Intimate partners	94	86
Non-intimate parties	6	14
Evidence of reconciliation***	29	5
Current relationship**	60	44
<i>Children Involved</i>		
Minor children involved in case**	67	53
Joint children	56	48
<i>Employment Status of Respondent</i>		
Respondent employed	48	43

\*\*\*  $p \leq .001$

\*\*  $p \leq .01$

\* $p \leq .05$



### *Abuse and Incident Characteristics*

Petitioners are asked to report whether there has been prior abuse between themselves and the respondent. Although a slightly lower percentage of those who reported prior abuse had orders that lasted through expiration, this difference was not significant. However, the type of abuse petitioners describe is significantly related to system follow through. Consistent with Holt et al. (2003), we find that petitioners who report physical abuse are less likely to secure an extended order of protection when compared to those who do not report a physical abuse. This is likely due to the relationship between physical abuse and relationship status. Petitioners who reported physical abuse were more often in a current relationship, and thus, more likely to request dismissal of the petition. In addition, cases in which petitioners reported drug or alcohol use by the respondent are less likely to be successful than those that do not involve drug or alcohol use. Cases involving a weapon are also less likely to be successful. This supports other research that finds that more severe abuse is associated with decreased petitioner participation in the process (Kingsnorth and Macintosh, 2004; Malecha et al., 2003). Verbal abuse has no bearing on success. Although not significant, a slightly greater percentage of petitioners who reported stalking maintain their orders through expiration.

Table 3.6. Success of Filing by Abuse and Incident Characteristics

	No Success	Success
	N = 100	N = 90
	%	%
<i>Prior Abuse</i>		
Prior abuse occurred	81	76
<i>Abuse Type</i>		
Physical abuse**	70	54
Verbal abuse	87	86
Stalking	53	62
<i>Incident Characteristics</i>		
Alcohol/drug involved*	54	41
Weapon use*	14	7
Police called	52	47

\*\*\*  $p \leq .01$

\*\* $p = .05$

\* $p \leq .10$

### *Court Processing*

We examined the association of three court processing attributes with success: presence of counsel, service of process, and respondent presence at the extended order hearing. The presence of counsel for either the petitioner or the respondent did not have a significant impact on system follow through. However, service of process and respondent presence at the initial hearing do influence the likelihood of follow through. Specifically, cases were less likely to proceed through to expiration in cases where the respondent could not initially be served. Conversely,

cases where the respondent was present at the initial hearing were more likely to proceed through to expiration.

By state statute, the extended order hearing must occur within ten working days of the issuance of a temporary order; the temporary order can be extended if the respondent cannot be served. However, the procedures for continuing the order if the respondent cannot be served does not appear to be addressed in the statute. The respondent was not served in 26 cases; 21 of these did not result in a successful order. In most of these cases that were not successful, the petitioner initiated dismissal of the case, either by failing to appear (N = 10) or by requesting a dismissal (N = 8). Petitioners in these instances requested dismissal because the order was “not needed” (N = 5) or because the couple had reconciled (N = 2). The court dismissed three cases. In two of these cases, multiple failed attempts to serve the respondent were made. In the last case, the petitioner was upset with the court after the first failed attempt and did not initiate a new temporary order, despite being given the option to do so.

Table 3.7. Success of Filing by Court Processing Characteristics

	No Success	Success
	N = 100	N = 90
	%	%
Respondent was not served***	21	6
Respondent present at first hearing***	70	86
Petitioner represented by counsel	9	17
Respondent represented by counsel	10	10

\*\*\* $p \leq .001$

\*\* $p \leq .01$

\*  $p \leq .05$

### *Requests and Outcomes*

Two types of requests petitioners made to the court at the time of the initial filing are significantly related to outcomes.<sup>22</sup> These include requests for support and requests for counseling. When requests of these types are made, the order is less likely to be maintained through expiration. Prior literature suggests that petitioners who are financially dependent on the respondent sometimes withdraw from protection order proceedings in order to maintain economic stability (Baker, 1997; see Carlson, Harris and Holder, 1998). This may be what is driving the finding of lack of success among those requesting financial support here. Requests for counseling are especially significant. It may be that those petitioners who intended to remain in a relationship with the respondent were more likely to request counseling. The literature suggests that even more important than economic dependence in the decision to pursue a protection order is emotional attachment to the respondent. Research has found that women are less likely to pursue a protection order if they are emotionally attached to their abuser (Roberts et al., 2008; Zoellner et al., 2000).

<sup>22</sup> Requests to the court regarding children was limited to cases involving joint children only.

Table 3.8. Success of Filing by Requests Made and Granted

	No Success	Success
	N = 100	N = 90
	%	%
<i>Requests Made to the Court</i>		
Respondent eviction	22	17
Housing for petitioner	5	1
LE chaperone to retrieve items	15	12
Temporary custody of minor children†	77	76
No contact with children†	62	76
Child support†	55	70
Support to petitioner*	14	7
Damage for abuse	20	18
Counseling requested ***	38	4
“Other” requests	22	23
<i>Requests Granted by the Court</i>		
Respondent eviction	73	93
LE chaperone to retrieve items	44	67
Temporary custody of minor children†	94	100
No contact with children†	85	85
Child support†	0	4

\*\*\*  $p \leq .01$ \*\*  $p \leq .05$ \*  $p \leq .10$ 

† Child related questions selected for only those with joint children; in these case, N = 53 for No Success and N = 37 for Success

### Court Initiated Dismissals

The court dismissed twenty-one cases in this sample. Most of these (N = 18) were dismissed prior to securing an extended order. Insufficient evidence was cited in fourteen cases dismissed prior to the issuance of an extended order. In an additional three cases, the court dismissed the case because the respondent could not be served. In one case, the court dismissed the petition because the relationship did not meet the domestic violence definition; the parties are sisters-in-law. In addition to the 18 cases dismissed prior to securing an extended order, three were issued an extended order that was later dismissed by the court. In all three cases, the court cited the reason for dismissal as both parties repeatedly violating the order.

Only one variable is significantly related to court dismissal: whether or not the respondent was represented by counsel. Cases dismissed by the court are more likely to involve respondents who were represented by counsel, when compared to other cases, regardless of whether the petitioner is also represented by counsel. While not significant, cases that were dismissed by the court are less likely to involve couples in a current relationship. The court was also more likely to dismiss cases that involved male petitioners, though this too is not statistically significant. This relationship between petitioner sex and court dismissal may be related to whether there are prior petitions between the involved parties. Cases involving male petitioners are more likely to have prior petitions, and cases dismissed by the court are more likely to have prior petitions

when compared to other cases. This variable, whether there are prior petitions, is marginally significant ( $p \leq .10$ ).

The types of abuse alleged in the cases dismissed by the court are no different than cases dropped by the petitioners. In fact, when reading these cases, we noted that the abuse alleged was often severe. For example, in one case, the petitioner wrote:

“Pushed down stairs, hit me in back of head, kicked me, punched me, throw stuff at me, pinch me, slap & punch my face, grab me by arms, legs, hair, kept me prisoner in his apartment by threatening to cut my head off if I left.”

Other types of abuse alleged in cases dismissed by the court include harassment in the forms of multiple phone calls or e-mails, as well as stalking. Verbal abuse and threats are also reported. In cases dismissed for lack of evidence, the documented abuse is not significantly different than in other cases.

Table 3.9. Individual, Case, and Incident Characteristics by Dismissal Type

	Petitioner initiated dismissal N = 79 %	Court initiated dismissal N = 21 %	No dismissal N = 90 %
<i>Prior Abuse and Petitions</i>			
Prior abuse	81	78	76
Prior petitions*	5	19	6
<i>Case Characteristics</i>			
Petitioner represented by counsel	8	17	17
Respondent represented by counsel**	6	28	10
Police called	56	38	47
<i>Individual and Relationship Characteristics</i>			
Current relationship	61	56	44
Joint children	54	48	41
Respondent unemployed	53	24	44
Male respondent	82	76	91
Female petitioner	85	71	87
<i>Abuse Characteristics</i>			
Physical abuse	72	62	54
Verbal abuse	87	86	86
Intimidation	53	52	62

\*\* $p \leq .05$

\* $p \leq .10$

## **Court Documented Violations and Requests for Extension**

The civil court is most often made aware of violations of protection orders through a motion of violation, which can be filed by either the petitioner or respondent. Oftentimes violations are reported to law enforcement, not the civil court. If the police are called, whether or not an arrest is made, the petitioner must report the violation to the court in order for it to be documented in the civil case file. In some instances, criminal charges may be relayed to the civil court, but there is no standard protocol to ensure this. In this section, we examine violations reported to the court, including the number and nature of the violations. Clearly, the violations noted in the file represent only a portion of the violations that actually occur. Moreover, it is likely that the most serious violations are reported to the police and not the civil court. Here we examine only those violations reported to the civil court. While not representative of DVOP violations overall, these violations are representative of the types of violations the court may be called upon to address.

There is documentation of one or more violations of the extended order in twenty cases, representing 11% of the sample. One case included a violation of the temporary order; all others were violations of the extended order. Among cases granted an extended order, 17% have one or more reported violations. Most cases included a single violation; however, in three cases, two violations each were noted. While most violations were reported by petitioners, in three cases respondents filed motions claiming that the petitioner had violated the order. Most claims were not made with the help of an attorney; only four of the petitioner's and one of the respondent's motions were made with an attorney's assistance.

Petitioners most often reported violations of no contact. Violations of no contact primarily consisted of harassing phone calls and/or e-mails. In a few cases, this also included stalking. None of the violations included allegations of physical abuse. Nine cases involved reports of both no contact violations and other types of violations. Other types of violations reported include refusal to pay damages, refusal to pay child support, child visitation violations, stolen property and false claims. An example of a false claim occurred in one case in which the respondent contacted the housing authority with the claim that the petitioner received money, making her ineligible for Section 8 housing and nearly causing her to lose her home. The remaining petitioner-filed violations included failure to comply with counseling, failure to pay damages, and for violating the order barring contact with the children. Three motions were levied against the petitioner. Respondents' claims included violations of child visitation procedures (N = 2) and auto theft (N = 1). The petitioner in this latter case filed a counter motion of violation against the respondent claiming he stole the car back and that his new partner made threats against her.

The court upheld most motions (65%) made against the respondent. Often, the respondent was arrested and sent to jail for 72 hours. In three cases, no resolution was noted in the case file; in two cases, the petitioner dropped the motion; in one case the court found there was insufficient evidence; and in another case, the court denied the order by finding that both parties had been violating the order. The court denied the motion in all three cases filed by the respondent against the petitioner. In one of these cases, the petitioner also filed against the respondent for failure to pay child support, which the court upheld.

Table 3.10. Reported Violations

	N
<i>Violations of Sample Event</i>	
Filed against respondent	20
Filed against petitioner	2
Each party files against the other	1
<i>Type of Violations</i>	
No contact violation only	6
No contact and other	9
Other violation	8
<i>Outcome of Violation</i>	
Court finds violation occurred	13
Court denies motion for violation	5
No resolution by court documented	3
Petitioner drops motion	2

Some petitioners who successfully secure and maintain protection orders seek to extend the expiration date beyond that originally ordered by the court. Only seven cases involved documented requests for an extension of the protection order. Most of these were granted; in only one case was the request denied. The length of the extension granted in these cases vary from six months (N = 3) to one year (N = 3). In one case, the order was extended twice, each time for six months. We might expect that petitioners involved in cases with a history of violations would be likely to file for an extension of the order. Four cases also involved violations of the protection order, three filed by the petitioner and one by both the petitioner and respondent. In all four cases, the petitioner's motion was upheld by the court.

In three cases, the petitioner never brought forth a motion of violation. Two of these resulted in a successful order. In one case, the petitioner alleged the respondent violated the restraining order, but had not filed a motion with the court at the time of the violation. However, she presented police reports as evidence of the violation when she requested the extension. In another case, the respondent was involved in another court case with a member of the petitioner's family, and the respondent told the judge that he would "get even" with the petitioner and his wife; an extension was granted in this case. In the last case that did not result in an extended order, the court determined that the respondent had not violated the terms of the order and therefore, there was no justification for extending the order.

## Chapter Summary

In this chapter, we focused on three types of outcomes: requests granted by the court, securing and maintaining an extended order of protection, and violations reported to the civil court. Consistent with prior research, we find overall, more requests are made by petitioners than are granted by the courts. The types of requests made vary, but most common are requests having to do with the children, eviction, and payment for damages and "other" requests, which often include counseling. Requests related to children are most likely to be granted; most eviction

requests are also granted at the time of the issuance of the temporary order. Many other requests, such as requests for financial support or counseling are not granted at the time of the temporary order because these requests are considered at a later date when the parties can provide evidence of finances necessary for determining support provisions. Indeed, we find that support provisions are often granted at the time of the extended order or later in the majority of cases (75%). The court orders counseling much more often than is requested; likely this is because the court recognizes that counseling is needed in these cases even if the petitioner does not request it.

A little less than half of cases result in an extended order that expires. Most petitions are dismissed at the petitioner's request or because the petitioner failed to appear at the extended order hearing. Few cases are dismissed by the court; when cases are dismissed by the court, it is most often due to insufficient evidence. We find there are some variables related to the successful filing of a protection order petition, including some party/relationship characteristics, abuse and incident characteristics, court processing characteristics, and requests made to the court.

Finally, we find that among successful cases, few include documentation of violations of the protection order. This is likely due to lack of reporting as opposed to lack of occurrences. Petitioners may be less likely to report violations to the court than to the police. Reporting violations to the court requires filing a motion, a much more cumbersome process than calling the police. Moreover, petitioners may find that police intervention is sufficient to deterring the respondent from further violations. We are unable to determine the number of cases resulting in calls to the police for two reasons. First, this information is not recorded in the case files unless the call results in an arrest and the petitioner (or respondent) files a motion of violation. Second, when recording a violation of a restraining order in their dataset, the police sometimes use a generic code which indicates "all other offenses." We are unable to accurately determine which cases involve a protection order violation unless it is documented further; in some cases, it is not. Petitioners in a handful of cases request and are granted an extension on the order of protection. Often, these cases involve filings of violations or documentation that a violation occurred.

Overall, this chapter suggests how crucial petitioner involvement is for the protection order process to proceed effectively. Petitioners must initiate proceedings and appear for hearings. They are at liberty to request dismissal of an order at any point, and order violations can only be tracked by the court if the petitioner makes the court aware of them by filing a motion alleging violation. While the courts try to be responsive to petitioner requests, successful filings depend largely on factors outside the control of the court. Still, a better understanding of the dynamics that bring petitioners before the court and influence the progression of their protection order petition can help the court better respond to petitioner needs.

## **Chapter 4: Multiple Filing Cases**

While there is a great deal of research regarding repeat domestic violence incidents, multiple filings for orders of protection from domestic violence have not been well studied. In previous chapters, we examined the abuse narrative and outcomes for the sample selection event. The majority of these cases (71%) include only one filing. However, a notable minority of cases (29%) include at least one additional petition for a domestic violence order of protection. All petitions in a case with multiple filings involve the same two parties, but at least one of them returns to petition the court after the initial petition is disposed. These cases offer a unique opportunity to explore the dynamics of abuse over time as reported by the filer of these subsequent petitions. They also offer some insight into system strengths and weaknesses with respect to some of the key issues that complicate the restraining order process and related outcomes, for example, party reconciliation, children in common, continuing abuse, and petitioner hesitancy to fully utilize the system. While the descriptions in these case files give us only a glimpse into the abuse patterns and changes over time in relationship dynamics, they provide insight into some of the dynamics that shape abuse patterns and identify salient events from the perspective of the petitioner.

Multiple filing cases also present a unique set of challenges for the courts. On the one hand, petitioners in these cases may be experiencing escalating levels of violence and be at higher risk for serious victimization. Petitioners are relying on the courts for protection from this real or perceived risk. At the same time, these cases are perceived by some court officials as a burden on an already taxed system. Postmus et al. (2007) report that some “key stakeholders,” including judges, lawyers, advocates and law enforcement, hold negative attitudes toward petitioners who file for restraining orders. These perceptions include the views that individuals file when they have not been abused, that too many petitioners do not follow through with the hearing, and that restraining orders are often ineffective. These perceptions have been documented elsewhere as well (e.g., Fernandez, Iwamoto, and Muscat, 1997). These concerns are amplified when couples are involved in multiple petition filings. Court officials charged with protecting victims may be frustrated by petitioners who repeatedly fail to follow through after filing a temporary order, leaving them vulnerable to possible further abuse and tying the hands of the court from offering any relief. Multiple filings can also involve a respondent filing a petition against a petitioner in the form of either a counter-petition or a reverse caption petition. Court officials may be leery of these back and forth petitions, fearing that parties may be “playing the system” by using the protection order process to get an edge in custody or divorce proceedings rather than to seek protection from abuse. While court officials may distrust the motives of those involved in multiple filings, research examining whether such perceptions are an accurate reflection of cases with multiple filings is limited.

