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Examining Orders of Protection: An Analysis of the Court System in a Rural  
Tennessee County

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A thesis

presented to

the faculty of the Department of Criminal Justice

East Tennessee State University

In partial fulfillment

of the requirements for the degree

Masters Degree of Arts in Criminal Justice

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by

Jaclyn Anderson

May 2009

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Dr. Leonore Simon, Chair

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Dr. John Whitehead

Keywords: order of protection, domestic violence, civil protection, rural county  
court, domestic relations, court data

## ABSTRACT

### Examining Orders of Protection: An Analysis of the Court System in a Rural Tennessee County

by

Jaclyn Anderson

To provide safety to domestic violence victims, law reform efforts provided victims with a civil remedy in which a judge orders the abuser to stay away from the victim.

The research uses 1 rural county judicial system data to evaluate protective orders. Findings indicate that 42% of petitions are dismissed by petitioner's request or failure to prosecute. Moreover, court fees are not recouped in 79% of the cases.

Logistic regression analysis indicate that an intimate relationship between the parties and payment of court costs by petitioner increased the probability of dismissal of petition upon petitioner's request; use of a gun and request to protect children increases the probability of applying the Brady Act; stalking and the issuance of the order of protection without social contact increased the probability of violations.

## ACKNOWLEDGEMENTS

There are several people whom I would like to thank for their support both during this process and throughout the years. Without these people I would definitely not be where I am today, nor would I have been able to complete this project.

First, I would like to thank my family, Mom, Nathan, Mamaw, and Papaw, for their continuous love and support. You have always encouraged and inspired me to strive to do better and to set my goals high. I love you so much.

I would also like to thank my friends, Melissa, Vanessa, and Maggie, for their support and friendship without which I do not think I would have been able to get through this program and project. I am very fortunate to have such great friends.

I would also like to thank Meigs County's clerks, Jim, Frances, Lisa, along with the Honorable Jayne Crowley, for their kindness and help, without which I would not have been able to complete this study.

I am so very grateful to my committee members. I would like to express my appreciation to Dr. Simon. You have been an amazing professor, mentor, and friend. I appreciate all of your time, support, and help that you have put into this project. You have helped me to grow both academically and as a person, and I will forever be grateful. Dr. Ellwanger, thank you for your vast amounts of help

and expertise. I have learned a great deal from you while completing this project and would not likely have gotten through it without your valuable insight. Dr. Whitehead, I would also like to thank you for all of your help, not only on this project, but throughout my academic career. You have taught me so much.

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## CHAPTER 1

### INTRODUCTION

Domestic violence has become a major social problem not only within the United States but also all over the world. As domestic violence legislation proliferated in the United States after Sherman and Berk's (1984) landmark study on deterring domestic violence, courts have been left with the responsibility of carrying out various protective and supportive remedies for women seeking civil protection orders accompanied by child support, alimony, and varied other court-ordered solutions (Burke, 2007).

Each state across the United States has its own form of civil protective orders to supplement criminal actions in domestic related violence cases. The State of Tennessee adopted its own policy for what it referred to as an Order of protection in the late 1970s (T.C.A 36-3-601, 2008). The statute allows an individual to petition the court for a judicial order prohibiting a violent spouse, intimate partner, or family member from coming within a certain distance of petitioner and engaging in continued violent behavior against the petitioner.

This research was designed to evaluate the efficacy of a new court docket that specializes in protective orders. The court docket was created in the year 2000 to provide specialized handling of protective order cases by one judge.

#### Purpose

The problem that arises from orders of protection is that very little research has been done solely focuses on the court system itself. The purpose of this study was to evaluate a court division's handling of protective orders. The

evaluation examined common characteristics of protective orders, the extent to which the court orders were violated, and whether the court and related costs of the orders and their enforcement were recovered.

Characteristics of court protective orders that were analyzed include the demographics of the petitioners and respondents, the petition for an order of protection demographics, the types of permanent orders issued by the courts, violations to the protective order, and financial records of the order of protection.

