Seeking that 'Piece of Paper': An Examination of Protection Orders under *The Domestic Violence and Stalking Act* of Manitoba

by

Cheryl Laurie

A Thesis submitted to the Faculty of Graduate Studies of
The University of Manitoba
in partial fulfilment of the requirements of the degree of

MASTER OF ARTS

Department of Sociology
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Abstract

Manitoba's *Domestic Violence and Stalking Act* was designed to provide victims with an opportunity to seek protective relief under civil law. Over its six-and-a-half year history, the *Act* faced criticism from those working in the field of domestic violence, who were concerned that protection orders were only being granted in approximately half of the applications made. The aim of this exploratory study was to empirically examine the factors which influence whether or not victims of stalking are successful in their attempts to obtain relief under the legislation. The dataset is comprised of the 483 protection order applications made in 2002 that contain evidence of stalking. Based on cross tabulation and logistic regression techniques, the analysis indicates that a number of factors influence the likelihood of an order being granted, including the sex of the applicant, evidence of threatening behaviours by the abuser, whether or not previous court orders exist between the parties, the presence of weapons, and the magistrate hearing the application. The present study situates civil protective relief within the theoretical debate over the wisdom of engaging the justice system in dealing with violence against women, and concludes with the assertion that civil orders are an important part of the overall response to this problem. The study also calls for future research to examine the impact of recent legislative amendments that are intended to broaden the range of situations in which protection orders can be granted under the *Act*.

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Many individuals have supported me throughout this thesis process, and I am pleased to have the opportunity to formally recognize them for their efforts. First, I thank my thesis committee for their guidance and assistance. My advisor, Dr. E. Jane Ursel, provided access to the data used in this project. In addition, she employed me for several years throughout the process, providing much appreciated financial support. I have learned many valuable lessons under Jane's supervision. My internal committee members, Dr. Stephen Brickey and Dr. Lori Wilkinson, have provided insightful comments and meaningful suggestions for amendments to drafts of this work. Lori, in particular, deserves my gratitude for the countless hours she contributed, helping me to grasp some of the finer points of quantitative analysis, while still being able to focus on the big picture. Her patience and understanding knows no bounds. Denis Bracken, my external committee member, always shows a keen interest in his students' efforts, and I am grateful he agreed to be part of this project. I also want to acknowledge the University of Manitoba for supporting my graduate work through a University of Manitoba Graduate Fellowship and the Carolynne Boivin Bursary.

Thank you to the staff members of the Winnipeg Law Courts for being generous with their time and space in facilitating the data collection for this project. Deanna Deniset, Director of Judicial Support Services, deserves special mention for providing access to the necessary court files and answering what must have seemed like endless questions about court procedures. Your patience and enthusiasm for this work will always be appreciated, as will the friendship that we formed as a result of working so closely together.

I am fortunate to have had the support of many friends and family members who offered their encouragement. My sister, Gail, had a special talent for providing precisely the right words at the times I needed it most – you have a kind heart and a good soul. While many friends have helped carry me through, a few who were there for me during the dark days that ultimately led to my embarking on this journey deserve special mention – Angie, Paula, Leanne, Teresa, Wes, Cam, Jeff and Gary.

Lastly, I want to thank two groups of people who were brave enough to come forward and tell their difficult stories – those who applied for protection orders, and the women who allowed me to interview them in the course of the research that my thesis dataset was drawn from. In telling your stories, you have stood up against your abusers – you should take great pride in that.

Dedication

This work is dedicated to my mother, Aline Laurie. Mom, you always said that when life presents us with difficult situations, we have two choices: we can either lie down in defeat and continue to be walked on, or we can stand tall, pull ourselves up by our bootstraps, and work like hell until we succeed at the things most important to us. You taught us through your example that the latter was the only acceptable option. You told me recently that you can leave this world in peace, knowing that you raised four hard-working children and instilled them with good morals. I believe that every success your children have achieved is truly your success, so please accept this thesis as your own.

I know many women who cringe at the saying, "You're becoming your mother." I, however, would consider that statement as the highest form of compliment. You are my mom, my dad, my mentor and my best friend. I love you.

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Chapter 1: Introduction

The Domestic Violence and Stalking Act (DVSA) of Manitoba was implemented on September 30, 1999, in response to limitations in other remedies available to victims of domestic violence and stalking prior to that time. Previous remedies under the civil law were vaguely worded and were only available to individuals who were married or were cohabitants, and intervention through the criminal justice system was seen by some to be slow and uncertain.[1]

In the period leading up to its implementation, key stakeholders working in the area of violence against women in this province heralded the *Act* as a powerful tool that would offer victims a means of protection that was available quickly and easily. In its six-and-a-half year history, the legislation has been heavily utilized. However, it also came to be widely criticized as not being implemented in the way its proponents had originally envisioned. Protection orders under the *DVSA* became increasingly difficult to obtain, as the criteria for issuing them became more stringent year after year. Much effort went into re-crafting portions of the legislation in response to the criticisms, and amendments were introduced on October 31, 2005 that are designed to broaden the scope of the circumstances under which these orders may be issued. This thesis is timely, therefore, in setting the stage for future studies. Given that the analysis conducted for this project was based on data collected prior to when the legislative amendments were made, future research endeavours can empirically examine the effects of these changes.

The *DVSA* is distinct from the civil legislation developed in other provinces because it specifically names stalking as an offence in its own right. The drafters of this

[1] These limitations will be discussed in greater detail in the next chapter.

legislation recognized that, while the behaviours which constitute stalking do not, in isolation, appear to be serious, when taken together they form a pattern of conduct that is threatening and potentially very dangerous to the victim. This played a part in the development of the *Act*, as several Manitoba women were stalked and then murdered despite their repeated requests for protection under the existing law. Even in less serious cases, it became clear that the inability of the law to intervene sent a message to the stalkers that "it is perfectly permissible to harass and pester another person provided that only lawful means are used during the course of the harassment" (Finch, 2001:257). Because of the critical role stalking played in the development of Manitoba's *Act,* it will be the main focus of this thesis. The offence of stalking, while gaining increasing attention in recent years, is not yet well understood in comparison to other forms of abuse. This thesis, therefore, fills a gap in the existing literature by placing a particular emphasis on stalking.

The primary goal of this research is to empirically examine the factors which influence whether or not protection orders under the *DVSA* are granted in applications that include evidence of stalking. Within this examination, the specific research questions are:

1) What are the factors influencing whether or not orders are granted?
2) Does the type and degree of stalking activity have a bearing on the outcome of an application (meaning 'type' of stalking in terms of the various forms of stalking behaviours in evidence, and 'degree' in terms of having evidence of multiple types of stalking behaviours)?

3) Are cases of stalking alone as likely to result in an order being granted as cases of stalking coupled with other forms of abuse?

Four secondary research questions also arise, flowing from the outcome of protection order applications:

1) What are the conditions included in orders that are granted?
2) What are the reasons for dismissal in cases where applications are dismissed?
3) What alternative remedies are suggested in cases where applications are dismissed?
4) What are the circumstances surrounding situations where requests are made by the parties to have the orders they obtained removed?

This thesis is relevant because, although reviews have been conducted on the civil legislation in other Canadian provinces and territories, none has been completed to date on Manitoba's legislation. Moreover, because of the unique feature of the *DVSA*, the issue of stalking with respect to Canadian civil law has not been examined previously. Therefore, this research not only contributes to the existing body of knowledge with respect to civil legislation generally, but also adds a dimension with respect to the offence of stalking in particular.

The vast majority of evaluations conducted with respect to civil protective relief are focused on outcomes rather than on process. That is, these studies tend to examine orders of this type in terms of how effective they are in making the offenders cease their problematic behaviour. My research, on the other hand, identifies the factors that are involved in obtaining a protection order in the first place. While I agree that the effectiveness of existing orders is of critical importance, taking this step backward fills a

gap in answering the question, "What does it take to get this 'piece of paper'?" After all, the effectiveness of a protection order is moot in cases where an applicant cannot get one to begin with.

My research also holds sociological relevance by contributing to the theoretical debate over the appropriateness of engaging the justice system when addressing violence against women. Where the bulk of the theory in this area is focused on the wisdom of invoking the criminal law in these matters, mine adds to the contribution made by Lewis *et al.* (2000; 2001) that civil remedies need to be brought into the discussion as well.

These findings are relevant to policy in two ways. As already mentioned, this thesis can be used as a baseline for future research endeavours involving the changes in Manitoba's *Act*. It also provides further information for other Canadian jurisdictions to draw from. This is not only useful for those that are considering implementing this type of legislation for the first time, but also for those who may be considering amendments to their existing practices.

Finally, the quantitative methodological approach used in this thesis allows the findings to be considered in relation to the qualitative research being conducted in this area, providing for a richer understanding of this highly complex subject matter. Only by advancing the knowledge through empirical examination can future directions for the *DVSA* and similar legislation be charted with any confidence.

This chapter introduced the importance of the *DVSA* and justified the research topic in terms of its sociological relevance, methodological contribution, and policy implications. The next chapter will provide an in-depth view of the legislation, discuss the relevant literature, and explore the competing theoretical positions at the heart of the

debate over whether or not the justice system is the proper tool to use in the battle against domestic violence and stalking.

Chapter 2: *The DVSA*: An Overview of the Legislation, a Review of the Literature, and Theoretical Considerations

This chapter situates *The Domestic Violence and Stalking Act (DVSA)* of Manitoba within similar civil legislation developed across Canada, outlines its history and development, and explains the relationship between protection orders issued under the *DVSA* and other forms of protective relief available to victims of domestic violence and stalking. The literature on stalking is examined next, with a particular focus on the relationship between stalking and domestic abuse. Finally, competing theoretical positions are considered with respect to the appropriateness of using the legal system for addressing these forms of violence against women.

CIVIL LEGISLATION DEVELOPMENT IN CANADA

The primary goal of civil legislation dealing with domestic violence and stalking is to stop threatening conduct before it escalates into further harm. Although these issues have been given increased attention over recent decades on the part of the criminal justice system (for example focused police training, specialized family violence courts and targeted offender programming in corrections), there were no reliable remedies for those seeking intervention before 'something happened'. Even in cases where violence has already occurred, many victims[2] are reluctant to involve their abusers in criminal proceedings. Often, they are simply interested in ensuring that the abuse stops and are

[2] The use of the word 'victim' is controversial in domestic violence discourse because that terminology portrays women as passive recipients of legal intervention instead of as active agents negotiating among various options in dealing with their abusive partners (see Lewis *et al.* 2000). However, that term will be used throughout this thesis to remain consistent with the language used in much of the literature on stalking. The terms 'applicant' and 'subject' are also used interchangeably with the word 'victim' in this thesis.

not seeking to punish the offender (Manitoba Law Reform Commission, 1997; Johnson, 1996). Civil legislation offers these victims an alternative approach to invoking the criminal law. Civil law can also play a complementary role to criminal sanctions. An example of a situation where this might occur is when an abused woman applies for injunctive relief under the provincial legislation because protective provisions previously put in place against her abusive partner under criminal sanctions (such as a probation order) have expired or are about to expire. In most provinces, including Manitoba, the civil and criminal law are linked in another important way. A victim of violence may obtain an order of protection under civil legislation, for example, and then upon the abusive partner breaching the terms of that order, criminal charges may be laid. Therefore, civil and criminal interventions can be used as alternatives to one another, in a complementary fashion to one another, or as different points along a process of intervention. The rationale used to support the enactment of civil legislation in cases of domestic abuse and stalking was that it would provide victims with a number of procedures and remedies that would be flexible, and would be quickly and easily available. The availability of immediate protection for victims is a key consideration in each of the provincial Acts.

As indicated in Table 1, civil legislation targeting domestic violence is now being utilized in seven jurisdictions in Canada, with two others forthcoming.[3] The Saskatchewan legislation served as a model for the other provinces to follow, and therefore all share some common features. They each deal with domestic violence, they share similar goals, and they offer two levels of orders, those issued by designated

[3] In addition to the nine jurisdictions listed in Table 1, two others have tabled Bills which have not yet been passed: Bill M204 – the *Domestic Violence Prevention Act* of British Columbia, and Bill 16 – the *Family Abuse Prevention Act* of Nunavut.

Table 1: The Enactment of Canadian Civil Legislation

Jurisdiction	Act	Proclaimed in force
Saskatchewan	*The Victims of Domestic Violence Act* S.S. 1994, c. V-6.02	Feb. 1995
Prince Edward Island	*Victims of Family Violence Act* S.P.E.I. 1996, c. 47	Dec. 1996
Yukon	*Family Violence Prevention Act* S.Y. 1997, c. 12	Nov. 1999
Alberta	*Protection Against Family Violence Act* S.A. 1998, c. P-19.2	Jun. 1999
Manitoba	*The Domestic Violence and Stalking Act* S.M. 1998, c. D93	Sep. 1999
Nova Scotia	*Domestic Violence Intervention Act* S.N.S. 2001, c. 29	Apr. 2003
Northwest Territories	*Protection Against Family Violence Act* S.N.W.T 2003, c. 24	Apr. 2005
Newfoundland and Labrador	*Family Violence Protection Act* S.N.L. 2005, c. F3.1	(Jul. 2006)
Ontario	*Domestic Violence Protection Act* S.O. 2000, c. 33	(Not yet proclaimed)

provincial court justices of the peace and those issued by justices of the Court of Queens Bench.[4] There are, however, some important differences between the features and procedures in the various Acts. While the distinctions are many and cannot be covered

[4] Terminology varies between jurisdictions with respect to the names of these orders. Manitoba's legislation contains Protection Orders (heard in Provincial Court) and Prevention Orders (heard in the Court of Queen's Bench).

here,[5] the primary point is that Manitoba's *DVSA* was unique when it was implemented, in that it specifically covered victims of stalking as well as domestic abuse.[6]

HISTORY AND DEVELOPMENT OF THE *DVSA*

Background

The offence of stalking played a pivotal role in the development and implementation of the *DVSA*. In the early 1990s there were several Canadian women seriously injured or killed after being stalked (Johnson, 1996). Terri-Lyn Babb was murdered while she waited for a bus on a busy Winnipeg street corner on January 21, 1993. Ronald Bell, a nurse at a hospital where Ms. Babb was a patient in 1990, had become infatuated with her and harassed her repeatedly until he finally shot her. Another highly publicized Manitoba case was the double murder of Sherry and Maurice Paul by Andre Ducharme, who killed himself following the incident. In both the Babb and the Paul cases, numerous reports had been made to police about their harassment (Manitoba Law Reform Commission, 1997). These, along with other similar incidents across the country, indicated that the existing criminal code provisions were inadequate in curtailing the activities of stalkers.

In 1997 the Manitoba Law Reform Commission released its *Report on Stalking,* which made numerous recommendations for improving protective civil remedies. The

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[5] For a comprehensive overview of the distinctions between jurisdictions, see "Review of Provincial and Territorial Domestic Violence Legislation and Implementation Strategies" (Department of Justice Canada, 2002) and "Spousal Abuse Policies and Legislation: Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation" (Department of Justice, 2003).

[6] The legislation in Nova Scotia, Newfoundland and Labrador, and Ontario subsume some of the activities that would constitute stalking behaviour within their definitions of domestic violence, however those Acts do not specifically name stalking as an offence. In addition, Alberta's legislation was amended on March 23, 2006 to specifically cover stalking, however that amendment has not yet been proclaimed in force.

report reviewed the offence of criminal harassment and found it to be ineffective in many instances. "Concerns include prosecutors' willingness to accept plea bargains, the unwillingness of judges to impose jail terms on convicted stalkers and the lack of mandatory minimum sentences for criminal harassment" (1997:16). The primary purpose of 'anti-stalking' legislation is to stop threatening and harassing conduct before it escalates into violence. Since the criminal procedures were seen to be slow and uncertain, the Commission felt that the best remedy to this situation was to enact provincial legislation so that victims of stalking will have an opportunity to proceed with civil action rather than relying only on the federal law of criminal harassment as it is set out in s.264 of the *Criminal Code*. Civil orders are also easier to obtain than a criminal conviction because the standard of proof in civil cases is based on a balance of probabilities rather than on the doctrine of 'beyond a reasonable doubt'. Finally, the Manitoba Law Reform Commission (1997) suggested that the availability of such civil action would encourage more victims to report the incidence of stalking. The Commission believed that the new *Act* would empower victims of stalking by providing a means of asserting their rights without having to rely on the police and the Crown for protection.

Also in 1997, the Commission of Inquiry into the deaths of Rhonda and Roy Lavoie published its report by Justice Schulman. The Lavoie Inquiry recommended sweeping changes to enhance the protection of victims of domestic violence and stalking. Schulman suggested that "Crown attorneys should avoid staying charges involving criminal harassment or stalking behaviour" (1997:50) and "the policy should instruct police officers to examine every domestic violence case for evidence of stalking"

(1997:32). The justice system had failed in providing adequate protection, even though the couple had several encounters with 'restraining' orders, both under criminal and civil law.[7] The case involved a young couple with three children. In 1993 the Lavoies separated because of an assault on Rhonda by Roy. During the separation, and without Rhonda's knowledge, Roy installed a device in the garage that enabled him to listen in on Rhonda's telephone calls in the house. A conversation between Rhonda and a man she had met upset Roy to the point where he viciously physically and sexually abused her and then very nearly asphyxiated her in their car. A series of contacts with the criminal justice system followed. Ultimately, on January 20, 1995, the police discovered their bodies in a van north of Gimli, Manitoba. They had both died of asphyxiation in the manner in which Roy had earlier threatened to kill Rhonda. Schulman states in the Lavoie Inquiry, "[t]he war against domestic violence must be waged through prevention as well as intervention. In addition to effective treatment and support systems, victims of domestic violence must have ready access to protection from further violence" (1997:77). The report identified many problems with the existing remedies, including unclear language, difficulty with obtaining orders in some rural and remote areas, insufficient enforcement of orders, and inadequate penalties for breaching the orders.[8]

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[7] Ironically, a civil non-molestation order was issued *against* Rhonda at Roy's request one month prior to him taking her life. At the time this order was granted to Roy, he was under a recognizance (related to his criminal charges) prohibiting any contact with Rhonda. In the inquiry, Justice Schulman stated that "[t]he fact that Roy was able to obtain a non-molestation order against Rhonda clearly illustrates that those orders [were] being issued in inappropriate cases" (Schulman, 1997: 81).

[8] Prohibition orders could contain no-contact provisions and were obtained through the Court of Queen's Bench under the *Family Maintenance Act*. The assistance of a lawyer was recommended in applying for an order and to represent the victim in court. These orders were therefore difficult to obtain, and were not available quickly. Non-molestation orders were available through a magistrate and were available quickly and without cost. However, non-molestation orders only contained wording that prohibited the offender from "molesting, annoying, or harassing" the victim, and could not prohibit the victim's partner from going to the victim's residence or any other premises.

Following the Lavoie Inquiry, the Manitoba government created the Lavoie Inquiry Implementation Committee. This committee set up working groups to follow up on specific recommendations. The Legislative Advisory Working Group was charged with giving advice on implementing both the Manitoba Law Reform Commission's and the Lavoie Inquiry's recommendations on improving civil remedies. This working group recognized that many of the recommendations made by the Manitoba Law Reform Commission with respect to protecting victims of stalking also were applicable to victims of domestic violence generally. Therefore, the *Report on Stalking* and the Lavoie Inquiry were two key factors in the development of the *DVSA*. The legislation was designed to provide people at risk with more comprehensive protection and to address the shortcomings in existing civil remedies.

Features

As its name implies, the *DVSA* is intended to be used in cases where protection is required in situations of domestic violence and stalking. The meanings of these two terms are laid out in the *Act* (Legislative Assembly of Manitoba, 1998):

> **Meaning of "domestic violence"**
>
> **2(1)** Domestic violence occurs when a person is subjected by a cohabitant of the person to

---

Non-molestation and prohibition orders were available only to individuals who had been married or had been cohabitating with the offender being named in the order. Therefore, many relationships were not included under the former civil remedies. For example, a victim of stalking who knew the stalker only casually, and victims who had been involved in a dating relationship (but had never cohabitated with the offender) were unable to access these orders. The only available remedy in these cases was to obtain a peace bond under s. 810 of the *Criminal Code*, however these are difficult to obtain due to the requirement that the offender consents to enter into this no-contact agreement.

(a) an intentional, reckless or threatened act or omission that causes bodily harm or property damage;

(b) an intentional, reckless or threatened act or omission that causes a reasonable fear of bodily harm or property damage;

(c) conduct that reasonably, in all the circumstances, constitutes psychological or emotional abuse;

(d) forced confinement; or

(e) sexual abuse.

Meaning of "stalking"

2(2) Stalking occurs when a person, without lawful excuse or authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, repeatedly engages in conduct that causes the other person reasonably, in all the circumstances, to fear for his or her own safety.

Examples of conduct
2(3) The conduct referred to in subsection (2) includes the person

(a) following from place to place the other person or anyone known to the other person;

(b) communicating directly or indirectly with or contacting the other person or anyone known to the other person;

(c) besetting or watching any place where the other person, or anyone known to the other person, resides, works, carries on business or happens to be; or

(d) engaging in threatening conduct directed at the other person or anyone known to the other person.

Certain persons deemed to have fear

2(4) Where, but for mental incompetence or minority, a person would reasonably in all the circumstances, fear for his or her safety owing to conduct referred to in subsection (2), the

person is conclusively deemed to have the fear referred to in that subsection.

Under the *DVSA*, remedies for victims are available by applying for a protection order or prevention order. A protection order is intended to be used in emergency situations where there is imminent danger that abuse will occur, and therefore the *Act* provides for immediate relief. Protection orders are granted ex-parte (without the respondent[9] being present) and without notice to the respondent that a hearing is taking place. During business hours, a person may apply before a designated justice of the peace (JP), either on his or her own or with the assistance of a police officer or lawyer. Immediate relief is also available on a 24-hour basis via telecommunication. This method requires the assistance of a lawyer or police officer, who telephones a JP on the victim's behalf. If the order is granted, the necessary documents are faxed for service upon the respondent. Depending on the method used, the application process can take anywhere from one hour to several hours to complete. There are no court fees associated with protection order applications. Once the JP issues the order, it is then filed as an order of the Court of Queen's Bench.

An interesting feature of protection orders is that the order is put into effect without service to the offender. Unlike the former system of non-molestation orders, the order is put onto the police computer system right away, which enables officers to act upon a call even if the offender is not yet aware of the order against him. Even though the order is not enforceable during such a call (meaning police cannot charge the respondent with breaching the order), they have the authority to uphold the terms of the

[9] The respondent is the person who the applicant is seeking protection from. Throughout this thesis the terms respondent, offender, stalker, and abuser will be used interchangeably.

order by removing that person from the premises. Service of the order upon the offender can also be accomplished in several ways. If the respondent is not reached directly, the order may be left with another person or at his or her place of business.

Unlike the previous non-molestation order, the wording in a protection order is very clear. Provisions can be applied that prohibit the offender from following the applicant or a specified person, from communicating with or contacting the applicant or a specified person, and from attending at or near places the applicant attends regularly. It can also direct police to remove the respondent from the residence, can grant temporary possession of necessary personal effects to the applicant, and can direct police to accompany the applicant to the residence to supervise the removal of necessary personal effects. Finally, a protection order may require the offender to turn over any weapons and firearms certificates to the police, and the police may search the residence for any weapons they have reason to believe are there. A respondent has 20 days to apply to have the order set aside, although the order remains in effect during this process (Legislative Assembly of Manitoba, 1998).

A prevention order is appropriate in more complicated situations where the victim requires additional remedies. These orders generally take longer to obtain (typically several weeks),[10] and require that a motion and affidavit be filed with the Court of Queen's Bench in order for an application to be heard. Although it is possible to proceed through this process without counsel, it is recommended that an applicant have the assistance of a lawyer. Prevention orders are heard in the Court of Queen's Bench and can therefore impose more stringent conditions on the respondent than those available

[10] In circumstances where speedy processing is warranted by an urgent need for protection, prevention orders may be heard on an expedited basis.

with the emergency orders. In addition to all of the provisions available under a protection order, a judge may grant the subject sole occupancy of the residence, grant temporary possession of property, seize property used in furtherance of the offensive behaviour, recommend counselling,[11] require the offender to pay compensation to the subject for any monetary losses suffered as a result of the offender's behaviour,[12] suspend the offender's driver's license, or impose any other terms or conditions deemed appropriate under the circumstances. The respondent has 30 days to appeal a prevention order to the Court of Appeal on a question of law or jurisdiction (Legislative Assembly of Manitoba, 1998).

In addition to the protective and preventive nature of the orders available under the *Act*, the legislation created a tort of stalking that enables a victim of stalking to sue for damages through the civil courts (Legislative Assembly of Manitoba, 1998). It was implemented due to the belief of the Manitoba Law Reform Commission that stalkers may be encouraged to cease their offensive behaviour because of the knowledge that a lawsuit may be brought against them. However, a search of *Quick Law* (March 29, 2006) revealed that there is no record to date of anyone attempting to use this component of the legislation. There are two reasons that it is unlikely that this option within the *Act* will be utilized to any great extent. First, victims of stalking are not likely to want to initiate contact with the offender they are seeking protection from. Secondly, matters of compensation for financial losses incurred as a result of the offender's actions can be

[11] Amendments went into effect October 31, 2005 which allow the judge to require this rather than only recommend it (Legislative Assembly of Manitoba, 2005a). The data for this thesis were collected prior to the amendments.

[12] Amendments went into effect October 31, 2005 which clarifies the wording of this provision to also include monetary losses suffered by an applicant's children (Legislative Assembly of Manitoba, 2005a). The data for this thesis were collected prior to the amendments.

dealt with in the provisions of a prevention order. Even though the prevention order provisions do not provide for damages in addition to the compensation for 'out-of-pocket expenses', the ordeal of facing the stalker is a powerful deterrent to launching a lawsuit.

The *DVSA* is vague in laying out the penalties for breaching the orders, stating simply that when the orders are filed, they become orders of the Court of Queen's Bench and are enforceable as such. In practice, breaches are handled by prosecuting them under s. 127 "Disobeying order of court" of the *Criminal Code of Canada* (2006a). This is a 'hybrid' offence that can be handled either as an indictable offence with a maximum penalty of two years' incarceration, or by way of summary conviction, which is punishable by a fine of up to $2,000 or six months' jail or both.

Protection Order Utilization

Table 2 outlines the protection order applications made in Winnipeg from the first full year the *DVSA* was implemented to the end of 2005 (for a month-by-month breakdown, see Appendix A). The number of applications fell steadily from 2000 to 2004, and then rose again in 2005. There are two reasons for the decline in applications. First, the JPs reviewing the applications at the first point of contact with the victims became more adept at screening them. That is, individuals who are not eligible to apply or those who would be served more appropriately by a different type of remedy were more often being redirected to a different type of remedy as time went on. The second reason is related to the decreased likelihood of orders being granted over time, also shown in Table 2. The percentage of orders being issued showed a general decline over time from 65% when the *Act* was first implemented, with a low of 36% in 2003. With

the odds of successfully receiving an order dropping, many of the service providers who had been referring their clients to seek protection orders were increasingly reluctant to do

Table 2: Protection Order Statistics ~ Winnipeg Applications, 2000-2005

Year	Number of Applications	Orders Granted		Applications Dismissed	
		n	%	n	%
2000	1208	790	**65**	418	**35**
2001	992	533	**54**	459	**46**
2002	775*	388	**50**	387	**50**
2003	640	228	**36**	412	**64**
2004	496	211	**43**	285	**57**
2005	621	277	**45**	344	**55**

SOURCE: Manitoba Justice – Judicial Support Services, 2006

* Note: The number of applications listed for 2002 is slightly higher than that provided by Manitoba Justice. In its detailed review of the files, RESOLVE (forthcoming) uncovered 775 applications, whereas the court data identified 772 files (this discrepancy has to do with files that get transferred from one court location to another.) All other years in this table reflect the Manitoba Justice statistics.

so. The rise in applications in 2005 came in part as a result of changes to the legislation that went into effect on October 31 of that year (Joy Dupont, Manitoba Justice, personal communication, April 11, 2006). These changes opened up the type of relationships eligible to apply, relaxed some of the criteria the JPs were to use in their rulings, and allowed designated individuals from a number of service provider agencies to assist victims in making their applications. At the time these changes were about to go into effect, Manitoba Justice conducted information sessions and produced a booklet about the amended legislation, creating an increased awareness of the amendments and prompting a surge in applications in the last two months of the year.