### **Single Petition versus Multiple Filing Cases**

While the bulk of this chapter is dedicated to examining multiple filing cases in depth, we begin by providing an overview of similarities and differences between single and multiple filing cases. We focus on individual, couple, and court processing variables as well as outcomes when comparing these two groups. In order to make these comparisons, we utilize the data provided in the first case filing, regardless of whether this represents the sample selection event or a filing



prior to the sample event. In this way, the data are comparable to those involving only a single filing. Thirteen cases have one or more filings prior to the sample selection event, for the other multiple filing cases ( $N = 42$ ), the sample selection event represents the initial filing. For the remainder of this chapter, a subsequent petition refers to any filing that occurs after the initial petition.

### Individual, Couple, Incident and Court Processing Variables

We first explore individual, relationship, incident, and court processing variables. There are some notable differences between cases with single filings and those with multiple filings with respect to relationship characteristics and case processing characteristics. Specifically, a larger proportion of the multiple filing cases involve couples with minor children. Moreover, the presence of joint children is greater in multiple filing cases when compared to those with single petitions. While only marginally significant ( $p = .06$ ), cases with multiple filings more often include evidence of reconciliation between the parties following the initial petition. This is perhaps not surprising as both custody issues and efforts to mend relationships provide opportunities for contact between the parties that can lead to continued abuse. Both of these situations may require a level of contact prohibited under the terms of the protection order, leading to requests for dismissal, as was noted in the previous chapter. Further, given the volatile nature of these relationships, the efforts toward maintaining a relationship may go awry, generating a new request for court intervention. Indeed, Carlson, Harris, and Holden (1999) find that the odds for re-abuse among women who have children with their abuser are four times higher than for couples without children. It is possible that these petitioners are more likely to be abused not only because they are in contact with the respondent due to the children, but also because they return to the respondent in order to maintain the relationship for the children's sake.

We also find significant differences between single and multiple petition cases with respect to two court processing variables. First, respondents in multiple filing cases were less likely to have been successfully served with a notice of the hearing as compared to those in single petition cases. Second, petitioners in the multiple filing group were significantly more likely to have been absent from court for the extended order hearing than their single petition counterparts. These situations (failed service of process and petitioner failure to appear) might lead a petitioner to submit a subsequent petition, if the petitioner believes the same situation can be avoided during future court processes.

Table 4.1 shows the distribution of individual, relationship, incident and court processing characteristics by single petition versus multiple petition filings. As shown below, there are no notable differences between cases involving multiple petitions and those with single petitions in terms of relationship status, prior abuse, or the characteristics of the abuse incidents reported. This suggests that it is not the abuse, per se, that is different, but the broader context within which the abuse plays out.

Table 4.1. Individual, Relationship, Incident, and Court Processing Variables in Single Petition and Multiple Filing Cases

	Single filing N = 135	Multiple filing N = 55
	%	%
<i>Relationship and Individual Characteristics</i>		
Prior abuse	73	67
Minor children involved in case*	56	73
Joint Children at first filing**	41	65
Evidence of reconciliation at first filing	7	12
Male respondent	85	87
Female petitioner	84	86
Mental health issue noted	14	16
Relationship status		
Current partners	42	49
Ex partners	33	24
Intimate partner, unknown status	14	22
Non-intimate parties	12	6
Marital relationship	35	48
<i>Incident Characteristics</i>		
Police called	56	49
Alcohol/drug involved	44	47
Physical abuse (actual or attempted)	64	55
Verbal/threats	88	80
Stalking/harassment	56	62
Weapon use	13	15
Counter petition at time of first incident	4	4
<i>Court Processing Characteristics</i>		
Respondent was not served?**	10	24
Was respondent present at first hearing?	81	69
Was petitioner present at first hearing?**	89	73

\*  $p \leq .05$

\*\*  $p \leq .01$

#### Outcomes in Single Petition versus Multiple Filing Cases

Another way in which single petition and multiple petition cases differ is by outcome. We compare outcomes of the first filing in multiple filing cases to the outcomes for single petition cases in Table 4.2. Cases involving a single petition are more likely to have been granted an extended order by the court than cases involving multiple petitions (67% vs. 40%). It is noteworthy that among cases involving a single petition, 53% were successful (the extended order was granted and reached expiration) as compared to 29% of initial petitions in the multiple filing group. In addition, petitioners with multiple filings are significantly more likely to have requested a dismissal of the temporary order (44%) than those with a single petition (26%), although the reasons for dropping were similar. This suggests that petitioners who do not secure

an extended order the first time may return in an effort to obtain an order. Once an order was secured, the likelihood of dismissal was the same for the two groups.

Table 4.2. Outcomes in Single Petition and Multiple Petition Cases

	Single filing	Multiple filings
	N = 135	N = 55
	%	%
EO granted, expired **	53	29
EO granted, dismissed	13	11
TO dropped by petitioner (including FTA)**	26	50
TO dismissed by court	7	9

\* $p \leq .05$

\*\*  $p \leq .01$

Cases that result in multiple petitions are similar to one time filers in a number of ways. They resemble one another in terms of the relationship between the parties, the types of abuse and other incident characteristics. However, parties involved in multiple filing cases are more likely to have joint children and slightly more likely to have evidence of reconciliation at the time of the first filing. Moreover, respondents in cases involving multiple filings are less likely to have been served with notice of the hearing, and petitioners are less likely to have appeared at the extended order hearing. Given these court processing differences, it is not surprising that cases involving multiple filings are also less likely to secure an extended order on initial petition. These findings suggest that petitioner hesitancy to participate in the process (perhaps due to joint children and attempts at reconciliation) is related to failed first attempts to secure a protection order. The remainder of this chapter is dedicated to examining cases involving multiple filings in depth.

## Multiple Filing Cases

Analyzing the characteristics and outcomes for parties involved in multiple filings is a complicated process. Rather than looking at one portion of the file at one point in the system, as we did in previous chapters, each case file here must be examined in its entirety. Further, party and relationship characteristics can change from one petition to the next and we must account for these dynamics. We approach the analysis of multiple petition cases with several questions in mind. First, who is filing? Are all petitions filed by a single petitioner or do these cases involve back and forth filing by both parties? One perception is that multiple filing cases involve a single petitioner who files and drops out repeatedly. We want to find out whether there is evidence to support this perception. Second, what does the abuse look like in these cases? An analysis of cases with multiple filings provides us with an opportunity to examine whether and how the abuse changes over time. Here, we are particularly interested in whether the abuse escalates, stays the same, or decreases from one filing to the next. As noted previously, one concern is that petitioners may be at risk for increased injury over time. Third, we want to know what the outcomes are in these cases. Again, one perception is that petitioners come into the court, file, and request dismissal of the petition over and over again. We examine these files to see if that is indeed a common pattern. In addition to these three core questions, one other theme emerged as we were coding the data. We found that exploring multiple petition cases allows us to examine why the couple remains in contact over time. The reasons vary according to the

nature of the relationship and whether or not they are still connected to one another in some way. The reason the couple remains in contact may shape the abuse dynamic over time as well as the outcomes in some instances. Thus, we examine the following questions:

- **How many petitions are filed by a single party as opposed to both parties?**
- **Why do couples remain in contact?**
- **Does the abuse change over time?**
- **How successful are these filings?**

### Filing Party

All cases here involve two parties: the petitioner and respondent. A case, as defined by court documentation procedures, includes any filing against one of these parties by the other party. While the two individuals may also be involved in petitions involving other parties, this would generally be considered another case.<sup>23</sup> In multiple filing cases, as in all cases, a petitioner initiates the process by requesting an order of protection. The order is then either dismissed at the petitioner's request or proceeds to an extended order hearing where an extended order is either granted or dismissed. Once the petition has terminated, either because it was dismissed or expired, the case can be re-opened by either the petitioner or the respondent who seeks protection based on a new incident of violence.

There are a total of 55 cases involving multiple petitions for protection from domestic violence. Most often, it was the petitioner who returned to court to request another order of protection against the respondent (N = 38). However, in seventeen cases, the respondent filed for protection against the petitioner as well. This involves filing either a counter-petition or a reverse-caption petition alleging abuse by the respondent. While respondents may file a response to refute the allegations brought forth by the petitioner, counter-petitions and reverse caption petitions are different. In these instances, the respondent is alleging some sort of abuse by the petitioner. In a counter-petition, the respondent files a protection order at the same time as the petitioner. These are cases of alleged mutual violence resulting from the same episode or episodes. Five cases in the sample involved counter-petitions. A reverse-caption petition results when the respondent files a request for a protection order after a previous petition and/or protection order was disposed (either dismissed or expired). In these cases, the petitioner's filing has closed, but something has happened prompting the respondent to file for protection against the petitioner. Twelve of the cases in the multiple filings group involved reverse-caption petitions. Two cases involved both counter-petition and reverse-caption petition filings by the respondent.

While repeat filings by the same petitioner comprised the majority of multiple filing cases in the sample, 31% of these cases involved some back and forth filing between parties. When respondents do seek protection from the petitioner, the most frequent form of filing is the reverse-caption petition. It may be that once involved in the system, the respondent becomes aware that the court is a viable option for protection against abuse. Alternatively, in the case of

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<sup>23</sup> However, there are a handful of cases in which the subsequent abuse allegation also involves parties other than the two primary parties; these other parties are related to the primary parties in some way. This includes allegations of abuse against joint children or new partners.

malicious filings, it may be that the respondent discovers another way to abuse the petitioner. Prior research has suggested that abusers sometimes use the court process as a weapon against the victim (Johnson, 2008). Throughout this chapter, we refer to cases in which the respondent files any sort of formal petition for protection against the petitioner as “dyadic filings.” Cases in which there is a single petitioner and no formal request for protection by the respondent are referred to as “single party filings.”

We are able to get a better sense of the dynamics of multiple filings by looking at the distribution of individual, relationship, incident, and court processing variables by whether the filing was a single or a dyadic filing. The relationship between parties, the presence of joint children, and incident characteristics at first filing do not significantly differ across the two categories. However, there are both individual and court outcome variables that do vary significantly. First, we find that cases involving female petitioners are more likely to be associated with a single party multiple filing petition, while cases involving male petitioners are more likely to include some filing by the respondent. The vast majority of filings are initiated by a female petitioner. However, of the eight cases initiated by a male petitioner, six involve abuse allegations by the respondent. Additionally, the sex of the respondent is statistically significant. Single party cases involve a greater percentage of female petitioners and male respondents than dyadic filing cases.

Table 4.3. Individual, Relationship, Incident, and Court Processing Variables in Single Party and Dyadic Multiple Filing Cases

	Single party multiple filings	Dyadic multiple filings
	N = 38	N = 17
	%	%
<i>Relationship and Individual Characteristics</i>		
Prior abuse	63	77
Minor children involved in case	74	71
Joint Children at first filing	67	63
Evidence of reconciliation at first filing	17	0
Male respondent**	95	71
Female petitioner**	95	65
Mental health issue noted	13	24
Relationship status		
Current partners	45	59
Ex partners	26	18
Intimate partner, unknown status	24	18
Non-intimate parties	5	6
Marital relationship	47	50
<i>Incident Characteristics</i>		
Police called	55	35
Alcohol/drug involved	50	47
Physical abuse (actual or attempted)	53	59
Verbal/threats	76	88
Stalking/harassment	61	65
Weapon use	13	18
<i>Court Processing Characteristics</i>		
Respondent was not served?	26	18
Was respondent present at first hearing?	66	77
Was petitioner present at first hearing?	74	71
<i>Court Outcome Variables</i>		
First petition was successful	32	24
First order dismissed by court for lack of evidence**	3	24
Any order dismissed by court for lack of evidence**	18	53

\*  $p \leq .05$

\*\*  $p \leq .01$

The second significant variable related to the type of filing is dismissal due to lack of evidence. Initial petitions dismissed by the court for lack of evidence are much more common in the dyadic

filings group. There were five initial petitions dismissed due to lack of evidence. Four of these involved some subsequent action by the respondent. Three of the petitions were initiated by a male petitioner (two were dyadic petitions). When examining whether cases were ever dismissed due to lack of evidence, we find that this pattern is also more common among the dyadic cases when compared to cases involving a single petitioner.

### Continued Contact

We noted in chapter 2 that reported abuse is shaped at least in part, by the relationship between the parties. In this chapter, we explore this idea in more depth by examining why couples who are involved in multiple filings remain in contact over time. We identified six different reasons parties remain in contact over time, including: reconciliation, couples in the process of separating, post-relationship intimidation involving active pursuit, child related involvement, chance meetings, and non-intimate family ties. Once cases were classified into groups based on the reason for continued contact, we found that within some categories there were distinct patterns of abuse. Thus, we describe both the reasons parties remain in contact and the abuse reported within these groupings. Following a brief discussion of our approach to classifying reasons for continued contact and types of abuse possible across multiple petitions, we report our findings by reason for continued contact.

#### *Continued Contact Classification*

The reasons couples remain in contact have to do in part with the relationship status of the parties. We began by separating cases into three major categories: intimate partner relationships that have not ended, intimate partner relationships that have ended, and non-intimate partner relationships. This resulted in a total of six categories of reasons for continued contact: reconciliation, in the process of separating, three variations of post-relationship intimidation, and non-intimate familial contact. Note that there may be some overlap between reasons for continued contact, but when classifying these cases, we did so according to the most salient issue. In some cases, the reasons for remaining in contact varied over time. When this occurred, we classified the case according to the reason they were in contact at the last filing.

Among cases in which the intimate partnership has not ended, we observed instances of both reconciliation and parties in the process of separating. Reconciliation was determined in a number of ways. We counted as reconciliation any report by the petitioner that he or she was dropping the petition in order to keep the family together or to remain in contact with the respondent. We also counted couples as reconciled if the petitioner reported that the parties conceived a child together, were married or living together at the time of the abuse. There was one exception to this classification scheme. In two cases, the petitioner indicated that the parties were separated, but also reported that the respondent lived in the petitioner's home. The difference in these two cases was that the petitioner did not want the respondent to live with her, but could not get him to leave. This is illustrated by one petitioner who stated:

“My ex-husband came to my house drunk. We’ve been divorced 8 yrs and he refuses to stay away. We sleep in separate bedrooms and on this day he forced me into the room with him.”

In some cases, the parties are in the process of separating. While they are not together at the time of the last incident, they have not fully severed the relationship. There are four cases in which the parties were still involved, but not reconciled. In three cases, the petitioner described the respondent as her husband, but the couple did not live together. However, there was no evidence of divorce proceedings prior to the last abuse incident. Thus, these couples are viewed as having separated from the relationship, but have not formally or completely terminated the relationship. In the last case, the petitioner described the respondent as her former boyfriend, but they were still in contact, had no joint children, and no clear reason for being in contact at the time of the last incident. She wrote that the abuse occurred “when I attempted to leave his apt.” She does not describe her reason for being at his apartment; there is no way for us to know why she was there. Since she describes him as being a “former” boyfriend and she was at his apartment at the time of the incident, we classified the case as in the process of separating. Only one case began with the couple still together; the remaining three were in the process of separating at the beginning of the case file. All of these cases involved multiple petitions filed by a single party: the petitioner.

We also see repeat filings among parties who have terminated their relationships. In the case of married couples, we classified the relationship as terminated when there is evidence of divorce proceedings. Among non-married intimate partners, evidence of a terminated relationship includes the following: the petitioner describes the respondent as his or her “ex,” they do not live together and did not live together at the time of the incident, and the joint children reside with one party. While in one case the couple reconciles over the course of the case file, at the time of the last abuse report all couples classified as having terminated the relationship are separated. There are three primary reasons these couples are in contact and thereby at risk for abuse. In some cases, the only reason for contact is to continue or initiate abuse. We label these cases as post-relationship intimidation. In other cases, contact between parties occurs by chance. Finally, some cases involve contact due to shared children and related custody issues.

Finally, a handful of cases involve parties who are in non-intimate familial relationships. These non-intimate partner relationships may be less likely to result in the dissolution of the relationship due to their familial ties and therefore remain in contact over time. Table 4.4 presents the distribution of multiple filing cases by reason for continued contact.