The individuals against whom the protective order is sought as well as the types of requests made by the petitioner and the type of ordered granted by the court were examined in the study. Knowledge of the characteristics of petitioners and respondents can assist the courts in the creation of preventive or intervention programs designed particularly for domestic violence. Determining the number of orders of protection that follow through and obtain a permanent order and the number of those dismissed can help determine the court plan for future expenditures. Also, examining the types of orders granted by the courts can help determine the most common or most favored type of protective order, especially in relation to the demographics of the petitioners and respondents, and the demographics and relationships of petitioner and respondents. Additionally, examination of court data can determine if the relationship between the parties is associated with seeking a permanent order. For example, a petitioner who is married to the respondent might be more likely to drop the action after obtaining a temporary order. If petitioner has a spousal relationship to the respondent, the protective order may be more likely to be dropped.

Often overlooked in the research on orders of protection is the financial burden imposed on the system by these protective orders. This study examined how effective the courts are at collecting court costs in these legal matters as well as whom the court ordered to pay the court costs and whether the costs were actually recovered.

### Study Design

The study was conducted using the archival court data of the Domestic Relations Court of Meigs County, Tennessee. The Domestic Relations Court was established in July 2000 with a special docket to handle orders of protection. The cases used in the study included all cases from the beginning of the court until the end of December 2008.

Meigs County located in Southeast Tennessee is a very rural area with, according to the 2000 United States Census Bureau, a population of 11, 086 individuals. (US Census Bureau, 2000). Thus, Meigs County is amongst the smallest counties in the state of Tennessee. This Tennessee County was chosen, not only because of its population size but also for the highly effective court system that handles orders of protection. In fact, in 2007 the Domestic Relations Judge in Meigs County was honored with the Judge Wheatcraft Award by the Tennessee Coalition against Domestic and Sexual Violence for her leadership within the judicial system in the area of domestic violence.

Since the time of the courts conception in 2000, approximately 500 orders of protection cases have been filed. This study examined all of the cases filed within that 8-year period.

## Terminology

Some basic terminology for this research is as follows (T.C.A. 36-3-601, 2008):

- Order of Protection (OP) – a protective order issued by the courts for cases that involve domestic violence
- Ex Parte Order of Protection – the temporary protection order issued by the judge based solely on the petitioner's side of the issue. This temporary order is only good for 2 weeks giving the courts time to serve the respondent and bring the matter to court where the judge can hear both sides of the case.
- Petition for an Order of Protection – is the initial paperwork filed to the court by the petitioner asking the court for an Order of Protection.
- Petitioner – the individual(s) asking for the Order of Protection.
- Respondent – the individual(s) whom the petitioner is seeking protection from.
- Service of Process – this is when the court officially makes the respondent aware of the petition by having an officer or court appointed official personally serve the respondent a copy of the pending lawsuit.
- Order to Show Cause – this is a petition to the court by the petitioner that the respondent has violated the terms of the Order of Protection granted by the court.
- Brady Act – this is the legal act that gives the courts the authority to take away an individual's right to buy, sell, or trade any type of firearm or weapon if the individual is actively engaged in violent domestic violence.

## Limitations

### Previous Research

While numerous studies have been conducted examining the effectiveness of civil protective orders, the majority of these studies have focused on interviews with domestic violence victims that have or have not attempted to gain a

protective order. Moreover, the majority of studies that have focused on the protective order process failed to examine a court system that is recognized as being both efficient and operational. Therefore, the focus of the current study is on a court system that seems to be working.

### Current Study

The limitations that exist in this study are the focus on one county in the State of Tennessee and that the recognition of the court system studied. Therefore, it may not be representative of various other counties, especially in urban areas. This research is a case study of a single rural county. In the future, other researcher might compare this jurisdiction with various other jurisdictions. Another limitation to the study is that no data are available on the economic status of the petitioners and respondents in order of protection cases. Consequently, this study is unable to determine whether the lower economic status petitioners are more or less likely than higher economic status petitioners turn to the courts for help or if the social economic statuses has any bearing on whether the court cost gets paid.

### Conclusion

Orders of protection were established due to the rising social problem of domestic violence. Analyzing the archival court data, a better understanding of protective orders can be achieved of the process and outcomes of the cases.



## CHAPTER 2

### LITERATURE REVIEW

#### Domestic Violence

##### Introduction

Domestic violence is the leading cause of harm to women. American women report that 1 out of every 4 women has at one point in her life been assaulted physically or sexually by an intimate partner (Williams, 2008, p 371). It is also estimated that once a woman has been assaulted by a domestic partner, she has a 32% chance of being assaulted again within 6 months (Williams, p 371).