Concerns

A number of concerns were expressed by victims and service providers in the first years the *DVSA* was in effect with respect to the way the legislation was being implemented. Some of those concerns bear mention here. Until recently, there was no agency mandated to provide assistance to victims applying for protection orders. While the Women's Advocacy Program (as it was then known)[13] began to make one counsellor available on a part-time basis in the Winnipeg court at the end of 2002, this support was not sufficient to meet demands. The lack of adequate support posed a problem because many victims are unable to properly articulate their evidence, making it very difficult for JPs to find the grounds to issue these orders. In addition, applicants often seek the advice of the JPs on issues related to the violence or stalking. Due to the requirement to remain impartial, however, JPs cannot assist them beyond providing them with the standard materials attached to their application form, which contain basic safety tips and phone numbers.

A second concern had to do with the absence of expiry dates attached to protection orders. The Manitoba Law Reform Commission suggested that serious consideration should be given to amending the *DVSA* to allow for expiry dates to be placed on Manitoba's orders. "Manitoba's failure to require time limits on orders may result in orders remaining in effect long after their efficacy has passed, leading both to administrative inefficiency and potential jeopardy to respondents whose subjection to the orders can no longer be justified" (1999:52). The legislation was drafted with no expiry date with the intention of preventing the victims from having to go through the difficult

[13] The name of the Women's Advocacy Program has since been changed to Manitoba Justice, Victim Services Branch, Domestic Violence Unit.

process of retelling their stories of abuse in order to have the provisions re-issued each time the expiry date came up. Under the legislation, protection orders may be varied or set-aside upon application to the Court of Queen's Bench if the presiding judge deems it fit to do so. It was thought that parties who no longer required the orders would proceed through the courts to remove or change the provisions in their orders. However, costs are associated with filing these types of applications, and although not absolutely necessary, it is advisable to obtain the services of a lawyer to prepare the necessary court documents. Therefore, it is likely that many people will neglect to have existing orders removed, even in cases where the couples involved may have reconciled. As time went on and more of these orders accumulated on the police system, there was not only the potential for the respondents in these matters to be inappropriately apprehended for breaches, but also for the legitimate orders to be given less than their due consideration by police.

As detailed above, the percentage of protection orders granted has been on the decline. This came about as JPs began interpreting the legislation more narrowly after learning of orders they had issued being set aside by the Court of Queen's Bench (Benji Harvey, Manitoba Justice, personal communication, August 18, 2001). After reviewing the reasons the higher court justices had used in overturning protection orders,[14] the JPs tightened the criteria they used in determining whether or not to grant them. This was met with frustration on the part of many stakeholders, who argued that the legislation was not being implemented as intended. Under the strict criteria being applied, there were

[14] The concerns of the justices of the Court of Queen's Bench focused on two primary areas. First, protection orders were being issued in cases where there was insufficient evidence of the need for immediate protection. Secondly, JPs were issuing orders in cases that were beyond their jurisdiction (for example, issuing a no-contact order for minor children that conflicted with existing child custody arrangements). In both of these situations, applying for a prevention order instead of a protection order may have been a more appropriate course of action on the part of the applicant.

certain situations that would never be considered urgent enough for an order to be granted. For example, how would a case involving emotional abuse ever 'rightfully' be considered deserving of an order under criteria that called for the immediate safety needs of the individual? I posed this question to Jeffrey Schnoor of Manitoba Justice (personal communication, October 19, 2001) who, as author of the 1997 Manitoba Law Reform Commission's *Report on Stalking,* was instrumental in the development of the *DVSA.* While he shared my concerns about emotional abuse, he was even more troubled by the effect that a narrow definition of 'emergency' has on stalking cases. As he explained, stalking is comprised of a totality of events and cannot be broken down into isolated incidents without stripping it of its fundamental meaning. When JPs repeatedly ask an applicant to focus on a discrete incident that has occurred recently that indicates they are in dire need of an emergency remedy, it becomes difficult for that applicant to properly express what they may know to be a dangerous situation. When the legislation was drafted, Schnoor adds, the Commission intended that a somewhat more liberal interpretation would be applied to the urgency of the situation. There is, however, the ever-present pressure coming from the opposite direction that the constitutional rights of the respondent may be compromised if the interpretation of the *Act* is too liberal.

Related to the previous point, there are concerns that the wording used in existing domestic violence and stalking legislation is overly broad and is therefore characterized by "unconstitutional vagueness" (Lingg, 1993:380). In fact, there have been several challenges to the *DVSA* on constitutional grounds, most notably the case of Baril v. Obelnicki. While it is beyond the scope of this thesis to review these cases in detail, the Baril v. Obelnicki case bears further mention, as it resulted in the Court of Queen's

Bench (Scurfield, 2004) striking down two sections of the Act. The sections in question pertain to situations where respondents have applied to have an order set aside. Subsection 12(2) of the *Act* (Legislative Assembly of Manitoba, 1998) stated that upon applying to have an order set aside, the onus was on the respondent to demonstrate, on a balance of probabilities, that the order should be set aside (i.e., a 'reverse onus'). In striking down this subsection, Justice Scurfield is saying that the onus should be on the applicant to justify why the order of protection is required, rather than requiring those accused of domestic abuse or stalking to prove their innocence in the set aside hearing. Subsection 12(3) of the *Act* states that "the evidence that was before the designated justice of the peace shall be considered as evidence at the hearing, and the subject may present additional evidence." This means that when a respondent applies to have an order set aside, he or she has no opportunity to call into question the validity of the evidence that was given by the applicant in the original application made before the designated justice of the peace. In essence, there is no opportunity for the respondent to cross examine the applicant at the set aside hearing (and obviously none at the time of the original application, since these orders are heard ex-parte and without notice). Therefore, under the Scurfield ruling, when a respondent applies to have a protection order removed, the applicant needs to provide evidence (either orally or by way of affidavit) in support of their request for a protection order (i.e., the applicant may be cross examined on the evidence originally presented that resulted in the order being issued). The province appealed the Scurfield decision, with the Court of Appeal hearing arguments in this matter on June 13 and 14, 2006, reserving its judgment until the fall of 2006.

Yet another concern had to do with the requirement that, in order to apply for an order on the basis of domestic violence, the parties had to fall under the definition of cohabitants as laid out in the *Act*. While victims of stalking could apply regardless of their relationship with the respondent, those subjected to domestic violence must have lived together in a family or intimate relationship at some point or have had a child together. This precluded those in non-cohabitating family relationships (such as a grandparent and grandchild) or dating relationships from benefiting from protection offered to others under the *Act*.

Finally, there has been a concern that JPs, in determining whether or not a protection order is the most appropriate remedy in a given situation, may be re-directing applicants to other avenues in many cases. It can be argued that this goes against the intended spirit of the legislation. To explain further, an 'either/or' scenario may have developed that promotes the thinking that, if there are other options available to the victim within the justice system, those should be explored instead of granting a protection order. For example, in cases where evidence exists that would support a criminal charge, victims are often advised to report the incidents to police instead of pursuing an order under the civil legislation. This attitude flies in the face of legislation that was designed to be flexible enough to allow the victim an alternative to using the criminal justice system, even when evidence exists that would support criminal intervention.

Recent Developments

A multidisciplinary working group was formed by the Minister of Justice after the legislation came into force. This working group was charged with reviewing the

implementation of the Act and identifying steps which could be taken to ensure the goals of the legislation could be met. As a result of the group's recommendations, amendments to the *DVSA* under Bill 17 (Legislative Assembly of Manitoba, 2005a) were made. These changes took effect on October 31, 2005, and address many of the concerns identified above (see Appendix B for a list of the amendments). We have already seen an increase in the number of protection order applications made since the changes took effect. It will be interesting to see if this increase in utilization continues and what impact these amendments have over time on the percentage of orders granted.

In addition to the amendments under Bill 17, there has been a change in the title of those designated to hear protection order applications. The *DVSA* stipulates that the Chief Judge of the Provincial Court of Manitoba may designate justices of the peace to hear and determine applications for Protection Orders. At the time of data collection for this project, magistrates were designated for this purpose. Therefore, the term "magistrate" will be used throughout the remainder of this thesis. However, it should be noted that amendments to *The Provincial Court Act* (Legislative Assembly of Manitoba, 2005b) took effect on May 29, 2006 that changed this designation from magistrates to judicial justices of the peace (JJPs).

STALKING AND CRIMINAL LAW

The offence of stalking is referred to as criminal harassment under criminal law. As indicated below, the definition of stalking under the *DVSA* was modeled very closely on that of criminal harassment under the *Criminal Code*, as they are almost identical. Prior to 1993, stalking behaviours were dealt with in a piecemeal fashion using a variety

of *Criminal Code* offences (commonly intimidation, uttering threats, and mischief). In response to the shortcomings of this approach, Bill C-126 was proclaimed on August 1, 1993, making stalking a criminal offence in Canada as articulated in s. 264 of the *Criminal Code*:

> 264. (1) No person shall, without lawful authority and knowing another person is harassed or recklessly as to whether another person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.
>
> (2) The conduct mentioned in subsection (1) consists of
>
> (a) repeatedly following from place to place the other person or anyone known to them;
>
> (b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
>
> (c) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or,
>
> (d) engaging in threatening conduct directed at the other person or member of their family.

Several changes have been made to the *Criminal Code* provisions on criminal harassment since its introduction. In 1996, an amendment was made prohibiting a person accused of criminal harassment from possessing firearms if the accused is considered at a bail hearing to be a potential danger to himself or herself or another person. Two amendments were made in 1997. The first stated that, when a person is convicted of stalking while under a restraining order, the presence of this restraining order shall be considered as an aggravating factor in sentencing. According to the second amendment,

murder committed during the commission of a stalking act could result in a first-degree murder conviction even if there was insufficient proof that the murder was premeditated (Hackett, 2000). Most recently, Bill C-15A called for an increase in the maximum penalty to double from five years to ten years imprisonment (Government of Canada, 2002). Although this increase in the maximum penalty does not seem significant considering that the maximum sentence is rarely applied, it does have serious implications for the worst offenders. This is because, in cases where the maximum sentence is ten years or more, an offender may be designated as a dangerous offender and could therefore be given an indeterminate sentence which may substantially delay or even prevent release from prison (Jeffrey Schnoor, Manitoba Justice, personal communication, September 24, 2001).

THE NATURE AND PREVALENCE OF STALKING

While the extent, seriousness and pervasiveness of the problem of domestic violence has been known for several decades (Johnson, 1996; Statistics Canada, 2005) the nature and prevalence of stalking as it relates to domestic violence has only received attention in the past fifteen years or so. Therefore it is not as well understood, compared to domestic violence, in terms of being a serious social problem. The importance of stalking behaviour to the development and implementation of the *DVSA* requires that it be clearly understood as being an important catalyst for the enactment of the legislation.

A total of 5,382 incidents of criminal harassment were reported in 1999 by a sample of 106 Canadian police forces,[15] marking a 32% increase over 1996 figures

[15] The 106 police forces studied, according to Statistics Canada, represent approximately 41% of the national volume of crime.

(Hackett, 2000). It should be noted that greater public awareness and an increased response by police might account for this apparent rise. Therefore, it is not being suggested that actual incidents of stalking are necessarily on the rise, but rather that reporting of, and response to, criminal harassment has likely increased. More recently, the prevalence of stalking in Canada was assessed in the 2004 General Social Survey (GSS). The GSS found that 1.4 million females over the age of 15 (11% of the population) and 882,000 males over the age of 15 (7% of the population) had been stalked in the five years preceding the survey (Statistics Canada, 2005).

Hackett (2000) found that in the majority of criminal harassment cases, victims are women being stalked by their former partners. Females made up three-quarters (77%) of all victims of criminal harassment in 1999, and in these cases, partners and ex-partners accounted for slightly more than half of the offenders. Men, on the other hand, were most frequently harassed by casual acquaintances. The 2004 GSS (Statistics Canada, 2005) reported that four out of five stalkers (80%) are male, regardless of the sex of the victim. In that survey, female stalking victims were harassed most often by a friend (22%), followed closely by a current or former intimate partner (20%). Male victims were also most commonly stalked by a friend (25%) or by persons known to them by sight only (16%), but were less likely to be stalked by an intimate partner (11%).

Stalking is a distinctive form of criminal activity because it is composed of a series of acts rather than a single event. These behaviours may seem innocent in isolation, but taken together they form a pattern of conduct that is very threatening to the subject of the stalker's actions. According to Coleman (1997), defining the characteristics of the offender is difficult, as stalkers come from all backgrounds and frequently have no prior

criminal record. They can exhibit a variety of psychological syndromes from minor emotional difficulties to severe sociopathic tendencies.

Numerous stalker typologies exist in the literature, and all contain similar classifications based on the motivations of the stalker. A commonly cited one developed by Kropp *et al.* (2002) identifies four categories of stalkers. These authors claim that the "ex-intimate partner" stalker is the most common form. These individuals frequently have a history of abusive relationships and refuse to accept the rejection of their former partner. "Love obsessionals" comprise the second category, and these are people who have intense emotional feelings for a person whom they have come to know through a casual acquaintanceship or work relationship. Love obsessionals believe that those whom they have feelings for will come to love them if given a chance to get to know them. The third category in this typology is made up of "delusional stalkers", who falsely believe that the subject of their attention is in love with them and continue to make attempts to establish a relationship with them (this is usually the case when celebrities are stalked). The final category is comprised of "grudge stalkers", who harbour resentment for their victims. Rather than desiring a relationship with the people they are stalking, this type of stalker is acting out of revenge.

In domestic situations, stalking typically occurs after the woman has attempted to terminate the relationship. Leaving an abusive partner does not necessarily mark the end of the violence. Statistics Canada data show that, in 1999, 40% of women and 32% of men with a former violent marriage or common-law relationship reported that violence occurred after the couple separated (Hotton, 2001). In fact, this is often the most volatile time in a relationship that has been characterized by violence (Johnson, 1996). Unable to

come to terms with the rejection, the man is unwilling to let the woman leave the relationship, and he then begins to engage in stalking behaviours such as following, threatening or assaulting her (National Institute of Justice, 1996). As Brewster (2000) explains, abusive men tend to experience a loss of control in situations where their partner has attempted to end the relationship, and therefore one would expect an already volatile situation to worsen under these circumstances. Following separation, violence often escalates when the abusive partner discovers that their former partner has entered a new relationship. This is supported by Hotton (2001), who found that, in estranged marriages, the victim's new partner was the most frequent third party victim in cases of attacks involving multiple victims.

The U.S. National Violence Against Women Survey found a definite link between stalking and other forms of domestic violence. Eighty-one percent of the women who were stalked by a current or former intimate partner reported that that partner had also physically assaulted them (Tjaden and Thoennes, 1998). The 2004 GSS supports the premise that stalkers with a previous intimate relationship were more likely to be violent than in other stalking relationships, with 54% of female victims being stalked by an ex-spouse reporting being physically intimidated and verbally threatened (Statistics Canada, 2005). Bernstein (1993) considers the link between stalking and former violent relationships to be so strong that she proposes that Lenore Walker's Cycle Theory of Violence (see Walker, 1979) be modified to include stalking as the fourth distinct phase in the cycle. Australian research conducted by Mullen *et al.* (1999) found that stalking by intimate partners (current or former) also tends to continue for longer periods of time relative to other types of stalking relationships. The GSS supports this theory, with 61%

of Canadians stalked by a former spouse reporting stalking which lasted for more than a year. Conversely, non-intimate stalkers most commonly continued their activities for periods of between one and six months (Statistics Canada, 2005). Stalking by former intimate partners has the potential of escalating to more serious crimes. In Canada, there were 12 homicides from 1997 to 2000 that involved criminal harassment as the precipitating crime. In each of these cases, the victim was a female who was being stalked by a former intimate partner (Hackett, 2000; Fedorowycz, 2001).

In cases of stalking and domestic violence, victims are reluctant to contact the police. U.S. figures (Tjaden and Thoennes, 1998) indicate that approximately half of all stalking victims report the harassing behaviour to the police, and researchers believe that the amount of reporting has increased in recent years since the passing of anti-stalking laws. Canadian figures show that in the case of domestic violence, victims only report the abuse to police in 37% of the assaults (Statistics Canada, 2000). Research shows that stalking victims give similar reasons to victims of domestic violence for their reluctance to contact authorities. Reasons frequently cited are that the victims feared reprisal from their stalker or abuser, they did not believe the police would be able to do anything for them, that police would not take the matter seriously, and that police might lay criminal charges in cases where the victim did not want charges laid against the stalker or abuser (Eisikovits and Buchbinder, 2000; Manitoba Association of Women and the Law, 1991; Statistics Canada, 2000; Tjaden and Thoennes, 1998).

Stalking has a profound impact on those subjected to it. Research by Mechanic *et al.* (2002) reports that, as a result of living in constant fear, many victims experience severe psychological distress. Loss of appetite, lack of sleep, and severe depression were

among the symptoms reported. The psychological impact can be extreme, as evidenced in one study suggesting that 37% of stalking victims meet the clinical diagnostic requirements for post-traumatic stress disorder (Pathe and Mullen, 1997). The GSS found that close to one-third (31%) of female stalking victims feared for their life (Statistics Canada, 2005). That survey also found that many victims modify their daily activities in an effort to escape the stalking. For example, over half (52%) of the female victims avoided going to particular places or having contact with certain people as a result of being stalked. Stalking has been shown to negatively impact upon the livelihoods of the victims. As explained by Abrams and Robinson (2002), victims may be limited in their ability to get to work because of having to limit their movements to avoid being stalked. Further, the stalking behaviour may extend to the workplace, making it an unsafe location, not only for the person being stalked, but for co-workers as well. The impact on the work lives of victims was also addressed by Tjaden and Thoennes (1998), who found in their U.S. National Survey that 26% of victims reported absences from work as a result of the stalking and 7% had left their places of employment completely.

It is clear from the preceding discussion that there is a need for continued efforts to investigate the potential of civil remedies to ensure every possible step is being taken to provide safety to the victims of stalking. I will now turn to a brief discussion of the lessons learned in other provinces as to how well their legislation has been received.

EFFECTIVENESS OF EXISTING CIVIL LEGISLATION

Numerous evaluations of civil remedies have been conducted in The United States, Great Britain, Australia and Canada. However, it will not be useful for the purposes of this thesis to delve into a thorough examination of these evaluations, for several reasons. First, the vast majority of studies conducted on civil remedies have concentrated on the effectiveness of protection orders once they have been issued, whereas the focus of my research is in examining the factors involved in obtaining civil protective relief to begin with. Secondly, there are many important distinctions between jurisdictions in how the various pieces of legislation are utilized, making meaningful comparisons difficult. Moreover, even when comparing evaluations of similar legislation across Canada, the other provinces do not address stalking. As such, they are of little use in understanding protection order applications made on that basis. That being said, there are some issues addressed in the reviews of other Canadian legislation that speak to the concerns raised about Manitoba's legislation, and therefore they bear mention here.

Evaluations have been carried out to date in four Canadian jurisdictions, namely Saskatchewan (Prairie Research Associates, 1996; 1999), Alberta (Howard**research**, 2000) Prince Edward Island (Bradford & Associates, 2001), and the Yukon (Bala and Ringseis, 2002). All reviews examined the utilization rates of their respective Acts and interviewed key stakeholders in efforts to assess the effectiveness of the available remedies. A number of common themes emerged among these studies. First, each report identified their particular legislation as being an important addition to the overall response to domestic violence. By offering a means of accessing the remedies included under the civil justice system, protection is made available to those victims who are

reluctant to engage with the criminal law. Secondly, when applicants are assisted by victim services workers, the processing of orders is more streamlined. Each evaluation also called for more training of all stakeholders working within justice and collateral agencies to improve the understanding of the benefits and limitations of civil remedies. In both the Saskatchewan and Alberta evaluations, it was found that victims were sometimes led to believe that they had to choose between obtaining an order through the civil legislation or pursuing criminal justice intervention. In fact, the orders within each of those Acts were designed so that they could be used as a supplement to the remedies available under the *Criminal Code,* not as a substitute to criminal proceedings. The final relevant finding from these studies comes from the review of the Yukon legislation, which stressed the importance of monitoring all relevant case law from each Canadian jurisdiction in order to be aware of potential constitutional challenges. It was argued that by keeping abreast of such developments, legislative amendments can be made to ensure the system is functioning in as fair and effective a manner as possible for all parties concerned.

THE ROLE OF THE DECISION MAKER IN PROTECTION ORDER HEARINGS

While it will not be instructive to examine the literature in terms of the myriad factors which may play a part in determining whether or not applicants will be successful in their efforts to obtain a protection order, one factor bears mention, namely the role of the magistrates who hear the applications. There are no studies available in the extant literature on the topic of judicial decision making with respect to civil protection orders. Even when broadening the search to include adjudicators of criminal cases of domestic

violence, little research has been conducted. This gap in the literature is discussed by Henning and Feder (2005), who point out that, whereas there is a growing body of literature on the police response to domestic violence, this has not been extended to judicial decision making. They attribute this to several factors. First, researchers have greater difficulty in gaining access to the courts and their records. Secondly, advocacy groups and concerned citizens are less vocal in their dissatisfaction with the court's handling of domestic violence cases than they are with regard to the police response. Finally, the immediacy of most domestic assaults may also contribute to a heightened criticism of law enforcement personnel compared to the response of the judiciary.

While literature specific to decision making as it relates to the topic of this thesis is not available, two Canadian studies on sentencing in the criminal courts may be of some use for our purposes.[16] Classic research in the field of understanding judicial decision making was conducted by John Hogarth (1971). His findings demonstrate that judges vary in their attitudes and perceptions and, in turn, this variability is systematically related to disparity in sentencing. Research conducted by Palys and Divorski (1986) support these results, finding that a mixture of legal and extralegal factors play a part in judicial decision making. The point being made here is that, regardless of the intent of the law, the individuals making the decisions have a significant impact on the outcome of cases.

[16] I recognize that this is a tenuous connection, given that the issue of sentencing in the criminal courts is somewhat removed from that of making a determination of whether or not to grant protective relief under civil law.

THEORETICAL CONSIDERATIONS

The appropriateness of using the legal system as a vehicle for addressing violence against women has been actively debated by feminist academics in recent decades. For those most adamantly opposed to legal intervention, the justice system is seen as patriarchal, racist and class-biased and is therefore beyond redemption in dealing with women's needs. For those in favour of expanding the justice mandate, abused women are recognized as vulnerable citizens in need of legal remedies to alleviate their oppressive situations, at least in the short term. The bulk of the theorizing has had to do with the criminal justice system in particular. Although my research is instead focused on civil legislation as a means of addressing violence against women, and even more specifically on the offence of stalking, this critique of the criminal justice system is indeed relevant to this thesis. This is for two reasons: first, while the injunctive orders under the *DVSA* provide women with a remedy under the civil law, breaches of these orders constitute a criminal offence, and therefore the parties to these orders may become involved with that stream of the justice system at some point. Secondly, I believe that many of the arguments advanced by these theorists can be applied to legal measures under the criminal law and civil law equally. I will now turn to a review of the opposing positions put forth by feminist scholars in terms of the wisdom of using legal interventions as a means of dealing with the abuse women suffer at the hands of their male partners.

Dawn Currie (1990) comments that while the introduction of legal measures aimed at addressing violence against women appears at first glance to improve the status of women, upon deeper reflection it not only falls far short of that mark, but can work against women's interests. In fact, she argues that law (as is the case with other state

institutions), is inherently patriarchal and cannot therefore be expected to remedy the oppression of women. Furthermore, the expansion of current institutions usurps the larger political and economic agenda for social justice and as a result interferes with the long-term goal of transforming society. Notions of prevention, re-education and rehabilitation are abandoned in favour of retribution under the criminal law. Currie (1998) makes the argument that the criminalization of family violence is an inappropriate response, because the problem is an issue of social justice, not criminal justice, and to allow the intervention of the criminal justice system amounts to simply being co-opted by the state. Patriarchy is the root of the problem and the patriarchy and racism inherent in state institutions has continued, as in the case of abused women in marginalized groups not being given a voice. The legalization of women's issues for Currie then, is clearly not the answer in ending patriarchy, and ending patriarchy is the only avenue for truly ameliorating violence against women.

Laureen Snider has written extensively on the issue and is also skeptical about the ability of the criminal justice system to effect any meaningful change in women's lives. Arguing that "a strategy relying upon the criminal justice system is practically, theoretically and morally wrong" (1991:239), she identifies three primary problems. First, expanding the mandate of the criminal justice system requires that feminists relinquish power to a bureaucratic state institution, one that has an interest in repressing those populations that are already marginalized by structural forces in society. By doing so, increasing social control will be exerted over a select group of abusive men (the lower class young male population), while those in privileged positions who are most capable of resisting punishment under the law will continue to 'go under the radar'. Therefore,

this amounts to nothing more than an exercise in 'net-widening'. Secondly, the retributive nature of our criminal justice system only succeeds "in making those subjected to it more resentful, more dangerous, more economically marginal and more misogynous" (1991:239). Finally, Snider is concerned that by focusing attention on criminal justice reform, the larger structural problems at the root of violence against women will not be properly addressed.

In her more recent work, Snider (1994a; 1998) elaborates on the problems in dealing with a legal system that ultimately identifies with hegemonic masculinities. She worries that scarce public resources are being poured into fueling the expanding criminal justice agenda and are therefore being diverted from shelters and programs designed to empower women. She claims also that if any women have benefited from the legalization of women's issues, they have been those from dominant society rather than racially marginalized women.[17]

Snider (1994a; 1994b; 1998) points to the lack of persuasive evidence that abused women who have come to depend upon the criminal justice system have realized any real rewards in the way of enhanced safety following their encounters with this oppressive legal apparatus. For example, she counters claims made by reform proponents that women indeed benefit from the increased response of the criminal justice system. Why, asks Snider, would one assume that an increase in arrest rates of violent men is a

[17] Amnesty International (2004) would argue in support of this view, based on the findings in their report *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada*. The authors explain that criminal justice personnel often hold the pervasive view that Aboriginal women are responsible for the violence they suffer at the hands of men. Therefore, even when Aboriginal women do overcome the fear of reporting abuse, they are often met with an unsympathetic response. Measures to reduce the marginalization of Aboriginal women and to build better relations between Aboriginal peoples and the justice system have repeatedly been called for by commissions and inquiries such as the Royal Commission on Aboriginal Peoples and the Manitoba Justice Inquiry, however these recommendations have not been acted upon. This failure to treat violence against Aboriginal women seriously represents a violation of their fundamental human rights.

desirable outcome? First, this may not be the result the women themselves desired. Secondly, the abusers targeted are not necessarily the only (or the worst) offenders, but rather represent the lower class men that are the most vulnerable to being arrested and convicted. Beyond this, her argument is that those channeled into prison and/or court-mandated treatment are, based on the limited success of these programs, not likely to be rehabilitated or deterred from committing future acts of violence. Claiming victory on those terms, then, is misguided. For Snider, success should instead be gauged by whether or not the life of the victim was made better in any substantial way following her partner's encounter with police, courts or corrections.

Jane Ursel (1991; 1997; 2002) disagrees with the preceding accounts on several levels. While she agrees with the fact that the state is patriarchal and that the criminalization of family violence in and of itself will not bring about an end to that patriarchy, she argues that progressive reform must continue in order to address the immediate needs of women in crisis. The long-term struggle towards the ultimate goal of ending patriarchy continues and can be advanced through feminists continuing to seize the moments where the interests of the state and women overlap (see Ursel 1991). Utilizing legal reforms is one of those moments, and although success cannot be realized within a single institution, it is one step along a continuum of services required by abused women.