Table 4.4. Reason for Continued Contact (N = 55)

Reason for Contact	%
Reconciliation	25
In process of separating	7
Post relationship intimidation	35
Child related	20
Chance meeting	7
Non-intimate familial relationship	6

### *Abuse over Time*

In the previous chapters, we examined characteristics of a single abuse incident. In assessing multiple filing cases, we focus on both the nature of the abuse and whether and how the abuse



changes from one filing to the next. Specifically, we focus on petitioner reported types of abuse and how subsequent reports are similar to or different from the abuse reported in the initial filing. We assess the changes in abuse over time differently for single party filings compared to dyadic filings. Among single party filings, we examine whether the abuse narratives indicate a change in the severity of the physical abuse against the same person over time. For example, perhaps the first abuse incident involved slapping, while the next involved punching and kicking. The concern is whether the petitioner is at increasing risk for serious injury or even death as a result of the ongoing domestic violence. A second concern is the extent to which controlling behaviors are being utilized in multiple areas of the relationship. These behaviors include threats, intimidation, verbal abuse, etc. Thus, when we analyze these cases, we want to know whether there is any indication that the petitioner is subjected to not only physical abuse but other controlling behaviors, the extent to which these behaviors are being utilized in conjunction with physical abuse, and whether or not this changes over time. We explore cases involving a single party filing for evidence of escalating abuse, de-escalating abuse and the same abuse over time. These are described in more detail below. Among dyadic filings, we examine the nature of abuse allegations made by both the petitioner and respondent to determine whether the abuse described by each party is similar or dissimilar.

### Reasons for Continued Contact and Nature of Reported Abuse

#### *Reconciliation*

Most couples involved in multiple filing petitions do not reconcile. Reconciliation was evident in only one-quarter (N = 14) of multiple filing cases in our sample. In some cases, the couple separated at some point during the case file. However, by the last petition in the case file, the parties were reconciled at the time of the last reported abuse incident. In a few cases, there was never evidence of a separation. Most reconciliation cases involve single petitioner filings. However, there are four dyadic petitions: three that include a reverse caption petition by the respondent, and one that includes a counter-petition by the respondent.

Much of the literature exploring the reasons victims remain in abusive relationships focuses on how women think about the relationship and themselves.<sup>24</sup> On the one hand, victims view the relationship and offender positively, believing the offender will change or the abuse is not bad; while on the other hand, they view themselves negatively, have low self esteem/lack confidence, or blame themselves for the abuse (Herbert, Silver, and Ellard, 1991; Rhodes and McKenzie, 1998). While we cannot directly assess this sort of reasoning with these data, some of these sentiments are reflected in case documents. For example, when explaining why he or she was dropping the petition, some petitioners indicated that the respondent was no longer bothering him/her, or that the respondent and/or couple were pursuing counseling. These statements suggest that some petitioners believe the respondent has changed or will change.

Some research suggests that changes in frequency and severity of abuse over time play a role in the victim's decision to leave. However, the findings are conflicted. Studies indicating that women are more likely to leave the relationship when the abuse intensifies find that it is because the victim does not believe the abuse will stop (Short et al., 2000). Other researchers find that it

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<sup>24</sup> Note that the research focuses on female victims rather than male victims of domestic violence.

is less important that the actual level of abuse increase, but that leaving is associated with the *perception* that the abuse has increased (Pape and Arias, 2000; Zoellner et al., 2000). Still others find that it is not physical abuse that determines whether the victim will stay away from their abuser; instead, it is psychological abuse that leads victims to permanently terminate the relationship (Sabina and Tindale, 2008). Studies that find that women who remain in the relationship despite increased severity and frequency of violence often note fear as a factor—women are afraid the abuse will worsen if they try to leave the relationship (Short et al., 2000).

We cannot directly assess changes in petitioner fear or frequency of abuse. However, we are able to assess changes in the reported abuse over time. We find that in most cases involving reconciliation, the petitioner reports an occurrence of physical abuse in the initial petition. In the majority of these cases, the physical abuse reported was relatively severe involving punching, choking, biting and other forms of physical violence. For example:

“He punched me all over my body including my head. He was very drunk when he came home and for no reason really he started hitting me. He was choking me and he bit me on the face because I called him an animal after he was on top of me and would get off.”

As this example demonstrates, the physical abuse reported in the majority of these cases was quite severe initially. Petitioners described being slapped repeatedly, choked, having black eyes and broken lips, being bitten, and sexually assaulted. However, in most cases, the severity of the abuse either declined or remained the same over time, rather than escalating. Among those cases where we note a decrease in the severity of the reported physical abuse, the type of abuse changed from such things as being bitten all over the face to being dragged by the hair; being punched in the face to being pushed/grabbed; and being choked, “feet were off the ground, my face was red and I couldn’t breathe” to being hit by a taco.

In addition to physical abuse, all reconciliation cases include threats and/or verbal abuse. Threats include threats to kill self and others, threats to hurt the petitioner and threats to take the joint children. In addition to these behaviors, some petitioners note other particularly severe controlling behaviors. For example, in one case, the petitioner described the following:

“I came home from the gym and had connected a cell phone. He became very upset demanding that I disconnect cell phone and cancel membership to the gym. He grabbed a knife from the kitchen and started stabbing the kitchen table and staring at me.”

And another described the following incident:

“A couple of weeks ago he duck taped my mouth, eyes, and hands behind my back and made me sit in the dark bathroom for an hour. Said he would slash my tires.”

Often, in petitions where decreasing or static levels of physical abuse are reported, petitioners report the use of both intimidating and controlling behaviors. In some cases, these behaviors are always present in the abuse narrative; in others, these seem to increase over time. The presence of intimidation alone may be enough to lead victims to seek protection, especially where physical abuse has already occurred. Because these petitioners have endured severe abuse in the past, they may be more likely to seek protection in seemingly less severe instances. When filing

for a third time, the petitioner who was hit by a taco explained the fear she felt following the incident:

“It hurt and I got extremely scared with the lunge & the look on his face, like he hated me so much and there is a history of abuse caused by him, to me.”

This case illustrates the extent of the fear the respondent is able to instill in the petitioner, with relatively little or no physical violence. In these cases, it seems the women have endured a great deal of physical and other forms of abuse and are therefore legitimately concerned over their safety when the respondent acts in any sort of aggressive manner. This reflects what Carter (2002) describes as a reasonable perception of danger. In these cases, a person with a history of being battered has a different perception of danger than someone who has not had this experience. While there may be de-escalation of physical abuse in these cases, there may be increased or continued use of controlling behaviors in other areas. Moreover, as others note, based on past behaviors, seemingly minor or innocuous acts take on a different meaning for those who have witnessed these behaviors prior to being abused (see Johnson, 2008; Neilson, 2004; and Pence and Paymar, 1993).

Among dyadic filing cases involving reconciliation between parties, we find that although the severity of the abuse differs, both parties tend to use similar tactics. For example, in one case there was a significant amount of physical violence alleged by both parties. The petitioner in this case described the first reported incident:

“He [respondent] punched me several times in face. Punched in the arm face several time kicked me in my mouth...[respondent] stated he was going to use me for his punching bag Everytime he saw me he stated he was going to put me in my grave, he was going to be my fatal. Made seval threating phone calls after this incidence.”

The petitioner failed to appear at the order hearing and the petition was dismissed. In the subsequent filing, we learned that the couple reconciled after this incident and moved in together. Two months later, the respondent filed for an order of protection against the petitioner:

“[petitioner] scratch me on my arms, stomach, and face. Punch and kick me early in the morning. Tried to run over with truck. Verbial and physical/threatening phone calls-10-20 daily threaten to sell my property/have her brothers beat me up. Calls my job tring to get me fired. Call blocked saying she going to break out my windows on my truck. Uses lots of bad words. Threaten to have me beat up by everybody.”

The petitioner filed a counter petition, stating:

“[respondent] held me down...punching me several times in the face I got up and (respondent) continued to hit kick punch slap me where ever he could...threating phone calls Saying he was going to kill me and finished what he started...verbal, physical, mental...He stated he was going to kill because I was nothing but a whore and said I cheated on him... saying he was going to kill me and cut off my breast punched me about 9 more times ...he’s called about 50 times saying again he was going to put me in my grave.”

In both of these descriptions, there are allegations of serious physical abuse (i.e. punching, kicking). In addition, both report harassing phone calls and threats. While the severity of the abuse described by the petitioner appears to be greater, both parties alleged similar types of abuse.

The decision to leave or remain in an abusive relationship varies from person to person and cannot be neatly summarized. Among the parties who did reconcile, most abuse descriptions identify multiple forms of control. This may help to explain why the petitioners in these relationships return to the respondent despite the severe physical and emotional abuse they are experiencing. Johnson (2008) discusses how women who have been controlled by their partners become entrapped by the psychological and physical abuse they have endured. Abusive partners may restrict the victim's access to resources that are necessary for the victim to leave. The victim may be afraid to leave or may have become dependent on the respondent. This set of circumstances occurs in abuse described by Johnson (2008) as "intimate terrorism." While we cannot determine with any certainty why couples reconcile, it is clear that petitioners experience relatively severe physical abuse and are subject to verbal abuse, threats and intimidation. What lends credence to the idea that the petitioners in this category are perhaps experiencing intimate terrorism is that in most cases involving reconciliation, either the severity of physical violence remains the same or lessens, rather than increases. This suggests that the victims are being controlled in other ways.

### *In the Process of Separating*

There are four cases in which the parties have not fully terminated the relationship, but are not together; they are in the process of separating. Carter (2002) explains that it is not unusual for abuse to continue after the relationship has ended. She states "separation can be the most dangerous period in a violent relationship and this elevated level of danger can last for several years after the termination of the relationship." Indeed, we find that in terms of physical violence, some petitioners who are in relationships that are in the process of ending experienced severe abuse. In all but one case, the severity of the physical abuse escalated over time. For example, in one case, the petitioner described the initial incident of abuse by her husband as:

"Choked me-cut off my air & I blacked out, slapping, fist to the back of my head. My husband threatened me twice that he was going to beat me to death. He (respondent) kept my medication from me-I am epileptic."

The couple separated between filings; the abuse described in the second episode includes:

"He broke into my apartment, pushed me down, threw me on the bed, & raped me. He kept slapping me over & over on my face & head & choked me...he made many threats on my life many different times...slapped me several times choked my cat broke my ribs saying shut up or I'll beat you to death. Telling me that I always provoke him to violence."

The petitioner in the case detailed above dropped the initial petition to reconcile with the respondent, but was no longer living with him at the time of the second incident. While the second incident was the most extreme example of physical violence reported by the petitioners in this group, it is illustrative of the overall dynamics of abuse detailed in this set of petitioner narratives. In particular, we find that among this small group of cases, most petitioners experience increased physical abuse along with an increase in one or more other controlling behaviors, such as verbal abuse, threats, intimidation, stalking and harassment. While some petitioners in other contact categories also experience increased physical violence, this group of cases is the only one to experience an increase in most cases.

### *Post Relationship Intimidation with Active Pursuit*

Cases involving post relationship intimidation with active pursuit occur among couples who have severed the relationship. The cases are characterized by abuse that occurs when the respondent initiates contact with the petitioner for no apparent reason; the respondent will not leave the petitioner alone. This is distinguished from the two other categories involving parties whose relationship has terminated: chance meetings and children. In the latter cases, the reason for contact is either an accidental public meeting or because the couple have children and the abuse centers around them.

There are 19 cases involving parties whose subsequent abuse can be described as post relationship intimidation with active pursuit. In most of these cases (N = 14), the couple was separated at the time of the initial petition. The majority of those who were separated at the time of initial filing (N = 9) had never been married to one another. In the remaining five cases, each couple was currently involved in the relationship when the initial petition was filed, but by the time of the final petition, each had terminated the relationship.

In most single party filings involving post relationship intimidation with active pursuit, either physical violence was never used (N = 8) or decreased in severity over time (N = 7). In those cases that did involve physical violence, the initial physical violence was quite severe. Petitioners described being slapped repeatedly, being choked, having black eyes and broken lips, and being sexually assaulted. In six cases of these cases, no physical abuse was alleged in the last filing. Rather, the petitioner reports an escalation in threats or verbal abuse and, in eleven cases, there was a continuation of or increase in stalking behaviors. In some cases, despite having been separated for a significant period of time, the respondent attempted to maintain control over the estranged partner. A key component in each of these narratives is the respondent's refusal to let the relationship end. The mindset of the respondent (as perceived by the petitioner) seems to be that the parties *have* to remain together. This is illustrated by one petitioner who described the respondent as saying:

“[respondent] asked me if I was going to do anything to facilitate reconciliation & when I said no, he said that God had put me on this earth to be with him (respondent) & if I did anything to disrupt that, he would have to take steps to rectify that.”

This respondent employed multiple tactics including stalking, harassment, intimidation and monitoring to try to retain control over the relationship. Another example is derived from a report by a woman who had been divorced from the respondent for three years:

“threats to hurt me and my family and friends. To listen to everything he says or I won't have a life. That he will see the girls when he says or he will shoe me what he can do. Threats to kill my friends and family. Everything I do I have to ask him first, he will tell me who comes to my house and who doesn't that I'm am not aloud to talk to anyone on the phone.”

One form of abuse that is specific to post relationship intimidation with active pursuit involves the respondent occupying the petitioner's home. In two cases, the petitioner reported that the respondent either refused to leave her home or used the residence as if he lived there. For example, in one case, the petitioner who was separated from her partner described the following:

“He doesn’t live with me and for the last couple of weeks has been showing up @ my house uninvited, him and his brother’s break into my home and get drunk and high, this needs to stop.”

Overall, these cases involve the use of harassment, stalking, intimidation, threats and verbal abuse more than physical abuse over time. In eight cases, physical abuse was never mentioned in the case file. In the remaining cases, over time, physical violence was used less as other forms of abuse increased. Examples of the types of threats used include threatening to kill self, petitioner or others, physically harm victim and/or their joint children. Additionally, these cases involve monitoring/stalking behaviors by the respondent as well. This includes such behaviors as following the petitioner, coming to the house uninvited, and even breaking into the petitioner’s home.

#### *Post Relationship Intimidation with Child Related Involvement*

The fourth category is comprised of eleven cases involving intimate partner couples who have separated, and the circumstances surrounding subsequent abuse are related to joint children. It is important to note that many of the cases in other categories of continued involvement also involve parties with joint children. However, the cases of concern here are those in which the abuse reported in subsequent filings occurs in the context of child exchange or custody/visitation disputes (N = 8) or center on the abuse of children (N = 3). In contrast to the cases where continued involvement is related to reconciliation, separation dynamics, or post relationship intimidation with active pursuit, over half of the child related filings involve dyadic petitions (N = 6). These cases also differ from other contact categories in that most do not involve alcohol or drug use, with only three indicating that this had been a factor in the abuse. This is a much lower proportion of cases than in other contact categories, where at least half of the cases involve reports of alcohol or drug use. There are two primary issues within this group of cases that warrant discussion: the dynamics of abuse in dyadic versus single party filings and the nature of child involvement in the abuse.

The type of abuse reported differs somewhat depending on whether the filings are single party or dyadic. Child related single party filings rarely include reports of physical abuse directed at the petitioner. There were only two single party filing cases in which physical abuse against the petitioner was alleged. The physical abuse was alleged only in the initial petition with subsequent filings alleging other types of abuse. Conversely, all of the dyadic filings included some allegation of physical abuse. In four cases, the petitioner reported that the respondent was physically abusive. In the remaining two cases, the respondent claimed the petitioner was physically abusive. Both of these latter cases involved a male petitioner and female respondent. In one of the dyadic filing cases, physical abuse was alleged by both parties.

Children are involved in the abuse in multiple ways. In some cases, the exchange of children is the setting for the abuse. For example, in one single filer case, the initial petition began with almost no abuse against the petitioner, although she alleges abuse against their child. Over time, the abuse against the petitioner increases with their joint child being used as an instrument for the abuse. She described how their child was being used to facilitate this abuse:

“(respondent) Will not allow me to have my daughter until he has said what he feels he needs to say and then would give her to me...will not ever allow us to exchange our daughter without harassing me verbally and emotionally.”

While escalating non-physical abuse against the petitioner was observed in that case, in other cases, the abuse type changes as well as the target. Neilson (2004) notes that children sometimes become the target of violence once an intimate partner relationship has ended. In one case, the petitioner noted abuse against the children throughout the case file. At the first petition, she described abuse directed at both her and the children. At the second filing, the respondent’s malice towards the petitioner spills over to the children:

“Message on (petitioner’s) phone- I am going to play hard I don’t care if the kid’s pay, you pay, I will play hard with you. I hate you so fuckin much. I do not know what I fuckin going to do to you...Calls me 4 to 10 times a day...I am afraid of bodily harm to my children and I due to verbal threats. Harrassment on the phone or coming to house. Frequently, past violence history, capable of hurting us, especially when angry.”

