

# VIRGINIA DVFR GUIDANCE DOCUMENT: PROTECTIVE ORDERS

AUGUST, 2017

## Protective Orders and Fatal Domestic Violence

### What do DVFRs Need to Know?

A civil protective order is a tool designed to increase the safety and autonomy of victims of domestic violence. It is a document issued by a court to protect a victim and a victim's family or household members from an abusive person. Protective orders in Virginia can be issued in cases of family abuse or in cases where a petitioner has been subjected to an act of violence, force, or threat. Protective orders can be issued on an emergency basis (for up to three days), on a preliminary or temporary basis (usually for 15 days), or on a permanent basis (for up to two years).<sup>1</sup>

In 2014, a total of 51,225 emergency protective orders, and 20,316 preliminary and final protective orders were issued by courts across the Commonwealth.<sup>2</sup> The majority of these orders were for family abuse (35,468 emergency protective orders and 13,024 preliminary or final protective orders). These figures represent a 2% increase in emergency protective orders for family abuse, and a 6% decrease in preliminary and final orders between 2013 and 2014.<sup>3</sup>

National research shows protective orders to be effective at reducing violence and increasing feelings of safety,<sup>4</sup> but this legal tool remains un-

derutilized in many ways. A statewide needs assessment exploring the needs and experiences of victims of domestic violence across Virginia in 2014 revealed wary outlooks on the part of victims as to whether a protective order could benefit them.<sup>5</sup> As one focus group participant phrased it:

“My husband has threatened to throw acid on my face. I still live in fear. Even though I have a protective order, he can violate this piece of paper.”

Other focus group participants expressed similar reservations when considering whether to seek a protective order:

“You can do the [protective order], but it's just a piece of paper. You're probably better off if you don't get one. All it gives you is a verbal confrontation with the man who wants to hurt you.”

“What do you do when you just have a piece of paper to protect you? That doesn't stop a bullet. What kind of protection is that? If he comes near me what do I do—throw the paper at him?”

While experiences and attitudes appear mixed among survivors of domestic violence, we understand even less about whether protective orders are an effective tool to prevent the

ultimate act of domestic violence: homicide. One Virginia Domestic Violence Fatality Review Team (DVFR) reported recently that one in four (26.7%) domestic violence homicide victims in their community had a protective order granted and/or in place at the time of their death.<sup>6</sup> Data from the Family and Intimate Partner Homicide Surveillance Project indicates that more than a third (34.8%) of domestic violence victims who were murdered in Virginia between 1999 and 2013 were potentially eligible for a protective order based on a known history of physical violence or threats of violence by their abuser.<sup>7</sup>

### What Can we Learn from DVFRs?

Domestic Violence Fatality Review Teams have a unique opportunity to reflect on the role of protective orders in preventing fatal domestic violence. The following questions provide an outline for teams wishing to further examine how protective orders are being issued and enforced in their community, and whether these services are meeting the needs of victims of domestic violence.



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### Questions for Case Review:

1. Was a domestic violence homicide victim likely eligible for a protective order while they were alive?

- Was the victim ever subjected to any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury?
- Was a warrant for the arrest of the alleged abuser issued for any criminal offense resulting from an act of violence, force or threat?
- Protective orders are granted at the discretion of judges and magistrates. What common practices and guidelines are followed by officials in your locality/region?

2. If the victim was potentially eligible but did not seek a protective order, how might a protective order have benefited her? What were the possible barriers this victim faced to utilizing this service?

- Was the victim a good candidate for a protective order? Might a protective order have actually created additional safety issues for her?
- Did the victim apply for a protective order, but the request was denied?
- Did the victim face potential cultural barriers to seeking a protective order, such as discrimination or lack of language support services?
- Did the victim face potential logistical barriers to seeking a protective order, such as transportation, childcare, or legal advocacy?
- If the victim had obtained a protective order, was the order issued and enforced according to current best practices?

- Did the abuser ever violate the protective order? What kind of violation, and what was the response (if any) from the victim and/or law enforcement?
- What protections did the protective order provide? Were they the broadest allowable by law? See box at right for examples of allowable protections.
- Did the victim face any retaliatory actions from her abuser, such as a mutual protective order?
- What type of support was provided the victim for navigating the protective order process?

<sup>1</sup> Va. Code Ann. §§ 16.1-253.4, 16.1-253.1, 16.1-279.1, 19.2-152.8, 19.2-152.9, 19.2-152.10.

<sup>2</sup> E-Magistrate reporting data provided by the Office of the Executive Secretary, Supreme Court of Virginia.

<sup>3</sup> Virginia Office of the Attorney General, *Annual Report on Domestic and Sexual Violence in Virginia*.

<sup>4</sup> Logan, TK, et. al. (2009). *The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, & Costs*. University of Kentucky.

<sup>5</sup> Virginia Partnership for Community Defined Solutions to Violence Against Women. (2015). *2014-2015 Virginia Statewide Needs Assessment on Underserved Victims of Sexual & Domestic Violence*.

<sup>6</sup> Roanoke Valley Regional Family and Intimate Partner Violence Fatality Review Team. (2016). *A Review of Family and Intimate Partner Violence Fatalities in the City of Roanoke, Roanoke County, the Town of Vinton, and the City of Salem from 1998-2012: 2016 Report*.

<sup>7</sup> Virginia Office of the Chief Medical Examiner. *Family and Intimate Partner Homicide Surveillance Project*, unpublished data.

### What Can a Protective Order Do?

In addition to prohibiting contact and further acts of abuse, a protective order can grant to the petitioner a number of other protections:

- Possession of a shared residence, and protection from the respondent terminating utility services to the residence.
- Temporary possession or use of a motor vehicle owned or shared by the respondent, with the respondent maintaining registration, taxes, and insurance on the vehicle.
- Suitable alternative housing for the petitioner and other family/ household members, paid for by the respondent.
- Ordering the respondent to participate in treatment, counseling, or other programs.
- Possession of any shared pets or companion animals.
- Any other relief necessary, including temporary custody or visitation of a minor child.
- Temporary child support.



### For more information on Virginia DVFR:

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