With regard to the assertion that criminal justice interventions represent a failure in making women's lives safer, she uses examples from Manitoba's experience to illustrate otherwise (1991; 1995; 1997). As a result of several criminal justice reform initiatives undertaken in the province from 1983 to 1993, significant changes occurred in

the legal response to the problem. Among these changes were increases in the rate of assault charges against domestic abusers, the development of a specialized family violence court designed to handle the cases in a manner that was more sensitive to women's needs, the emergence of more appropriate sentencing patterns (reflected in a decline in the number of fines issued and an increase in sentences of probation and mandatory counselling), and an expansion of men's treatment programs within corrections. Ursel identifies these changes as representing meaningful progress for abused women, progress that came about as a result of feminists engaging with the state to effect real change. At least in the case of one jurisdiction then, criminal justice interventions appear to have been worthwhile, and to *not* engage in the promotion of legal reform serves to disempower women:

> If, for example, these [opposing] theoretical positions had been used as the guide for political action by feminists in Manitoba, the family violence initiatives undertaken within the criminal justice system would not have been tried. That these initiatives were implemented and have proved to be reasonably successful speaks volumes about the wisdom of dismissing legal reform as a strategy to promote women's interests. (Ursel and Brickey, 1996:76)

In her more recent work, Ursel (2002) again responds to the critics of criminal justice intervention, calling to task those researchers who announce failure on the part of various components of the justice system based on simplistic, one-dimensional measurements. For example, rather than viewing a failure to convict an abuser as an indication of failure of the current police zero tolerance policy, the issue must be examined more broadly. Even when a victim who called for police assistance chooses not to proceed with the rest of the criminal justice system (by refusing to testify, for

example), the fact that the police respond and then arrest and remove the offender may be the critical turning point in a life-or-death situation. Instead of applying a single incident framework to domestic violence, it must be treated as an ongoing process of control and intimidation. Progressive initiatives within the legal arena, such as specialized family violence courts which can better consider the pragmatic interests of the victim, are evidence of a new approach to justice. While there is still need for improvement, the innovative techniques being applied in certain jurisdictions are evidence that the criminal justice system represents a valued and necessary form of intervention for women who are struggling to leave abusive relationships.

Ursel's (1991) work also calls into question Snider's assertion that criminal justice reforms are consuming scarce public resources at the expense of funding more appropriate avenues for dealing with violence against women. Ursel again points to the case of Manitoba in disputing that claim. Social services (both in terms of government services and community-based, non-governmental organizations) realized considerable growth alongside of the expansion of the criminal justice system. In fact, momentum for both agendas was created throughout the period of 1983 to 1990 when changes within one system spurred along developments in the other. Therefore Ursel concludes, "changes in the criminal justice system and the social service system have not occurred in isolation of one another, nor at the expense of the social service system" (1991:268). Keeping this in mind, Ursel would respond to Snider's comments about the criteria for success by agreeing that indeed, the ultimate criteria for success rest with the women themselves. Women must make difficult decisions when negotiating the violence in their lives. In doing so, they employ a complex array of strategies in determining which

interventions will best suit their circumstances. With the legal system being only one of the options among the proliferation of resources and services, other avenues are available to those women that desire an alternative to criminal justice system intervention.

Ruth Lewis (2004) agrees with Ursel in recognizing that legal remedies do not provide 'the solution' to violence against women, but rather, represent one option among the many possible forms of intervention. Her work reports on interventions through the criminal law which appear to have had a positive impact on women's sense of safety and quality of life. Her findings suggest that

> locating men in a nexus of control and supervision, together with support of women's agency can facilitate positive change. [These findings] demonstrate that far from rejecting traditional legal systems for responding to domestic violence, ... efforts would be better spent improving and developing those aspects of current legal practice which can have a positive impact on women's safety and men's behaviour. (Lewis, 2004:220)

Concerns about the limitations that can arise through the use of the criminal law also come up in the debate. Elizabeth Comack (1993) enters the discussion through her analysis of the Battered Woman Syndrome (BWS) as a legal defence strategy. She concurs with others that, while engagements with the law appear on the surface to hold promise for the empowerment of women, upon deeper consideration important flaws may be revealed. This was the case with the Supreme Court's recognition of the BWS. Comack's core argument is that while a gender bias within the law was identified, the courts could only come to terms with the experiences of an abused woman by relying on the expert testimony of a psychiatrist who was ready to speak for her. In doing so, the woman's own accounts of self-defence were silenced in favour of those from the 'psy'

(see Smart 1989) profession. Therefore, the law "legitimates an account which individualizes, medicalizes and depoliticizes an abused woman's experience. Competing feminist discourses which endeavor to call attention to the patriarchal nature of gender relations and the phallocentrism of law are thereby silenced, subordinated or disqualified" (Comack, 1993:51).

It needs to be made clear that Comack (1993) does not state that the feminist engagement with the law (or state) is completely futile. The BWS case in question resulted in recognition of the deep gender bias within the law, a decidedly positive outcome. However, she is saying that decisions to use criminal justice interventions as a means of empowering women cannot be entered into lightly. While the appearance is that, as Tamar Pitch comments, "criminalization offers a concrete terrain of struggle, a reachable result" (1990:107), Comack calls for a carefully considered examination of each point of intervention along the way before declaring that success has indeed been reached.

More recently, Comack and Balfour (2004) revisited the examination of punitive solutions to violence against women in their discussion of Manitoba's zero-tolerance protocol. These authors recognize that women may require the intervention of the criminal justice system when their safety is at risk. However, along with the benefits of a zero-tolerance approach, there has been the concomitant problem of increasing numbers of women being charged for violent offences as a result of their partners claiming to police, "She hit me too." Similar to Snider and Currie, they question the state's commitment to addressing the social and economic vulnerabilities of women which contribute to much of the violence they experience at the hands of men. Comack and

Balfour argue that neo-conservative crime control policies have taken hold while, at the same time, the state has pulled back in its provision of social welfare:

> Clearly, criminal justice intervention may provide a last defence when a woman's physical safety is in jeopardy, but given the pervasiveness of this social problem we need to question whether criminalization can attend to its underlying sources, as well as consider the possibility that it may only make matters worse. (Comack and Balfour, 2004:171)

The above-mentioned theorists have discussed at some length their positions on the degree to which the criminal justice system can empower women. But what of the options available under 'non-criminal' law? Far less has been written about that particular legal arena in terms of feminist theory. Snider and Ursel provide us with some insight in this regard, at least with respect to administrative and family law initiatives undertaken in Canada that affect the position of women. Ursel provides comprehensive coverage of changes in family law in her historical analysis of state intervention (see Ursel 1991; 1992), pointing out that many of those shifts altered the lives of women in positive ways. Snider (1994) also comments on some of these changes, agreeing with Ursel to the extent that there is indeed a long history of feminists attaining successes through modifications in types of law other than criminal law. For her, the implementation of paid maternity leave and the delivery of daycare and higher wages are examples of legal reforms that translate into concrete advancements in women's rights. While changes such as these undeniably improve abused women's lives by alleviating some of the structural problems that are at the root of their dependency upon violent partners, the focus of this thesis is on protective relief available under civil law, and that is where I now turn.

Ruth Lewis, Russell and Rebecca Dobash, and Kate Cavanagh (2000; 2001) address the utility of legal interventions into family violence in terms of both criminal and civil law. Consistent with Ursel's position, Lewis *et al.* view women as "active agents, engaged in a complex process of 'active negotiation and strategic resistance' both with their partners and with the range of helping agencies, in their struggle for safety and 'justice'" (2000:180). They criticize criminal law skeptics for basing their arguments solely on theoretical rather than empirical grounds. According to Lewis *et al.* this approach, while abundant in critique, falls short on providing viable alternatives. Very little is offered in the way of suggesting pragmatic solutions to abused women. Lewis *et al.* call for more research such as theirs that analyzes women's experiences with the justice system, in terms of both criminal and civil remedies. By engag[ing] in a "theoretically-informed empirical examination... we can envisage a system which can respond to women's needs, within the structures and restrictions of the legal *status quo*" (2000:184).

Lewis *et al.* (2000) examine the potential of civil protection orders as well as criminal interventions and find that women's use of these remedies is context-specific, and that women view legal intervention as a process rather than an isolated event. What serves their needs in one place and time in their lives may not be desired in another. There are times when women desire the application of criminal sanctions against their abusive partners, and the criminal justice system must be prepared to act on those wishes when called upon to do so. On the other hand, there are times when criminal intervention may be seen as removing too much of the control from the hands of the women involved. In these situations, civil protection orders offer a welcome alternative. Women are often

seeking protection for themselves and their children but do not desire retribution against their partners. Civil orders allow survivors of abuse more agency by providing an opportunity for these women to choose when the best time is to apply for such an order (and once they have obtained one, if and when to take it to the next step of reporting a breach). Lewis *et al.* are not making the claim that civil injunctions are 'better' than criminal proceedings, but rather that they expand the range of options available to women who must negotiate their safety. Indeed, the use of civil and criminal remedies is not necessarily an 'either/or' situation, as they are often used in a complementary fashion.

According to Lewis *et al.* (2001), those that call for diversions away from the justice system at all costs have been too quick to announce the failure of legal interventions. Their assessments have relied too heavily upon *outcome* measures of justice system involvement and have largely ignored the *process*. By broadening the investigation to consider women's (and men's) experiences throughout a range of legal interventions, and by integrating theoretical and empirical approaches, reforms in both criminal and civil law are shown to have their place among the wider efforts to challenge violence against women.

As indicated previously, the implementation of civil legislation must not be seen merely as an alternative method to invoking the criminal law. In addition to offering an alternative form of intervention, the provisions offered under civil statutes can be used in conjunction with the criminal law. This flexibility is seen by the proponents of legal reform as an important benefit of introducing civil measures to combat violence against women. Would the critics argue instead that this step is more properly viewed as yet another example of 'net-widening' by oppressive state institutions? This question cannot

be answered here and will quite likely be debated for some time to come. However, my research will inform that discussion through an examination of Manitoba's protection orders and how they are situated within the larger response to violence and abuse.

This chapter concludes by noting that there are several important points of convergence among the theorists' views discussed above. First, echoing an observation made by Comack (1993), most of the feminist scholars involved in the 'debate' are coming from the same socialist feminist framework and frequently refer to each others' work in making their points. These writers also agree on the 'litmus test' for what constitutes success, that being the perspectives of the women themselves who have utilized the various approaches to dealing with the violence in their lives. Furthermore, there is the stark reality that abused women do call the police in times of crisis and in spite of the limitations of a justice system entrenched in patriarchy, it can have the effect (albeit often only in the short term) of stopping the violence. Moreover, turning to legal interventions (criminal or civil) in seeking relief from violence and stalking establishes that these behaviours are unacceptable in our society and therefore, at the very least, represent a symbolic victory for women.

Chapter 3: Methodology

Data used for this thesis project were collected as part of a SSHRC (Social Sciences and Humanities Research Council) funded CURA (Community-University Research Alliance) research project entitled "Evaluating the Justice and Community Response to Family Violence in the Canadian Prairie Provinces" conducted by RESOLVE (forthcoming). The RESOLVE study involved a detailed examination of the justice and collateral agencies' response to domestic violence across Alberta, Saskatchewan and Manitoba in 2002. An analysis of each of these province's civil legislation as it pertains to domestic violence is one component of that larger research endeavour, and this thesis research utilizes the data gathered in Manitoba as a part of that study.

To recap the main goal of this thesis project, the primary research question asks what factors influence whether or not protection orders under Manitoba's *Domestic Violence and Stalking Act (DVSA)* are granted in applications that include evidence of stalking. This study is exploratory in nature, a prudent approach given that the Manitoba legislation is relatively new and has not been examined to date specifically with respect to stalking. Therefore, this research will review the utilization of the *DVSA* in terms of the characteristics of the applicants, the number of protection order applications processed in the calendar year 2002, whether or not the applicants were successful in obtaining the desired relief, and the factors that influenced this outcome. In addition, as described in the introduction, this study will address some secondary research questions which stem from the outcome of the applications, such as the conditions included in the orders that are granted and the reasons for dismissal in those that are refused. In order to

set the stage for how the research questions will be answered, this chapter will provide a detailed explanation of the particular methods I employed and the rationale used to arrive at the research design.

In organizing the information presented in this chapter, I will first define the scope of the study and will then discuss the data collection procedures employed. Next, I will explain how the final sample for this thesis research was derived and address the potential limitations of the sample. An overview of the techniques employed in analyzing the data will then be presented, including justification of these methods as well as recognition of the limitations of the design. Finally, ethical considerations will be reviewed in light of the particularly sensitive subject matter inherent in protection order applications.

SCOPE OF THE RESEARCH

The specific focus of this thesis project is limited to protection order applications made in Winnipeg during the 2002 calendar year that included evidence of stalking. As indicated in the introductory chapter, Manitoba's *DVSA* contains both protection orders and prevention orders. While the larger RESOLVE project (forthcoming) collected data on prevention orders in addition to protection orders, this thesis involves an examination of protection order applications only.

When determining the site selection for the larger RESOLVE project (forthcoming), the research team decided to examine all applications from one site rather than selecting a sample from multiple Manitoba sites. The primary rationale for this decision was to gain a thorough understanding of the application process in one location

rather than dividing scarce resources among multiple locales. Also, RESOLVE had already established connections with justice officials in Winnipeg through its longstanding research involving the Winnipeg Family Violence Court. As a result of this relationship of trust that had been established with these senior officials, it was determined that access to the necessary court files in the civil court system in Winnipeg would be relatively easy to secure with their assistance. This proved to be the case, with officials in the civil court system allowing RESOLVE research assistants (myself among them) access to all family and civil court files and taped transcripts containing protection order applications made in Winnipeg.

My decision to select the calendar year 2002 as the focus for this thesis research project came about primarily because the larger RESOLVE tri-provincial research project (forthcoming) was focused on that particular year. While RESOLVE Manitoba secured funding to continue with its collection of protection order data in the Winnipeg Law Courts from 2002 to the present, I maintained 2002 as the year of focus because more detailed data collection was conducted in that year than was the case in subsequent years. In particular, funding in 2002 allowed for a RESOLVE research assistant (this thesis researcher) to listen to audio-taped transcripts of dismissed protection order applications to determine the reasons for dismissals and to obtain richer detail on the application process. Funding limitations in subsequent years did not provide for this segment of data collection and was therefore restricted to the examination of material in the printed court files.

As outlined in the introductory chapter, there were a total of 775 protection order applications made in Winnipeg in 2002. However, not all of those applications included

evidence of stalking, and therefore I selected only cases which included evidence of at least one form of stalking behaviour (N=483). My reasons for focusing exclusively on stalking cases were twofold. First, I have a personal interest in examining the issue of stalking (and in particular stalking by former intimate partners). Secondly, Manitoba's *Act* was unique among provincial legislation when it was introduced because it specifically named stalking as an offence. With no prior examinations having been done on provincial legislation in Canada specifically with respect to stalking, this thesis research fills that gap in the literature.

DATA COLLECTION

The printed court files contain the protection order application forms that the applicants complete prior to having their hearings scheduled (see Appendix C). In cases where the order has been granted, the final order including the conditions the respondent is to abide by is also included in the file, along with confirmation of when the order was served upon the respondent. The files may contain other civil court documents if there have been other proceedings in family or civil court involving the parties. Examples of other documents commonly found in the files are separation, divorce and custody orders. The typed transcripts of the protection order hearings are also occasionally found in the printed files. This occurs in situations where either one of the parties or a justice of the Court of Queen's Bench has ordered a printed transcript of the taped protection order hearing for use in related proceedings, such as in an application to have the protection order set aside.

The audio-taped transcripts of protection order hearings contain the complete record of protection order hearings conducted in the courtroom setting. These proceedings begin with the names of the parties being read into the record, the applicant is then cautioned not to reveal information he or she does not wish to become part of the record (such as the location where he or she is currently residing) and the applicant is sworn in. Next, the magistrate reviews the information in the application form and requests additional information from the applicant where required. There is considerable variation at this stage, with some magistrates requesting a great deal more detail than others.[18] Following this stage, the magistrate makes the decision to grant the order or dismiss the application, sometimes after taking a brief recess to review the evidence. If the order is granted, the conditions are read into the record and the applicant is advised of the procedures for receiving the final typed copy of the order and informed of the steps involved in serving the respondent with the order. At this point, the magistrate will typically explain to the applicant that a breach of a protection order is a criminal offence and to call the police if the respondent does not comply with the conditions as set out in the order, although there is considerable variation at this stage, depending on the magistrate. In cases where the application is dismissed, the magistrate explains the reasons for dismissing the order and typically provides alternative remedies the applicant may wish to pursue. Finally, magistrates usually field any additional questions the applicants have prior to announcing the conclusion of the hearing and turning off the tape.

[18] It is important to note that magistrates must be careful when soliciting the additional information so as not to appear to be guiding the applicant's testimony.

The only data withheld from the RESOLVE researchers were the service information sheets which are used to assist police or sheriff's officers in identifying the correct persons when serving protection order documents (these are the pages marked "confidential" in Appendix C). These documents are considered to be highly sensitive by Manitoba Justice because they not only contain detailed information about the respondents, but about the applicants as well. Because all court proceedings filed in the Court of Queen's Bench become a matter of public record, staff members must be very careful not to include any personal information in the file that may reveal to an interested party the whereabouts of the applicants.[19] Once an application form is completed, the service information sheets are removed from the preceding pages. In the event an order is granted, those documents are given to the police or sheriff's officers along with the protection order. Once service of the documents is completed, the service documents are returned to the court, scanned into the court computer system, and the hardcopies are shredded to ensure they never become part of the documents filed in the material available to the public.[20] Not having access to the service information sheets was unfortunate indeed, because these documents contain important demographic information about the parties, including victim age, respondent racial background and employment information, which is not available elsewhere in the court files.

Collecting data from protection order applications involved a multi-step process. First, the printed files were examined and data were recorded on a tracking form (see

[19] Any interested party (including the respondent) can access the printed court file and/or taped hearing simply upon making a request to the court by stating the names of the parties involved in the case.
[20] In cases where applications are dismissed, the service information sheets are destroyed immediately following the hearing.

Appendix D)[21] to complete the majority of the variables. As indicated above, when protection order applications are dismissed, the magistrates verbally provide a detailed explanation to the applicants as to why the orders are not being granted, and also to suggest what other remedies the applicants might pursue. This information is only recorded on the audio-taped court transcript and does not become part of the printed court documents. Therefore, the audio-taped hearings for all unsuccessful protection order applications were reviewed to complete the variables pertaining to the reasons for dismissal and the alternative remedies suggested. An important advantage of monitoring the audio tapes was that it often provided an opportunity to collect more detailed information than what was available in the written record.[22, 23]

All of this information is housed in the Winnipeg Law Courts Building, the same location where all in-person protection orders hearings in Winnipeg are conducted. Once protection order hearings are completed, the printed documents are filed in the Court of Queen's Bench, with applications made by persons deemed to be cohabitants as defined in the *DVSA* being filed in the Family Court Division and those involving non-cohabitants being filed in the general Civil Court Division. Audio-taped transcripts of the protection order hearings are filed in the Transcription Services Unit (TSU) of Manitoba Justice, also housed in the Law Courts.

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[21] These tracking forms had been developed for use among the three provincial jurisdictions of Alberta, Saskatchewan and Manitoba for the larger RESOLVE study (forthcoming).

[22] The amount of additional evidence provided varied from case to case, however it was common for magistrates to question the applicants to obtain details of the case in terms of such things as the timeframes during which the abuse had occurred, the past history of abuse and the current status of the relationship between the parties.

[23] Audio tapes were also reviewed in a small number of cases where orders were granted when the written material in the file was illegible or incomplete. It was sometimes the case, for example, where applicants whose first language was not English were unable to complete the evidence section in writing and therefore the only way to track these cases was to listen to the taped transcripts.

Physically gaining access to the printed documents was a time consuming process. Court support staff would pull the printed files for the 2002 calendar year one month at a time. The research assistants were not granted permission to access the file room directly because court staff must process routing slips whenever files are removed in order to know where to locate them quickly in the event they are required for ongoing court proceedings. Due to support staff shortages at the Law Courts complex, research assistants would often have to wait several days or weeks for new files to be delivered. Once the files were received, the research assistants recorded the data in office space in the Winnipeg Law Courts Building.

There were fewer challenges with respect to physically accessing the audio-taped transcripts. In the early months of data collection, the TSU staff pulled the tapes in batches from lists I provided after reviewing the tracking of the printed files for each month. This sometimes resulted in delays when the staff members were busy with their other tasks. However, once the TSU staff became comfortable with my presence, they thoroughly explained the filing system and entrusted me to access the tapes myself, which greatly facilitated the speed of data collection.

An unintended benefit was realized as I was taught the master filing system used between the TSU file room and other areas of the courthouse. In the early months of the data collection, I discovered a discrepancy between the number of printed files being made available by court staff and the number of protection order hearings in statistics provided earlier by Manitoba Justice.[24] With the knowledge of how to review the master

[24] Deanna Deniset, Director of Judicial Support Services for Manitoba Justice, acted as the court liaison staff person between her staff and RESOLVE researchers for the purposes of facilitating the RESOLVE study (forthcoming). She had been providing me with basic statistics outlining the number of Winnipeg

files kept by TSU, I was able to cross reference the files already tracked against the total protection order hearings conducted in the Winnipeg courts. This enabled me to develop a new protocol for ordering the files which involved creating a thorough listing of the files required, including full names, dates and file numbers. These detailed monthly lists were then provided to the support staff pulling the printed files, which resulted in all files being made available where previously only two-thirds to one-quarter of files were being produced. This also greatly facilitated the work of the support staff pulling the files, which in turn significantly reduced the delays in receiving the printed files.

As outlined in the introductory chapter, once protection orders are issued, applications can be made by either party to have the orders set aside or have the conditions varied. This necessitated one final step in the data collection. Many files had to be revisited in order to ascertain the status of the amended orders and complete the remaining variables on the tracking forms. Because of the various steps involved in the protection order data collection, it proved to be a painstaking and time-consuming task.

While the above-mentioned aspects of gaining access to data presented some challenges for the research assistants in the early months of the data collection, once a rapport was established with the court staff and a mutual understanding of each others' work demands was achieved, the process ran quite smoothly. Members of the support staff of Manitoba Justice were extremely patient with the researchers' requests and were very generous with their time, especially considering the frenetic pace of their workplace. Establishing a professional and mutually respectful relationship with the gatekeepers of the data went a long way toward successfully completing the data collection.

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protection order applications made since the time RESOLVE had been conducting pilot testing of the research instruments prior to the period of data collection.

Following the data gathering phase of the research, these data were entered into a Microsoft Access database which was then converted into an SPSS file. At that time, the dataset was cleaned by RESOLVE research assistants. However, upon beginning the analysis the thesis researcher engaged in a much more thorough data cleaning process once additional errors were detected.

SAMPLE SELECTION

As previously mentioned, the sample for this thesis was drawn from the dataset of 775 protection order applications made in Winnipeg during the calendar year 2002. Cases for the thesis sample were selected on the basis that they included at least one form of stalking activity in the evidence presented to the court (N=483). The following steps were followed in determining those cases: First, cases involving non-cohabitants (N=178) were automatically selected for inclusion because, as the legislation was worded in 2002, non-cohabitants were only eligible to apply for protection orders on the basis of stalking. Therefore, it was determined that those 178 applications were made by individuals who had been stalked. Selecting these cases was straightforward because the courts filed the cases differently depending on the distinction of cohabitants versus non-cohabitants,[25] and this distinction was recorded on the tracking form (see Q8 in Appendix D). It was somewhat more challenging to select appropriate cases with respect to the remaining applications in the dataset in which the parties were cohabitants as defined in the *DVSA*, because the magistrates hearing those applications were free to consider evidence of domestic violence and/or stalking when making their determination.

[25] The Court of Queen's Bench filed applications involving cohabitants as domestic violence files in their family court division and those involving non-cohabitants as stalking files in their general civil court division.

Therefore, the second step in selecting cases for the sample involved examining the applications made by cohabitants in terms of the type of abuse they listed, in order to detect those that included at least one of the various stalking behaviours (i.e., watching or following, unwanted contact, unwanted communication, delivery of unwanted items, vandalism, or monitoring activities).[26] A third step in sample selection was to select the case identification numbers for those applications which listed only one form of stalking and where that form was 'unwanted communication', for the purpose of more closely examining the circumstances in those cases. The rationale for this step was that I knew from collecting the data that there are some cases where applicants list relatively benign behaviours that cannot reasonably be considered as stalking. After reading the information package that lists examples of stalking behaviours such as unwanted phone calls, some victims claim in their evidence all types of phone calls from the respondent, even when those calls have not caused them to fear for their safety. An example of such a circumstance would be a case where the applicant has been physically assaulted and has left the marital home to stay with relatives, and the respondent makes an isolated phone call to inquire about the whereabouts of personal belongings or joint property that the victim has taken with her. When situations like this arose requiring a 'judgment call', the protocol used by myself and another research assistant working on the RESOLVE project (forthcoming) was to write brief field notes on the tracking forms indicating that there was questionable evidence of stalking. Therefore, in cases where there was only one form of stalking listed and where that form was 'unwanted communication', I revisited the paper tracking form to review the field notes and, when necessary, reviewed the

[26] Stalking in the form of monitoring the victim's activities was not in the original codes for this variable but was created at the stage of data cleaning when it was determined that it made up a significant proportion of the 'other' types of abuse cited by applicants.

audio-taped transcript for those hearings to closely examine all circumstances of the application. From this detailed examination I decided whether or not a reasonable person would consider it to be a legitimate case of stalking. This was a very time-consuming process, however it yielded a far more accurate picture of the actions that could reasonably be construed as stalking. The thesis dataset was finalized by eliminating all cases from the original 775 applications that included no evidence of stalking and those that were discounted in the preceding step. This resulted in a sample of 498 cases. However, midway through the analysis I discovered some discrepancies when computing new variables having to do with the numbers of different stalking behaviours experienced by applicants. In investigating these discrepancies I discovered that, of the 178 applications made by individuals who were non-cohabitants (and therefore only eligible to apply on the basis of stalking), 15 had no stalking behaviours listed in their evidence, but rather only other forms of abuse. Therefore, those 15 cases were removed from the dataset. All analyses previously conducted with the dataset of 498 cases were recalculated using the final sample of 483 cases and the data analysis process continued.

Limitations

There are several limitations in the sampling design employed. First, the sample is limited to protection order applications made in Winnipeg and therefore fails to capture the experience in rural and northern areas of the province. Applicants outside of Winnipeg likely have very different experiences in accessing these orders, especially given the distances between their homes and the court offices where hearings are conducted. It is highly likely, therefore, that applications are processed by way of

telecommunication in many instances, something that was not found in the Winnipeg sample. Other important differences may be found in applications involving applicants from First Nations communities. Furthermore, some of the conditions in the orders will no doubt have a greater impact on respondents residing in small communities, particularly those that prohibit the respondents from attending at or near places where the victims frequent. This, in turn, may affect the frequency with which these orders are contested by those they are issued against. Clearly then, focusing exclusively on applications made in one large urban centre leaves gaps in the research. While failing to capture the rural and northern experiences is a definite drawback, the concomitant benefit is that a very thorough analysis of Winnipeg applications was made possible by studying one region only. This provides a model for future research to be conducted in other areas of the province.

Secondly, the protection order files examined reflect only those applications that resulted in a hearing before a magistrate. There is no way of knowing how many parties interested in making applications are screened out at the main court desk where applicants appear to request assistance. The magistrates acting as the gatekeepers, then, play an important role in determining which applicants proceed to the step of having their applications heard in a courtroom and which are instead steered toward other forms of remedy such as seeking prevention orders, peace bonds, or seeking action through the criminal justice system. RESOLVE researchers requested that the court staff attempt to collect that information at the main court counter. However, it was determined that, given the often hectic atmosphere at that stage of the process, it would be too difficult to keep an accurate record of this information.