By the last petition, the respondent was using the children to hurt the petitioner as well as directing abuse towards them:

“I have multiple reports of abuse on children [perpetrated by respondent]...(Respondent) called from(number listed) on 10/6/06 and asked if (daughter) was hurt. He stated the school called him and was told (daughter) was hurt bad. I told him the school does not have his number. He asked if a baby was crying. I told him there was no baby. He said “Guess I’ll see you in court” He also approached (other daughter) at Walmart and attempted to approach her. She screamed and was very upset. She said “Dad is trying to take me.” CYFD proved physical/emotional abuse. My children are petrified.

Abuse against children also occurs in dyadic filings. Mutual child abuse allegations are levied against each party in some cases. Similar to the example above, one dyadic filing case opens with abuse alleged against the petitioner, with the children as witnesses. The petitioner stated that the respondent:

“...does and says these things in front of our children...I think that’s inappropriate behavior around my children.”

When the respondent files, she claimed that the petitioner

“Threatened he was going to call the cops on me for kidnapping and that he was going to have an Amber Alert put out knowing I had the kids... Mentally abusing the children. Our son stated that dad does not let them call me when they are with him. Children are scared of their father especially when he becomes angry, so if he does not allow them to contact me there is nothing they can do to talk to mom.”

The petitioner returns to file against the respondent, alleging the following abuse against the children:

“Children were beaten with a belt with metal studs that caused severe bruising. Threaten children with belt and grounding if they do not listen to her talk bad about me...(respondent) violates parenting plan on a regular basis.”

Concerns that the other party will take/abduct children or keep children from the other party (won’t let them see other parent) are another way in which children are involved in the abuse.

This occurs in both dyadic and single party petitions. In dyadic cases, both parties may express concerns. For example, in one case, the petitioner explains that the respondent threatened the following:

“Said he would hurt me, also threatened my life if [I do not] sign over custody of our children to him.”

The respondent returns to file against the petitioner alleging the following:

“[petitioner] came by my house to see our children. I wouldn’t allow her to at the time and asked her to leave. [petitioner] wouldn’t leave so I told her that I called my brother and the police. [petitioner] yelled to me from the car that “your through” and drove away. [petitioner] had threatened to take my children and destroy my truck.”

The domestic violence court is sometimes used as a venue to try to resolve custody disputes. In one case, for example, the respondent dropped his petition for protection, explaining that

child custody was the main issue. (Petitioner) has agreed to parentage custody and time sharing & child support per case (case number). I feel this issue is now resolved.”

In that case, the alleged domestic abuse was secondary to the child custody dispute. This may be true in other cases as well, but may not be articulated as clearly.

In summary, we find that children play a role in the abuse descriptions in several ways. First, there may be alleged abuse directed toward the children, either physical, mental or endangerment. Second, children themselves may be used as a weapon against the other party. Third, the child custody exchange may be used as a venue for abuse against the other party. Finally, disputes about child visitation or custody may fuel abuse against the other party and may even result in unnecessary domestic abuse filings.

#### *Post Relationship Intimidation Occurring at a Chance Meeting*

In some cases of post relationship intimidation, subsequent petitions result from abuse occurring during a “chance meeting” between the parties. The couples in this category were no longer involved or were in the process of separating by the time of the last filing. However, these cases are distinguished from those involving separation dynamics more broadly because of the setting of the abuse: a public location where both parties are present by what appears to be coincidence. There are four cases that fall into this category; three are dyadic filings. In each case, the filer of the last petition also described abuse that occurred outside of the chance meeting. While these cases have some elements of post relationship intimidation involving active pursuit, we classify these cases here because the impetus for filing the order for protection appears to be the abuse occurring at the chance meeting. We determined this because the date the petitioner provided when prompted to list the date and time of the incident corresponded to the chance meeting. In some cases, abuse occurred after the chance meeting, but seems to have been precipitated by the chance meeting. For example, one woman described being slapped at a rosary by the respondent; she then described the respondent later showing up at her home unannounced and trying to break down the door.



In other cases, it appears that the abuse occurring at the chance meeting is the last straw. For example, one respondent (a reverse caption case) described an encounter with the petitioner at a night club, at which time she slapped him. He also described an incident occurring a week earlier at a birthday party in which:

“She had her friends gang up on me at a birthday parties (date) and hit me kicked me.”

In another case, the respondent (again, a reverse caption case) described verbal abuse occurring after the couple ran into each other at Home Depot. He then reported the following:

“I have had my brake lines tampered with, my tires slashed and numerous acts of vandalism to my vehicle and office. Following the verbal abuse, they circled the parking lot searching for my vehicle, presumably to vandalize it again.”

These incidents that occur outside of the chance meeting seem to be reported as secondary, perhaps to provide further evidence of abuse. In all of the cases, physical abuse was alleged by both parties in dyadic filings and at both petitions by the single party filer. The types of physical abuse include punching and slapping in all cases, and one filing also included kicking. The physical abuse in the subsequent filing, the chance meeting, tends to involve a relatively small amount of physical abuse by the petitioner or respondent, primarily slapping or pinching if any physical abuse occurs. These cases also involve harassment, threats and verbal abuse. In one case, the couple had been engaged in an ongoing dispute with four separate petitions, and the final filing involved a chance meeting resulting in verbal abuse and allegations of vandalism.

In comparison to other multiple filing cases, the physical abuse alleged at the chance meetings is generally not severe. The meeting itself seems to be a catalyst for filing the petition. However, it is noteworthy that all the filers also mention some other abuse that had recently occurred.

### *Non-intimate Partners*

Finally, there are three multiple filing cases involving parties who are not intimate partners. In each case, the relationship is a familial one: grandmother/grandson, mother/son, and stepfather/stepson. In two cases, the parties lived together at the time of the initial filing; and in one of these cases, the parties remained in contact because the petitioner continued to provide shelter for the respondent. This dynamic is similar to intimate partner relationships that involve reconciliation in that the petitioner and respondent continue to maintain a dependent relationship.

The abuse in two of these cases is very similar. In both cases, the respondent was using drugs and the abuse seemed fueled by drug use and a desire to get money. The abuse was primarily verbal abuse, damage of property and theft. In both cases, the respective respondents were unemployed at the time of the sample selection event. The abuse type was consistent over time.

The last case was different from any of the cases we examined. Ultimately, it was determined that the petitioner suffered from schizophrenia. The abuse the petitioner alleged was deemed to be a result of his illness. In this case, the respondent successfully filed a counter-petition that remained in effect throughout the case filing due to the petitioner’s continued harassment of the respondent and his family.

## Outcomes in Multiple Filing Cases

In Chapter 3, we defined a petition as successful when it resulted in an extended order that reached expiration. Using this definition, approximately 53% of single petition cases were successful. For those cases involving multiple petitions, the initial petition was successful only 29% of the time.<sup>25</sup> Similar to single petition cases, the initial petitions for multiple filing cases were most often dismissed because the petitioner failed to appear at the hearing or the petitioner requested a dismissal either before or after the extended order was granted. In some cases, the court dismissed the petition, although this occurred with less frequency than petitioner initiated dismissals. Court dismissals were typically due to findings of insufficient evidence or an inability to serve the respondent with the order to appear.<sup>26</sup>

Multiple filing petitions can result in different outcomes at each filing. These can be separated into three main groups. First, there are cases that result in a successful petition every time an order is requested. The second group includes cases that never result in a successful petition. This group includes those who drop the petition prior to obtaining an extended order, those who drop the order after having obtained an extended order, and those dismissed by the court. Finally, there is a group of cases that includes both successful and unsuccessful attempts at securing a protection order.<sup>27</sup>

Among single party filers, seven people filed petitions that were successful each time. Eleven single party multiple filings were never successful, while twenty experienced mixed success. Among cases that had at least one successful petition, we found three patterns: initial failure followed by success ( $N = 12$ ), initial success followed by failure ( $N = 5$ ), and mixed success ( $N = 3$ ). The mixed success cases involved a minimum of three filings and included at least one filing that was successful sandwiched between two filings that were not successful.

Dyadic filings can be further divided based on which party is successful. In two cases, both parties had at least one successful petition. Neither party was successful in seven cases. In five cases, the petitioner had a successful filing, but the respondent did not. Finally, in two cases, the respondent had a successful filing but the petitioner did not.

Most multiple filing cases involve at least one successful petition. However, it is rare that every filing ends in a successful order. It is most common to see some degree of both success and failure for multiple petitions in the same case. Thus, while some cases never result in a successful petition, our findings do not provide evidence to support the perception that multiple filing cases involve repeated dismissals initiated by the petitioner.

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<sup>25</sup> Note that there were 13 cases in which the first filing was not the sample selection event.

<sup>26</sup> In a limited number of cases, the court dismissed the case because the respondent had not been served with the order specifying that they must appear for the hearing. In those cases, the petitioner should have the right to re-file the petition, but it is unclear whether the petitioner is advised of that right and fails to do so or is not advised of that right. Only one case in our sample mentions the petitioner being advised to re-file her complaint when the respondent had not been served. In this case, the petitioner was very angry about the situation and refused to re-file, perhaps prompting the documentation in this case.

<sup>27</sup> In one petition, the outcome of the final petition is unknown, and therefore is excluded.

## Challenges to Petition Success

There are many factors that influence whether a petition for a protection order is successful. As we discussed in the previous chapter, relationship dynamics between the parties, such as reconciliation and the presence of joint children, may impact the successful securing and maintaining of protection orders. When examining cases over time, we are better able to understand some of the ways in which these variables impact the success of petitions over time. Here, we take a slightly different slant by examining the reasons for contact and overall success. We find that cases involving parties who are still in contact because of reconciliation and cases in which the abuse occurs within the context of child exchange or is directed at joint children have lower overall success compared to other cases. In addition to the barriers to success found in single party filings, dyadic filings present their own additional unique barriers to success. Here, we explore these factors and discuss how these may present challenges to the court.

### Reconciliation

Existing research indicates that many petitioners who fail to follow through in their pursuit of a protection order return to their abusers (Malecha et al., 2003). These findings are supported here. Seven of the fourteen cases where continued contact was the result of reconciliation never resulted in a successful petition.

Reconciliation between intimate partners presents a challenge to the court. One stipulation of the protection order is that the parties have no contact with one another. The order can be invalidated by the court if the couple reconciles. Indeed, we see evidence of that in some cases. Moreover, as presented above, we see that petitioners who stay with or return to the respondent are likely to be subjected to subsequent severe physical abuse. Although the severity of the physical abuse may decline over time, many are also subjected to other forms of controlling behaviors. This may help to explain why petitioners remain in abusive relationships: the psychological aspects of the abuse.

One important observation we made is that although the couples had been together at the time of the last incident, most couples indicated they had separated after that incident. A pattern of separation and reconciliation occurs throughout many of the case files. This suggests that even in cases where reconciliation occurs, those who repeatedly use the civil court process may be attempting to end abusive relationships. Researchers note that it may take multiple attempts to leave before severing ties is permanent (Johnson, 2008; Malecha et al., 2003). Thus, as noted throughout this report, leaving is a process that requires support.

The court is limited in its ability to intervene if the parties reconcile, but the reality is that couples do reconcile. Thus, there should be some method for the court to help in these cases, i.e. requiring counseling or increasing the requirement for using an advocate for re-filing in a way that is not punitive towards the petitioner.

## Children

A second challenge to securing and maintaining an order of protection is whether there are joint children between intimate partners. We found that there are several ways that the presence of joint children may impact the successful filing of a petition. In some cases, the parties find that the order creates inordinate barriers to the successful parenting of joint children. For example, one petitioner dropped the petition “so that my children can see their father any time they want and talk to him.” Thus, some petitioners indicate that the order prohibits effective parenting and drop it for the sake of the children.

Additionally as we noted above, abuse sometimes occurs in the context of child exchange. Parents of joint children must find a way to safely exchange their children for visitation and allow both parties to maintain a relationship with the joint children. For some, however, this can prove too difficult and result in the dismissal of the temporary or extended order.

The court may order that an exchange happen through a third party, often a relative, or may order the use of an agency to assist in exchange. It should be noted that while third party exchange is the most common method of allowing both parents safe access to the children, in some cases, it is not effective. We found that there were documented problems with both of these methods. For example, in one case, the third party was not consistently available. In another case, the respondent filed a violation alleging the petitioner was arriving at the location for the third party exchange at the same time as the respondent, causing him to be in violation of the order. The court addressed the violation by specifying both pick up and drop off times for both parties to avoid contact between the petitioner and respondent.

Rather than using a third party who is familiar with the couple, the court may order a couple to use the services of a 3<sup>rd</sup> party organization to exchange their children. Such programs are meant to provide a safe and supervised location for child visitation and exchanges. Even this method has limitations. In one case, the 3<sup>rd</sup> party organization was unable to assist the couple at the time of the petition. In another, after showing up late, the respondent attacked an employee when he was unable to see his child. He then went to the petitioner’s house demanding to see the child. The petitioner agreed in order to avoid being injured.

While the court may be able to address and rectify problems that occur, these examples are indicative of the types of issues that may arise even when there is a court order in effect addressing neutral exchange. While in the examples above the protection order remained in effect, for some, the use of third parties for child exchange may prove to be too cumbersome, leading to a dismissal of the order. For example, in one case where the court ordered exchanges to occur at a 3<sup>rd</sup> party organization, the petitioner dropped the extended order, stating that the order is “not conducive to parenting.” Similar concerns were cited by other petitioners who used some other third party to exchange children. Thus, while it is necessary to find a safe way to exchange children, for some people, it is too difficult, particularly if the parties do not file a motion for the court to address the situation.

Among cases where the abuse centered on the children in some way, the percentage of cases that never resulted in a successful petition is high relative to the other contact categories. Indeed, this

category of cases has the smallest proportion of successful cases relative to the other categories. More than half of these cases involve dyadic filings. Dyadic filings, and the challenges unique to those cases, are discussed below.

### Dyadic Filings

Dyadic filings are complicated. In the case of counter-petitions, the court must consider these dueling accounts and make a determination of what is going on and who needs protection. Similarly, when the petition is a reverse-caption petition, the court must determine whether the abuse claim is legitimate, and may indeed raise concerns about validity. This latter type of dyadic filing is unique to multiple filings. Petitions filed in dyadic cases are frequently never successful: 41% of dyadic filings never resulted in a successful petition.

There are two characteristics of dyadic filings that present challenges to the successful filing of petitions in these cases. While also present in single party multiple filings, the difficulties are amplified in dyadic filings. These issues are child related contact and petitions by male filers. Related to these two characteristics, we find that dyadic filings are more likely to include at least one dismissal for lack of evidence.

#### *Child Related Involvement*

The most common reason for continued contact among dyadic filings was child related involvement. While some child related petitions allege abuse against children, the underlying issue in most cases was unresolved child-custody disputes or problems with child visitation or exchange. Few dyadic cases in which children were the reason for continued contact resulted in a successful petition for either party: in five out of the six cases, neither party secured a restraining order. Further, among single party and dyadic child related cases where petitions were unsuccessful, most included at least one dismissal by the court for lack of evidence.

One issue that became apparent from the data is that in some cases, it seems that the domestic violence court is used as a method to address child custody exchanges. This is articulated by one respondent in a dyadic case who admitted that child custody was the main reason for filing, and the parties had worked out their custody arrangements. This is not to say that all of these filings are made without merit. The narratives provided by dyadic filing parties alleged abuse acts that fall within the definition of domestic violence. However, it appears that some parties who may not otherwise utilize the protection order process are motivated to do so because of their efforts to resolve custody disputes.

#### *Sex of Filer*

In addition to issues related to children, the sex of the filer can be a challenge to success, specifically cases involving male filers. Male filers are seen much more frequently in dyadic filings than in single party petitions. Among the 19 cases where males filed for an order of protection, 17 were dyadic filings. Males are much less likely than females to file for orders of protection, and even less likely to initiate the order against a female respondent. When they do initiate the order as petitioners, the respondent is much more likely to file an order as well. Only

seven cases involving intimate partners were initiated by a male petitioner, five of these cases were dyadic filings.<sup>28</sup>

Males are less likely than females to have successful petitions, regardless of the type of filing (single party or dyadic). Among the seven cases involving intimate partners that were initiated by a male petitioner, only two resulted in an order of protection against the female respondent. Most often, the petitioner dropped the petition; two of the twelve petitioner initiated filings were dismissed by the court for insufficient evidence. Among the dyadic petitions initiated by a female, males filed a total of 13 petitions. Only one of these 13 filings, a counter-petition, resulted in an extended order against the female petitioner. In this case, the petitioner is also granted an order against the respondent.