Domestic violence affects one out of every three families (TCADSV, 2008). Domestic violence disproportionately affects females. For example, it is estimated that out of all female murders, 30% of women were killed by domestic partners or former partners (James, 1994, p515). Of the 30% of women killed by an intimate or former intimate partner, 90% had been stalked at one point in time (James, p 515).

Domestic violence is an immense social problem plaguing the world today. While domestic violence has occurred as far back as the beginning of humankind, society now views violence towards intimates as a social problem that must be prevented. To address the repeat nature of domestic violence, the Violence against Women Act (VAWA) provides legal remedies for enforcement of protective orders. The VAWA legislation, which was part of the Crime Bill in 1994, required all states and territories to honor any and all protective orders,

both temporary and permanent orders, from other states, territories, tribes, or nations (Eigenberg, McGuffee, Berry, & Hall, 2003, p 412). Consequently, all states and the District of Columbia must honor any ex parte, temporary, and permanent orders as if the order were issued within the enforcing state (Eigenberg et al., p 413).

### History

After centuries and decades of the problem of domestic violence being considered a private matter, state legislation was enacted to provide legal remedies to victims. Legislation allowed domestic violence to be dealt with in three different ways: criminal sanctions, batterer intervention (counseling), and protective orders (Williams, 2008, p 375). In the 1960s and 1970s, civil protection orders became available due to changes in judicial and legal practices as well as a shift in attitudes toward domestic violence in society (Williams, p 372). By 1982, state statutes creating civil protective orders were available in 33 of the 50 states and the District of Columbia (Williams, p 372). The first order of protection statute was enacted in 1976, and 13 years later all 50 states had adopted some form of the legal order (Postmus, 2007, p 347). With states adopting civil protective orders, victims were able to send the message to their abusers that society was no longer tolerant of abuse and that offenders would receive protection from the court (Postmus, p 355).

Providing the remedy of a protective order also allowed the violence to be legally recorded and available to future judges. Victims could now create a public record of their victimization to establish to the police and others that they were

serious about ending the violence, relationship, or both (Postmus, 2007, p 355). Overall, the availability of protective orders empowered women by giving them some measure of control over their lives (Postmus, p 355).

### Types of Violence

Intimate Partner Violence. Domestic violence includes a broad range of behavior. The most common form of domestic violence is intimate partner abuse. Intimate partner abuse occurs when a spouse or intimate partner physically, emotionally, or sexually abuses his or her husband or wife or intimate partner. It is estimated that more than two million women in the United States are severely assaulted each year by their domestic partners (Zoellner et al., 2000, p 1082). Moreover, it is estimated that, roughly 30% of all married individuals are physically aggressive (Zoellner et al., p 1082). Husbands account for a large proportion of the violence. For example, the Nation Crime Victimization Survey found that more than 960,000 incidents of violence toward a current or former spouse, boyfriend, or girlfriend occur yearly in the United States, with at least 85% of the victims being women (Gist et al., 2001, p. 638). Violence by a domestic partner in 1996 accounted for 21% of violent crime against women contrasted with just 2% against men (Gist et al., p. 638).

Intimate partner violence is a major problem, especially for women. A study by Moracco, Runyan, and Butts in 1998 using medical examiner records along with interviews with law enforcement officers obtained information on 586 femicide victims (Moracco et al., as cited in Gist et al., 2001, p 645). The study found that half of the victims were slain by a current or former intimate partner,

and of these slaying, 23% were stalked prior to the slaying (Gist et al., p 645). Another study by done by McFarlane, Campbell, Sachs, and Ulrich in 1999 found that in 76% of female homicides and 85% percent of attempted female homicides, the women reported at least one episode of being stalked by a domestic partner within 12 months of the violent incident (as cited in Gist et al., p 646).

Child Abuse. Another form of domestic violence is child abuse by a family member. Males who victimize their partners often also act violently toward their children. For instance, in a national survey of six thousand families in America, 50% of the men who frequently assaulted their wives also frequently assaulted their children (TCADSV, 2008). National statistics have also shown that four children die daily as a result of child abuse, and three out of the four of these children are 4 years old or younger (ChildHelp, 2008). Moreover, one third of the abused and neglected children will go on to later abuse their children (ChildHelp).

Non Intimate Partner Violence. While spousal or former spousal abuse and intimate or former intimate partner is the most common reported relationship in civil order of protection cases, other types of relationships do not go unreported.