A third important limitation to the design is that collecting quantitative data from the court files and taped transcripts does not provide an in-depth review of the circumstances of the case. To offer only a few examples of what questions could be answered in employing qualitative methods, what emotional state are the victims in when making their applications? Is anyone attending the hearings with the applicants to offer support? How many applicants arrive at the courthouse with children, and of those who do, is there someone accompanying them to care for the children during the hearing?

Another limiting factor inherent in this sample is that, by studying only the court files and taped transcripts, we are only seeing the process up to the point where applications are granted or dismissed. Therefore, we cannot address the single most important question about protection orders: When they are granted, do they work? We also cannot determine what occurs with those individuals whose applications are dismissed. Are they likely to follow up on the alternative forms of remedy suggested by the magistrates? These questions were addressed in the qualitative interviews conducted by RESOLVE in the larger study (forthcoming) these thesis data were drawn from.[27] While it is beyond the scope of this thesis to provide a detailed examination of RESOLVE's qualitative data, brief references to those findings will be made where appropriate throughout this thesis research.

DATA ANALYSIS

Data were analyzed in terms of the following areas: the characteristics of the parties involved; the factors that determined whether applications were granted or

[27] The qualitative portion of the RESOLVE study (forthcoming) involved face-to-face interviews with 48 female victims of domestic violence and/or stalking and 28 key respondents working in justice and collateral agencies.

dismissed; the conditions attached to orders that were granted; the reasons for dismissal for those that were turned down; what other types of remedies unsuccessful applicants were directed to; and whether or not original orders were contested and if so, what the status of the contested orders was.

Operationalization of Variables

A number of variables from the data collection instrument found in Appendix D were considered for use in the data analysis. The descriptive analysis of the demographic characteristics was conducted first, using the variables **victim sex** (Q10), **respondent sex** (Q17), **respondent age** (Q16), **victim-respondent relationship** (Q19), and the **number of children** included in the applications (Q12). Other demographic characteristics that I would have liked to include in the analysis were **victim age** (Q9), **victim racial background** (Q11), **respondent racial background** (Q18), and **length of victim-respondent relationship** (Q23), however, there were too many missing values in those variables to produce reliable results (see Appendix E for an overview of these variables).

The protection order application process was examined next, using the variables **application method** (Q50), **application made by** (Q51) and **application made for** (Q52). The particular magistrates hearing the orders were identified using the variable **who heard application** (Q7).

The abuse experienced by victims was operationalized using the series of six **nature of abuse** variables (Q24 through Q26, and Q127 through Q129). I identified 24 'individual types of abuse' using dummy variables derived from these six 'nature of abuse' variables to reflect the range of abusive behaviours identified by applicants in

their evidence. The form of physical violence experienced by victims in cases including physical abuse was operationalized using the series of four **form of physical violence** variables (Q28 through Q31). Ten 'individual forms of physical violence' dummy variables were created from these four variables to reflect the range of violent behaviours identified by victims who had been physically assaulted. Case characteristics related to the nature of abuse experienced by victims were operationalized using the variables **history of abuse** (Q27), **presence of weapons** (Q34), and existence of **previous court orders** between the parties (Q36).

The dependent variable used in the analysis was the outcome of the protection order applications, determined by the variable **status of protection order** (Q54).

In orders that were granted, the conditions listed in the orders were identified through the series of 12 variables **conditions/provisions of protection order** (Q55 through Q66). In orders that were dismissed, the reasons for dismissal were identified through the series of seven variables **reasons why JP did not grant protection order** (Q67 through Q73 and Q173).

The alternative remedies suggested by magistrates in orders which were dismissed were operationalized using the series of three variables **was victim re-directed to other remedies** (Q74 through Q76).

Finally, orders which had been granted and then were contested or varied were examined. These circumstances were operationalized using the variables **was order contested** (Q77), **status of contest** (Q78) and **was order varied or set aside at victim's request** (Q79).

Techniques of Data Analysis

The analysis began by examining simple frequency distribution of each variable, followed by an examination of crosstabulations and appropriate tests of significance. The bivariate analysis involved two stages. First, the complete sample (N=483) was considered. Then, because of my interest in stalking by intimate partners, I filtered the sample to isolate those cases (N=389) and compared those results to the complete sample.

The results of the bivariate analysis guided me in the final part of the analysis, a logistic regression which identifies the factors influencing the granting of protection orders. In keeping with the method of analysis used in the bivariate examination of the factors determining the outcome of applications, the logistic regression analysis was conducted by comparing the complete sample (N=483) to cases of intimate partnerships only (N=389) in order to satisfy my particular interest in stalking by intimate partners.

Developing good regression models was a challenging task due to several factors. First, many variables could not be used because of the high numbers of missing values. Secondly, there were problems with many of the individual 'nature of abuse' variables under consideration. Some of them were too highly correlated with one another to produce meaningful results. Also, there were problems in terms of many of these variables having prohibitively high standard error values. In order to address the shortcomings with the individual types of abuse, three variables were computed to create abuse categories. The categories were 'stalking behaviours', 'other abusive behaviours' (which included such things as physical abuse, sexual abuse and emotional abuse), and 'threatening behaviours'. These three abuse categories were used instead of the individual types of abuse to develop more accurate models. Third, and not surprisingly,

victim sex and respondent sex were too highly correlated to include in the models together, and therefore only victim sex was used, because the sex of the victim was deemed to be more important to the analysis. Given the shortcomings of the dataset, a limited number of variables that fell within acceptable values in the correlation matrices (see Appendix F) were included in the final logistic regression models.

ETHICAL CONSIDERATIONS

Given the sensitive nature of information in the court files, a number of procedures were employed to meet ethical protocols as laid out by the Psychology/Sociology Research Ethics Board (P/SREB) of the University of Manitoba in its approval of the larger RESOLVE study (forthcoming).[28] Research reports were to include only aggregated data in order to protect the confidentiality of the parties involved in the protection order applications. Names of the individuals identified in the court documents were not to be recorded on the tracking forms. While it was necessary to keep a master list of applicant and respondent names along with the court file numbers to facilitate access to the taped transcripts and to revisit files where orders were contested or varied, this list was kept very secure. This was accomplished by storing the electronic version in a password protected computer file and keeping the hard copy in a locked filing cabinet in the RESOLVE offices.

[28] Ethics approval was granted by the board for the larger RESOLVE study (forthcoming). Uncertain of whether or not my examination of the RESOLVE data would require a separate ethics application, I made an inquiry to the chair of the P/SREB. I was informed that, because I was not engaging in any data collection beyond that identified in the RESOLVE protocol, and that I was adhering to the ethical procedures that were laid out in that study, a separate application for the purposes of this thesis project was not required (Bruce Tefft, Ph.D., personal communication, December 02, 2003).

In addition to complying with the procedures laid out in the P/SREB protocol, all researchers involved in the data collection for the RESOLVE study (forthcoming) took an oath of confidentiality before the Chief Justice of the Court of Queen's Bench. This oath stipulated that no information contained in the files could be discussed outside of the research team responsible for collecting, entering and analyzing the data, and that the data were not to be used for any purposes other than to report the research findings.

SUMMARY

This chapter provided an overview of the methods employed in this examination of protection order applications, including a discussion of the limitations and benefits of the research design. The decisions made in selecting the sample were covered, followed by an explanation of the data analysis techniques used. While there were challenges in constructing good models at the multivariate level of analysis, ultimately adequate models were developed to identify the key factor which influence whether or not applicants are successful in their attempts to obtain protective relief under the *DVSA*. The next chapter will present the results of the research and interpret how those findings are situated within the context of this particular legislation as well as within the broader array of remedies available to victims of stalking.

Chapter 4: Seeking Relief from Stalking: Factors Influencing Protection Order Outcomes

This chapter examines the findings from protection order applications made in 2002 that include evidence of stalking. An analysis of the demographic characteristics of the parties involved and a description of the abuse experienced by victims are discussed first. The outcome of the applications is then presented. Next, in order to specifically address the research questions, the factors which influence whether or not protection orders are likely to be granted are examined. In this examination, separate analyses are conducted for intimate partners versus the sample as a whole. I then discuss the conditions included in orders that are granted, the reasons for dismissal given in those cases where applications are dismissed, and the alternative remedies suggested by magistrates to victims when dismissing their applications. Finally, I briefly describe the circumstances surrounding situations where requests are made by the parties to have the orders issued by the magistrates removed.

DEMOGRAPHIC CHARACTERISTICS

Table 3 illustrates the demographic characteristics of the parties involved in the applications (N=483). The applicants in these cases are overwhelmingly female at 405 (83.9%), while males comprise 391 (81%) of the respondents. This is consistent with the literature which identifies stalking as an offence that is primarily perpetrated by men against women. For example, a Department of Justice Canada (1996:24) study found that 91% of persons accused of criminal harassment were male, and 88% of victims were

female. More recently, the 2004 General Social Survey found that 80% of stalkers were male, regardless of the sex of the victim (Statistics Canada, 2005:36).

Table 3: Demographic Characteristics (variables to be included in analytical model) [N=483]

Characteristics	valid %
Sex (victim)	
Female	83.9
Male	16.1
Sex (respondent)	
Female	19.0
Male	81.0
Age (respondent)	
minimum	14
maximum	72
mean	35.5
19 and under	3.9
20 to 29	25.8
30 to 39	38.3
40 to 49	22.4
50 to 59	7.7
60 and over	1.9
Victim-respondent relationship	
spouse/ex-spouse	25.7
common law/ex-common law*	25.5
boyfriend or girlfriend/ex-boyfriend or girlfriend	29.4
family member (parent, child, sibling, uncle, aunt, etc.)	3.7
other (friends, neighbours, co-workers, former in-laws, etc.)	15.7
Number of children named on application	
none	60.5
one	16.6
two	13.0
three	6.6
four	2.5
five or more	.8

* **Note**: Same sex couples (five couples, 1%) are included in common law/ex-common law unions because these partners had been living together at some point in their relationships.

Respondents range from 14 to 72 years of age, with a mean age of 35 years. An examination of the victim-respondent relationship reveals that in four out of five applications (389 cases, 80.6%), the parties have been involved in intimate relationships (current or former spouses, same-sex partners, common law partners, or boyfriend-girlfriend unions). This is considerably higher than what was found in the review of the literature. For example, Department of Justice Canada [DOJ] (1996:25) data indicated that 57% of complainants and accused in criminal harassment cases were current or former intimate partners. Recent figures from the General Social Survey [GSS] (Statistics Canada, 2005:35) revealed that victims were stalked by people categorized as current or ex-intimate partners in only 17% of cases. While the difference between the GSS and DOJ findings are substantial, other studies have indicated that there are frequently large differences between findings from a clinical sample[29] versus a general social survey (Gelles and Loseke, 1993). However, the difference between the DOJ results (57%) and my findings (80.6%) does bear further discussion to address why so many stalking applications under the *DVSA* involve intimate partners. This discrepancy may be a result of the context in which the legislation was introduced. Coming on the heels of the highly publicized Lavoie Inquiry, there was much awareness of the issue of domestic violence and the measures (such as the *DVSA*) that were being implemented to protect victims. In addition, the title of the *Act* connotes the connection between domestic violence and stalking, and therefore those who are being stalked by intimate partners are more likely to make applications under the legislation.

[29] By clinical sample, I am referring to data collected from individuals presenting with a specific problem (for example, data collected from police files, hospitals or shelters).

In my study, the majority of applicants (292 cases, 60.5%) do not list children on their application forms. It should be noted that this does not mean that these individuals do not have children, only that they elect not to apply for protection for their children.[30]

As shown in Table 4, the bivariate analysis of my sample revealed that where victims are female, males comprise 94.1% of the respondents. Where victims are male, females make up 87.2% of the respondents. A chi-square test revealed that these results are statistically significant.

Table 4: Victim by Respondent Sex*

		Victim Sex				Total	
		Male		Female			
		N	%	N	%	N	%
Respondent Sex	**Male**	10	**12.8**	381	**94.1**	391	**81.0**
	Female	68	**87.2**	24	**5.9**	92	**19.0**
Total		78	**100**	405	**100**	483	**100**

* Chi-square test significant at the p<.001 level

When considering only intimate relationships (N=389), females are victimized by males in 99.4% of the applications. These findings are also statistically significant, however the table cannot be presented here due to the risk of identity disclosure.

[30] In some cases the parent making the application does not fear that the respondent poses a danger to the children. In other cases there may already be a higher court order awarding the other parent custody or visitation, and the applicant is advised that unless there is evidence of abuse by the respondent against the children, the protection order will not be issued for the children.

THE APPLICATION PROCESS

All applications in my study (N=483) are made in person rather than by telecommunication. Of the total number of applications, the vast majority (458 cases, 94.8%) are made by the victims on their own, while four applications (0.8%) are made with the assistance of lawyers and only one applicant (0.2%) is aided by a police officer. The remaining 20 applications (4.1%) are made by other persons on behalf of the victims, such as legal guardians.

The people listed on the application forms for whom protection was being sought are most commonly the applicants themselves (271 cases, 56.1%). In 187 cases (38.7%) the orders are being sought for both the applicants and minors in their care, and in 17 cases (3.5%) for minors only. Finally, in eight cases (1.6%) the protection is being sought for other adults such as the adult children or parents of the applicants.

NATURE OF ABUSE

The victims experience a wide range of abusive behaviours, as detailed in Table 5. Stalking behaviours make up the vast majority of abuse in this sample, which is not surprising considering the cases were selected on the basis that they contained at least one form of stalking. Almost two-thirds of the victims (66.5%) are subjected to stalking in the form of unwanted communication, which includes phone calls, email and messages conveyed through third parties. The second most frequently cited form of stalking is unwanted contact (52.8%), which includes direct personal contact or attempts to make such contact (for example, going to the victim's home, workplace, etc. to seek out the victim). Another common form of stalking is in the form of the respondent watching or

Table 5: Nature of Abuse

Nature of Abuse	Frequency	Percent
Stalking behaviours		
Stalking – unwanted communication	321	66.5
Stalking – unwanted contact	255	52.8
Stalking – watching or following	248	51.3
Stalking – delivery of unwanted items	37	7.7
Stalking – vandalism	37	7.7
Stalking – monitoring activities	6	1.2
Other abusive behaviours		
Physical assault	175	36.2
Emotional / psychological abuse	139	28.8
Property damage	59	12.2
Forced confinement	21	4.3
Financial abuse	16	3.3
Making false allegations about victim to authorities	15	3.1
Sexual assault	14	2.9
Abuse of pet[s]	2	.4
Threatening behaviours		
Threat of physical assault	92	19.0
Threat to kill applicant or others named on application	91	18.8
Unspecified threats (e.g., "You're going to get it.")	66	13.7
Threat of respondent harming self or committing suicide	45	9.3
Threat to kill relative or friend	24	5.0
Threat to take children	24	5.0
Threat of property damage	15	3.1
Threat of harm to pet(s)	6	1.2
Threat of sexual assault	4	.8
Other (includes thefts, break-ins, dangerous driving, etc.)	24	5.0

Note: More than one type of abuse is experienced by most applicants, therefore figures total more than the 483 cases included in the sample.

following the victim (51.3%), which includes activities such as repeatedly driving by the victim's home, watching the victim from a distance, or following the victim from place to place. Less commonly cited stalking behaviours are the delivery of unwanted items and the vandalism of the victim's property (at 7.7% each). Finally, in a small number of cases (1.2%), victims had discovered that the respondents were monitoring their activities (by video or audio-taping them, opening their mail, checking their voice mail, etc.).

In addition to stalking behaviours, over three-quarters of the applications (78.5%) also include evidence of other types of abuse, with the most common forms being physical abuse (36.2%) and emotional or psychological abuse (28.8%). Victims report damage to their property in 12.2% of cases. There is evidence of forced confinement in a small percentage of applications (4.3%) and financial abuse is reported in 3.3% of cases. Respondents make false allegations about victims to authorities (Income Assistance or Child and Family Services, for example) for the purpose of causing difficulties for those victims in 3.1% of cases. Sexual assaults are reported in 2.9% of applications. In a very small number of applications (0.4%), victims indicate that respondents abuse their pets.

Aside from stalking and other abusive behaviours that are carried out, victims also provide evidence of a variety of threats made by respondents, with the most common being threats of physical assault (19.0%) and threats to kill the applicant or others named on the application (18.8%). Unspecified or veiled threats are made in 13.7% of cases and include such statements as, "You're going to get it," or "I'm going to make you pay." Respondents threaten to harm themselves or commit suicide in 9.3% of cases. The next most frequent threats are threats to kill relatives or friends of the victim and threats to take the victim's children, at 5% each. Respondents threaten to damage the victim's

property in 3.1% of applications. Threats of causing harm to pets are listed as evidence in 1.2% of applications. Respondents threaten to sexually assault the victim in a very small number of cases (0.8%). Finally, a variety of other types of abuse are given as evidence in 5% of cases, which include such things as theft of money or property belonging to the victim, break-ins to the home of the victim, and dangerous driving intended to frighten the victim.

Within the applications identifying physical abuse (N=175), that violence most commonly comes in the form of pushing or shoving (18.8%), as shown in Table 6. This is followed in frequency by the victim being punched (13.8%), slapped (8.2%), hit (7.9%), choked or strangled (7.6%), beat up (6.6%), physically restrained (4.6%), kicked (4.6%), picked up and thrown (4.3%), plus a variety of other acts (18.1%). These findings are consistent with the literature stating that stalking is frequently associated with relationships characterized by violence. For example, Tjaden and Thoennes (1998:8) report that 81% of women stalked by an intimate partner have been physically assaulted by that person. In another study about stalking and pre-stalking relationships conducted by Brewster in 2003 (as cited by the U.S. Department of Justice, 2004:16), 65% of female stalking victims reported physical abuse in their relationships.

Also included in the analysis are other variables related to the nature of the abuse experienced and those that point to prior difficulties between the parties. In four out of five cases (81.1%) there is a history of abuse in the relationship, meaning that there is evidence of abusive incidents that occurred prior to the timeframe of the most recent events that prompted the application. Previous family or criminal court orders had been

issued in 34.4% of the cases. Weapons are identified in 14.6% of the applications, with weapons being used in 5.2% of cases and weapons being threatened in 9.4% of cases.

Table 6: Form of Physical Violence

Form of Violence	N	%
Pushed or shoved	57	18.8
Punched	42	13.8
Slapped	25	8.2
Hit	24	7.9
Choked or strangled	23	7.6
Beat up	20	6.6
Physically restrained	14	4.6
Kicked	14	4.6
Picked up and thrown	13	4.3
Other (dragged, bitten, spit on, grabbed, limbs twisted, stomped on, pinched, shook, hit with vehicle, etc.)	55	18.1
Form of physical violence not specified	17	5.6
TOTAL	304	100.1

Note: Figures total more than the 175 cases including evidence of physical because there are multiple forms of violence identified in most cases.

A piece of information collected from the court files that would have been desirable to include in this analysis was whether or not criminal court matters between the parties were proceeding at the time the protection order applications were being made. However, this information was missing in a large number of applications (248

cases, 51.3%) and therefore does not provide reliable results. Of the files containing this information, criminal matters were proceeding in 60 cases (25.5%). Similarly, whether or not the respondent had a prior criminal record related to domestic abuse or stalking was unavailable in a very large number of applications (430 cases, 89%) and is also therefore unreliable. Of the remaining 53 files containing this information, 86.8% of respondents had a prior criminal record.

OUTCOME OF APPLICATIONS

Of the 483 applications made, slightly over half (263 applications, 54.5%) result in an order being granted. The remaining 220 applications (45.5%) are dismissed.[31] As indicated in the introduction, these figures are similar to the overall rate of orders granted/dismissed in 2002, with 388 (50%) of the total number of 775 applications made in that year resulting in orders being issued.

FACTORS INFLUENCING OUTCOME OF APPLICATIONS

In this section, I specifically address the main research question, which asks what factors influence whether or not protection orders are granted. In this analysis, I begin with the complete sample of protection order applications (N=483). Then, I examine stalking by former intimate partners by filtering the dataset for cases of intimate relationships only (N=389).[32] Within each of those segments, I first examine the factors

[31] Seven applications (1.4%) were withdrawn by applicants prior to the completion of their hearings. For the purposes of this analysis the withdrawals have been included with the dismissals.

[32] Consideration was also given to splitting the sample and comparing intimate partner applications (N=389) and non-intimate relationship applications (N=94). When this was done, only two variables were found to have statistically significant influences on the outcome of applications in cases of non-intimate relationships. First, where stalking in the form of delivery of unwanted items exists, orders are more likely to be granted. A chi-square test revealed significance at the $p<.05$ level. Secondly, experiencing more

having to do with nature of abuse experienced by victims, followed by factors related to that abuse, and finally the other factors influencing the outcome of applications.

Bivariate Analysis of Complete Sample (N=483)

As shown in Table 7, where stalking in the form of unwanted communication exists, orders are more likely to be granted, with nearly 58% of these cases being successful. A chi-square test revealed that these results were statistically significant.

Table 7: Stalking in the Form of Unwanted Communication by Outcome of Application*

		Stalking: Unwanted Communication				Total	
		No		Yes			
		N	%	N	%	N	%
Outcome of Application	**Granted**	78	**48.1**	185	**57.6**	263	**54.5**
	Dismissed	84	**51.9**	136	**42.4**	220	**45.5**
Total		162	**100**	321	**100**	483	**100**

* Chi-square test significant at the p<.05 level

Orders are also more likely to be granted when there is evidence of stalking in the form of delivery of unwanted items, at 70% (see Table 8). A chi-square test indicated that this finding reached statistical significance.

types of stalking behaviours generally results in an increased likelihood of having an order granted. The ANOVA test indicated significance at the p=.01 level.

Table 8: Stalking in the Form of Delivery of Unwanted Items by Outcome of Application*

		Stalking: Delivery of Unwanted Items				Total	
		No		Yes			
		N	%	N	%	N	%
Outcome of Application	**Granted**	237	**53.1**	26	**70.3**	263	**54.5**
	Dismissed	209	**46.9**	11	**29.7**	220	**45.5**
Total		446	**100**	37	**100**	483	**100**

* Chi-square test significant at the p<.05 level

As shown in Table 9, in cases involving property damage, orders are less likely to be granted, with only 44% of cases being issued where this is in evidence. A chi-square test revealed statistical significance.

Table 9: Property Damage by Outcome of Application*

		Property Damage				Total	
		No		Yes			
		N	%	N	%	N	%
Outcome of Application	**Granted**	237	**55.9**	26	**44.1**	263	**54.5**
	Dismissed	187	**44.1**	33	**55.9**	220	**45.5**
Total		424	**100**	59	**100**	483	**100**

* Chi-square test significant at the p<.05 level

Where threats to take children are involved, applicants are less likely to have the order granted, a finding which is also statistically significant (see Table 10). In only 33% of cases are the orders granted where evidence of these threats exists.

Table 10: Threats to Take Children by Outcome of Application*

		Threats to Take Children				Total	
		No		Yes			
		N	%	N	%	N	%
Outcome of Application	**Granted**	255	**55.6**	8	**33.3**	263	**54.5**
	Dismissed	204	**44.4**	16	**66.7**	220	**45.5**
Total		459	**100**	24	**100**	483	**100**

* Chi-square test significant at the p<.05 level

Now I examine the general forms of stalking, threatening, and other abusive behaviours. When the relationship between the stalking variable and the dependent variable is examined, a curvilinear relationship is revealed (see Table 11). As expected,

Table 11: Stalking Behaviours Category by Outcome of Application*

Outcome of Application	Stalking Behaviours									
	1 count		2 counts		3 counts		4 counts		Total	
	N	%	N	%	N	%	N	%	N	%
Granted	95	**51.4**	96	**51.1**	66	**67.3**	6	**54.5**	263	**54.6**
Dismissed	90	**48.6**	92	**48.9**	32	**32.7**	5	**45.5**	219	**45.4**
Total	185	**100**	188	**100**	98	**100**	11	**100**	482**	**100**

* ANOVA test significant at the p<.05 level
** One case is missing

the likelihood of an order being granted increases as the number of counts of stalking behaviours increases from one to three. However, where four counts are in evidence, orders are less likely to be granted. It should be noted that there are only eleven cases

where four counts of stalking behaviours are in evidence. Therefore, it can be said that experiencing more types of stalking behaviours generally results in a greater likelihood of having an order granted. The ANOVA test revealed that this finding was statistically significant.

As shown in Table 12, where the 'other abusive behaviours'[33] are present, applicants are slightly less likely to have the order granted, at 49%. This finding was also statistically significant.

Table 12: Other Abusive Behaviours Category by Outcome of Application*

		Other Abusive Behaviours Category				Total	
		Not Abused		Abused			
		N	%	N	%	N	%
Outcome of Application	**Granted**	129	**61.7**	134	**48.9**	263	**54.5**
	Dismissed	80	**38.3**	140	**51.1**	220	**45.5**
Total		209	**100**	274	**100**	483	**100**

* Chi-square test significant at the $p<.05$ level

In order to address the research question of whether or not cases involving evidence of stalking alone are as likely to result in an order being granted as are cases involving stalking coupled with other forms of abuse, another crosstabulation was performed. The result was not found to be statistically significant. In other words, cases involving stalking coupled with other forms of abuse are not more likely to result in protection orders being granted than are cases of stalking only.

[33] The 'other abusive behaviours' category includes a variety of the individual types of abuse such as physical abuse, emotional abuse, property damage, etc.

The relationships between variables related to the nature of abuse and the dependent variable were examined next. Previous court orders and the presence of weapons were both found to have an influence on the outcome of applications. As shown in Table 13, where previous court orders involving the parties had been issued, applicants are less likely to have the protection order granted, with the chi-square test indicating statistical significance. Only 44% of applicants are successful when previous orders exist.

Table 13: Previous Court Orders by Outcome of Application*

		Previous Court Orders				Total	
		Yes		No			
		N	%	N	%	N	%
Outcome of Application	**Granted**	64	**44.4**	152	**55.3**	216	**51.6**
	Dismissed	80	**55.6**	123	**44.7**	203	**48.4**
Total		144	**100**	275	**100**	419	**100**

* Chi-square test significant at the p<.05 level

Table 14: Presence of Weapons by Outcome of Application*

		Presence of Weapons				Total	
		No Weapon		Weapon			
		N	%	N	%	N	%
Outcome of Application	**Granted**	212	**51.6**	49	**70.0**	261	**54.3**
	Dismissed	199	**48.4**	21	**30.0**	220	**45.7**
Total		411	**100**	70	**100**	481	**100**

* Chi-square test significant at the p<.05 level

Where the presence of weapons was in evidence (meaning that weapons had been used and/or threatened), applicants are more likely to have the order granted, at 70% (see Table 14). The chi-square test indicated statistical significance.

One other key variable of interest is the relationship between the magistrate hearing the protection order application and the outcome of the case. The magistrate conducting the hearing does have a statistically significant influence on whether or not an order is granted, with the ANOVA test indicating significance at the $p<.001$ level. Because the table for this crosstabulation of individual magistrates could not be reproduced here for reasons of risking identity disclosure, I instead grouped the magistrates into the three categories of 'high granters', 'medium granters', and 'low granters' to present the findings (see Table 15). 'High granters' grant orders in over two-thirds of the cases before them, 'medium granters' grant orders in between one-third and two-thirds of applications, and 'low granters' only grant orders in less than one-third of cases.

Table 15: Outcome of Application by Magistrate

	Granted		Dismissed		Total Applications	
	N	%	N	%	N	%
High Granters	127	**80.4**	31	**19.6**	158	**33.0**
Medium Granters	117	**49.4**	120	**50.6**	237	**49.5**
Low Granters	16	**19.0**	68	**81.0**	84	**17.5**
Total					479*	**100**

*Four cases are missing

There are five magistrates in the 'high granters' category. On average, they issue orders in four out of five (80.4%) cases and hear 33% of the total number of applications. The

'medium granters' category is made up of seven magistrates who grant the orders in half (49.4%) of the cases and hear half (49.5%) of the total applications. Finally, the three magistrates in the 'low granters' category grant orders in only one in five (19%) of the applications and conduct 17.5% of the hearings.