Males are not typically thought of as victims of domestic violence. Men may be less likely to follow through due to gender stereotypes. For example, in one case, a male petitioner asked for a dismissal and stated that he did not need the court to protect him. Male petitioners may also be less credible as victims and less likely to be seen as victimized. There is some research that suggests that women abuse men defensively, and they are not typically the initiators (Saunders, 2002). Further, when women do initiate violence it is often not the coercive use of force that characterizes domestic violence (Miller, 2001). Others have downplayed the victimization of men by women altogether because it occurs infrequently (Johnson, 2008). Another possible explanation for the lack of success in these cases is that the court may interpret counter-claims levied by male petitioners as an extension of the abuse by one party against the other. Indeed, petitions made by male filers are often dismissed by the court for lack of evidence.

### *Lack of Evidence*

There are sixteen multiple filing cases that include at least one dismissal by the court for lack of evidence. Dyadic petitions were significantly more likely to have at least one finding of insufficient evidence when compared to single party multiple filings ( $p \leq .05$ ). Forty-seven percent of dyadic filings were dismissed for lack of evidence ( $N = 8$ ), compared to 18% of single party multiple filings.

Moreover, petitions made by male filers are more often dismissed for lack of evidence. As noted above, a total of nineteen cases involved a male filer of any type; ten of these involved one more dismissals for lack of evidence. Among the 36 cases involving only female filers, six are dismissed for lack of evidence. When comparing the sex of the filer and dismissals, we find that nine dismissals are levied against male filers and seven against female filers. In terms of raw numbers, this seems comparable. However, when considering the number of petitions made by male filers as compared to female filers, the disparity is more obvious. Males filed a total of 24 petitions in intimate partner cases. Females, on the other hand, filed a total of 113 petitions. Thus, 33% of intimate partner domestic violence cases filed by males are dismissed by the court for insufficient evidence, while 6% of cases filed by females are dismissed for insufficient

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<sup>28</sup> One male initiated case does not involve an intimate couple and involves extensive mental health issues; thus, we exclude this case when discussing male initiated petitions.

evidence. It is unclear whether male initiated filings are less credible or are being filed without cause.

Cases involving a dismissal by the court for lack of evidence are less likely to be successful overall. If the court dismisses for lack of evidence, the case is more likely to never have a single successful filing as compared to those with one or more successful filing ( $p \leq .05$ ). The inability to prove that abuse has occurred is obviously a barrier to securing an order. In some cases, this finding is made because no abuse has occurred. In other cases, it may be that the filer is simply unable to prove abuse, even though it did occur. Indeed, in our observations of court hearings, we found that both these scenarios occurred. In some cases, it was clear that the petitioner had filed for a DVOP even when this was inappropriate, either because the relationship did not qualify as a domestic relationship or because no recent abuse had occurred (the abuse occurred months prior to filing). In other cases, the petitioner failed to provide evidence of abuse. In one case where the petitioner's story seemed possible, but was not backed by evidence, the commissioner warned the respondent to stay away from the petitioner. In another case, the commissioner indirectly suggested to the petitioner that if the abuse continued she should come back and re-file with evidence. While the officer did not tell the petitioner she had to do this, she did state that if the respondent contacted the petitioner and the petitioner returned to file with cell phone records and a friend's testimony of abuse, a restraining order would be issued.

## **Chapter Summary**

A review of multiple filings provides insight into some of the dynamics that complicate the protection order process. Single filings differ from multiple filings in several ways. Parties involved in multiple filing cases are less likely than those in single filing cases to see an order through to expiration on initial filing. Not surprisingly, these parties are also more likely to have joint children and to attempt reconciliation following an initial filing. These two dynamics, in particular, reduce the odds of system follow through, while at the same time, open the door to continued contact and abuse.

Nearly one-third of multiple filing petitions involved dyads, where both parties file for abuse protections. However, most multiple filing petitions in our sample are filed by a single party as opposed to dyadic filings. There is little evidence to support that these petitioners are "playing the system" but rather are involved in complicated and ongoing abusive relationships. The perception that most multiple filing cases involve a single filer who repeatedly files and drops out is not supported with this sample. While most cases do involve a single filer, most experience success at some point. Those that were never successful were much more likely to include at least one dismissal by the court for some reason, either insufficient evidence or because the both parties violated the restraining order that had been granted. Cases that were never successful often involved couples who had reconciled or involved abuse that centered on children. In addition to these barriers to successful filing, we noted that dyadic filings and their unique characteristics are associated with less successful petitions.

The reasons for continued contact between parties who are engaged in multiple petition cases vary and can be divided not only according to the relationship status, but also by the context of the subsequent abuse. We find that most cases involving multiple petitions include intimate

parties who have either reconciled ( $N = 14$ ) or are engaged in post relationship intimidation involving active pursuit ( $N = 20$ ). While the majority of multiple filing cases involve parties with joint children, only 10 cases involve reported abuse that occurred during the context of a child exchange or because of child issues, or was directed at a child.

Examining abuse over time in cases with multiple petitions adds to earlier findings by demonstrating that abuse dynamics between parties can change when the nature of the relationship changes. For example, when the relationship changes from a current one to one that has ended we see a change from physical abuse to stalking/harassment. This suggests that the type of abuse that occurs is related to the reasons for contact and the relationship status. Moreover, we are able to see changes in the reported severity of physical abuse over time. For some, this involves escalating physical abuse. While for others, subsequent abuse is less physical and the type and targets of abuse may also change. By looking at these cases in depth, we learn that the context of the abuse influences the change in the severity of abuse that occurs. For example, only cases involving couples in the process of separating are more likely to include descriptions of increased violence over time. Decreasing physical violence occurs most often in cases of post relationship intimidation involving active pursuit. As noted previously, though, these cases also involve an increase in other forms of controlling abusive behaviors, such as stalking and harassment.

In general, the type of abuse varies with the reason for continued contact. Cases involving reconciliation are more likely to include not only serious physical abuse, but also other intense controlling behaviors. Post relationship intimidation cases involving active pursuit are less likely to include physical abuse as the primary form of abuse; rather, they more often involve reports of harassment, intimidation, stalking and verbal abuse. The type of abuse in child related contact cases varies, with some reporting physical abuse. However, the abuse often includes using children as a weapon or as a way to control the petitioner. Cases involving non-intimate partners did not include reports of physical abuse. Rather, petitioners report property theft, verbal abuse and threats. These patterns are consistent with our findings in the second chapter where we examine the abuse reported for the sample selection event. Moreover, despite not always following through with the protection order process, petitioners in these cases are clearly seeking court protection in response to real fears. But, again, their use of the order of protection process is complicated by their ongoing relationship with the respondent. We suspect that some petitioners in unsuccessful single filing cases experience similar problems but decide not to seek court protection again given initial complications. The findings reported here are a reminder that abuse does not necessarily end once civil court jurisdiction is dismissed or expires. Reconciliation and joint children emerge as key risk factors to which courts and others who work with victims of abuse should be particularly sensitive.



## **Chapter 5: Discussion and Conclusion**

The goals of this research were threefold: to understand the types of abuse that prompt petitioners to utilize the domestic violence court and how they articulate their fear of future violence; to examine the processing and outcomes of petitions for domestic violence orders of protection in a multifaceted way; and to explore cases with multiple filings to assess changes in abuse and outcomes over time as well as interactions between abuse, relationship characteristics and outcomes. In this chapter, we summarize the major findings of the current research as well as its limitations. We conclude by exploring the implications of this research for both court processes and future research.

### **Summary of Findings**

In Chapter 2, we explored the ways in which petitioners report the abuse that prompted them to file for a protection order. The majority of petitioners report attempted or actual physical abuse, either alone or in conjunction with other types of violence. When reported, physical abuse is more likely to be described as a single incident, whereas other types of abuse are reported as ongoing. The current research adds to the existing body of knowledge by examining not only what petitioners report but also how they report abuse in order to secure the protection order they need. When physical abuse is used in conjunction with other types of abuse, the physical abuse is emphasized. For some, this may be what is driving them to seek the protection; however, psychological abuse can be more damaging to the emotional well being of victims than physical abuse (Bell et al., 2007). Indeed, some petitioners even note this when filing. For example, one petitioner describes physical abuse combined with ongoing emotional abuse. She states that she “would rather be beat than go through this.” However, petitioners may feel that it is necessary to emphasize the physical abuse in order to establish that abuse has occurred, and therefore increase their chances of securing an order of protection. Physical abuse is generally easier to prove: the marks left after an episode of violence are apparent, whereas psychological trauma cannot be seen. However, almost 40% do not report any type of physical abuse. In these cases, petitioners provide more detailed descriptions documenting the ongoing nature of the abuse. The way petitioners report abuse- whether by emphasizing physical harm or the repetitive nature of the abuse- helps establish the danger they believe they are in to the court. This is important since the judges and commissioners issue temporary orders based on the written petition; the more detailed and descriptive the petition, the better the chances for obtaining an initial order.

In addition to examining how petitioners describe abuse incidents, we also looked at the ways in which petitioners identify their future risk of abuse. Prior research has focused on the ability of victims to accurately assess future risk when asked directly to do so; this research finds that victims are more often accurate than not (Bell et al., 2007). We do find that petitioners often provide risk assessments, even though the petition form does not ask them to make such an assessment. There are primarily two ways petitioners articulate that they and/or their children are at risk for future abuse by the respondent. First, petitioners often note that the respondent has made specific threats to harm them or their children in the future. This is the most common way in which petitioners report future risk. In some cases, these statements of future risk are tied to respondent threats to harm the petitioner if he or she seeks help from the police or a protection order. The fact that these petitioners file anyway speaks to their desire for relief from the abuse.

The second way in which petitioners report their perception of future risk is by characterizing the respondent as a dangerous person. This is done in three ways: indicating that the respondent has anger management issues, has alcohol/drug use problems, and/or indicating that the respondent owns weapons. Overall, these assessments are important because they represent what petitioners fear may happen if they are not protected and are therefore a part of the way petitioners “make a case” for protection.

In Chapter 3, we focused on three areas related to petition outcomes: requests to the court, securing and maintaining an extended order, and court reported violations of the order. The most common requests petitioners make to the court are those related to joint children (such as requests for temporary custody and no contact between the child and the respondent), requests for financial support, and requests to evict the respondent from the residence. Requests for temporary custody and no contact between respondent and children were often granted at the time of the temporary order, as were eviction requests. However, requests pertaining to financial support were almost never granted in the temporary order. There appear to be legitimate reasons these requests are not granted immediately. Requests for child support and other financial support are not addressed at the time of the temporary order because the respondent is not present to provide documentation about his/her financial standing. When other requests were made but not granted, most often it appeared that the request was not applicable in the situation. For example, some petitioners requested the respondent’s eviction from the joint residence, but the respondent had already moved out. At the time of the extended order, the most common provisions granted included custody and support provisions among couples who had joint children. Counseling provisions were granted by the court much more often than they were requested by the petitioner.

Nearly 60% of all petitions were granted an extended protection order. Of these, 20% were later dismissed prior to expiration, leaving an overall success rate of about 47%. Consistent with prior research (McFarlane et al., 2004; Zoellner et al., 2000; see Malecha et al., 2003) most failed protection orders are the result of petitioner initiated dismissal or failure to follow through with the process. Based on petitioner accounts and other available information in the case file, we find that a number of issues including reconciliation, presence of minor children, type of abuse, and other incident characteristics are salient in understanding why some petitioners withdraw their requests for protection. Petitioners provide a variety of reasons to justify dropping the order, including claims that the respondent is no longer a threat or there has been some type of a concrete change (i.e. filed for divorce). Often, the petitioner simply fails to appear for the extended court hearing providing us with no way of knowing their reason for failing to follow through. Despite a great deal of research documenting petitioner initiated dismissal as a problem, it continues to be the primary barrier to securing an order of protection. In order to improve the process to encourage continued participation, we must know why petitioners stop engaging in the process.

In some cases, the court, rather than the petitioner, dismisses the petition at the time of the extended order hearing. Insufficient evidence is the most common reason given by court officials (9% of all cases). Cases where the respondent was represented by counsel were more likely to be dismissed on evidentiary reasons, regardless of the petitioner’s representation by counsel. This is a reminder that the court system is a legal battlefield that may result in different outcomes

depending on whether an attorney is retained. However, data compiled by the New Mexico Attorney General's Office (2009) indicate that not all victims benefit from representation, especially when represented by counsel not familiar with domestic violence issues. They suggest that counsel should be considered, however, in cases involving custody issues or when the respondent is represented.

Fewer than 20% of cases in which an extended order was granted had one or more documented violations of that order. These findings are consistent with prior research showing that the percentage of women reporting violations to the court is low (Klein, 1996). While some women in the Klein (1996) study indicated that they did not report violations because they felt it would not matter, or thought the abuse would stop without reporting it, others indicated that they did not know they could or should report a violation. Instead, women are more likely to call the police. In New Mexico, though, data indicate that police officers may be unwilling to arrest for technical violations or, in the case of new abuse, only if there are obvious physical injuries to the victim (NM Attorney General's Office, 2009).

While most violation motions in this sample of cases were levied against the respondent, a few violations were reported against the petitioner. Most frequently, violations were reported because the respondent had not adhered to the no contact order. Reported violations also included such things as refusal to pay damages or child support and non-compliance with child visitation provisions. None of the violation motions reported by respondents were successful. On the contrary, most motions made against the respondent were successful and often resulted in the arrest and temporary confinement of the respondent. Thus, it is clear that the court takes these violations seriously.

We explored cases with multiple filings in Chapter 4. This strategy allows for an examination of not only abuse and petition success over time, but also of reasons for continued contact. We find that these issues are related. One reason for continued contact is party reconciliation. Among cases involving parties that reconcile, we find physical abuse to be common. While the physical abuse in these cases is relatively severe to begin with, it generally does not escalate over time. Instead, the physical abuse remains the same or declines over time. Many of these cases are characterized by intense controlling behaviors on the part of the respondent.

Reconciliation is not the only reason for continued contact. Over time, petitioners and respondents remain in contact for a variety of reasons. In some cases, the couple is reunited by chance, and the abuse occurs during this meeting. Frequently, continued contact is related to co-parenting, and re-abuse occurs in the context of child exchange or is directed at the joint children. The types of abuse observed in non-reconciliation cases also differ depending on the degree of separation between involved parties. Those in the process of separation often report escalating abuse, while those who are involved in the form of post-relationship intimidation that involves active pursuit by one or both parties more often report various forms of harassment and intimidation.

In addition to shaping the type of abuse experienced by petitioners, the outcomes are also influenced by relationship status and contact reasons. Generally, cases involving parties who reconcile are less successful than those in which the parties separate. This of course, is not

surprising. The system is premised on separation. Indeed, if parties reconcile, the order can be thrown out by the court, and in fact, was in a handful of cases. For example, in one case the commissioner writes “both parties have been consistently violating the stipulated order of protection by having contact with each other.” However, most cases involving reconciliation are dismissed at the party’s request or because the party failed to follow through. Additionally, the presence of minor children can make protection from domestic violence more difficult. In most cases, parties must exchange their children to allow for visitation. In some cases, this venue is exploited as an opportunity for abuse. While the court may offer some relief by requiring neutral third party exchange, this is sometimes not possible or does not work in the way it was intended. Moreover, in some cases, subsequent abuse is directed at the children. We found that when the abuse narrative is centered primarily on children, the case is less likely to be successful. However, when the abuse is levied against both the petitioner and the children, the petition is more likely to be successful. Conversely, cases involving post relationship intimidation with active pursuit are more likely to experience at least one successful filing.

Finally, we find that by examining multiple filing cases, we are able to further assess barriers to successful filings. Dyadic cases, cases involving partners who were currently or previously married, and petitions by male filers were all more likely to include at least one dismissal for lack of evidence and less likely to be successful overall. These cases present unique challenges for intervention. At times, there appears to be a dynamic of mutual harassment and violence. At other times, dyadic filings play into the dynamic of utilizing the court to resolve other relationship issues (primarily child custody) or as an extension of abuse by one party. However, most case files do not provide the type of information necessary to determine with certainty whether the abuse is truly mutual or not.

### **Implications for Policy**

As noted throughout this report, the effectiveness of the court as a means for protection from domestic violence depends predominantly on the participation of the petitioner. Like prior research (McFarlane et al., 2004; Zoellner et al., 2000; see Malecha et al., 2003), we find that most petitions that fail, do so because of a lack of follow through by the petitioner. Other research has shown varying levels of success in terms of petitioners returning to the court for the protection order hearing, ranging from 60% in Harrell and Smith (1996) to 75% in Klein (1996). While the Domestic Violence Court studied here is on target with the courts in these studies, there is some room for improvement. Participation in the civil protection order process is and should be voluntary. But, encouraging petitioners to follow through with the order may help prevent future abuse. Given that the petitioner has the option to withdraw from the process at any time, how can the court encourage the petitioner to continue with the process once begun? In order to answer this question, we must understand why petitioners fail to follow through. Both our research and existing literature point to some of these reasons (e.g. relationship characteristics and/or abuse characteristics). While court officials are most certainly cognizant of these issues, it is necessary to examine barriers to success as well as explore factors that may promote success in the context of the protection order process.

### *Factors That May Promote Petition Success*

We have noted the barriers to successful petitioner follow through above. There are some ways the court may help petitioners to continue with the process. It should be noted, though, that in some cases, the protection order may not be what is best for the petitioner. The petitioner must make an informed choice about what to do in his/her own situation. There are several ways that this can be achieved.

One important support for petitioners is advocacy. In this dataset, we saw only a limited number of references to victim advocates. When it was documented, it was noted by the court that in order for the petitioner to file again, he or she must have an advocate. Though the court is likely to have the best interests of the petitioner in mind when making this stipulation, it may be perceived as punitive by the petitioner. In some locales, all applicants applying for a temporary order (whose petition qualifies for domestic abuse) are assigned a case worker who provides information about violence and safety planning, community resources and medical and legal assistance (Malecha et al., 2003). Other research has found that in the criminal justice system, victim assistance programs can make the process less intimidating and provide much needed support to victims in these circumstances (Dawson and Dinovetzer, 2001). Given that social support is important for follow through (Goodman and Epstein, 2005; Sabina and Tindale, 2008), it seems imperative to ensure that victims are receiving this support. During our courthouse observations we witnessed advocates comforting emotionally distraught petitioners and providing support and encouragement to petitioners before, during, and after extended order hearings.

While court representatives cannot advocate for petitioners, they can provide information about how to access these services. However, based on our observations and conversations with court employees, we find that petitioners are not likely to be directed to an advocate except in certain circumstances. For example, one employee related that she will refer a petitioner to an advocate if the petitioner asks legal questions. Since court employees are prohibited from providing legal advice, they are hesitant to answer legal questions. The clerk we spoke with said that she is likely to refer petitioners to an advocate when petitioners ask legal questions. Though advocates are also restricted from providing legal advice, they may be more willing to help petitioners find legal representation when necessary.

There are at least two barriers to successful petitioning that may be addressed with increased use of advocates. First, both this research and prior research finds that women who drop orders are more likely to be in a current relationship. What is more, they are at greater risk for future abuse (Malecha et al., 2003). There are multiple reasons petitioners reconcile with the respondent. Whether the petitioner returns out of financial concerns, emotional attachment or fear is unknown. Regardless of the reason, there must be a plan for couples in these cases. When these petitioners are in contact with an advocacy organization or a caseworker, they may find the support and resources necessary to make the decisions that best preserve their safety.

Second, prior research finds that petitioners often fail to follow through because they lack material and social support (Goodman et al., 2005). Hart (1995) finds victims are less likely to participate if their “basic safety and survival needs are not met during the pendency of civil and

criminal proceedings.” This includes such things as temporary housing, food, clothing, counseling, transportation, child care, etc. While none of the petitioners in the current research stated that they dropped the petition for financial reasons or because they lacked social support, it is telling that petitioners who request financial assistance are less likely to secure an extended order. This suggests that even though, legitimately, the court cannot address these issues until the extended order hearing, this is a problem that needs to be addressed. While the time between the temporary order and extended order is no more than two weeks, this may seem like an eternity to individuals who cannot provide for their own basic needs. One petitioner in our sample requested that the respondent “buy diapers and some food until the 16<sup>th</sup>” of the month.” While the court cannot compel the respondent to provide this support before the extended order hearing, a referral to community services could keep the petitioner afloat until such time that more permanent assistance can be obtained. While this petitioner did return for the hearing and was granted an extended order, access to and knowledge of existing community resources may lead to more success in maintaining orders. Moreover, not all financial matters are determined at the extended order hearing. Sometimes the parties are required to return to determine support at a later date, which presents another opportunity for failure. The solution may be as simple as ensuring that petitioners have information about additional resources for both the short term until the hearing occurs and the long term. While the court has written materials available for petitioners to take when applying for the order, many may be unaware that these exist unless the court staff specifically tells them. Speaking with an advocate or caseworker may also help connect the petitioner with appropriate resources and social support.

Another way in which an advocate or caseworker may help is in understanding the court process, and supporting petitioners as they navigate this process. Petitioners must confront the respondent at a court hearing in order to secure the extended order. This initial hearing can be intimidating to petitioners. When studying criminal processing in domestic violence cases, Bennett, Goodman and Dutton (1999) discuss the victim’s reluctance to follow through because they are fearful of testifying against their batterer. This reluctance may occur in the civil process as well. Advocates may help assuage some of these fears and can thwart respondent’s attempts at intimidation. In our hearing room observations, we saw one advocate position herself next to the petitioner in such a way that she was able to physically block the respondent’s and petitioner’s view of one another. In this way, the petitioner was able to give testimony without enduring intimidating looks from the respondent. Petitioners may also be frustrated with having to return to the court, not only to secure an extended order, but also for review hearings. Earlier we noted that one petitioner became abusive to court staff and withdrew from the process because the respondent was not served with the temporary order. This is one example of what can result due to frustration with the process. Other concerns with the process include the confusion between civil and criminal court proceedings and that victims are often involved in both. Further, petitioners who secure orders may not understand how to deal with violations.

While it is not an easy process, there are resources to assist petitioners. The court should ensure that petitioners are fully aware of those resources and court procedures. Further, when a petitioner files, the court could document whether petitioners are receiving assistance from a victim advocacy group; if not, direct them to these services. The victim advocate should be able to assist the petitioner with the court process as well as finding resources to meet their needs.

Since the cases in this dataset were seen in court, the Family Advocacy Center (FAC) was established in Albuquerque. The purpose of this center is to assist domestic violence victims by housing multiple services in one location. Those who utilize this center may apply for and obtain a temporary order of protection without having to apply at the court. It would be beneficial to know whether those victims who use the FAC are more likely to follow through than those who do not. Perhaps with the advent of the FAC, more victims are able to get the support they need to follow through. The FAC, like the court is open during regular business hours (8 am to 5 pm). However, they also operate an after hours advocate hotline for persons seeking assistance. A second change made after these cases were seen in domestic violence court is the implementation of a program for parties who are dealing with child custody issues while under an order of protection. The goal of this program is to assist parents who are engaged in domestic violence to work together to meet the needs of their joint children. It is unclear at this time how well these programs are offsetting the problems to access and order completion described above.

In addition to directing petitioners to advocacy groups, ensuring that petitioners are well informed of the process and the resources available to them is essential. Bennett, Goodman, and Dutton (1999) note that when victims come to criminal court the first time, they are distraught and overwhelmed. They are not likely to retain information they receive verbally. This is likely true for those coming to civil court as well. While victims may be given verbal information, they may not process it all due to their state of mind. Moreover, while the court has written information available for petitioners to take home, it is not clear whether petitioners pick up that information. Indeed, while we observed, we saw only one person browsing the available literature. Offering a packet at the time of processing that includes information about court procedures, community resources, etc., may help the petitioner seek the resources they need while understanding the process better.

When we observed in the filing office, we noted that many petitioners seemed confused about the filing process itself. In addition to having advocates at hand available to answer questions about the process, the court could provide an information sheet to each petitioner that would explain the procedure for filing and what to expect. For example, when petitioners come in to file, they are asked to sign in at the front desk. They are then called up, given the petition form and told to sign in at another location. It is apparent that petitioners are unclear about the reason they are required to sign in again. In fact, the petitioner is supposed to sign in after completing the paperwork in order to be interviewed. However, they are often not told that this is the reason and will sign in as soon as they receive the paperwork. Court employees then have to tell the petitioner to wait to sign in, and often have to answer questions about the procedure. Providing a sheet that explains this (and the rest of the process) would help both petitioners and court employees. An example of what this might look like is provided in Appendix 5.<sup>29</sup>

Our review of case files and our observations also alerted us to another important issue that complicates the process for petitioners and respondents—the degree of literacy the process demands. In evaluating petitioners’ written filings, we noted some literacy issues, as many

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<sup>29</sup> This Appendix also provides notes on revising instructions on service of process and hearing procedures that the court currently provides to petitioners who secure a Temporary Order of Protection.

petitioners seemed to not fully understand the written instructions for completing necessary paperwork and oftentimes, their written descriptions of the abuse or related circumstances were poorly written and difficult to follow. Both the paperwork and the hearing itself require a certain level of literacy that some respondent's and petitioners may not have. For example, both petitioners and respondents have to read various court documents and court orders and may also have to read police reports or other documents entered into evidence. In one case, the observers had concerns about the petitioner's ability to comprehend a court document he was being asked to read and sign, which would mandate him to attend "court clinic" with the respondent to work out a custody arrangement. This is important to note because this process, after all, is a legal one and has serious repercussions for all parties involved. Given these literacy issues, we cannot overstate the importance of clear, verbal direction to petitioners and respondents during the filing of court documents and during court proceedings. This is particularly important for petitioners and respondents who appear pro se and without advocates to ensure that they understand the process.

In addition to advocacy and information, enforcement of an existing order is essential. The police are more likely than the court to be notified in the case of a violation. However, as noted previously, data show that police are not likely to arrest respondents who violate protection orders unless physical violence is used. In some cases, it may be that the police are using discretion in this regard because they fear that arresting the respondent for a technical violation would just escalate the situation or because they cannot determine probable cause. However, the police are mandated to arrest respondents for violating a protection order and should be willing to do so if they have probable cause to believe the order has been violated. If probable cause cannot be determined, the police should refer the petitioner to the court to report the violation (NM Attorney General's Office, 2009). We have no way of knowing whether this occurred in the cases in this sample.

As we noted previously that petitioners do not always report violations to the court. Written and verbal instructions regarding what petitioners should do in case of a violation should be provided. We provide suggested language for written instructions in Appendix 5. In listening to instructions given to those securing an order at the time of an extended order hearing, we noted that a commissioner only mentioned reporting violations to the court in one case. In that case, the respondent had violated the temporary order, and directed the commissioner petitioner to file a motion for violation. In other cases that we observed the commissioner directed information about violations primarily to the respondent. Specifically, commissioners would tell respondent that violating the order is a criminal offense that could result in jail time. Commissioners routinely emphasized the seriousness of the order and implied that the petitioner could call the police in case of a violation. However, commissioners did not routinely explain to petitioners how to file a motion alleging violation with the civil court or the importance of doing so. It would be helpful for commissioners to explain to petitioners the types of violations they should report to the court, the evidence needed to prove these violations, and petitioners' rights and responsibilities in this regard. Given the literacy concerns noted above, commissioners should not assume that parties understand any written instructions they may be provided about how to report violations.



### *When a Protection Order May Not be the Best Option*

While this section has emphasized ways to help the petitioner pursue the protection order, this may not be the best way to help all petitioners. In some cases, once the respondent discovers that the petitioner has filed a petition, the abuse may escalate. This may prompt some petitioners to drop the order of protection. The petitioner may fear retaliation or be intimidated into dropping the petition. During data collection for this project, research staff observed women being escorted to court by the respondent to drop charges. Similarly, this phenomenon is documented in the literature with women who drop criminal charges (see Fernandez et al., 1997). While we would have no way of knowing whether this occurs due to intimidation or voluntary reconciliation, it is possible that dropping the order is a strategy used by petitioners to reduce further violence. Again, connecting with an advocate may help the petitioner in these cases.

For some petitioners, though, the act of filing is sufficient to prevent further abuse. It is noted that desistance does happen, and simply filing for an order may suffice. Bennett, Goodman and Dutton (1999) note that some victims who choose to drop criminal charges do so when they perceive the initiation of charges to be sufficient for decreasing their risk for future abuse. They found that the use of the threat of criminal sanctions and an outside authority is sufficient to gain power back in the relationship and therefore do not believe they need to follow through. A similar situation can occur here.

There are other reasons petitioners may not need a protection order. In some cases, the respondent is also facing criminal sanctions. The respondent may be incarcerated and the petitioner may then drop the petition because it is unnecessary at the moment. Others are able to use community resources that help them find such things as affordable housing that allow them to sever the relationship. Once petitioners are able to take care of these needs, they may not want or feel it necessary to continue with the protection order process. As noted above, the court system keeps the parties in contact- it is confrontational and can be very intimidating. Thus, some petitioners may find that their needs are sufficiently met without the protection order. However, it is still important to provide petitioners with both information about the court process and information on resources in the community, including advocacy groups. Ultimately, the goal is to prevent petitioners from experiencing future violence.

### **Implications for Future Research**

Other findings illuminate a void in the extant literature. Despite our attempts to limit the sample to parties involved in an intimate partnership, we still had a number of cases involving non-intimate familial relationships. Non-intimate partner familial violence is an understudied type of domestic violence. Domestic violence is generally thought of as abuse levied against a female in an intimate partner heterosexual relationship. This is an incomplete view of the scope of domestic violence authorities contend with. In order to truly understand domestic violence, one must expand the definition to include that provided by the law. Moreover, these cases evoke other questions. Are these perpetrators who engage in abuse against other household members also engaging in abuse against intimate partners? How are they similar to or different from those who only attack intimate partners? While the laws are very clear that domestic abuse

includes abuse by non-intimate partners within a household, domestic violence research focuses almost exclusively on abuse between intimate partners.

The current study also suggests the need for more research in a second area: requests made to the court. Previous studies examining these requests find that the court frequently does not grant the requests, and have concluded that the court is not responsive to petitioner's needs (Yearwood, 2005). However, our research suggests that when requests are not granted, there is typically some indication that there is a legitimate reason. In some cases, petitioners make requests that are not valid. In other cases, the court cannot address the request immediately, as in the case of requests for financial assistance. While this research suggests that requests made but not granted may not reflect the court's unwillingness to grant them but an inability to grant them, further research is recommended. While we are confident that our results regarding whether requests are made and granted is reliable, there is more detail regarding these requests than we are able to currently examine. This additional information could provide more support for our thesis regarding why some requests are not granted by the court.

Third, with the exception of custody issues, we could not find any research on dyadic filings in the existing literature. While these types of cases are not as common as single petitioner filings, they do exist. Child custody disputes are clearly one circumstance under which mutual claims of abuse are made in the domestic violence court; however, this is not the only one. These are important cases worthy of further detailed research. In some cases, there is truly mutual domestic violence occurring. To what extent is the court able to successfully intervene in these cases? How do these cases differ from cases in which a single petitioner files, either once or multiple times? These questions are of interest because abuse in these situations has not been explored thoroughly. While there is existing literature regarding abuse by females versus abuse by males, there is little research documenting the use of protection orders in such cases.

### **Limitations of the Current Research**

While the current research expanded on prior research utilizing automated data, there are still limitations to what we can learn by examining case files. We are only able to analyze what is documented in these files. It appears that some of the crucial dynamics of court intervention take place during the hearing, and are not documented in the file itself. For example, the outcomes in some cases indicate that the court has to make decisions about whether the parties are being truthful. At times, petitioners and respondents made claims of serious abuse, but these claims are dismissed due to insufficient evidence. An analysis of hearing transcripts may illuminate how these decisions are made. Indeed, our observations indicate that without hearing the respondent's side, in some cases, we are missing crucial information. In addition, we cannot determine why petitioners stop engaging in the process when they fail to appear, nor can we assess how petitioners view the strengths and weaknesses of the court system. Although we are able to document whether other cases are currently ongoing as reported to the court, such as co-occurring criminal cases, we cannot assess the degree to which these cases influence the domestic court filings. One way to improve our understanding of the protection order process is to work with a single sample of cases and add layers of information from different data sources. These data sources could include, but are not limited to, court transcriptions, interviews with petitioners, police incident reports and criminal case files. While each of these pieces of

information is useful for improving our knowledge of the protection order process, the collection and analysis of these data is labor intensive and time consuming.

## **Conclusion**

This research represents an important step forward in examining the utilization and effectiveness of the domestic violence court. It reveals domestic violence offending and intervention seeking as complex issues. It also suggests that those involved with interventions aimed at eradicating future violence must know the population well and how to best serve them. Based on the research results, we suggest that increased access to victim advocacy and resource information may help petitioners facing domestic violence. It is important that petitioners understand the court process, including what to expect, how to request a change in the order if it becomes too difficult, and how to file a motion when violations occur. Petitioners must be given information about how to access resources in the community that provide social and material support. More work is needed to identify the characteristics of cases and individuals that are likely to benefit most from a given intervention or combination of interventions, and to use this information in the development and refinement of policies and programs aimed at reducing the incidence of domestic violence. Restraining orders may be especially effective for a particular segment of the petitioning population. Assessing under what conditions orders best work and for whom they are most effective is essential for planning.