Bivariate Analysis of Cases of Stalking by Intimate Partners (N=389)

A separate bivariate analysis on only those experiencing stalking by former intimate partners was conducted (N=389). This is intended to determine if relationship type produced any different effect on factors influencing protection orders being granted. With regard to the individual types of abuse, in cases where stalking in the form of unwanted communication exists, orders are still more likely to be granted, with the chi-square test showing significance at the $p<.05$ level. However, stalking in the form of delivery of unwanted items no longer reaches statistically significant levels when only intimate relationships are considered. Where stalking in the form of monitoring the victims' activities exists in intimate relationships, orders are less likely to be granted, with the chi-square test indicating significance at the $p<.05$ level.[34] As is the case with the complete sample, threats to take the children result in a reduced likelihood of having an order granted when only intimate relationships are considered, with the chi-square test reaching significance at the $p<.05$ level. While property damage has a statistically significant influence at the bivariate level when considering all cases, that is no longer the cases when the sample is filtered for intimate partnerships only.

When the three broader categories of abuse are run against the dependent variable in the 'intimate partners only' sample, the number of stalking behaviours is not found to

[34] This relationship is not significant when the complete sample is considered.

be statistically significant. Similar to the larger sample, the 'other abusive behaviours' category is statistically significant. Again, where this type of abuse is present, applicants are slightly less likely to have the order granted, at 49% (see Table 16). As is the case when considering the larger sample, the 'threatening behaviours' category is not a significant factor in determining the outcome of applications in applications involving intimate partnerships only.

Table 16: Other Abusive Behaviours Category by Outcome of Application, Intimate Relationships Only*

		Other Abusive Behaviours Category				Total	
		Not Abused		Abused			
		N	%	N	%	N	%
Outcome of Application	**Granted**	91	**61.5**	118	**49.0**	209	**53.7**
	Dismissed	57	**38.5**	123	**51.0**	180	**46.3**
Total		148	**100**	241	**100**	389	**100**

* Chi-square test significant at the $p<.05$ level

The next relationship examined was whether or not cases involving evidence of stalking alone are as likely to result in an order being granted as are cases involving stalking coupled with other forms of abuse in the 'intimate partners only' sample. As was the situation with the larger sample, statistical significance was not reached. Therefore, those experiencing stalking coupled with other forms of abuse are not more likely to receive a protection order.

The relationships between three variables related to the nature of abuse (history of abuse, previous court orders and presence of weapons) and the dependent variable with

regard to intimate partnerships were examined next. In keeping with the analysis regarding all cases, no statistically significant influence is found between the history of abuse and the outcome of applications. While the existence of previous court orders is a significant factor in determining the outcome of applications when considering all cases, it is not with regard to intimate partnerships.

As shown in Table 17, and consistent with the findings involving all cases, evidence of weapons results in a greater likelihood of an order being granted when considering only intimate relationships. When weapons are in evidence, orders are granted in nearly 70% of cases. The chi-square test revealed that this finding was statistically significant.

Table 17: Presence of Weapons by Outcome of Application, Intimate Relationships Only*

		Presence of Weapons				Total	
		No Weapon		Weapon			
		N	%	N	%	N	%
Outcome of Application	**Granted**	165	**50.6**	44	**69.8**	209	**53.7**
	Dismissed	161	**49.4**	19	**30.2**	180	**46.3**
Total		326	**100**	274	**100**	389	**100**

* Chi-square test significant at the $p<.05$ level

The final factor influencing the outcome of the application for cases of intimate partnerships is the magistrate who conducts the hearing. Similar to the results discussed earlier, the particular magistrate is a significant factor in determining whether or not an order is granted. This finding was significant at the $p<.001$ level, however, the table for this crosstabulation cannot be presented here due to the risk of disclosing the identity of

individual magistrates. Therefore, the findings are presented by grouping the magistrates into the three categories of 'high granters', 'medium granters', and 'low granters' (see Table 18). There are four magistrates in the 'high granters' category. They issue orders in four out of five (82.3%) cases and hear 29.4% of the total number of applications. The 'medium granters' category is made up of eight magistrates who grant the orders in half (50%) of the cases and hear (54%) of the total applications. Finally, the three magistrates in the 'low granters' category grant orders in only 14.1% of the applications, conducting 16.6% of the hearings.

Table 18: Outcome of Application by Magistrate, Intimate Relationships Only

	Granted		Dismissed		Total Applications	
	N	%	N	%	N	%
High Granters	93	**82.3**	20	**17.7**	113	**29.4**
Medium Granters	104	**50.0**	104	**50**	208	**54.0**
Low Granters	9	**14.1**	55	**85.9**	64	**16.6**
					385*	**100**

*Four cases are missing

Preliminary Model of Stalking

In interpreting the results of the logistic regression analysis of all cases (N=483), we see that only three of the variables in the model shown in Table 19 reach statistical significance: presence of weapons, previous court orders issued, and magistrate. Where weapons are present, protection orders are about half as likely (.44) to be granted as when no weapons are in evidence. This differs from the direction of the result indicated in the bivariate analysis which suggested that orders would be *more* likely to be granted in cases

where weapons are used and/or threatened. Where previous court orders had been issued between the parties, protection orders are also about half as likely (.56) to be granted as when no such orders exist. This supports the results found at the bivariate level of analysis. The model also suggests that the particular magistrate hearing the application has a bearing (.93) on whether or not an order is granted, consistent with the result found at the bivariate level of analysis. In order to provide a more detailed picture, dummy

Table 19: Preliminary Model of Stalking (All Cases)†

Variables in the Equation	Exponent(B)
Respondent age	1.006
Victim sex	1.683
Number of children named on application	1.032
History of abuse in relationship	.739
Presence of weapons	.437*
Previous court orders issued	.556*
'Other abusive behaviours' category	1.475
'Threatening behaviours' category	1.224
Degree of stalking activity	.898
Magistrate conducting hearing	.933**

Notes:

* Significant at the p<.05 level
** Significant at the p<.01 level
† Omnibus tests of model coefficients significant at the p<.05 level

variables for each particular magistrate would need be entered into a separate model; however that step cannot be taken for reasons of risking identity disclosure and because the number of cases per magistrate is too low to allow for statistical comparison. Therefore, the interpretation of the results from this model only indicates that the

particular magistrate conducting a hearing does make a statistically significant difference when controlling for the other factors in the equation.

Model of Stalking by Intimate Partners

A better model fit was achieved when filtering the dataset to examine only those cases involving intimate relationships (N=389). As shown in Table 20, five variables in the model were found to be statistically significant: victim sex, the 'threatening behaviours' category of abuse, the magistrate conducting the hearing, previous court orders issued, and presence of weapons.

Table 20: Model of Stalking by Intimate Partners†

Variables in the Equation	Exponent(B)
Respondent age	1.010
Victim sex	2.498**
Number of children named on application	1.081
History of abuse in relationship	.750
Presence of weapons	.450**
Previous court orders issued	.576*
'Other abusive behaviours' category	1.564
'Threatening behaviours' category	1.669*
Degree of stalking activity	1.098
Magistrate conducting hearing	.923**

Notes:

* Significant at the p<.10 level
** Significant at the p<.05 level
† Omnibus tests of model coefficients significant at the p<.05 level

An interesting picture emerged in terms of victim sex. While this variable did not appear to be a determining factor in the earlier analyses, it reaches statistical significance here. Female applicants are almost two-and-a-half times more likely to have a protection order granted than are males. A second factor shown as having an influence in cases of intimate partners is the category of threatening behaviours. This result indicates that when cases include evidence of threatening behaviours, orders are more than one-and-a-half times (1.7) more likely to be granted than in cases where these behaviours are not present. Another statistically significant factor influencing the outcome of applications is the magistrate who conducts the hearing. Again, this finding cannot be further investigated without the risk of identity disclosure, and due to the small number of cases per magistrate. Therefore, it will suffice to say that, consistent with the earlier findings, this model indicates that the particular magistrate does have a bearing (.92) on whether or not an order is granted, though the influence of this variable is marginal, given the number is close to one. A fourth influential factor is where previous court orders exist between the parties. In cases where previous court orders have been issued, applicants are approximately half as likely (.58) to have the protection order granted as in cases where no previous orders exist. The final statistically significant factor having an influence in the model is the presence of weapons. Cases where weapons are involved are about half as likely (.45) to result in an order being granted than are cases where there is no evidence of weapons. This is consistent with the results found when considering all cases in the sample.

Table 21 summarizes the factors identified in this analysis as having a statistically significant influence on the outcome of protection order applications. At the bivariate

Table 21: Factors Influencing Protection Order Application Outcome

Level of Analysis			
Bivariate		**Multivariate**	
complete	**intimates only**	**complete**	**intimates only**
↑ stalking – unwanted communication	↑ stalking – unwanted communication	↓ previous court orders	↑ threatening behaviours category
↑ stalking – delivery of unwanted items	↓ stalking - monitoring victim's activities	↓ presence of weapons	↓ male victim
↑ greater number of stalking behaviours	↓ threats to take children		↓ previous court orders
↑ presence of weapons	↓ other abuse category		↓ presence of weapons
↓ property damage			
↓ threats to take children			
↓ other abuse category			
↓ previous court orders			
Magistrate is a somewhat significant factor influencing whether or not the order is granted, but the direction cannot be interpreted as there are fifteen different magistrates			

Note: An upward-pointing arrow next to a factor indicates it results in an increased likelihood a protection order will be granted, while a downward-pointing arrow indicates it results in a reduced likelihood of a protection order being granted.

level, and when considering the complete sample, the following factors result in an increased likelihood of a protection order being granted: stalking in the form of unwanted communication, stalking in the form of delivery of unwanted items, a greater

number of stalking behaviours, and the presence of weapons. Property damage, threats to take children, the 'other abusive behaviours' category, and previous court orders result in a decreased likelihood of receiving an order. At the bivariate level, and when considering intimate partners only, stalking in the form of unwanted communication results in a greater likelihood that a protection order will be granted, while the following factors result in a reduced likelihood: stalking in the form of monitoring the victim's activities, threats to take children, and the 'other abusive behaviours' category.

At the multivariate level of analysis of the complete sample, evidence of previous court orders and the presence of weapons result in a decreased likelihood that protection orders will be issued. When considering intimate relationships only, the 'threatening behaviours' category of abuse results in a greater likelihood that a protection order will be granted, while the following factors result in a reduced likelihood: being a male applicant, having evidence of previous court orders and the presence of weapons. The magistrate hearing the application is a statistically significant factor at both levels of analysis regardless of which sample is under consideration, however the direction cannot be interpreted given the fact there are fifteen different magistrates.[35]

I will now turn to the section of the analysis covering the secondary research questions, namely: 1) What are the conditions included in orders that are granted? 2)

[35] A logical next step in the analysis would have been to investigate whether or not cases of stalking alone are as likely to result in an order as are cases of stalking coupled with other forms of abuse. In an effort to address this research question, the sample was split into two, one including those cases involving stalking behaviours only (N=104) and the second including those cases where stalking was coupled with other forms of abuse (N=379). The plan was to construct models using each of these smaller samples and to then compare results between the two. Unfortunately, this attempt failed due to it being impossible to construct a useful model from the portion of the sample including stalking behaviours only (N=104). The inability to develop a viable model was due to one or more of the following problems: 1) the sample size was too small to adequately capture the statistical differences; 2) the model was not saturated, meaning that it was missing several crucial influences that would affect the outcome of applications; 3) key variables collected could not be included in the analysis due to excessive missing values; and 4) certain variables that may have been key determinants in whether or not orders are granted were not collected.

What are the reasons for dismissal in cases where applications are dismissed? 3) What are the alternative remedies suggested by magistrates in cases where applications are dismissed? 4) What are the circumstances surrounding situations where requests are made by the parties to have orders issued by magistrates removed?

RESULTS STEMMING FROM THE OUTCOME OF APPLICATIONS

In reporting the remainder of the results, which flow from the outcome of the applications, the focus will be on the complete sample of 483 cases. This focus is being applied for ease of interpretation, and because the findings in this portion of the analysis are similar regardless of whether all cases in the sample are considered or only those involving intimate relationships.

Conditions Issued in Orders Granted

Protection orders may contain a variety of conditions that are designed to address the particular needs of the victims requiring relief from domestic violence or stalking. Table 22 outlines the conditions issued in the 263 orders granted in the calendar year 2002. Almost all orders (98.9%) prohibit the respondent from directly or indirectly contacting or communicating with the victim and/or other people named in the order. The vast majority of orders (96.2%) contain a provision prohibiting the respondent from attending at or near the victim's residence.[36] Approximately two-thirds of orders (62.7%) prohibit the respondent from going to the workplace or school the victim attends. Just under half of the orders (48.3%) include a condition prohibiting the respondent from attending at or near locations that the victim regularly attends or happens to be. In 45.2% of orders, the

[36] Distances laid out in the orders typically specify 100 or 200 meters from the victim's residence.

respondent is prohibited from following the victim or other people named in the order. Other conditions are issued in a much smaller proportion of cases, including those prohibiting the respondent from attending at the child[ren]'s daycare or school (7.6%), providing peace officer accompaniment for a specified person to remove personal belongings from the residence (4.9%), directing a peace officer to seize weapons or ordering the respondent to deliver weapons to police (3.8%), granting the victim possession of necessary personal effects (3.4%), and directing a peace officer to remove a respondent from the residence (1.9%).

Table 22: Conditions Issued in Protection Orders Granted [N=263]

Conditions Issued	N	%
Respondent is prohibited from directly or indirectly contacting or communicating with the victim or others named on order	260	98.9
Respondent is prohibited from attending at or near the victim's residence	253	96.2
Respondent is prohibited from attending at or near the victim's place of work or school	165	62.7
Respondent is prohibited from attending at or near locations that the victim regularly attends or happens to be	127	48.3
Respondent is prohibited from following the victim or others named on the order	119	45.2
Respondent is prohibited from attending at or near the child[ren]'s daycare or school	20	7.6
Peace officer is to accompany a specified person to the residence to remove personal belongings	13	4.9
Peace officer is to seize and store weapons/respondent must deliver weapons to police	10	3.8
Victim is granted temporary possession of necessary personal effects	9	3.4
Peace officer is to remove respondent from the residence	5	1.9
TOTAL	981	372.9

Note: Orders contain multiple conditions, therefore figures total more than the 263 cases in which protection orders were granted and percentages total more than 100.

Reasons for Dismissal

When dismissing protection order applications, magistrates explain their reasons for doing so as part of the audio-taped court record. The reasons given in cases dismissed in the calendar year 2002 are outlined in Table 23. In 58.2% of dismissed applications, the magistrates cite insufficient evidence that domestic violence or stalking occurred.

Table 23: Reasons for Dismissal Cited in Protection Order Applications Dismissed [N=220]

Reasons Cited	**N**	**%**
Insufficient evidence that domestic violence or stalking occurred	128	**58.2**
No immediate protection required	118	**53.6**
Too much time elapsed since the domestic violence or stalking occurred	61	**27.7**
Relief sought is outside the magistrates' jurisdiction	23	**10.5**
Respondent arrested on criminal charges with orders not to contact or communicate with the victim	9	**4.1**
Cohabitation requirement not met (for domestic violence)	4	**1.8**
Other (includes insufficient fear, other civil orders in place, isolated incidents of stalking, criminal charges pending, etc.)	20	**9.1**
Total	363	**165**

Note: More than one reason for dismissal was cited in many cases, therefore figures total more than the 220 cases in which protection orders were dismissed and percentages total more than 100.

This is common in situations where the applicant has not articulated the abuse to the satisfaction of the magistrate, for example when the applicant does not provide specific dates, times or descriptions of the events. Magistrates turn orders down in 53.6% of dismissed applications for the reason that the immediate protection of the victim is not required. This can occur in situations where the magistrate believes the victim is not in

danger because he or she is currently residing in a secure location or one that is unknown to the respondent, or in cases where the respondent is not able to gain access to the victim by virtue of being out-of-town or incarcerated at the time the application is being made. Over one-quarter (27.7%) of the applications are dismissed because the magistrates determine that too much time has elapsed since the domestic violence or stalking occurred and therefore does not fit within section 6(1) of the *Act.* At the time these data were collected, this section of the legislation read as follows:

> A designated justice of the peace may grant a protection order without notice where the justice determines on a balance of probabilities that
>
> (a) the respondent **is** stalking the subject or subjecting him or her to domestic violence; and
>
> (b) the subject believes that the respondent **will continue** the domestic violence or stalking. [emphases added]
>
> SOURCE: Legislative Assembly of Manitoba, *The Domestic Violence and Stalking Prevention, Protection and Compensation Act* (1998)

The amount of time considered to be "too much" is indicated in Table 24. By combining the first three timeframes (from 'less than one week' to 'over two weeks to one month'), we see that in one-third (32.8%) of the cases where it is determined that too much time has elapsed, the time considered to be excessive falls within one month or less of when the abuse had occurred.

The fourth reason for dismissal (occurring in 10.5% of cases dismissed) is that the type of relief being sought by the applicant is not within the jurisdiction of a magistrate. Examples of where this can occur are situations where there are custody orders already put in place by a higher court judge that allow the respondent to have contact and communication with the applicant for purposes of child access, or where the

Table 24: Amount of Time Elapsed Since the Abuse or Stalking Occurred

Timeframe	N	**%**
less than one week	2	**3.3**
one to two weeks	10	**16.4**
over two weeks to one month	8	**13.1**
over one month to six months	14	**23.0**
over six months to one year	4	**6.6**
over one year	8	**13.1**
time not specified	15	**24.6**
Total	61	**100.1**

applicant is requesting that he or she be given sole occupancy of the home before such decisions have been heard by the proper higher authority.

As indicated in the fifth reason for dismissal listed in Table 23, there are some situations where the respondent has already been arrested for a criminal offense against the victim and has been placed under orders not to have any contact or communication with the applicant. Magistrates turned down orders for this reason in 4.1% of cases.

In a very small number of cases in this sample (1.8%), orders are denied because the victim and respondent do not meet the cohabitation requirement as laid out in the *Act*. At the time these data were collected, non-cohabitants were restricted in the portions of the legislation they were permitted to utilize. Even though applications under the stalking portion of the legislation have always been permitted without the parties having been deemed cohabitants, this was not true at the time for evidence given on the basis of domestic violence. Therefore, this figure reflects cases where the magistrate found insufficient evidence of stalking, and, even though there may have been evidence of

domestic violence, the magistrate could not consider the incidents of domestic violence in ruling on cases involving non-cohabitants.

Finally, we come to the final grouping of 'other reasons for dismissal', which are cited in 9.1% of the cases dismissed. These include cases where the applicant does not demonstrate a sufficient degree of fear. This sometimes occurs where the applicant has previously had a protection order issued against them and is in fear of being arrested on breach because the person who obtained that order is contacting them in spite of the existence of the order. Also, other civil orders are sometimes in place (such as non-molestation orders that are still in place from the days prior to the development of the *DVSA,* or existing family court orders) that the magistrate believes satisfies the type of relief the applicant requires. In some cases there are isolated incidents of stalking which, in the magistrates' opinion, do not satisfy the definition of stalking laid out in the *Act* that specifies "repeated" conduct. Where the applicants state that criminal charges are pending against the respondents, magistrates will typically turn down their requests for protection orders under the assumption that some type of no contact order will be issued under the criminal justice system once charges are laid.

Alternative Remedies

In addition to providing their reasons when dismissing protection order applications (N=220), magistrates also suggest alternative remedies for the applicants to pursue.[37] All applicants whose orders are turned down due to insufficient evidence (58.2% of dismissed cases) are advised that they can return to make a new protection order application if they have any additional evidence to present. Another alternative

[37] Multiple alternatives were recommended in many cases; therefore percentages total more than 100.

remedy commonly recommended (expressed in 40.9% of dismissed cases) is for the victim to seek a prevention order in the Court of Queen's Bench. The third most commonly suggested alternative (occurring in 21.8% of cases dismissed) is for applicants to initiate or continue with family court proceedings to deal with the matters at the heart of the conflict between the parties. The magistrates in these situations believe that if the sources of the tension are addressed (such as child custody, separation, or property division), the continuation or further escalation of the problematic behaviour will be unlikely. Making an application for a peace bond is recommended to 21.4% of people whose protection order applications are dismissed. Peace bonds can also provide for orders of no contact or communication, and are commonly suggested to those in non-family or non-intimate relationships (such as when problems arise with a co-worker, the ex-partner of one's intimate partner, a family member of one's intimate partner, etc.). In 17.3% of dismissed cases, magistrates encourage the applicants to seek criminal charges against the respondents. Magistrates suggest a host of other alternative remedies in 11.4% of dismissed cases. Examples of these suggestions are for the victim to have someone assist them in preparing the evidence to present it more clearly, have his or her employer ban the offender from the workplace, avoid going to places the respondent is likely to frequent, and (for those who the magistrates believe are sending mixed messages to the respondent) for the victim to make it clear the relationship is over and that any further contact or communication will not be tolerated.

Contested/Varied Orders

Of the orders that are granted (N=263), 25.4% of respondents make applications to have the orders set aside (meaning removed) in the Court of Queen's Bench. In these set aside hearings (N=67), respondents are successful in having the orders removed in 35.8% of cases. Orders are upheld with no modifications in 19.4% of hearings, and orders are upheld with some conditions being varied in 14.9% of cases. In 9% of cases the Queen's Bench judges decide to set aside the protection orders but replace them with different types of orders containing restrictions against contacting or communicating with the victims. Applications to set aside the orders are withdrawn by the respondent prior to the completion of the hearings in 7.5% of cases, which result in the orders against them remaining in place. The outcome of the remaining 13.4% of set aside hearings is unknown because the cases were still before the courts at the time the data collection for 2002 was completed.

In a small number of the cases granted, victims make applications to have the orders they obtain against the respondents set aside. This occurred in ten cases (3.8%) of the 263 orders issued in this sample. In eight (80%) of these applications the Queen's Bench judges conducting the hearings agreed to remove the orders, however, in the other two cases (20%) they kept the protection orders in place while varying the conditions included.

DISCUSSION

FACTORS INFLUENCING PROTECTION ORDER APPLICATION OUTCOME

Complete Sample

The first primary research question asked what factors influence whether or not protection orders are granted. At the bivariate level, and when considering all cases in the sample, the following types of stalking behaviours produce statistically significant results: stalking in the form of unwanted communication and stalking in the form of delivery of unwanted items (where these occur, orders are more likely to be granted). It is difficult to explain why these particular variables are found to be statistically significant while other stalking variables are not. Perhaps victims are able to produce more credible evidence of these types of behaviours (for example recorded phone messages, emails, and being able to show the magistrate items that their stalkers delivered). Another stalking related factor found to be statistically significant is the number of stalking behaviours. As expected, the greater the number of stalking behaviours the more likely it is that an order will be granted.

Other individual types of abuse found to be statistically significant factors in determining outcome of application are property damage and threats to take the children (where these types of abuse are in evidence, orders are less likely to be granted). It seems odd that orders are *less* likely to be granted when property damage has occurred versus situations where it has not. I considered the possibility that when this type of evidence exists, magistrates may be more likely to direct the victim to pursue criminal intervention rather than civil remedies. To investigate this further, an additional step was added to the analysis to examine the alternative remedies given by magistrates in relation to those

dismissed cases where property damage was in evidence (N=33). The results of that analysis showed that, in cases where property damage occurs and applications are dismissed, victims are directed to seek criminal intervention slightly over one-third (36.4%) of the time, lending support to that explanation in these cases. It is unclear what the explanation might be in the remaining two-thirds of cases. There are likely other reasons which cannot be gleaned from the data to fully explain this finding.

Similarly, while it seems counter-intuitive that cases involving threats of taking the children would result in a *reduced* likelihood of receiving the order, I considered the possibility that there may be a tendency for magistrates to direct applicants to the Court of Queen's Bench to seek alternative forms of remedy when child custody issues are in evidence.[38] Again, the alternative remedies given by magistrates were examined, this time in relation to those dismissed cases where threats to take children were in evidence (N=16). The results of this analysis revealed that in all of those cases, victims were referred to the Court of Queen's Bench, lending credence to that explanation.

The category of other abusive behaviours (made up of physical abuse, etc.) is another factor found to be significant at the bivariate level when examining the complete sample (where this category exists orders are less likely to be granted). The tendency of magistrates to direct applicants to seek criminal intervention where evidence of this type of abuse exists was again considered in an attempt to make sense of this finding. When the alternative remedies given by magistrates were examined in relation to those dismissed cases where the 'other abusive behaviours' category existed (N=139), victims

[38] In cases where a couple with children has separated, each parent has a right to see the children unless there has been a ruling in the Court of Queen's Bench prohibiting contact. A magistrate only has the jurisdiction to issue a protection order for a child where there is evidence in the application that the respondent has abused the child. Without such evidence, threats to take children may be viewed as the respondent simply wanting to exercise his or her right to spend time with the child.

were directed to seek assistance through the criminal justice system in 38.2% of cases. While this finding provides support for those cases, it is unclear what the explanation might be in the remainder of applications. Again, there are likely other reasons which cannot be determined from this type of analysis to fully explain this finding.

Where previous court orders exist between the parties (for example bail conditions, probation orders, or family court orders), protection orders are significantly less likely to be granted. Again, I considered the possibility that magistrates may tend to dismiss orders when other segments of the justice system either are or have previously been involved in the case. For example, if previous criminal court orders were issued, there is likely some form of no contact provision in place as part of those orders. As another example, if previous separation or custody orders have been issued through the Court of Queen's Bench, magistrates might tend to advise the applicants to seek relief through that higher court (which has the ability to address no contact provisions in conjunction with the other orders it issues). When this possibility was further explored through examining the alternative remedies given in dismissed cases where previous court orders existed (N=80), there appeared to be support for this explanation, with 77.5% of victims being directed to the Court of Queen's Bench and 32.5% being advised to seek assistance through the criminal justice system.

At the bivariate level, the presence of weapons is found to be a significant factor, with orders being more likely to be granted when weapons are present. This is as one would expect, given that the presence of weapons would suggest a level of danger requiring the immediate protection of the victim.

The final statistically significant factor found at this stage of the analysis was the magistrate conducting the hearing, with certain magistrates being more likely to issue orders than others. It is unclear why some magistrates apparently apply different criteria in determining which applicants meet the threshold for having a protection order issued. As discussed in Chapter 2, studies have found that adjudicators consider a mixture of legal and extralegal factors in arriving at their decisions on sentencing. It would not be surprising, then, that the magistrates in my research also vary in their determinations based on factors both internal and external to the case.

At the multivariate level, and when considering all cases in the sample (all victims – including those stalked by intimate partners), three factors are found to be statistically significant: previous court orders issued, presence of weapons, and the magistrate conducting the hearing. In terms of previous court orders (with orders being less likely to be granted where these exist), I reiterate the support found in the previous discussion for the explanation that magistrates may dismiss protection order applications when other segments of the justice system have been involved in the case. In at least some of these cases, the magistrates lean toward the position that when the parties have already had dealings with either the criminal justice system or family court, other types of no contact orders are either already in place or can be issued through those avenues that may be more appropriate for the applicant to utilize under the circumstances.