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## **Appendix 1: Data Abstraction Form**

### DVOP Data Abstraction Form

Coder initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Data entry initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

### COURT ASSISTANCE

P\_1 Requested Interpreter ☐ Yes (1) ☐ Blank (0)  
P\_2 Requested Other, if yes specify ☐ Yes (1) ☐ Blank (0)  
P\_3 Other Request \_\_\_\_\_

### INFORMATION ABOUT RESPONDENT

P\_4a Respondent's relationship to petitioner (use codes below) \_\_\_\_\_

#### RESPONDENT-PETITIONER RELATIONSHIP CODES

1	Husband
2	Wife
3	Ex-husband
4	Ex-wife
5	Parent of child(ren)
6	Other Family member, specify
7	Other Person with whom has had a continuing relationship, specify
9	Missing

P\_4b If family member (6), describe \_\_\_\_\_  
P\_4c If continuing relationship (7), describe \_\_\_\_\_

**For 4a above: if relationship is characterized as 1-4 or 6-7 AND 5 and children are noted in the sections that follow, use the relationship code 1-4 or 6-7. Only enter 5 when no other categories are noted.**

### CHILD (REN)

P\_5 Total number of minor children \_\_\_\_\_  
if zero (0), skip to P\_12, page 3

### NOTES

SACID \_\_\_\_\_

1

# **DVOP Data Abstraction Form**

Coder initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Data entry initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

	Relationship to Petitioner (use codes below)	Relationship to Respondent (use codes below)	Lives with Petitioner	Lives with Respondent
<b>If address is given check against addresses given for petitioner and/or respondent</b>				
	P_6a	P_6b	P_6c	P_6d
Child 1	_____	_____	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)
	P_6a_1	P_6b_1		
	Other, specify _____	Other, specify _____		
	P_7a	P_7b	P_7c	P_7d
Child 2	_____	_____	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)
	P_7a_1	P_7b_1		
	Other, specify _____	Other, specify _____		
	P_8a	P_8b	P_8c	P_8d
Child 3	_____	_____	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)
	P_8a_1	P_8b_1		
	Other, specify _____	Other, specify _____		
	P_9a	P_9b	P_9c	P_9d
Child 4	_____	_____	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)
	P_9a_1	P_9b_1		
	Other, specify _____	Other, specify _____		
	P_10a	P_10b	P_10c	P_10d
Child 5	_____	_____	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)	<input type="checkbox"/> Yes (1) <input type="checkbox"/> No (0) <input type="checkbox"/> Unknown (9)
	P_10a_1	P_10b_1		
	Other, specify _____	Other, specify _____		

## **ADULT-CHILD RELATIONSHIP CODES**

- 1** Biological or adopted child
- 2** Step-child
- 3** Child of significant other
- 4** Niece/nephew
- 5** Grandchild
- 6** Other relative, specify
- 7** Other non-relative, specify

P\_11 Does anyone else have physical custody of children or have custody or visitation rights?
 ☐ Yes (1)  
☐ No (0)  
☐ Missing (9)

SACID \_\_\_\_\_

## DVOP Data Abstraction Form

Coder initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Data entry initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

### OTHER CASES

**Count and list the two most recent cases OTHER than protection order proceedings below. For questions P\_13a and P\_14a, use case type codes below. Use the notes section to record any additional information about the case that is provided. If case number is given, please list it in the notes section.**

P\_12 Have "Other" cases been filed? ☐ Yes (1) ☐ No (0), if no skip to P\_15  
P\_12a If yes, how many? \_\_\_\_\_

P\_13a Case 1 Type \_\_\_\_\_  
P\_13b Year case 1 was filed \_\_\_\_\_  
P\_13c Other, specified \_\_\_\_\_  
P\_13d Notes for Case 1: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Case Type Codes**

**1 Divorce**  
**2 Separation**  
**3 Child support**  
**4 Paternity**  
**5 Child abuse/neglect**  
**6 Other**

P\_14a Case 2 Type \_\_\_\_\_  
P\_14b Year case 2 was filed \_\_\_\_\_  
P\_14c Other, specified \_\_\_\_\_  
P\_14d Notes for Case 2: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### DOMESTIC ABUSE

P\_15 Date of abuse: \_\_\_\_\_/\_\_\_\_\_/20\_\_\_\_  
Month Day Year

P\_16 Time of Abuse \_\_\_\_\_ P\_16\_a a.m.(1) / p.m (2) (circle)

P\_17 Location of abuse: \_\_\_\_\_  
(for example: home, work, at friends apartment)

**If an address is given, check against addresses given for petitioner and/or respondent residence.**

P\_18 Did drugs or alcohol play a role in the abuse? ☐ Yes (1) ☐ No (0) ☐ Blank (9)

P\_19 Were weapons involved in the abuse? ☐ Yes (1) ☐ No (0) ☐ Blank (9) if  
no go to P\_22

P\_20 Type of weapon \_\_\_\_\_ (codes to right)

**Weapon Codes**  
**1 = firearm, 2 = knife, 3 = other**

P\_21 Other weapon, specified \_\_\_\_\_

P\_22 Has there been prior domestic abuse? ☐ Yes (1) ☐ No (0) ☐ Blank (9)

SACID \_\_\_\_\_

3

# DVOP Data Abstraction Form

Coder initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Data entry initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

## REQUESTS TO COURT

**Instructions: Check yes if indicated, no if not indicated**

- |       |  |                                  |                                 |
|-------|--|----------------------------------|---------------------------------|
| P_23  | No Contact (A)                           | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_24a | Respondent Eviction (B)                  | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_24b | Provide housing for petitioner (B)       | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_25  | Do not damage property (C)               | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_26  | LE chaperone to retrieve possessions (D) | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_27  | Temporary custody of minor children (E)  | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_28  | No contact with children (F)             | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_29a | Pay support for child(ren) (G)           | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_29b | Pay support for petitioner (G)           | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_30  | Pay damage for abuse (H)                 | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_31a | Other, specify (I)                       | <input type="checkbox"/> Yes (1) | <input type="checkbox"/> No (0) |
| P_31b | Other specified                          |                                  |                                 |

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- P\_32 Is respondent in jail? (page 5 of Petition) ☐ Yes (1) ☐ No (0) ☐ Blank (9)
- P\_33 Petitioner told respondent about filing for a protection order ☐ Yes (1) ☐ No (0) ☐ Blank (9)

**The information for the remaining questions might be located on different forms. Some of this information may be available on the Protection Order form, while other pieces may be available via a Custody, Support, Property form or via Minute Order. The goal is to get the most recent (final) order on these issues for the sample selection event. So if conflicts within the file arise, the most recent document should be used for abstracting data for questions EO\_9a – EO\_12b. If such conflicts exist, please note them in the notes section.**

- D\_1 Is there a dismissal of the temporary order associated with this petition? ☐ Yes (1) ☐ No (0)
- CP\_1 Is there a counter petition in the file? ☐ Yes (1) ☐ No (0)
- D\_2 Is there a dismissal of the counter petition in file? ☐ Yes (1) ☐ No (0)

**If yes to CP\_1, please fill out the Domestic Abuse in Counter Petition form. If no, proceed to EO\_1.**

SACID \_\_\_\_\_

4

### DVOP Data Abstraction Form

Coder initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Data entry initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

EO_1	Is there an extended order granted?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_2	Is the order stipulated?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_3	Is the order mutual?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_4a	Petitioner was present at hearing	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> Blank (0)
EO_4b	Petitioner was represented by counsel	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> Blank (0)
EO_4c	Respondent was present at hearing	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> Blank (0)
EO_4d	Respondent was represented by counsel	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> Blank (0)
EO_5a	Any exceptions to the no contact rules?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_5b	Exception for counseling	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_5c	Exceptions for visitation/custody	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_5d	Other, if yes specify	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_5e	Other, specified: _____		
EO_6	Was counseling ordered?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_7	Are there custody provisions?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_8	Are there support provisions?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
EO_9	Are there property provisions?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
D_3	Is there a dismissal of the extended order associated with this petition?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0) <input type="checkbox"/> N/A (9)
V_1	Are there any violations noted for the sample selection temporary and/or extended order?	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
V_2	If yes, how many violations are alleged?	_____	

### NOTES

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## **Appendix 2: Case Narrative Guide**

Coder Initials:

Coding Date:

SACID:

### Case Narrative

#### *Sample Selection Event*

**1. Party Descriptions:**

- a. Age and sex for petitioner
- b. Age and sex for respondent
- c. Relationship status
- d. # of children (parentage, custody/residence), Age of children
- e. Discuss other cases (does not include other DVOP, give numbers if provided)

**2. Description of abuse:**

- a. Document date, time, and location of the abuse.
- b. If there is an indication that police were called, note this in narrative.
- c. From the petition copy verbatim the description of the abuse incident as reported by the petitioner. (text under boxes is verbatim).
- d. Also summarize use of drugs and/or alcohol and weapons.
- e. Prior abuse noted?

Physical Abuse:

Threats which caused fear that you or any household member would be injured:

Other abuse:

Others present during abuse:

**3. Request for relief:** Describe what the petitioner wants the court to do with regard to:

- a. Contact provisions (including exceptions)
- b. Property (including possession of residence)
- c. Child custody
- d. Support

**4. Service of process/temporary order events:** Describe any activity between the issuance of the temporary order and the hearing for the extended order; this includes attempts and/or successful service of process, requests for dismissal, violations of temporary order etc...



Coder Initials:

Coding Date:

SACID:

- a. Did the petitioner notify the respondent of intent to file?
- b. What relief provisions are granted in the temporary order?
- c. Did the petitioner provide a home and/or work address where the respondent could be located?
- d. Party (parties) served?
- e. Who served the respondent? (i.e. BCSO or someone else?), Date of service
- f. Number of attempts at service (only note if multiple attempts are made)
- g. Is there a counter-petition? If so, repeat 1-3 and a-c and continue to reference outcomes in remaining sections. Also note time lapse between petition, service of process and counter petition.

Physical Abuse:

Threats which caused fear that you or any household member would be injured:

Other abuse:

Others present during abuse:

- h. Dismissals of TOs, if yes describe reason and indicate how long (in approximate days, months, or years and date) between the issuance of the temporary order and the dismissal. If no dismissals, indicate no dismissal of TO.
- i. Violations of TOs, if yes describe type of violation and indicated how long (in approximate days, months, or years and date) between the issuance of the temporary order and this violation, also note time length between violations of TOs and dismissals if applicable. If no violations, indicate no violation of TO.
- j. Is there any other activity occurring between the service of process and the order hearing? (i.e. letter from respondent). If yes, describe. If no, indicate no activity between TO and order hearing.

**5. Order documents:** Description of extended order events.

- a. Was an extended order granted? Did the hearing occur?
- b. Who attended? Was the petitioner represented by counsel? Was the respondent represented by counsel?
- c. Is the order stipulated or non-stipulated?
- d. Is the order mutual or non-mutual?
- e. Describe the relief provisions and any exceptions—if counseling what kind, for whom, for how long—if custody—describe residence, visitation,

Coder Initials:

Coding Date:

SACID:

*etc... Where text is provided regarding counseling, custody, support, and/or property copy this information. I.E. does custody arrangement require 3<sup>rd</sup> party for exchange or supervision?*

- f. Document the length of the order (be sure the expiration date is for the protection order and not the provision order).*

- 6. Dismissals and Violations:** *Discuss any dismissal activities associated with the orders in this event (this section primarily geared toward dismissals of extended orders, as temporary order dismissal would have been discussed in number 4).*

*Also identify and describe any violations of the extended order.*

- a. Any dismissals of the extended order(s) before expiration?*
- b. If yes, describe reason for dismissal. If not indicate no dismissal for this order.*
- c. How long (in approximate days, months, or years and date) between the issuance of the order and the dismissal? How long after the most recent violation did dismissal take place?*
- d. Any violations of extended order before expiration/dismissal?*
- e. If yes, describe the type of violation(s). If no, indicate no violations of this order.*
- f. How long (in approximate days, months, or years and date) between the issuance of the order and the violation?*
- g. Do any further actions result from the violation of the order? i.e. respondent sentenced to jail or the order is extended.*
- h. Are there any events/activities occurring between the issuance of the order and order closure that is not a dismissal (i.e. hiring/filing of counsel, motions for extensions, changes in terms of the order?) If yes, describe. This may be discussed above under order events. If no, indicate no additional events.*

### **Prior Petitions**

- 7.** *Count the number of prior petitions—for each follow chronologically through the file documenting the description of the abuse, the issuance of orders, requests for dismissals, violations, etc... If there are no prior petitions then it should be noted that the sample selection event is the first in the file. For each prior petition record the following:*

- a. Date of petition*
- b. Copy verbatim the description of violence (see number 2)*
- c. Discuss the outcome of the petition—dismissals, extended orders granted, violations alleged.*
- d. If no prior petitions, indicate no prior petitions.*

Coder Initials:

Coding Date:

SACID:

### **Subsequent Petitions**

8. *Count the number of subsequent petitions—for each follow chronologically through the file documenting the description of the abuse, the issuance of orders, requests for dismissals, violations, etc... If there are no subsequent petitions then it should be noted that the sample selection event is the last in the file. For each subsequent petition record the following:*
  - a. *Date of petition*
  - b. *Copy verbatim the description of violence (see number 2)*
  - c. *Discuss the outcome of the petition—dismissals, extended orders granted, violations alleged.*
  - d. *If no subsequent petitions indicate no subsequent petitions.*

### **Notes**

9. *Each case narrative should end with author/coder notes on any issues encountered in the construction of the narrative—areas where the documentation is unclear or appears to be missing information etc... Also you can provide reflection on aspects of the file that stand out—like escalation of severity of abuse overtime, consistent petition/dismissal patterns, etc...*

### **Appendix 3: Sample Case Narrative**

## Case Narrative

### Sample Selection Event

#### PARTIES

(5.30.02) A 37 year old female files for an order of protection against her 40 year old ex-boyfriend. She indicates that they do not live together. The petitioner has three children; a daughter aged 17 and two sons ages 14 and 10 years. The children are no relation to the petitioner. The children live with the petitioner and no one else has custody rights. The petitioner indicates that there has been a prior DV case in Albuquerque but no number is given.

#### ABUSE

The petitioner reports an abuse incident occurring on 5-28-02 at 10 pm at her residence. She indicates that drugs and/or alcohol were involved noting 'attempted suicide' and that no weapons were used. She also reports that there has been prior abuse and next to the question she writes 'after attempted suicide.'

##### Physical Abuse:

[Physical is marked out as is a 'none' written in by the petitioner.] The police told me that he has a key to my house and that I should be grateful he hasn't used it. He parks and waits for me. He parks at my work. When I don't give in to his needs, he begins to yell and get verbally abusive.

Threats which caused fear that you or any household member would be injured:

Threatened to kill himself to my children and myself/He was told not to call or come around. He becomes verbally abusive.

##### Other abuse:

Verbally and mentally emotionally. He attempted suicide twice. He is now in psychotherapy (4/20) at UNM. He is not suppose to call me. I can't block his phone. He calls me. He attempted suicide after that he blamed me told me I was the reason. He says that I'm the one who is making him do this. He is stalking me and my children.

##### Others present during abuse:

No/yes

#### REQUESTS

The petitioner requests the basic no contact/no abuse provisions. She asks that the

respondent not have any contact with her children. She also asks that both parties continue to go to counseling.

#### PROCESSING

The petitioner informed the respondent that she was filing for a protection order. A temporary order is issued with the basic no contact/no abuse provisions.

On the service of process information sheet, she provides both a work and home address for the respondent. She indicates that he is dangerous to himself. The respondent is served by BCSO on 6.7.02.

There is no counter petition associated with this petition.

There are no dismissals, violations, or other events associated with this TO.

#### DISPOSITION

(6.14.02) A non-mutual registry order of protection is entered against the respondent. Both parties were present at the hearing. Neither is represented by counsel. The order provides the basic no contact/no abuse provisions. It also provides that the respondent is to remain in counseling at BCMC and NA & AA. The order is set to expire in 6 months (12.14.02).

There are no dismissals, violations, or other events associated with this order.

#### PRIOR PETITIONS

There are no prior petitions in this case file.