The multivariate level of analysis indicated that where the presence of weapons exists, protection orders are less likely to be granted. This is an interesting finding because it differs from the direction of the result indicated in the bivariate analysis. While the crosstabulation suggested that orders would be *more* likely to be granted in

cases where weapons were used and/or threatened, the logistic regression model indicates that, when controlling for other factors, the opposite is true. In making sense of this finding it is possible that, as considered when discussing the other factors that result in a reduced likelihood of having an order granted, magistrates are directing applicants to alternative forms of remedy (in this case the criminal justice system to pursue criminal charges) where those alternatives exist. Again, the alternative remedies were examined, this time in relation to dismissed cases where weapons were in evidence (N=21). In almost half of those cases (47.6%), victims were directed to pursue assistance through the criminal justice system, lending credence to this explanation in those cases. Again, it is unclear what explanation can be given in the other half of the cases. I reiterate the likelihood of there being other reasons which cannot be determined from these data to fully explain this finding.

In supporting the results found at the bivariate level, the logistic regression model indicates that particular magistrates are more likely to issue orders than others. Given the importance of this finding, further investigation was warranted. Therefore, an additional step was added to the analysis to examine the reasons for dismissal given by magistrates in relation to the three categories of magistrates, 'high granters', 'medium granters' and 'low granters' (see Table 25). Unfortunately, the results of this additional analysis are not useful in providing additional insight. None of the individual reasons for dismissal reach statistical significance with the exception of 'too much time elapsed', and no meaningful patterns emerge in the table. Thus, it remains difficult to determine the reason for the variation among magistrates in their decision making. Gender differences cannot explain this finding, given that all magistrates in this dataset are female.

Table 25: Reason for Dismissal by Magistrate (all cases)*

Reason for Dismissal	Magistrate Category						Total	
	High Granters		Medium Granters		Low Granters			
	N	%	N	%	N	%	N	%
Insufficient evidence that domestic violence or stalking occurred	19	**14.9**	68	**53.1**	41	**32.0**	128	**100**
No immediate protection required	18	**15.3**	64	**54.2**	36	**30.5**	118	**100**
Too much time elapsed since the domestic violence or stalking occurred	6	**9.8**	40	**65.6**	15	**24.6**	61	**100**
Other reasons**	12	**21.4**	24	**42.9**	20	**35.7**	56	**100**
Total	55	**100**	196	**100**	112	**100**	363	**100**

* The only variable reaching statistical significance is 'too much time elapsed', with the Chi-square test significant at the $p<.05$ level.

** Due to the small number of cases, it was necessary to group three of the reasons for dismissal, 'relief sought is outside magistrates' jurisdiction', 'respondent arrested on criminal charges with orders of no contact' and 'cohabitation requirement not met' with the 'other reasons'.

Magistrate training also does not appear to be a factor, given that all magistrates conducting protection order hearings were given the same training at the time the legislation was introduced in 1999. Perhaps there are differences in the way various magistrates interpret the wording in the legislation and in their personal beliefs about the utility of these types of orders.

Intimate Partners

Fewer statistically significant factors were found at the bivariate level when the sample was filtered to include only applications involving stalking by former intimate

partners. As was the case in the complete sample, stalking in the form of unwanted communication is a significant factor, with orders being more likely to be granted where this exists.

Interestingly, where stalking in the form of monitoring the victims' activities exists in intimate relationships, orders are significantly *less* likely to be granted (this relationship was not significant when all cases were considered). It is unclear why the existence of this type of stalking results in a reduced likelihood of having an order granted when only intimate relationships are considered.

Other significant factors found at the bivariate level in terms of intimate partners are similar to the results arrived at in the complete sample: threats of taking children and the category of other abusive behaviours both result in a reduced likelihood of an order being granted, the presence of weapons points to an increased likelihood of an order being granted, and some magistrates are more likely to issue orders than others.

When the multivariate analysis was conducted on the portion of the sample involving stalking by former intimate partners, more significant factors were found than in the examination of the complete sample. Unlike the analysis of the complete sample, the examination of intimate partner relationships reveals that victim sex reaches statistical significance, with female applicants being almost two-and-a-half times more likely to receive an order than males. While the magnitude of this difference came as a surprise initially, I can offer two factors that may help to make sense of this finding. First and foremost, men are less likely than women to articulate feelings of fear when victimized by female stalkers (Kropp *et al.*, 2002), and fear is one of the criteria written into the *DVSA* that the justices of the peace are to take into consideration when deciding on cases

of stalking. Secondly, when examining the reasons for dismissal cited by magistrates, it became apparent that it is sometimes the case that people apply for protection orders because their former partners have obtained no contact orders against them but are continuing to contact them in spite of these orders. Therefore, the parties who have the restrictions placed on them are afraid that they will be subject to criminal charges of breach even though they are not the ones initiating the contact with the people who have obtained the orders. It is typically men who had been in former intimate partnerships with the applicants that are seeking orders under these circumstances, and the magistrates in these cases will dismiss the orders with an explanation that the fear needs to be for their personal safety, not for fear of criminal sanctions.

Another significant finding in the model pertaining to intimate partners was the 'threatening behaviours' category of abuse, with applications being more likely to result in an order where this type of abuse exists. This is possibly due to the magistrates being more likely to issue protection orders where credible threats exist because these threats may be indicative of the immediate need for the victims' protection, and yet at the same time, the magistrates may perceive there to be a lesser likelihood of the victims being able to successfully obtain assistance through other means. That is, where evidence of weapons or physical assaults are in evidence, the magistrates may refer applicants to seek redress through the criminal justice system with the expectation that these victims will indeed receive the assistance they require. Conversely, in cases involving threats, the magistrates may have had less confidence in that alternative aspect of the justice system providing applicants with a suitable remedy. However, there is no way of further exploring this possible explanation within this data.

As was the case in the earlier stages of analysis, the magistrate conducting the hearing has a statistically significant influence on whether or not an order will be granted. Again, in an attempt to further investigate this finding, an additional step was added to the analysis to examine the reasons for dismissal given by magistrates in relation to the three categories of magistrates, 'high granters', 'medium granters' and 'low granters' (see Table 26). This step fails to further illuminate this finding, with none of the individual

Table 26: Reason for Dismissal by Magistrate (intimate relationships only)*

Reason for Dismissal	Magistrate Category						Total	
	High Granters		Medium Granters		Low Granters			
	N	%	N	%	N	%	N	%
No immediate protection required	11	**10.7**	64	**62.1**	28	**27.2**	103	**100**
Insufficient evidence that domestic violence or stalking occurred	10	**10.4**	51	**53.1**	35	**36.5**	96	**100**
Too much time elapsed since the domestic violence or stalking occurred	6	**10.9**	31	**56.4**	18	**32.7**	55	**100**
Other reasons	4	**8.5**	31	**66.0**	12	**25.5**	47	**100**
Total	31	**100**	177	**100**	93	**100**	301	**100**

* None of the variables in this table reached statistical significance.
** Due to the small number of cases, it was necessary to group three of the reasons for dismissal, 'relief sought is outside magistrates' jurisdiction', 'respondent arrested on criminal charges with orders of no contact' and 'cohabitation requirement not met' with the 'other reasons'.

reasons for dismissal reaching statistical significance, and no meaningful patterns emerging in the table. To reiterate, while these data cannot explain the reason behind the differences in how various magistrates rule on these cases, it is possibly a combination of

factors involving how each magistrate interprets the wording in the *DVSA* and their own personal biases about the utility of protection orders in addressing the issues of domestic violence and stalking.

Similar to earlier findings, when previous court orders have been issued and where weapons are in evidence, orders are less likely to be granted. To reiterate, in some cases this may be due to the tendency of magistrates to turn down applications for protection orders when other segments of the civil justice system have already been involved in the case, or where criminal remedies are a possibility. It is unclear what the explanation might be in other cases.

TYPE AND DEGREE OF STALKING ACTIVITY

The second primary research question asked if the type and degree of stalking activities have a bearing on the outcome of applications. As indicated in the above discussion, at the bivariate level, and when considering all cases in the sample, stalking in the form of unwanted communication and stalking in the form of delivery of unwanted items are significant factors (with both being more likely to result in an order being granted), while the other forms of stalking are not. To reiterate, I speculate that the reason for this could be that it may be possible to present more credible pieces of evidence where these forms of stalking exist than with other forms. That is, rather than a magistrate having to take a victim's word at face value that he or she has been followed, watched, or visited by the respondent, in these forms of stalking the victim may be able to produce recorded phone calls or email printouts as concrete evidence. In terms of the degree of stalking activities, the number of different stalking behaviours experienced is

statistically significant, with a generally greater likelihood that an order will be granted as the number increases.

When the sample was filtered to take only intimate partnerships into consideration at the bivariate level, a slightly different picture emerged in terms of the types of stalking activities reaching significance. As indicated in the previous discussion, stalking in the form of unwanted communication was still significant in the filtered sample, with this form of stalking resulting in an increased likelihood of an order being granted. However, unlike the examination of the complete sample, stalking in the form of delivery of unwanted items was no longer a statistically significant factor. Also, where stalking in the form of monitoring the victims' activities was not a statistically significant factor when all relationships were considered, it does reach significance in the case of intimate relationships. Protection orders are *less* likely to be issued where this form of stalking exists, a puzzling finding. With regard to the degree of stalking activities, unlike the situation when considering all cases, results fail to reach statistical significance when only intimate partnerships are considered.

STALKING ALONE VERSUS STALKING COUPLED WITH OTHER ABUSE

The third primary research question explored whether or not stalking alone is as likely to result in an order being granted as stalking coupled with the other categories of abuse. This distinction was not found to be statistically significant at the bivariate level, regardless of whether all cases are being examined or only those involving intimate partnerships. That is, cases involving stalking alone were equally likely to have a protection order granted as cases involving stalking coupled with other abusive

behaviours. This is an interesting finding, given the fact that I had interviewed participants (both victims and service providers) in the qualitative portion of RESOLVE's larger research project (forthcoming) who indicated that obtaining orders on the basis of stalking alone was very difficult indeed. The present findings do not support the views of the participants in the qualitative study. It is possible that the sample of people interviewed in that segment of the study were not representative of the larger population of protection order applicants or service providers. Based on these findings, there appears to be a lack of connectedness between the opinion of those interviewed in the qualitative portion of the RESOLVE study and actual practice. It is well known within the criminological field that the public's perception of crime incidence and legal responses are often quite different than statistics indicate (Linden, 2004; Stein, 2001). Thus, the discrepancy between the present findings and the results of the qualitative interviews may be a reflection of this disconnect between perception and reality. However, it is also possible that certain variables that may have been key factors in the outcome of applications were not collected.

Unfortunately, it was not possible to investigate this important distinction at the multivariate level due to limitations in the dataset. Future research could further explore this matter by combining several years of data to attain a larger sample size and by taking certain steps to improve the data collected.

CONDITIONS INCLUDED IN PROTECTION ORDERS

One of the secondary research questions flowing from the outcome of applications asked what types of conditions are placed upon respondents when protection

orders are issued. Almost all orders contain conditions prohibiting the respondents from contacting the victims (98.9%) or from attending at the victims' homes (96.2%). About two-thirds of orders (62.7%) prohibit the respondents from going to the victims' place of work or school. In approximately half of the orders granted, respondents are prohibited from attending at or near locations where the victims regularly attend or happen to be (48.3%), and in close to half of orders respondents are prohibited from following the victim or other protected persons (45.2%). In a much smaller percentage of cases, other conditions are issued which prohibit respondents from going to children's daycares or schools, provide police accompaniment to collect personal effects, seize weapons, grant temporary possession of necessary personal effects, or remove the respondents from the residence.

REASONS FOR DISMISSAL

Another secondary research question examined the reasons given by magistrates when turning down a request for protection. The most common reason cited for dismissing applications is insufficient evidence that the domestic violence or stalking has occurred (58.2%). When I was listening to the taped transcripts of hearings, it was not uncommon to hear magistrates explain on the record that, while they believed the applicant was experiencing domestic abuse or stalking, they could not issue the order without being presented with compelling evidence of particular incidents. Given the emotional state of many of the victims during the application process, they are unable to clearly specify the nature of abuse that has occurred and most have no one to assist them in preparing their evidence in a manner in which the magistrates believe can justify

issuing an order. Under the recent changes to the *DVSA* outlined in the second chapter, designated individuals are now being made available through various organizations dealing with domestic abuse in an effort to provide assistance to victims in preparing their evidence prior to the hearing.[39] This still leaves a gap in terms of those individuals who are not connected with any of these agencies, however attempts are being made to arrange for a social worker at the courthouse to provide assistance. It is hoped that the situation under the revised legislation will be markedly improved over the climate that existed previously.

The second most commonly cited reason for turning down an order in this sample is that the victim does not require immediate protection (53.6%). This is a particularly troublesome reason because it was sometimes the case that orders were turned down because the applicant had fled to a women's shelter or some other place deemed safe by the magistrate, and therefore it was determined that the woman was not in immediate need of protection at the time of the hearing. This reason was also commonly cited when the respondent was temporarily out-of-town or incarcerated, and therefore the magistrate determined that the victim was safe for the time being. The recent amendments to the *DVSA* address this problem by directing the justices of the peace hearing the orders to take into consideration not only the *immediate* need for the victim's protection but also the *imminent* need, with the intent of relaxing the criteria that the justices of the peace are to follow when making their decisions. It will be interesting to see how the amended text is interpreted under the newly worded legislation.

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[39] Organizations involved at the time of this writing are Osborne House, Ikwe-Widdjiitiwin, Mama Wi Chi Itata, Native Women's Transition Centre, North End Women's Centre, A Woman's Place, and the Men's Resource Centre.

In 27.7% of cases it is determined that too much time has elapsed since the domestic violence or stalking occurred. The amount of time considered to be "too much" is surprisingly short in some cases, evidenced in the fact that in one-third (32.8%) of these cases, the time considered to be excessive falls within one month of when the abuse occurred. The reason this is particularly problematic is that victims frequently are not in a position to apply for these orders until after they have fled the abusive situation (often moving into an emergency shelter), become settled in their new surroundings, obtain domestic violence counselling and/or legal advice, and receive information on how to go about applying for this type of order. The time it takes for these things to occur is typically from one to several weeks following the most recent episode of abuse. In recognition of this problematic reason for dismissal, section 6(1) of the *Act* has been changed as part of the recent legislative amendments. These amendments are designed in part to address the restrictive wording that existed in the former version of the legislation, which contained terminology such as "the respondent **is** stalking" and "the respondent **will continue**" [emphases added]. The *DVSA* now reads as follows:

> A designated justice of the peace may grant a protection order without notice where the justice determines on a balance of probabilities that an order is necessary or advisable for the immediate or imminent need protection of the subject, in circumstances where
>
> (a) the respondent
>
> (i) **is** stalking **or has** stalked the subject, or
>
> (ii) **is** subjecting **or has** subjected him or her to domestic violence;
>
> (b) the subject believes that the respondent **will continue or resume** the domestic violence or stalking; and

(c) the subject requires protection because there is a reasonable likelihood that the respondent **will continue or resume** the domestic violence or stalking. [emphases added]

SOURCE: Legislative Assembly of Manitoba, *The Domestic Violence and Stalking Act* (2005)

Again, it will be interesting to see the impact these legislative amendments have on the outcome of protection order applications in terms of broadening the criteria being considered by the justices of the peace when conducting the hearings.

In a smaller percentage of cases resulting in dismissal, the relief being sought by victims is beyond the jurisdiction of the magistrate (10.5%). Unlike the civil legislation found in some other Canadian provinces, the designated justices of the peace hearing orders in Manitoba are restricted in the type of relief they can consider. One of the reasons for this distinction is that, unlike in the other provinces, once a protection order is issued in Manitoba it is automatically filed as an order in the Court of Queen's Bench without further review by a higher court justice.[40] Therefore, given that the conditions in the order are binding upon the respondent without further scrutiny, the powers conveyed upon the justices of the peace in Manitoba are limited. As such, they cannot rule on matters typically handled by higher court authorities, for example those involving child custody, division of property, or sole occupancy of the family home. Another important point to consider here is that (and again unlike the situation in other provinces) protection orders are not issued for a brief period of time. As the situation was in 2002, unless an application was made by one of the parties to have the order set aside, it remained in

[40] The other provincial Acts require that, after an order of this type is issued by a justice of the peace, it must be reviewed (typically within a week) by a justice of the Court of Queen's Bench to confirm its standing in that court.

place indefinitely.[41] Given the restrictions this type of order places upon the respondent named in the order, along with its enduring nature, a protection order is a very powerful document. Therefore, there is further justification to limit the scope of the conditions the designated justices of the peace are permitted to place in the order.

Orders are turned down because the respondent has been arrested on criminal charges in 4.1% of dismissed applications. In these cases the magistrates are often reluctant to issue another order because they believe that if the respondent is unwilling to abide by one type of order, another one will not likely have any deterrent effect.[42]

A very small percentage of applications in this sample (1.8%) are dismissed partly because the cohabitation requirement is not met. As indicated above, this reason for dismissal pertains to applications where there is evidence of both stalking and domestic violence, the order cannot not be issued on the basis of stalking due to insufficient evidence, *and* the magistrate cannot consider evidence of domestic violence because that type of abuse requires the parties to meet the definition of cohabitants as laid out in the *DVSA*. Now that the legislation has been opened up in that regard by including dating relationships as well as certain other relationships of non-cohabitation (such as a grandparent and grandchild who have never resided together), this reason for dismissal will no longer be as likely to occur under the revised *Act*.[43]

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[41] As part of the recent legislative amendments, protection orders are now to be issued for a period of three years unless there are grounds for the judicial justice of the peace to extend it for a longer period.

[42] This reason was a source of frustration with some of the key respondents working within the justice system who were interviewed in the qualitative portion of the larger RESOLVE study (forthcoming). These individuals believed the layering of various no contact orders issued through both the criminal and civil courts provides the police with an opportunity to charge offenders with multiple counts of breach of court orders, and this in turn provides the Crown with additional leverage when negotiating plea agreements with defense counsel.

[43] Theoretically, there may still be rare cases involving relationships that do not meet the definition (for example, violence occurring between a caregiver and a patient).

ALTERNATIVE REMEDIES

A number of alternative remedies are recommended by magistrates when dismissing applications. The most common suggestion is for victims to re-apply for a protection order providing they present new evidence (58.2%). Applicants are referred to the Court of Queen's Bench to pursue a prevention order in 40.9% of dismissed cases. As indicated in the introductory chapter, prevention orders allow for a more comprehensive form of relief than that available in a protection order. However, they involve court filing costs, they generally require the assistance of a lawyer in preparing the necessary documentation, and they typically cannot be heard for several weeks. The third most frequently suggested alternative is for applicants to initiate or continue with family court proceedings to deal with the issues creating the conflict (21.8%). In 21.4% of dismissed cases, victims are advised to seek a peace bond. While legal representation is not required, peace bonds are not heard ex parte and the provisions and penalties typically apply to both parties rather than to the respondent alone. Applicants are referred to the police to pursue criminal charges in 17.3% of unsuccessful applications. This suggestion is often met with frustration on the part of the applicants who are specifically seeking a protection order because they do not wish to involve police. Resistance to involving the criminal justice system can stem from a number of factors, including having had negative experiences with police when attempting to report the offenders' activities previously, wanting to pursue less extreme forms of intervention, fearing repercussions from the respondents, wanting to avoid police interference in their own lives due to gang or drug involvement, or for a variety of other reasons. As one would expect, many applicants become very distraught upon being told their request for a

protection order is being denied and it is questionable as to how well they understand or accept the recommendations for alternative avenues for assistance at that point.

CONTESTED/VARIED ORDERS

A quarter of respondents (25.4%) apply to have orders issued against them set aside, and 35.8% of these applications are successful. In a very small percentage of cases (3.8%), victims request that the orders they have obtained against respondents be removed. Eighty percent of these requests are successful while the others result in a variation of the conditions in the existing orders. As indicated in the introductory chapter, while there is no monetary expense associated with obtaining a protection order, there is a cost involved in applying to have an order set aside. Legal Aid does not cover these matters, regardless of whether it is the victim or the respondent making the request for representation. Therefore, it is highly likely that more parties would proceed with making applications to set aside protection orders if they did not incur a cost in doing so.

SUMMARY

This chapter described the characteristics of the parties involved in protection order applications, outlined the types of abuse the victims experience, examined the outcome of applications, and, most importantly, identified the factors which determine whether or not protection orders are granted. Descriptions of the conditions included in protection orders and the reasons provided to applicants when these orders are dismissed were then presented. Finally, the alternative remedies suggested to unsuccessful

applicants were examined along with the circumstances surrounding situations where requests were made to have the orders removed.

The next chapter will conclude this analysis by highlighting the key findings and situating them within the larger context of this thesis. Specifically, conclusions will be drawn by linking the findings to the existing theory and literature. Future directions for this body of research will then be identified, with the hope of further illuminating the process of applying for protection orders in Manitoba.

Chapter 5: Conclusion

The purpose of this thesis was to empirically examine the factors which influenced whether or not protection orders under the *DVSA* were granted in applications that included evidence of stalking. Where most previous studies involving 'restraining orders' have attempted to evaluate their effectiveness in terms of curtailing the abuser's offensive behaviour, my research has instead focused on what is involved in obtaining an order to begin with. I have asked 'what it takes' to be successful in applying for a protection order, and the answer to that question is 'a great deal'. The findings illustrate that obtaining civil protective relief under the *DVSA* is not an easy task – the threshold for obtaining these orders is very high indeed. These results hold great relevance for the victims seeking these orders, as well as for those providing services for victims of domestic violence and stalking.

A number of the concerns identified in this thesis with respect to the tight criteria used by magistrates have been addressed through the recent legislative amendments. I remain hopeful that these changes to the legislation will provide victims with a significantly greater likelihood of being successful in their protection order applications. However, having seen that the wording in the legislation is subject to varying interpretations on the part of those issuing the orders, only time will tell to what extent the intended broadening of the *Act* will be realized. While the designation for those hearing protection order applications has been changed from magistrate to JJP, those who were hired as JJPs primarily came from the existing pool of magistrates. Therefore, it will be interesting to see the degree to which these same individuals relax the criteria for granting orders under the new *Act*. While the results of this thesis cannot be used to

evaluate the decisions of individual magistrates,[44] there is some evidence that this variable has an influence on outcomes. Therefore, it remains an important question that could be further investigated in future research endeavours. Specifically, there is a possibility that the new training given to all of the JJPs will result in less disparity among these individuals in their decision making. This training is designed, in part, to clarify the wording in the amended legislation. Therefore, one would assume that the JJPs will come away from these training sessions with a similar interpretation of the criteria to be used in their rulings (Joy Dupont, Manitoba Justice, personal communication, April 11, 2006). This thesis, therefore, has important policy implications in providing a point from which comparisons can be made to assess the impact of this training once data are collected on the decisions now being made by the JJPs.

The most promising amendment made, in my view, was the one appointing designated individuals from victim services agencies to assist women in making their applications. This should address the most common reason for dismissal, that of insufficient evidence to support the granting of an order. Obtaining a protection order is a daunting task, and even the most articulate applicants have difficulty expressing themselves effectively when under the degree of stress that violence and stalking provoke. Having supportive individuals available to provide victims with suggestions on how to clearly convey their experiences in their applications will very likely result in more orders being granted. This advocacy will reap additional benefits as well. As explained in the training sessions being offered to protection order designates (PODs) (Manitoba Justice, 2005b), successful applicants also need to be cautioned against

[44] This is for two reasons: the purpose of this thesis is exploratory in nature rather than evaluative, and the number of magistrates in the sample is too low to fairly evaluate this result.

adopting a false sense of security as a result of obtaining the orders, and to be given advice on safety planning in the event the order is breached. Even more importantly, however, is what this type of advocacy can contribute for those whose orders are dismissed. Victims need to be prepared for the possibility that the order will not be granted and have a back-up plan in place. They need validation that, even though they may not meet the criteria for having the order issued, the violence or stalking they are experiencing is a serious issue. Women who have suffered the effects of violence and stalking in their lives have a myriad of problems to contend with, which requires a multifaceted approach. The agencies offering the services of PODs are experienced in addressing problems such as poverty and inadequate housing that, for many applicants, cannot be disentangled from the abuse they experience. This research can serve as a baseline from which to gauge the recent changes with respect to the outcome of applications, the utilization rates, and the factors involved in making a successful application for victims who seek protective relief under the amended *Act*.

Another common reason for dismissal was that the magistrates found no immediate need for protection. Now that the *imminent* need is to be considered in addition to the *immediate* need for the victim's protection, orders should be issued more often in cases where the applicant is safe for the time being, for reasons such as having fled to a women's shelter or some other place deemed safe by the magistrate, or when the respondent is temporarily unable to make contact with the victim.

Similarly, relaxing the wording in the legislation should allow for situations where a period of time has elapsed since the most recent incident, as long as the applicant can demonstrate that the abuse or stalking has occurred and that there is a reasonable

likelihood it will resume. This will hopefully address cases where, previously, the abuse or stalking had to have occurred within a very short period of time prior to when the application was made, sometimes within only one or two weeks.

That being said, the findings in this thesis beg the important question, "So what?" Even if orders are issued in greater numbers, how valuable are these 'pieces of paper' in providing relief from domestic violence and stalking? The larger RESOLVE project (forthcoming) that these thesis data are drawn from also involved a qualitative component, where women who had obtained these orders were asked about their satisfaction with them. While it is beyond the scope of the present discussion to review the findings from that portion of the RESOLVE research in detail, having conducted the majority of the interviews, I can speak to the issue of effectiveness from the women's perspective. Of the twelve protection orders issued in that sample, three-quarters (75%) of them were breached. However, some of the breaches were not of a nature that caused the women to fear for their safety. Taking into consideration only those breaches of a serious nature that did instil fear (N=6), half (50%) of the protection orders were breached. Not surprisingly, the women for whom the orders had effectively curtailed the offenders' activities reported satisfaction with the orders. The women whose former partners had breached the orders, but not in a manner that caused them to fear for their safety, also found the orders to be effective to some degree, stating that at least the problematic behaviours that led to them seeking the orders had subsided. Interestingly, even the women who stated that breaches had occurred which made them fear for their safety said that they found some degree of satisfaction with having obtained the protection orders. Some valued the fact that the abuse they had experienced was being

validated by the magistrate issuing the order. For others, it was simply that they believed the orders sent a strong message to the offender and others that this type of behaviour is not acceptable. Therefore, it would appear from the qualitative findings that women who obtain these orders do indeed benefit from them, at least to some degree.

These findings can also be linked to the theoretical debate discussed in Chapter 2. Research conducted by Lewis *et al.* (2000) examined the effectiveness of remedies available under criminal and civil law and found that there is no one best 'solution' between them for assisting abused women. Rather, 'what works' depends on the particular individuals and circumstances involved, and that women's needs and desires change over time. However, they discovered through examining the women's own perspectives that civil remedies are an important component within the range of options available. In particular, women found that civil protection orders provide them with more control over their situations relative to invoking the criminal law. Many women unhappy with the criminal justice system believed that, once an arrest had been made, their situations went 'spinning out of control', placing them in the position of being recipients of the legal apparatus rather than active participants in the process. For them, civil remedies represent an instrument that they can use in a more flexible manner than the criminal law allows. The use of protection orders did not eliminate the violence in these women's lives, however,

> just as it would be foolish to expect arrest alone to change men's ingrained behaviour, so it would be naïve to expect [protection orders] to have such a dramatic, sustained effect. Rather, [protection orders] can be a useful tool in a repertoire of informal, legal, social and medical responses to violence, upon which women can draw. (Lewis *et al.*, 2000:200-201)

Civil remedies, then, serve to empower women and provide another point of intervention along the continuum of services available to assist victims in this province. I agree with Lewis *et al.* (2000) that civil orders can offer victims of abuse more agency than that available under the criminal law. For those theorists who posit that the 'criminalization' of violence against women is fraught with problems, I argue that the 'civilization' of it is far less so.