#### SUBSEQUENT PETITIONS

There is one subsequent petition in this case. On 8.18.03 (just over 7 months past the expiration of the prior order) the petitioner reports that the respondent has continued his harassment. She reports an abuse incident on 8.15.03 at 7 pm at the petitioner's home. She writes: 'a month ago at the end of this relationship I told him [[note there was an order of protection that expired in December 2002]] I didn't want any contact with him. He shows up at my work, calls my work and home. He verbally abuses me and my children. 8/16 The police heard recording of his messages. He verbally threats ending this relationship with death. 8/14/03 came to my home at 2:00 am.' Again neither drugs and/or alcohol or weapons were used. The petitioner did not notify the respondent that she was filing for a new order stating: 'after the first restraining order he continued the harassment. He had told me nothing will stop him.' She asks that the respondent not contact and/or abuse her. A temporary order is granted with the basic no contact/no abuse and property provisions. Interestingly, although she requested he not contact her children in the original petition (and it was not granted in either the temporary or

subsequent order), she did not do so this time but it is granted in the temporary order.

Although she provides both a home and work address for the respondent, they have a great deal of trouble serving him. On 9.4.03 BCSO submits a service of process form indicating that they failed to serve the respondent: 'Made (8) attempts by leaving card's on door (3), Spoke to H.R. at Wal-Mart who Advised (respondent) had been out of work due to surgery, called (3 x's) still had not been to work.'

On 9.5.03 the petitioner shows up for the hearing and the temporary order is extended and the date of the hearing is moved to 9.24.03. The hearing is moved again to 10.15.03. On 10.23.03 another service of process form indicates that BCSO cannot locate the respondent for service. Another service of process (submitted by BCSO indicating another failure to serve) indicates that the respondent was served by APD on 10.29.03.

On 10.15.03 a non-mutual registry order of protection is issued against the respondent. The petitioner is present but the respondent is not. Neither party is represented by counsel. The order has basic no contact/no abuse provisions. It is also ordered that when 'respondent appears before the court, he will be required to attend counseling.' The order is set to expire in one year (10.15.04). A bench warrant is issued for the respondent for FTA. He is booked on 1.6.04 into BCDC. The respondent is ordered to report to the DV probation office on his release from jail. Respondent is released on 1.13.04. On 1.14.04 the respondent appears in court and a minute order requires the respondent to attend Active Changes counseling and to report to DV probation. This is the end of the case file.

Coder Initials:  
da

Coding Date:  
6.10.08

SACID:  
4480

## **Appendix 4: Narrative Coding Sheet**



## NARRATIVE CODING SHEET

Coder initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Data entry initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**N1 Is this an intimate partner relationship?** ☐ Yes (1) ☐ No (0)

*Intimate partner relationship is husband/wife, boyfriend/girlfriend, parent of my child(ren), boyfriend/boyfriend, girlfriend/girlfriend, domestic partners, or any ex-version of these relationships.*

**N2 Are minor children involved in the case?** ☐ Yes (1) ☐ No (0)

**N2b Are there accusations or reports of either real or potential child abuse and/or child abduction?** ☐ Yes (1) ☐ No (0) ☐ N/A (9)

*Record "yes" if at any point (in abuse narrative, requests for custody, service of process information form, etc...) accusations of child abuse and/or abduction are either made against the respondent or discussed as a possibility.*

**N2c Are the minor children either witness to the incident or present at the location of the abuse incident?** ☐ Yes (1) ☐ No (0) ☐ N/A (9)

*Children may be mentioned in the abuse narrative generally, or in the witness section, or in discussions of respondent contact with children, level of dangerousness, etc... If, for example, the children are in the home (i.e. sleeping) during the abuse they are still physically present. In this case the answer yes.*

**N3 Within the case file is there evidence of a custody dispute over minor children?** ☐ Yes (1) ☐ No (0) ☐ N/A (9)

*Custody dispute is meant to capture disagreement(s) between the parties regarding child physical custody and/or visitation. There should be something more to indicate a custody dispute than the petitioner requests temporary custody with "no contact" in the petition—this is already on the abstraction form. For example, abuse occurs during custody exchange, accusations of child abduction, questions regarding paternity, have a custody case pending. Custody disputes may be initiated prior to the sample selection case, i.e. abuse incident occurs during a child exchange. A dispute may also arise during the petition/order process or after an order is granted.*

**N6 Do alcohol and/or drugs play a role in abuse?** ☐ Yes (1) ☐ No (0)

*Alcohol and/or drugs may described above the verbatim abuse narrative, within the narrative, or as a result of order provisions to drug testing etc...*

**N7 Has there been prior abuse?** ☐ Yes (1) ☐ No (0)

*Again may be noted above the abuse narrative or by the presence of prior petitions or discussed in other areas of the narrative.*

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## NARRATIVE CODING SHEET

Coder initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Data entry initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

N8	<b>Type of abuse alleged in current case:</b>	<b>N8_a Physical</b>	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)
		<b>N8_b Property</b>	<input type="checkbox"/> Yes (1)	<input type="checkbox"/> No (0)

*Physical: abuse incidents that describe physical contact between parties (grabbing, choking, slapping, pushing, hitting (with body parts or other objects), etc...*

*Property: abuse incidents that describe the destruction, defacing, or theft of property.*

N9 **Based on the abuse narrative did the incident take place in-person or not in-person?** In-person ☐ Yes (1) ☐ No (0)

*The in-person category is for distinguishing abuse events that occurred only on the telephone/internet from those that involved the physical presence of both parties. Any incident that involved the physical presence of both parties at the same location at some point is in-person.*

N10 Is police contact noted for the sample selection incident? ☐ Yes (1) ☐ No (0)

N11 **Was respondent served with the petition/temporary order?**

☐ No (0)

☐ Yes, 1<sup>st</sup> attempt (1)

☐ Yes, multiple attempts (2)

N12 Does the case file indicate that the couple has a period of reconciliation during the course of proceedings? ☐ Yes (1) ☐ No (0) ☐ N/A (9)

*This includes getting back together since a prior, reconciliation as a reason for dismissal, couple gets married or has a baby between petitions. Look overall, not just at sample selection event. Only code yes when there is clear evidence of reconciliation. N/A should be used only when the parties are not/nor have ever been in an intimate partnership.*

N13 **Do there appear to be any literacy issues for the petitioner?** ☐ Yes (1) ☐ No (0)

*Literacy issues may be extensive grammar/spelling problems, someone else filling out the form (rare) or just a sense from the writing itself—physical style and use of language.*

N14\_a **Was there a dismissal associated with the sample selection event (either TO or EO)?** ☐Yes (1) ☐No (0)

N14 b **Was the dismissal related to a lack of evidence?** ☐ Yes (1) ☐ No (0) ☐ N/A (9)

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## **Appendix 5: Notes on Petition Processing Instructions**

## Sample Form for Distribution with Petition Paperwork

**The following is a description of the process for filing the petition for an order of protection that you are completing today. This is a multi-step process that can take several hours to complete.**

1<sup>st</sup>: PAPERWORK. You will complete the paperwork to petition the court for an order of protection. Please fill out this paperwork completely and be sure to include as many details as possible about the abuse you experienced. The information you provide is the only information that the commissioner and/or judge will use to make the decision regarding the temporary order of protection. You will not be seeing a commissioner or judge today.

2<sup>nd</sup>: INTERVIEW. Once you have completed the petition paperwork please sign in on the sheet located to the left of the clerk's counter. A court clerk will call you to bring your paperwork back to the counter. At this time, the clerk will go over the paperwork with you to be sure that it is complete. Once that is done, you must sign a statement that says that the information you provided in the petition is true. This document will be notarized by the court clerk. **You must have a valid ID** to complete this step.

3<sup>rd</sup>: REVIEW. The signed petition will be reviewed by a judicial officer (a DV Special Commissioner and/or a District Court Judge) who will decide whether or not to award you a temporary order of protection. This may take a while. The judges/commissioners review petitions between their scheduled hearings.

4<sup>th</sup>: HEARING ASSIGNMENT. Once your petition is reviewed and a decision has been made, your paperwork is returned to the court clerk who will call you back to the desk and inform you of the outcome. If you are granted a temporary order of protection, the clerk will inform you of your hearing date and time and provide you with a copy of both the petition and the temporary order. If the judicial officer denies your request for an order, the clerk will tell you why the order was denied.

5<sup>th</sup>: FILING THE ORDER. You must file the temporary order with the records clerk in Room 119 (downstairs from the DV office). There is no fee for filing a Protection Order. The records clerk will finish the filing process and provide you with 4 copies of the temporary order (2 for your records and 2 for service of process).

6<sup>th</sup>: SERVICE OF PROCESS. The temporary order must be served to the other party before it is enforceable. If you live in the Albuquerque area, you may use the Bernalillo County Sheriff's Office Court Services (768-4140) for service of your Domestic Violence paperwork. Once you have completed the filing process through step 5, take the Sheriff's Return of Service Packet (provided by the records clerk) to\*:

BCSO Court Services located in the  
Albuquerque Police Department Building at  
400 Roma NW, Room 150

\*If you do not know where the respondent is currently living or working you may need to use alternative service of process procedures. See the instructions on the back of this sheet for alternative service of process procedures. [Include additional service of process instructions from existing form provided to petitioners with the temporary order].

Suggested Material for Addition and/or Revision of the  
“Instructions after Receiving a Temporary Order of Protection” Document

Section V of the “Instructions after Receiving a Temporary Order of Protection” document (attached) provides information about the hearing for an order of protection. We suggest the following revisions to the information provided:

- **ATTENDANCE:** In order to secure an extended order of protection, you must appear at the scheduled hearing. At the hearing, you should be prepared to explain to the judge why you feel you need protection from the respondent. If you do not appear at the hearing, the order will be dismissed. The extended order can be granted even if the respondent does not appear for the hearing, as long as he or she was served (officially notified of the hearing). However, if the respondent was not served the hearing cannot proceed and will be rescheduled to allow more time for service of process. This means that your temporary order will also be extended until the date of the new hearing.
- **EVIDENCE:** [Maintain all existing information on the need for and types of evidence that can be used in the hearing as presented in the existing document].
- **AT THE HEARING:** The special commissioner will hear from you and from the respondent (if present) and will make a decision to award or deny your petition. If the commissioner grants an extended order of protection, there may be orders written in regarding issues such as division of property, payment of debts and/or child support. [From this point on, maintain all information on custody and support proceedings provided in the existing document].

We also recommend adding the following information to the document after Section VI:

- **VII. AFTER THE ORDER IS GRANTED**
  - **DEALING WITH VIOLATIONS:** Violations can be dealt with in two ways. First, if at any time you have reason to believe the respondent is not following the terms of the order, you can return to court to file a motion alleging violation. The commissioner will review the motion and set a hearing to rule on that motion. Be prepared to attend the hearing and to bring any relevant evidence and witnesses. Second, you can call the police if there is a violation of the order. Be sure to provide a copy of the restraining order to the responding officer.
  - **EXTENDING THE ORDER:** Before your extended order expires you should evaluate your safety. If you feel that the respondent still poses a risk to your safety because there have been violations or other tangible threats to your safety, you can come to court to file a motion for an extension of your order. Once your order expires it cannot be extended. Instead, you would need to file for a new order, which means you would need to have new evidence of abuse.

**INSTRUCTIONS AFTER RECEIVING A  
TEMPORARY ORDER OF PROTECTION**

**IMPORTANT- PLEASE READ THE FOLLOWING**

**SAFETY WITH AN ORDER OF PROTECTION**

Keep your Temporary Order of Protection with you at all times. Give copies of your Temporary Order of Protection to trusted friends, relatives, neighbors, your employer and your children's day care provider or school. Inform your doctor or health care provider that you have Temporary Order of Protection.

Call the police at 911 if the other party violates any provision of the Temporary Order of Protection.

Think of other ways to be safe if the police do not respond right away.

**I. FILING**

The Temporary Order of Protection must be filed with the Domestic Relations clerk in Room 119 on the first floor of the Bernalillo County Courthouse. The Domestic relations clerk will provide you with an appropriate number of copies of the Temporary Order of Protection.

**II. SERVICE OF THE ORDER AND PETITION**

To have effect, the Petition and Temporary Order of Protection must be personally served upon the opposing party. The paperwork cannot be left with a friend or relative of the opposing party. Any person over eighteen (18) may serve the paperwork, but cannot be served by you because you are the party in the case.

In order to have the paperwork served on the other party, take it to the Civil Division of the Bernalillo County Sheriff's Office at 400 Roma NW, Room 150. The Sheriff's office is one block directly south of the Courthouse. The Sheriff's office will only serve the Petition and the Temporary Order of Protection between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday. Please be aware that the Sheriff's office does not have the personnel to make repeated attempts at service or to track down individuals.

If you believe the opposing party will be difficult to serve, the Sheriff's Office might not be the best agency to use. There are private process servers listed in the Yellow Pages who may be helpful. These individuals usually will work on the weekends and may charge between \$25.00 and \$50.00. If you do not know the other person's whereabouts, the Domestic Violence clerk will provide you with a return of service for the Albuquerque Police Department, in case he or she comes to your residence or place of work and you call the police.

If you choose to have a friend or relative serve the paperwork, that person must be at least eighteen (18) years of age or older. An Affidavit of Service must be signed by that person and notarized. The Affidavit of Service form is available from the Domestic Violence Division. After there is service, the original Affidavit of Service form must be returned to the Domestic Violence Division for filing.

## **II. TEMPORARY ORDER OF PROTECTION**

The Temporary Order of Protection expires on the date of the hearing set by the Domestic Violence Division. The Temporary Order of Protection contains certain provisions that state how the parties must act until the hearing. Both parties must obey all of the conditions set out in the Temporary Order of Protection. Law enforcement officials may arrest a person who is in violation of the Temporary Order of Protection. Keep a copy of the Temporary Order of Protection with you at all times.

## **IV. DISMISSALS**

If you wish to dismiss your Temporary Order of Protection, you must appear at the hearing to personally request the dismissal. If the other party has been served with a copy of the Temporary Order of Protection, he or she must also appear.

## **V. THE HEARING FOR AN ORDER OF PROTECTION**

Both parties must attend the hearing regarding the Order of Protection so that the Special Commissioner may recommend whether the Temporary Order of Protection should be dismissed, modified or continued. Either party may bring witnesses and offer evidence. **Witnesses must be present in order to testify.** When you appear at your hearing, you will need to bring any evidence you may have that will help you prove your allegations of abuse and/or violence. The following are few examples of what evidence you could bring to a hearing:

- Police Reports (from 400 Roma NW, approximately \$5.00).
- Photographs or videotaped evidence.
- Tape recordings (like voice mail messages).
- Medical documents and/or reports.
- Letters or copies of e-mail.
- Cell phones (cell phones are permitted in this Courthouse).

The Special Commissioner will determine at the hearing whether the items listed above will be admitted into evidence. Such determinations are made on a case by case basis, following the New Mexico Rules of Evidence.

Division of property, payment of debts and/or child support may be addressed at the hearing. Documents showing current income and debts will be helpful to the Special Commissioner. Either party may be represented by an attorney at the hearing.

If the parties have children together, custody and visitation may be addressed at the hearing. You should be prepared to make suggestions to the Special Commissioner regarding custody and appropriate visitation. Although you may receive an Order of Protection requiring the other party to stay away from you, the other party may still be able to have contact with the children you have together.

**THE PARTIES MUST NOT BRING CHILDREN TO THE HEARING, UNLESS SPECIFICALLY REQUESTED TO DO SO BY THE COURT.**

An Order of Protection may be issued for as few as six (6) months or as long as the Special Commissioner determines (one (1) year or more depending on the case).

**VI. PURPOSE OF THE PROCEEDINGS**

The purpose of the Family Violence Protection Act is to stop the abuse by preventing contact. Unfortunately, an Order of Protection may not provide a permanent solution and other steps may be necessary to ensure your safety (such as contacting law enforcement, pursuing divorce or custody proceedings, etc.) If one of both of the parties feels that they need a permanent solution, either party may contact a private attorney, the Legal Aid Society of Albuquerque, or any other pertinent agency or organization for assistance in discussing all available options.

**VII. SNOW DAYS**

The District Court follows the Albuquerque Public Schools schedule for snow days:

ABBREVIATED SCHEDULE: When APS is on an abbreviated schedule, the Court is also on an abbreviated schedule. This means that the Court will open for business at 10:00 a.m. You should call 841-6737 to find out the status of your case if it was scheduled prior to 10:00 a.m. on a day when the Court is on an abbreviated schedule.

SNOW DAY CLOSING: When APS closes for the day due to weather, the Court also closes. If you had a hearing on the day when the Court closed, it is your responsibility to call 841-6737 by 11:00 a.m. the next business day so that the Domestic Violence clerk can give you instructions on what to do regarding your case.

**IF YOU HAVE ANY QUESTIONS ABOUT THE ORDER OF PROTECTION PROCESS, PLEASE FEEL FREE TO CONTACT THE DOMESTIC VIOLENCE CLERK AT (505) 841-6737.**

**NOTES**

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