A key finding in my research is that, in many cases, victims are being re-directed to alternative remedies where those exist. Often, the alternative remedy is to seek relief through the Court of Queen's Bench. While this may indeed be the appropriate avenue for matters beyond the jurisdiction of a JP, there can be lengthy delays in securing legal representation and preparing the proper filing documents. Victims may be particularly vulnerable during this time, again pointing to the value of having advocates work with them to help them safely negotiate through the various channels. With respect to alternative remedies under the criminal law, and similar to the results found in the evaluations of the Acts in other provinces, there is an 'either/or' mindset in some cases. That is, while the intent of civil legislation is that it can be used in a complementary fashion to the criminal law, there is pressure to seek criminal intervention where evidence exists that would support a charge. As argued by Lewis *et al.* (2000), there are situations where women are unwilling to seek assistance through the criminal justice system. This was evidenced in the qualitative interviews I conducted with victims as part of the larger RESOLVE study (forthcoming). There were women who were reluctant to call police for a variety of reasons, such as being afraid of retaliation by the offender, revealing their own involvement in the gang or drug culture, or having had previous negative

experiences with police. Many women wanted to use the civil law system as a first step in attempting to curtail the activities, i.e., as a measured response to the abuse they were experiencing. To clarify, they wanted to allow the abuser or stalker the opportunity to cease the offensive behaviour before resorting to criminal sanctions. Women who are advised by the magistrate to contact the police may simply return to an unsafe situation rather than bringing the matter to the police. In my opinion, the spirit of the legislation is being usurped when there is resistance to using the civil law and criminal law in a complementary fashion. Perhaps complementary usage will occur more often with the newly worded *Act*, in that the relaxed wording might be more likely to result in an order being granted, even when other alternatives exist.

Much has been said about how difficult it can be to obtain protection orders under the *DVSA* and how welcome the anticipated improvements will be under the recent amendments. However, we cannot lose sight of the fact that, only six-and-a-half years ago, non-molestation orders were the popular form of civil remedy in this province. Without question, protection orders represent a marked improvement over the former system. Moreover, while they can be difficult to obtain, when issued, they are far better tailored to the specific needs of the parties involved, and they are also more likely to be given their due consideration by police than were non-molestation orders. These are powerful pieces of paper indeed.

Additional changes to the *DVSA* may be on the horizon, this time with respect to the constitutional issues discussed in Chapter 2. On the one hand, the Province of Manitoba has responded to concerns that the threshold for obtaining these orders has been too high, by broadening the scope of the legislation under Bill 17. On the other

hand, under the Scurfield decision, the judiciary clearly has concerns about its overbreadth (in interfering with the fundamental rights of respondents). This struggle to achieve balance will likely be played out in the courts for some time to come.

Future research is clearly called for in evaluating the effects of changes to the legislation. The fact that there has been a commitment on the part of the key stakeholders to continually monitor and improve the legislation over its short life bears mention. Hundreds of victims are utilizing this legislation year after year, representing a substantial buy-in to the concept of seeking civil remedies. Only through additional research will the true effects of legislative amendments be known.

Future research could also address an important research question that could not be fully examined here, namely whether evidence of stalking alone is as likely to result in a protection order as cases involving stalking coupled with other forms of abuse. While the bivariate level of analysis in this thesis appears to indicate that orders are as likely to be issued in cases of stalking alone, limitations in the dataset used for this project precluded a more sophisticated level of analysis from being conducted. Given that the opinion of those interviewed for the qualitative portion of the RESOLVE study (forthcoming) is that stalking is not taken as seriously as it should be by those issuing protection orders, an in-depth analysis of this issue needs to be conducted. Future research that combines multiple years to increase the sample size may result in significant findings. This will help to determine the degree to which stalking has become recognized as a serious problem.

Improved access to data could also yield meaningful results. For example, the 2004 General Social Survey (Statistics Canada, 2005:37) revealed that, in the one-year

period prior to that study, Aboriginal people are twice as likely as non-Aboriginal people (7% versus 3%) to have been stalked in a manner which caused them to fear for their safety. However, unless the courts begin to collect and release the information on victim and respondent racial background, we cannot compare the findings from Manitoba's *DVSA* applications on stalking to national figures. This will, in turn, impede efforts to target scarce resources toward the groups of victims deemed to be in the greatest need of assistance. RESOLVE has already refined its data collection efforts to improve subsequent examinations of Manitoba's *Act*, therefore the future is promising.

I believe this thesis has illustrated that the conditions underlying whether or not protection orders are issued on the basis of stalking are very complex. Besides the potential physical risks to victims experiencing escalating acts of violence, we have also seen the devastating effects stalking can have on one's psychological well-being. Therefore, it is imperative that these complex issues continue to be scrutinized through ongoing research. I agree with Lewis *et al.* (2000) that more empirical research is required to properly assess the value of legal interventions designed to address violence against women. This thesis has contributed to the understanding of stalking, a particularly problematic form of that violence. As this body of knowledge is advanced, so too will be the much-needed support offered to victims subjected to this serious social problem.

References

Abrams, Karen M. and Gail Robinson
2002 "Brief Communication: Occupational Effects of Stalking". *The Canadian Journal of Psychiatry*. 47: 468-472.

Amnesty International
2004 *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada.* <http://www.amnesty.ca/campaigns/resources/amr2000304.pdf>. (Retrieved April 29, 2006).

Bala, Nicholas and Ringseis, Erika
2002 *Review of Yukon's 'Family Violence Prevention Act'*. Canadian Research Institute for Law and the Family (for the Yukon Territory Department of Justice, Victim Services Office).

Bernstein, Susan E.
1993 "Living Under Siege: Do Stalking Laws Protect Domestic Violence Victims?" *Cordozo Law Review*. 15: 525-567.

Bradford & Associates
2001 *Prince Edward Island 'Victims of Family Violence Act': Final Evaluation Report* (April). Research conducted for the Department of Justice Canada, the RCMP and the PEI Office of the Attorney General.

Brewster, Mary P.
2000 "Stalking by Former Intimates: Verbal Threats and Other Predictors of Physical Violence". *Violence and Victims* 15,1: 41-54.

Coleman, Francis L
1997 "Stalking Behavior and the Cycle of Domestic Violence." *Journal of Interpersonal Violence* 12, 3 (June): 420-432.

Comack, Elizabeth and Balfour, Gillian
2004 *The Power to Criminalize: Violence, Inequality and the Law.* Halifax: Fernwood.

Comack, Elizabeth
1993 *Feminist Engagement with the Law: The Legal Recognition of the Battered Woman Syndrome.* Ottawa: CRIAW.

Criminal Code of Canada
2006a Section 127 (1) "Disobeying order of court." <http://laws.justice.gc.ca/en/c-46/267225.html>. (Retrieved April 15, 2006).

Criminal Code of Canada
2006b Section 264 (1) (2). "Criminal harassment." <http://laws.justice.gc.ca/en/c-46/267407.html>. (Retrieved April 15, 2006).

Currie, Dawn
1998 "The Criminalization of Violence Against Women: Feminist Demands and Patriarchal Accomodation", in K.D. Bonnycastle and G.S. Rigakos, eds., *Unsettling Truths: Battered Women, Policy, Politics, and Contemporary Research in Canada,* 41-51. Vancouver: The Collective Press.

Currie, Dawn
1990 "Battered Women and the State: From the Failure of Theory to a Theory of Failure". *Journal of Human Justice* 1,2: 77-96.

Department of Justice Canada
2003 *Spousal Abuse Policies and Legislation: Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation.* Prepared for Federal-Provincial-Territorial Ministers of Justice. Ottawa.

Department of Justice Canada
2002 *Review of Provincial and Territorial Domestic Violence Legislation and Implementation Strategies* (rr2001-4e). Ottawa: Research and Statistics Division.

Department of Justice Canada
1996 *A Review of Section 264 (Criminal Harassment) of the Criminal Code of Canada: Working Document* (WD1996-7e). Ottawa: Research and Statistics Division, Policy Sector.

Eisikovits, Zvi, and Buchbinder, Eli
2000 *Locked in a Violent Embrace: Understanding and Intervening in Domestic Violence.* Thousand Oaks: Sage Publications.

Fedorowycz, Orest
2001 "Homicide in Canada – 2000". *Juristat.* Vol. 21, No. 9. Canadian Centre for Justice Statistics: Statistics Canada.

Finch, Emily
2001 *The Criminalisation of Stalking: Constructing the Problem and Evaluating the Solution.* London: Cavendish.

Gelles, Richard J., and Loseke, Donileen R., eds.
1993 *Current Controversies on Family Violence.* Newbury Park: Sage Publications.

Government of Canada
2002 Bill C-15A: *An Act to Amend the Criminal Code and to Amend Other Acts.* Parliamentary Research Branch. <http://www.parl.gc.ca/common/Bills> (Retrieved March 1, 2003).

Hackett, Karen
2000 "Criminal Harassment". *Juristat.* 20, 11 (November). Canadian Centre for Justice Statistics: Statistics Canada.

Henning, Kris, and Feder, Lynette
2005 "Criminal Prosecution of Domestic Violence Offenses: An Investigation of Factors Predictive of Court Outcomes". *Criminal Justice and Behaviour.* 32, 6: 612-642.

Hogarth, John
1971 *Sentencing as a Human Process.* Toronto: University of Toronto Press.

Hotton, Tina
2001 "Spousal Violence after Marital Separation". *Juristat.* 21, 7 (June). Canadian Centre for Justice Statistics: Statistics Canada.

Howard**research**
2000 *Implementation and Impact of the Protection Against Family Violence Act*: *Final Report* (September). Howard**research** and Instructional Systems Inc.

Johnson, Holly
1996 *Dangerous Domains: Violence Against Women in Canada.* Canadian Centre for Justice Statistics, Statistics Canada. Scarborough: Nelson.

Kropp, Randal P., Hart, S.D., and Lyon, D.R.
2002 "Risk Assessment of Stalkers: Some Problems and Possible Solutions". *Criminal Justice and Behaviour.* 29 (5): 590-616.

Legislative Assembly of Manitoba
2005a Bill 17: *The Domestic Violence and Stalking Prevention, Protection and Compensation Amendment Act.* <http://web2.gov.mb.ca/bills/38-2/b017e.php> (retrieved July 15, 2005)

Legislative Assembly of Manitoba
2005b Bill 11: *The Provincial Court Amendment Act (Justices of the Peace).* <http://web2.gov.mb.ca/bills/sess/b011e.php> (retrieved July 29, 2005)

Legislative Assembly of Manitoba
1998 *The Domestic Violence and Stalking Prevention, Protection and Compensation Act*, c.D93.

Lewis, Ruth
2004 "Making Justice Work: Effective Legal Interventions for Domestic Violence". *British Journal of Criminology* 44: 204-224.

Lewis, Ruth., Dobash, R.E., Dobash R.P. and Cavanaugh, K.
2001 "Law's Progressive Potential: The Value of Engagement with the Law for Domestic Violence". *Social & Legal Studies* 10,1: 105-130.

Lewis, Ruth., Dobash, R.P., Dobash R.E. and Cavanaugh, K.
2000 "Protection, Prevention, Rehabilitation or Justice? Women's Use of the Law to Challenge Domestic Violence". *International Review of Victimology* 7, 1-3: 179-205.

Linden, Rick
2004 *Criminology: A Canadian Perspective*, 5th ed. Toronto: Nelson.

Lingg, R.A.
1993 "Stopping Stalkers: A Critical Examination of Anti-Stalking Legislation". *Saint John's Law Review*. 67: 347-381.

Manitoba Association of Women and the Law
1991 Gender Equity in the Courts: Criminal Law. Winnipeg.

Manitoba Justice
2005a "*The Domestic Violence and Stalking Act*: Training and Information Package". Victim Services Branch.

Manitoba Justice
2005b "Domestic Violence and Stalking Act Information Session". Seminar conducted by Manitoba Justice, Victim Services Branch. Winnipeg: March 9, 2006.

Manitoba Law Reform Commission.
1999 *Adult Protection and Elder Abuse* (Report # 103). Winnipeg: Government of Manitoba.

Manitoba Law Reform Commission.
1997 *Stalking* (Report # 98). Winnipeg: Government of Manitoba.

Mechanic, Mindy B., Uhlmansiek, M., Weaver, M., and Resick, P.
2001 "The Impact of Severe Stalking Experienced by Acutely Battered Women: An Examination of Violence, Psychological Symptoms and Strategic Responding". *Violence and Victims*. 15: 443-458.

Mullen, Paul E., Pathe, M., Purcell, R., and Stuart, G.W.
1999 "A Study of Stalkers". *American Journal of Psychiatry*. 156: 1244-1249.

National Institute of Justice
1996 "Domestic Violence, Stalking, and Antistalking Legislation". *An Annual Report to Congress under the Violence Against Women Act*: Research Report.

Pathe, Michelle, and Mullen, Paul E.
1997 "The Impact of Stalkers on their Victims". *British Journal of Psychiatry*. 170: 12-17.

Palys, Ted S., and Divorski, Stan
1986 "Explaining Sentence Disparity". *Canadian Journal of Criminology* 28: 347-362.

Pitch, Tamar
1990 "From Oppressed to Victims: Collective Actors and the Symbolic Use of the Justice System". *Studies in Law, Politics and Society* 10: 103-117.

Prairie Research Associates
1999 *A Further Review of the Saskatchewan Victims of Domestic Violence Act* (February). A Report of Research Conducted for the Research and Statistics Division, Department of Justice Canada with the Support of Saskatchewan Justice. Prairie Research Associates, Inc.

Prairie Research Associates
1996 *Review of the Saskatchewan Victims of Domestic Violence Act* (September). A Report of Research Conducted for the Research and Statistics Division, Department of Justice Canada. Prairie Research Associates, Inc.

RESOLVE
forthcoming "Evaluating the Justice and Community Response to Family Violence in the Canadian Prairie Provinces". Winnipeg: RESOLVE (Research and Education for Solutions to Violence and Abuse).

Schulman, Perry W., Commissioner
1997 Commission of Inquiry into the Deaths of Rhonda Lavoie and Roy Lavoie: A Study of Domestic Violence and the Justice System in Manitoba. Manitoba: Queen's Printer.

Scurfield, John
2004 "Baril v. Obelnicki: An application under *The Domestic Violence and Stalking Prevention, Protection and Compensation Act*, C.C.S.M. c. D93". Court of Queen's Bench of Manitoba, 2004 MBQB 92 (April).

Smart, Carol
1989 Feminism and the Power of Law. London: Routledge.

Snider, Laureen
1998 "Toward Safer Societies: Punishment, Masculinities and Violence Against Women". *The British Journal of Criminology* 38,1: 1-39.

Snider, Laureen
1994a "Criminalization: Panacea for Men Who Assault Women, but Anathema for Corporate Criminals", in D.H. Currie and B.D. MacLean, eds., *Social Inequality, Social Justice*, 101-104. Vancouver: The Collective Press.

Snider, Laureen
1994b "Feminism, Punishment and the Potential for Empowerment". *Canadian Journal of Law and Society,* 9: 75-104.

Snider, Laureen
1991 "The Potential of the Criminal Justice System to Promote Feminist Concerns", in E. Comack and S. Brickey, eds., *The Social Basis of Law: Critical Readings in the Sociology of Law,* 2nd ed., 238-260. Halifax: Garamond.

Statistics Canada
2005 "Family Violence in Canada: A Statistical Profile". Canadian Centre for Justice Statistics, catalogue number 85-224-XIE.

Statistics Canada
2000 "Family Violence in Canada: A Statistical Profile". Canadian Centre for Justice Statistics, catalogue number 85-224-XIE.

Stein, Karin
2001 *Public Perception of Crime and Justice in Canada: A Review of Opinion Polls*. Ottawa: Department of Justice Canada.

Tjaden, Patricia and Thoennes, Nancy
1998 "Stalking in America: Findings from the National Violence Against Women Survey". *Research Report of the National Institute of Justice and Centers for Disease Control and Prevention.* Center for Policy Research, U.S. Department of Justice.

Ursel, E. Jane
2002 "'His Sentence is My Freedom': Processing Domestic Violence Cases in the Winnipeg Family Violence Court", in L.M. Tutty and C. Goard, eds., *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*, 43-63. Halifax: Fernwood Publishing and RESOLVE.

Ursel, E. Jane
1997 "The Possibilities of Criminal Justice Intervention in Domestic Violence: A Canadian Case Study". Paper presented at Parliament House, Sydney Australia, August 29. Sponsored by the Institute of Criminology, Faculty of Law, University of Sydney.

Ursel, E. Jane
1995 "The Winnipeg Family Violence Court", in M. Valverde, L. MacLeod and K. Johnson, eds., *Wife Assault and the Canadian Criminal Justice System: Issues and Policies,* 169-182. Toronto: Centre of Criminology, University of Toronto.

Ursel, E. Jane
1992 Private Lives, Public Policy: 100 Years of State Intervention in the Family. Toronto: Women's Press.

Ursel, E. Jane
1991 "Considering the Impact of the Battered Women's Movement on the State: The Example of Manitoba", in E. Comack and S. Brickey, eds., *The Social Basis of Law: Critical Readings in the Sociology of Law,* 2nd ed., 261-288. Halifax: Garamond.

Ursel, E. Jane and Brickey, Stephen
1996 "The Potential of Legal Reform Reconsidered: An Examination of Manitoba's Zero-Tolerance Policy on Family Violence", in T. O'Reilly Fleming (ed.), *Post-Critical Criminology,* 56-77. Scarborough: Prentice-Hall.

U.S. Department of Justice
2004 *Stalking*. Washington: National Centre for Victims of Crime, Stalking Resource Centre.

Walker, Lenore
1979 *The Battered Woman.* New York: Harper and Row.

Appendix A

Winnipeg Protection Order Applications, October 1999 – December 2005

DATE	NUMBER OF PROTECTION ORDER APPLICATIONS IN WINNIPEG	ORDERS GRANTED		APPLICATIONS DISMISSED*	
		N	%	N	%
1999					
October	89	71	**80**	18	**20**
November	74	57	**77**	17	**23**
December	99	79	**80**	20	**20**
2000					
January	72	65	**90**	7	**10**
February	89	68	**76**	21	**24**
March	114	75	**66**	39	**34**
April	105	62	**59**	43	**41**
May	104	71	**68**	33	**32**
June	115	83	**72**	32	**28**
July	113	84	**74**	29	**26**
August	111	60	**54**	51	**46**
September	114	73	**64**	41	**36**
October	108	64	**59**	44	**41**
November	82	40	**49**	42	**51**
December	81	45	**56**	36	**44**
Total for year 2000	**1208**	**790**	**65**	**418**	**35**
2001					
January	114	63	**55**	51	**45**
February	71	43	**61**	28	**39**
March	65	36	**55**	29	**45**
April	92	56	**61**	36	**39**
May	101	50	**50**	51	**50**
June	89	37	**42**	52	**58**
July	97	52	**54**	45	**46**
August	114	61	**54**	53	**46**
September	77	43	**56**	34	**44**
October	69	44	**64**	25	**36**
November	62	28	**45**	34	**55**
December	41	20	**49**	21	**51**
Total for year 2001	**992**	**533**	**54**	**459**	**46**
2002					
January	53	32	**60**	21	**40**
February	56	24	**43**	32	**57**
March	50	31	**62**	19	**38**
April	76	37	**49**	39	**51**
May	71	38	**54**	33	**46**
June	54	19	**35**	35	**65**
July	83	51	**61**	32	**39**
August	78	38	**49**	40	**51**
September	78	31	**40**	47	**60**
October	71	33	**46**	38	**54**
November	62	34	**55**	28	**45**
December	43	19	**44**	24	**56**
Total for year 2002	**775****	**388**	**50**	**387**	**50**

DATE	NUMBER OF PROTECTION ORDER APPLICATIONS IN WINNIPEG	ORDERS GRANTED		APPLICATIONS DISMISSED	
		n	%	n	%
2003					
January	51	23	**45**	28	**55**
February	38	14	**37**	24	**63**
March	48	19	**40**	29	**60**
April	52	23	**44**	29	**56**
May	57	21	**37**	36	**63**
June	54	21	**39**	33	**61**
July	72	33	**46**	39	**54**
August	62	11	**18**	51	**82**
September	62	14	**23**	48	**77**
October	60	24	**40**	36	**60**
November	42	9	**21**	33	**79**
December	42	16	**38**	26	**62**
Total for year 2003	**640**	**228**	**36**	**412**	**64**
2004					
January	35	16	**46**	19	**54**
February	46	21	**46**	25	**54**
March	47	19	**40**	28	**60**
April	38	11	**29**	27	**71**
May	41	23	**56**	18	**44**
June	40	10	**25**	30	**75**
July	36	25	**69**	11	**31**
August	49	14	**29**	35	**71**
September	46	20	**43**	26	**57**
October	49	16	**33**	33	**67**
November	32	19	**59**	13	**41**
December	37	17	**46**	20	**54**
Total for year 2004	**496**	**211**	**43**	**285**	**57**
2004					
January	30	14	**47**	16	**53**
February	32	8	**25**	24	**75**
March	45	21	**47**	24	**53**
April	45	22	**49**	23	**51**
May	51	26	**51**	25	**49**
June	53	20	**38**	33	**62**
July	62	23	**37**	39	**63**
August	56	37	**66**	19	**34**
September	64	26	**41**	38	**59**
October	38	11	**29**	27	**71**
November	78	36	**46**	42	**54**
December	67	33	**49**	34	**51**
Total for year 2005	**621**	**277**	**45**	**344**	**55**

Notes: * Applications withdrawn by applicants prior to the completion of hearings are included with dismissals.

** The number of applications listed for 2002 is slightly higher than that provided by Manitoba Justice. In its detailed review of the files, RESOLVE uncovered 775 applications, whereas the court data identified 772 files (this discrepancy has to do with files being transferred from one court location to another between data collection periods). All other years in this table reflect the Manitoba Justice statistics.

SOURCE: Manitoba Justice – Judicial Support Services, 2006

Appendix B: Legislative Amendments under Bill 17

Amendments to the *DVSA* made under Bill 17 came into effect on October 31, 2005. The following points include excerpts from the training and information package which was designed to inform key stakeholders of the changes:

- The name of the *Act* was abbreviated to "*The Domestic Violence and Stalking Act*". The previous name was "*The Domestic Violence and Stalking Prevention, Prevention and Compensation Act*".

- The *Act* now applies to a broader range of relationships when applications are made on the basis of domestic violence.[1] It now allows people to seek relief under the domestic violence provisions of the *Act* against those with whom they have or have had a family relationship, whether or not they ever lived together. For example, these changes allow a grandmother to seek protection from a grandchild with whom she had never lived. Eligibility to seek relief is also extended to include those who have or have had a dating relationship, whether or not they have lived together.

- The *Act* clarifies the criteria for granting protection orders to cover situations where there is a *reasonable* likelihood violence will continue or resume and where relief is needed to a subject's *immediate or imminent* protection. The Act previously stated that the applicant only need *believe* the domestic violence or stalking will continue, and it covered relief needed for a subject's *immediate* protection only.

- A three-year time limit has been set for the duration of new protection orders, unless the designated justice of the peace feels an order should remain in force longer. (Prior to the amendments, protection orders did not expire unless one of the parties successfully applied to have the order set aside.) The new *Act* also provides for a subsequent protection order application after or shortly before an order expires, if there is still a need for protection. Compliance by a respondent with a protection order will not in itself mean the applicant is no longer in need of protection.

- The *Act* now allows designated individuals – Protection Order Designates (PODs) – from a select number of Winnipeg agencies[2] to assist applicants in preparing their evidence for protection order applications. Previously, only lawyers or peace officers could provide assistance.

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[1] For applications made on the basis of stalking, the *Act* has always permitted applications to be made regardless of the relationship between the parties.

[2] Currently the agencies with PODs are Osborne House, Ikwe-Widdjiitiwin, Ma Mawi-Wi-Chiitata Centre, Native Women's Transition Centre, North End Women's Centre, A Woman's Place, and the Men's Resource Centre.

- The *Act* now allows Court of Queen's Bench prevention orders to *require* respondents to receive counselling or therapy, where the original legislation allowed judges only to *recommend* this.

- With respect to Court of Queen's Bench prevention orders, the new *Act* more clearly provides for financial compensation to be sought from the respondent for monetary losses suffered by an applicant's children.

- A new publication ban provision (and penalty for breaching such bans) is included in the amendments. It covers both protection order and prevention order proceedings, and allows the court to impose a publication ban to protect the safety or well-being of children.

SOURCE: "*The Domestic Violence and Stalking Act*: Training and Information Package", Manitoba Justice, 2005a

Appendix C

Protection Order Application Form

PROTECTION ORDERS & PREVENTION ORDERS

IMPORTANT INFORMATION FOR VICTIMS OF STALKING OR DOMESTIC VIOLENCE

THE DOMESTIC VIOLENCE AND STALKING PREVENTION, PROTECTION AND COMPENSATION ACT offers persons subjected to stalking and domestic violence, the ability to seek a wide range of civil remedies to address their individual needs. People seeking ways to protect themselves can choose from two different types of orders: **PROTECTION ORDERS** obtained from a designated Justice of the Peace of the Provincial Court of Manitoba and **PREVENTION ORDERS** obtained from a Court of Queen's Bench Judge.

What are Protection Orders?
Protection Orders are granted on an emergency basis by a Justice of a Peace, without notice to the respondent, and contain conditions which prohibit the respondent from having contact with someone (the applicant) they have harassed or caused to fear for their own safety.

What kind of conditions can I ask for in a Protection Order?
These orders may contain as many of the following provisions as are necessary for the immediate protection of an applicant:

- prohibiting the respondent from attending at the applicant's residence or place of employment, or that of other specified persons;
- prohibiting the respondent from following the applicant or others;
- prohibiting the respondent from directly or indirectly contacting or communicating with the applicant or others;
- giving the applicant or respondent possession of necessary personal effects;
- peace officer assistance to remove the respondent from premises and/or to ensure the orderly removal of personal effects; and
- requiring the respondent to turn over weapons and authorizing the police to search for weapons.

What are Prevention Orders?
Prevention Orders are made by Court of Queen's Bench Judges. Applications to obtain a Prevention Order must be made in front of a Judge, and so may not be as easy to obtain quickly in emergency situations. Prevention Orders can, however, contain a greater number of conditions.

What kind of conditions can I ask for in a Prevention Order?
A Prevention Order can contain the same conditions found in a Protection Order. Prevention Orders can also contain additional conditions, such as:

- allowing the applicant sole occupation of the family residence;
- giving temporary possession of specified personal property, such as household goods, furniture or vehicles;
- seizing items used by the respondent to further the domestic violence or stalking;
- recommending the respondent obtain counselling;
- prohibiting the respondent from damaging, or dealing with property in which the applicant has an interest; and
- ordering the respondent to pay compensation to the applicant for any monetary losses caused by the violence or stalking, such as expenses for counselling, security measures, moving or lost income.

The court can also order the respondent's driver's licence be suspended if a motor vehicle has been used to further domestic violence or stalking.

OBTAINING AN ORDER WHICH PROHIBITS THE OFFENDER FROM MAKING CONTACT DOES NOT GUARANTEE THAT YOU WILL BE LEFT ALONE. MANY OFFENDERS ABIDE BY ORDERS PROHIBITING CONTACT, BUT SOME DO NOT. IT IS STILL VERY IMPORTANT TO OBTAIN AN ORDER OF PROTECTION SO THE POLICE WILL HAVE THE POWER TO ARREST AN OFFENDER FOR JUST TRYING TO MAKE CONTACT WITH YOU.

GETTING AN ORDER OF PROTECTION, USING A SAFETY PLAN AND CALLING THE POLICE CAN HELP PREVENT FURTHER VIOLENCE AND HARASSMENT.

See over for more information on Safety Planning

IMPORTANT INFORMATION ON HOW TO KEEP SAFE

People leaving an abusive relationship, and those being stalked, should know that violence and harassment can increase in severity at the point of separation, especially when the victim obtains an order of protection. MANY OFFENDERS STAY AWAY ONCE ORDERED TO, BUT SOME DO NOT! It is still very important to obtain an order of protection so the police can charge the offender if the order is not obeyed (e.g. the offender tries to make contact).

GETTING AN ORDER OF PROTECTION, USING A SAFETY PLAN AND CALLING THE POLICE CAN HELP PREVENT FURTHER VIOLENCE.

WHAT IS DOMESTIC VIOLENCE? Domestic violence or abuse occurs in domestic relationships when one person has more power, and uses it to cause fear to the other person. There are many different forms of abuse including: verbal/threats, psychological, physical, sexual, and destruction of property. It is against the law to physically harm or threaten another person. Domestic violence includes abuse directed at a spouse, child, sibling or senior parent.

WHAT IS STALKING? Stalking occurs when a person, without lawful authority, repeatedly harasses another person causing them to fear for their safety. Stalking can include following someone from place to place, communicating directly or indirectly with the other person, or anyone known to the other person, watching any place where the other person might be, or engaging in threatening conduct directed at the other person.
Stalking behavior is a criminal offence known as CRIMINAL HARASSMENT. It is against the law to repeatedly harass another person. You have a right to report this behavior to the police. If the police have enough evidence they may lay a criminal charge against the offender.

SAFETY PLANNING TIPS:

- Make a list of local phone numbers where you can seek emergency assistance including police, victim services programs, shelters and counselling agencies. The toll-free number for the PROVINCE-WIDE CRISIS LINE is 1-877-977-0007;
- Contact the nearest shelter or victim services program. Advise them of your current situation and ask for assistance to develop a good safety plan;
- Let family, friends and others you trust know what is happening - give them a description of the offender and any identifying information such as the make and colour of vehicle;
- If children are involved, teach them to dial 911 in an emergency, and help them develop an age appropriate safety plan;
- Keep a written record of any contact the offender makes with you or people you know, including the time, date, place, what happened and your reactions;
- Save any cards, letters or messages the offender leaves on your answering machine;
  If you receive harassing/threatening phone calls, hang up and immediately press *57 (dial 1157 on a rotary dial phone) to trace the call. Follow the instructions on the phone message;
- Develop a secret code with someone whom you speak with frequently on the phone. If you use the code word during a phone call, it will be a signal to your friend that you are in danger.
- Check your home for safety risks - locks, windows, hiding places in the yard, etc.;
- Prepare an evacuation plan. Make sure household members know what they should do in a crisis;
- Keep your car doors locked at all times. Inspect the back seat of your vehicle before you enter;
- Avoid walking alone and stay within well-travelled areas;
- If you are being followed, get someone's attention by yelling or blowing a whistle, and run to the nearest home or business;
- Obtain an order which prohibits the offender from contacting or communicating with you in any manner, and from attending at your home, school or workplace for as long as possible; and
- Once you have obtained an order prohibiting contact with you, call the police if the offender breaks any of the conditions.

THE OFFENDER MAY PROMISE TO LEAVE YOU ALONE IF YOU JUST GO SOMEHWERE WITH HIM OR HER TO TALK PRIVATELY, BUT YOU SHOULD NEVER GO!

See Over for more Information on Civil Orders o

PROTECTION ORDER FACT SHEET

This fact sheet is meant to help you

- apply for a Protection Order under Manitoba's *Domestic Violence and Stalking Prevention, Protection and Compensation Act*; and
- deal with domestic violence and/or stalking.

What is domestic violence?

Domestic violence occurs when your cohabitant (see #1 below for definition of cohabitant)

- physically or sexually abuses you or damages property;
- threatens such abuse or threatens to damage your property;
- psychologically or emotionally abuses you;
- forcibly confines you; or
- sexually abuses you.

What is stalking?

Stalking can take place in a variety of ways, but they produce the same result: repeated behaviour that causes the victim to fear for his or her personal safety. Here are some of the most common forms:

- bestowing unwanted attention on another person;
- following or shadowing another person;
- visiting a person at home or at work after being told not to do so;
- waiting on a street or in a parked vehicle outside the victim's home.

You can ask for a Protection Order if you have been subjected to either domestic violence or stalking. *You do not have to wait until you have actually been injured to seek help.*

APPLYING FOR A PROTECTION ORDER

If you are applying in person for a Protection Order without a lawyer, you will be asked to complete:

- a one-page application form;
- a fill in the blank affidavit, giving your evidence;
- if an order is granted, a form giving the court information on your whereabouts and the Respondent's, so that the Order and any other court documents can be served.

Be sure to fill out each document completely.

If you are not sure about some of the information asked for, try to find out the facts ... Bring copies of court orders and other relevant documents with you.

About the Application form

Usually the **Applicant** is you - the person seeking protection. In some cases the Applicant may be another person such as your child or a mentally incompetent person, for whom you are trying to get protection.

The **Respondent** is the person you're seeking the order against. This is the person you want protection from.

Filling out the Affidavit (your Evidence)

For paragraphs 1, 3, 4 and 5, choose which statement is true and cross out the one that is not true. For example: I am being stalked by the Respondent and I fear/~~do not fear~~ for my own safety.

1. Complete either paragraph 1A or 1B but *not* both. State whether or not you (or the person for whom you are seeking relief) and the Respondent are **cohabitants**, as defined by the *Act*. You are **cohabitants** if:

   - you and the Respondent now live together or have in the past lived together in a family, spousal or intimate relationship, or
   - you and the Respondent are the biological or adoptive parents of a child, regardless of your marital status or whether you have lived together at any time.

2. To complete paragraph 2, give your evidence (tell your story) about the domestic violence or stalking.

6. For paragraph 6, complete either 6A or 6B but *not* both.

7. For paragraph 7, complete either 7A or 7B but *not* both.

9-13. Complete paragraphs 9-13 only if you're applying on behalf of a person under age 18.

14-15. Complete paragraphs 14 and 15 only if you're applying on behalf of a mentally incompetent person.

16. Be sure to read paragraph 16. It applies in every case. All the statements you make in your affidavit must be true and accurate.

The evidence you give must be given under oath, and you must believe the evidence to be true. Also, the statements you make in your evidence must be things you know personally.

Other people (witnesses) can also give evidence in support of your application.

It is a serious criminal offence to knowingly make a false statement under oath.

ONCE YOU HAVE A PROTECTION ORDER

- It is automatically registered on a computer registry, and the police have access to that information.
- It automatically revokes any *ex parte* non-molestation order made by a designated justice or any non-molestation order made by a judge of the Provincial Court under *The Family Maintenance Act.*
- It is not enforceable outside Manitoba.

Your Safety

When you get a Protection Order, the order will likely be served on the Respondent by a sheriff's officer or the police. Once the Respondent is served, you may be in greater danger. Think about things you can do to protect yourself. Read the attached sheet: - IMPORTANT INFORMATION ON HOW TO KEEP SAFE. If the Respondent breaches any terms of the Protection Order, *contact the police at once for enforcement.*

Contesting the Protection Order

A Protection Order is made without notice to the Respondent. Once the Respondent is served, he/she may apply to the Court of Queen's Bench to ask that this order or any part of it be set aside. The Respondent will be able to see or listen to the evidence you gave to the court. Any application in the Court of Queen's Bench is governed by the Rules of that court and is subject to filing fees and the court Rules regarding the awarding of costs and/or disbursements. If the Respondent files an application, you should get notice of it, either personally or through the person you named to accept service for you (if applicable).

When the court hears the appliction, the judge must consider any evidence heard when the Protection Order was granted. You can file additional evidence, if you wish. You have the right to be present at any such hearing, but if you don't attend, the court may set aside the order in your absence. It is a good idea to consult your lawyer about whether or not you should appear at the hearing.

Additional Protection

Other kinds of protective relief are available under *The Domestic Violence and Stalking Prevention, Protection and Compensation Act*, such as Prevention Orders. You can apply for such an order from the Court of Queen's Bench. These applications are subject to filing fees and the ordinary Rules of Court and are usually done through a lawyer. You should talk to your lawyer about whether you should seek any additional protection.

Do I have to pay to get a Protection Order or other protection?

No fees are charged for obtaining a Protection Order. Filing fees are charged if you decide to cancel a Protection Order and for Prevention Orders and to set aside or vary a Protection Order.

Where can I get more information?

You can get more information about services and support for victims of domestic violence and stalking:
- at your local women's shelter;
- through the toll-free province wide domestic abuse crisis line 1-877-977-0007

QB File No. _____ (complete after transmission to QB)

BETWEEN:

_____, Applicant
(Person for whom protective relief is sought)

-and-

_____, Respondent.

APPLICATION FOR A PROTECTION ORDER

1. I am requesting a Protection Order under *The Domestic Violence and Stalking Prevention, Protection and Compensation Act*, against the Respondent. I am an adult person and I am seeking this Order for

   ☐ Myself;

   And/Or, if applicable,

   ☐ The following minor child(ren):

   _____ _____
   _____ _____
   _____ _____;

   Or, if applicable,

   ☐ A mentally incompetent person, and I am the person's committee appointed under *The Mental Health Act* or the person's substitute decision maker appointed under *The Vulnerable Persons Living with a Mental Disability Act*, and I have authority to make this application.

2. (Complete if applicable) I have a lawyer for the purpose of this application.
   My lawyer's name is _____.

3. (Complete if applicable) I am consenting to this application being submitted on my behalf by a lawyer or peace officer, namely _____ of (address) _____
   _____.

Signature of Applicant/Person requesting relief: _____

Print Name: _____

Date: _____

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QB File No. ______________________
(complete after transmission to QB)

BETWEEN:

____,

Applicant
(Person for whom protective relief is sought)

-and-

____,

Respondent.

EVIDENCE IN SUPPORT OF APPLICATION FOR A PROTECTION ORDER

I, ______________________________, of the ______________________________ (City, town, etc.)
of ______________________________, in the Province of ______________________________,
make oath and say or solemnly affirm as follows:

1A. I am the Applicant. The nature of my relationship to the Respondent is: ______________________________

____

____

____

____

The Respondent and I are/are not "cohabitants" as that term is defined in *The Domestic Violence and Stalking Prevention, Protection and Compensation Act;* OR

1B. I am applying on behalf of the Applicant. The nature of the Applicant's relationship to the Respondent is:

____

____

____

____

The Applicant and the Respondent are/are not "cohabitants" as that term is defined in *The Domestic Violence and Stalking Prevention, Protection and Compensation Act.*

2. My evidence that domestic violence or stalking has occurred is: (State what has happened and include the date(s) of any incident(s), if possible) ______________________________

____

____

____

____

____

____

____

____

____

____

____

____

____

____

____

____

____

____

______________________________ (Continue on reverse, if necessary).

____

3. The domestic violence or stalking has/has not involved weapons. I do/do not have concerns about the Respondent's access to weapons. (Provide details about any weapons) ______________________________

____

____

____

____

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4. I believe/do not believe that the domestic violence or stalking will continue. (Can be deleted if application is made on behalf of minor or mentally incompetent person).

5. I am being stalked by the Respondent and I fear/do not fear for my own safety. (This paragraph must be completed if you are saying that you are being stalked).

6A. There are no agreements or court orders in effect involving the Applicant and the Respondent, **OR**

6B. There are agreements and/or court orders in effect involving the Applicant and the Respondent and the details of all such agreements and/or court orders are: (Any orders in effect made under s. 10(1)(c) or 10(1)(d) of *The Family Maintenance Act* and any other Protection Order or Prevention Order made under this *Act* must be disclosed):

Date Judge (if applicable) Details

_____
_____
_____
_____
_____
_____
_____
_____

7A. I have not obtained a prior Protection Order or Prevention Order against the Respondent; OR

7B. I have obtained a prior Protection Order or Prevention Order against the Respondent and the status of that/those Order(s) is

_____
_____.

8. The domestic violence or stalking took place at : _____
(Indicate city/town/etc. and Province).

COMPLETE #9-13 ONLY IF THE APPLICATION IS MADE ON BEHALF OF A MINOR:

9. The minor Applicant's date of birth is: (D/M/Y) _____.

10. I, _____, am making this application on behalf of the minor Applicant and my relationship to the minor Applicant is: _____
_____
_____

11. I consent to making this application on behalf of the minor Applicant.

12. I have no interest adverse to that of the minor Applicant.

13. I am aware that I could be required to pay personally any costs awarded against me or against the minor Applicant.

COMPLETE #14-15 ONLY IF THE APPLICATION IS MADE ON BEHALF OF A MENTALLY INCOMPETENT PERSON:

14. Particulars of my appointment as committee or substitute decision maker for the Applicant are: _____
_____
_____
_____

15. Particulars of my authority to make this application on behalf of the Applicant are: _____
_____
_____
_____

16. I make this statement conscientiously and in good faith, in support of this application for a Protection Order against the Respondent. I understand that it is an offence to knowingly make a false statement under oath.

SWORN/AFFIRMED before me }
at the _____ of _____. }
in the Province of Manitoba this } _____
_____ } (day) (month) (year) }

_____

Q.B. File No. _____
(complete after transmission to Q.B.)

BETWEEN:

_____,

Applicant
(Person for whom protective relief is sought)

-and-

_____,

Respondent

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SERVICE INFORMATION

ABOUT THE APPLICANT:

Applicant's full name: _____ Date of Birth (D/M/Y) _____
Known by other names: _____
Applicant's home address: _____
Are there animals on the premises: (Identify number, type and breed) _____
_____
Telephone: _____
Business/Employment address: _____
Telephone: _____ Fax/Email/Internet Address: _____
Applicant's mother's maiden name: _____
Applicant's Social Insurance Number: _____
Applicant's Next of Kin: _____
Physical description of Applicant:
Gender (Male/Female) _____ Height: _____ Weight: _____ Build: _____
Eye Colour: _____ Hair Colour: _____ Complexion: _____
Clean shaven/Moustache/Beard: _____
Glasses: _____ Clothing habits and tastes: _____
Visible Distinguishing marks or features: _____
_____
Other information to assist the court in locating or serving the Applicant: _____
_____
_____
_____

☐ Photograph of Applicant attached.

Identifying information respecting any lawyer or peace officer who submitted an application for a Protection Order on behalf of an Applicant: _____
_____
_____
_____

The Applicant has designated the following person for service of documents on him/her (full name and address must be provided): _____
_____
_____

Date: _____ Applicant's Signature: _____

INFORMATION AS TO THE APPLICANT'S WHEREABOUTS MUST BE KEPT CONFIDENTIAL AND MUST NOT BE DISCLOSED OR RECORDED ON ANY COURT FILE ACCESSIBLE TO THE PUBLIC

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ABOUT THE RESPONDENT:

Respondent's full name: _____ Date of Birth (D/M/Y) _____
Known by other names: _____
Respondent's home address: _____
Are there animals on the premises: (Identify number, type and breed) _____
_____
Are there weapons on the premises: (Identify number, and type(s)) _____
_____
Telephone: _____
Business/Employment address: _____
Telephone: _____ Fax/Email/Internet Address: _____

Other address(es) where Respondent might be located (Friends, relatives, associates): _____
_____

Respondent's mother's maiden name: _____
Respondent's Social Insurance Number: _____
Respondent's Next of Kin: _____
Physical description of Respondent:
Gender (Male/Female) _____ Height: _____ Weight: _____ Build: _____
Eye Colour: _____ Hair Colour: _____ Complexion: _____
Clean shaven/Moustache/Beard: _____
Glasses: _____ Clothing habits and tastes: _____
Visible Distinguishing marks or features: _____
_____

Other information to assist the court in locating or serving the Respondent: _____
_____
_____
_____

☐ Photograph of Respondent attached.

Confidential

Appendix D: Data Collection Form

TRACKING SCHEDULE – PROTECTION ORDERS

Alberta – Emergency Protection Order (EPO)

Saskatchewan – Emergency Intervention Order (EIO)

Manitoba – Protection Order

1. **Province** _____
   1 = Alberta
   2 = Manitoba
   3 = Saskatchewan

2. **City or Town Application Made in** (see Codebook #1) _____

3. **Queen's Bench File #** _____

4. **Case I.D. Number** (Cross-reference with Master List) _____

5. **Date of Application** ____/____/____
   (dd) (mm) (yr)

6. **Time of Application** _____
   1 = Day (9:00 a.m. to 4:59 p.m.)
   2 = Evening (5:00 p.m. to 11:59 a.m.)
   3 = Late Evening (12:00 a.m. – 8:59 a.m.)

7. **Who heard application: (MANITOBA ONLY)** _____
   (see Codebook #2)
   [if code = 66(other), list name: _____

8. **Order filed as: (MANITOBA ONLY)** _____
   1 = Domestic violence
   2 = Stalking

DEMOGRAPHIC INFORMATION

9. Victim's Age (record age as raw number) _____

10. Victim's Sex: _____
1 = Male
2 = Female

11. Victim's Racial Background (see Codebook #3) _____
[if code = 66 (other), record race: _____

12. Number of children named on application _____

13. Number of children protected by order _____

14. Age of eldest child (record as raw number in years) _____

15. Age of youngest child (record as raw number in years) _____

16. Respondent's age: (record as raw number) _____

17. Respondent's sex: _____
1 = Male
2 = Female

18. Respondent's Racial Background (see Codebook #3) _____

19. Victim – Respondent relationship: (see Codebook #4) _____

20. Other[s] listed on application – children's relationship to respondent
(see Codebook #4) relationship type # 1: _____

21. Other[s] listed on application – children's relationship to respondent
(see Codebook #4) relationship type # 2: _____

22. Other[s] listed on application – other persons' relationship to respondent
(see Codebook #4) _____

EVIDENCE/CIRCUMSTANCES OF DOMESTIC VIOLENCE/STALKING

23. Length of relationship (see Codebook #5) _____

*24 through 26 [MB *129]* **Nature of abuse:** *(if more types than this, include most serious)*

24. Nature of abuse (see Codebook #6) type of abuse # 1: _____

25. Nature of abuse (see Codebook #6) type of abuse # 2: _____

26. Nature of abuse (see Codebook #6) type of abuse # 3: _____

***127. Nature of abuse** (see Codebook #6) type of abuse # 4: _____

***128. Nature of abuse** (see Codebook #6) type of abuse # 5: _____

***129. Nature of abuse** (see Codebook #6) type of abuse # 6: _____

27. Has there been a history of abuse? (*refers to all types of abuse*) _____
1 = Yes
2 = No

28 through 31 **If physical assault, form of assault** *(Include three most serious forms. Do not include sexual violence.)*:

28. Form of Physical Violence (see Codebook #7) form #1 _____

29. Form of Physical Violence (see Codebook #7 form #2 _____

30. Form of Physical Violence (see Codebook #7) form #3 _____

31. Other Form form #4 _____
[if code = 66 (other), include information]:
_____
_____

32. Did physical violence involve multiple assaults (i.e. did abuser strike victim more than once during the present incident)? _____
1 = Yes
2 = No

33. Did victim seek medical attention for domestic violence incident? _____

1 = Yes
2 = No

34. Weapons involved? _____

1 = Yes – weapon was used
2 = Yes – weapon was threatened
3 = No

35. Type of weapon used/threatened: (see Codebook #8) _____

[if code = 7 (more than one weapon used), record details]:

_____

[if code = 66 (other), record type]: _____

36. Have other court or police orders been granted between these parties previously? _____

1 = Yes
2 = No

37 through 39 [If yes to 36] **Type of order:**

37. Order # 1: (see Codebook #9) _____

38. Order # 2: (see Codebook #9) _____

39. Order # 3: (see Codebook #9) _____

40. *[If yes to 36]* **Are other orders concurrent?** _____

1 = Yes
2 = No

41. Are criminal matters proceeding related to this case? _____

1 = Yes
2 = No

42 through 44 [If yes to 41] **List type of criminal charges:** (see Codebook #10)

42. Charge # 1: _____

43. Charge # 2: _____

44. Charge # 3: _____

45. If no charges were laid, reasons for not laying charges: (Codebook #11) _____
[if code = 66 (other), include reasons:
_____
_____
_____

46. Does respondent have a prior criminal record related to domestic violence or stalking? _____
1 = Yes
2 = No

47 through 49 [If yes to 46] **Type of prior record:** (see Codebook #12)

47. Type of prior record # 1: _____

48. Type of prior record # 2: _____

49. Type of prior record # 3: _____

PROTECTION ORDER APPLICATION PROCESS

50. Application method: _____
1 = In-person
2 = By telecommunication

51. Application made by: (see Codebook #13) _____
[if code = 66 (other), list applicant: _____

52. Application made for: (see Codebook #14) _____
[if code = 66 (other), include who application was made for:
_____

53. Did victim consent to Order? _____
1 = Yes
2 = No

PROTECTION ORDER STATUS

54. Status of Protection Order by JP: _____

1 = Order Granted
2 = Order Dismissed
3 = Order Withdrawn (MANITOBA ONLY)

55 through 66 [If granted in 54] **Conditions/Provisions of Protection Order:**

Respondent is prohibited from ...

55. ...following victim or others _____

1 = Yes
2 = No

56. ...contacting or communicating with victim or others _____

1 = Yes
2 = No

57. ...attending at or near victim's residence _____

1 = Yes
2 = No

58. ...attending at or near victim's place of work/business/school _____

1 = Yes
2 = No

59. ...attending at or near location that victim regularly attends _____

1 = Yes
2 = No

60. ...attending at or near children's daycare/school _____

1 = Yes
2 = No

61. Victim is granted exclusive occupation of the residence _____

1 = Yes

2 = No

3 = Not within JP's jurisdiction (MANITOBA ONLY)

62. Peace officer to remove respondent from the residence _____

1 = Yes

2 = No

63. Peace officer to accompany specified person to residence to remove personal belongings _____

1 = Yes

2 = No

64. Peace officer to seize and store weapons/respondent must deliver weapons to police _____

1 = Yes

2 = No

65. Victim Granted temporary possession of necessary personal effects _____

1 = Yes

2 = No

66. Other conditions/provisions granted _____

1 = Yes

2 = No

3 = Not within JP's jurisdiction (MANITOBA ONLY)

[if code = 1, record other conditions/provisions]:

_____

_____

_____

67 through 73 [If dismissed in 54] **Reasons why JP did not grant protection order**

67. No immediate protection required _____
1 = Yes
2 = No

68. Relief sought is outside JP's jurisdiction _____
1 = Yes
2 = No

69. Respondent arrested on criminal charge w/undertaking for no contact _____
1 = Yes
2 = No

70. Application does not fit within the definition of cohabitants in the *Act* _____
1 = Yes
2 = No

71. Applicant resides outside province: _____
1 = Yes
2 = No

72. Insufficient evidence that domestic violence or stalking occurred _____
1 = Yes
2 = No

***173. Too much time elapsed since abuse or stalking occurred** _____
1 = Yes, less than one week
2 = Yes, one week to two weeks
3 = Yes, more than two weeks up to one month
4 = Yes, more than one month up to six months
5 = Yes, more than six months up to one year
6 = Yes, more than one year
7 = Yes, time not specified
8 = No

73. Other reasons _____
1 = Yes
2 = No
[if code = 1 (yes), record reason]:
_____
_____
_____

74. Was victim re-directed to other remedies? (Codebook # 15) remedy #1 _____

75. Was victim re-directed to other remedies? (Codebook # 15) remedy #2 _____

76. Was victim re-directed to other remedies? (Codebook # 15) remedy #3 _____

if code = 66 (other), specify: _____

_____

77. Was order contested (appealed by respondent)? _____

1 = Yes
2 = No

78. *[If yes to 77]* **Status of contest:** _____

1 = Order upheld
2 = Order set aside
3 = Order upheld but varied

79. Was order varied or set aside at victim's request? _____

1 = Yes, varied
2 = Yes, set aside
3 = No

80. Cross-application? _____

1 = Yes
2 = No

81. Status of cross-application? _____

1 = order in cross-application granted
2 = order in cross-application denied
3 = cross-application withdrawn

END OF FORM FOR MANITOBA CASES

Note:

The following variables (each marked with an asterisk above) were added by Manitoba once data collection commenced:

'Nature of Abuse' variables 127, 128, 129 – there was a need to add these additional variables in Manitoba because, unlike the legislation in the other provinces, stalking is considered. Therefore, more types of abuse were being entered into evidence in Manitoba than the original tracking form allowed for.

'Reason for Dismissal' variable 173 – this variable was added because it was discovered that the amount of time that had elapsed was a very common reason for dismissal cited by JPs.

Appendix E

Demographic Characteristics (variables not included in analytical model) [N=483]

Characteristics	N	%
Age (victim)		
minimum	6	-
maximum	73	-
mean	32.5	-
19 and under	28	5.8
20 to 29	43	8.9
30 to 39	51	10.6
40 to 49	37	7.7
50 to 59	12	2.5
60 and over	3	.6
missing	174	36.0
Racial background (victim)		
Euro-Canadian	3	.6
Aboriginal	28	5.8
Visible minority	13	2.7
missing	439	90.9
Racial background (respondent)		
Euro-Canadian	4	.8
Aboriginal	16	3.3
Visible minority	13	2.7
missing	450	93.2
Length of relationship		
over ten years	105	21.7
six to ten years	40	8.3
one to five years	106	21.9
less than one year	50	10.4
missing	182	37.7

Note:
Manitoba Justice does not request the information in this table on the protection order application forms. Therefore, these data are only available when the applicants happened to mention these items in the course of providing evidence of abuse (the age of victims and the racial background of respondents are recorded by Manitoba Justice on the service information sheets that are used to assist police or sheriff's officers in identifying the correct persons when serving the orders, however access to these documents was denied). In those cases where information is volunteered by applicants, victims and respondents of Aboriginal and visible minority backgrounds are more readily identifiable than those of Euro-Canadian background for several reasons: First, in the case of Aboriginal persons, evidence will sometimes list information pertaining to reserves, treaty status or racial slurs that clearly indicate their background. Similarly, in the case of visible minorities, evidence will sometimes list information related to immigration status, fears of deportation or racial slurs that identify their background. Finally, it is sometimes possible to distinguish an accent that indicates racial background when listening to the audio-taped application hearings. Because of the limitations in identifying applicants and respondents of Euro-Canadian background, they are under-represented in these figures.

Appendix F: Correlation Matrices

Correlation Matrix 1: Variables Used in Model for Complete Sample (N=483)

	Respondent Age	Victim Sex	Number of Children	History of Abuse	Previous Court Orders	Presence of Weapons	'Other Abuse' Category	'Threatening' Category	Degree of Stalking	Magistrate
Respondent Age	1									
Victim Sex	-.077	1								
Number of Children	-.027	.107*	1							
History of Abuse	-.007	-.059	-.089	1						
Previous Court Orders	.047	.102*	-.153**	.309**	1					
Presence of Weapons	-.003	.006	.027	-.057	-.036	1				
'Other Abuse' Category	.032	.071	.073	-.309**	-.154**	.195**	1			
'Threatening' Category	-.120*	-.052	.034	-.072	-.046	.073	.118**	1		
Degree of Stalking	.040	-.048	-.180**	.070	.157**	-.137**	-.379**	-.196**	1	
Magistrate	-.008	.076	-.044	-.034	-.028	.012	-.060	.040	.034	1

* Correlation is significant at the 0.05 level (2-tailed)
** Correlation is significant at the 0.01 level (2-tailed)

Correlation Matrix 2: Variables Used in Model for Cases of Intimate Partnerships Only (N=389)

	Respondent Age	Victim Sex	Number of Children	History of Abuse	Previous Court Orders	Presence of Weapons	'Other Abuse' Category	'Threatening' Category	Degree of Stalking	Magistrate
Respondent Age	1									
Victim Sex	-.019	1								
Number of Children	-.023	.125*	1							
History of Abuse	-.028	-.025	-.042	1						
Previous Court Orders	.011	.155**	-.181**	.250**	1					
Presence of Weapons	.007	-.022	.013	-.072	-.017	1				
'Other Abuse' Category	.024	.062	.074	-.229**	-.126*	.201**	1			
'Threatening' Category	-.145**	-.039	.029	-.093	-.083	.070	.130**	1		
Degree of Stalking	.009	-.028	-.210**	.039	.128*	-.178**	-.368**	-.183**	1	
Magistrate	.013	.064	-.062	-.066	-.034	.009	-.056	.049	.032	1

* Correlation is significant at the 0.05 level (2-tailed)
** Correlation is significant at the 0.01 level (2-tailed)