Other forms of domestic violence include situations where the relationship between the two parties does not fit the other definition types. This can include siblings, cousins, aunts, uncles, grandparent, or grandchildren.

Elderly abuse of a family member is, in most cases, the complete opposite of child abuse. Elderly abuse in a domestic setting is most commonly where the

adult child is abusing the parent or parents. Many times this type of domestic violence gets overlooked. The National Center on Elder Abuse in 1997 estimated that 1.01 million elderly persons were victims of domestic elder abuse in the year 1996 (Payne, 2000, p 55). This type of abuse most likely includes financial abuse where the adult child is embezzling, misusing or misrepresenting the parent or parents to obtain financial benefit.

### Civil Protective Order

#### Introduction

An order of protection is issued by the court to prohibit future violence or abuse between two parties. Petitioners who request protective orders usually go through a two-step process (Eigenberg et al., 2003, p 412). The first stage is where petitioners can secure a temporary order that is valid for only a short time usually 2 to 3 weeks and often relies only upon the petitioner's testimony (Eigenberg et al., p 412). The second phase consist of respondents being notified to appear before the court and allowing them to present evidence in their defense (Eigenberg et al., p 412).

In fact, civil orders of protections are one of the few legal solutions that are available for intimate partner violence victims (Logan, Shannon, & Walker, 2005, p 877). The state of Tennessee, like most all the other states, limits these protective orders to volatile domestic relationships (T.C.A., 36-3-601, 2008). These relationships are defined by the state statute and those definitions are usually left to the individual courts to interpret. The Tennessee statute defines the relationships as the following: "adults or minors who are current or former

spouses; adults or minors who live together or who have lived together; adults or minors who are dating or who have dated or who have or had a sexual relationship, [as used herein 'dating' and 'dated' do not include fraternization between two individuals in a business or social context; adults and minors related by blood or adoption; adults or minors who are related or were formerly related by marriage; adult or minor children of a person in a relationship that is described in the subitems [listed] above" (T.C.A., 36-3-601).

However, this legal definition may become much broader. Around two thirds of the states are moving toward a more broad and inclusive category to determine the eligibility by including the category of household member (Eigenberg et al., 2003, p 419). Also, within all jurisdictions, victims themselves can petition for a civil protective order and in 54% of the states, adults can petition on behalf of their child (Eigenberg et al., p 414). The state statutes go further by only granting protective orders to those petitioners who express fear of the respondent). This fear has to originate from past instances of physical violence, verbal threats of violence, sexual assault, stalking, or emotional abuse that causes the petitioner to fear that the act will occur again or that the act will escalate to become much more severe (T.C.A., 36-3-602, 2008).

### Legislation Changes

Since the time of the conception of the order of protection in the state of Tennessee, changes have been made to the civil order. In 2005, the protective orders were extended to include stalking. Since 1992, at least 32 states have enacted some form of 'antistalking' law (James, 1994, p. 515). Stalking was

added due to research establishing a growing link between stalking and domestic violence. The link between stalking and domestic violence indicates that 43% of stalking victims are stalked by a former or current intimate partner (James, p. 515).

Rural women have been found to be more likely to experience stalking victimization, isolation from family and friends, and limitations on their access to money by intimate partners than are women from urban communities (Logan et al, 2005, p. 904). The antistalking legislation has changed judges' views of the importance of protective orders. In fact the anti stalking statutes have helped some judges view domestic violence as a criminal issue rather than as a family issue (James, 1994, p.515). Also, laws that address the different aspects of domestic violence help sensitize judges to the problem of domestic violence (James, p. 515). Perceptions of judges were not the only ones that changed on the importance of protective orders. The antistalking laws have demonstrated just how legislation and society now views domestic violence as a serious crime (James, p. 515).

The availability of protective orders continues to expand to cover other aspects of domestic violence. In 2007, the state of Tennessee allowed individuals to petition the court for an order of protection if violence or threat of violence had been made against the family pet or animal from an individual whose relationship with the petitioner is considered to be domestic. Many victims of domestic violence failed to leave the situation because the pet would be left behind. Moreover, many felt personally threatened by the violence toward the pet

by the abuser. As with other aspects of domestic violence toward rural women, in rural areas, women have reported experiencing increasingly more violence toward the family animal (Logan et al., 2005, p. 904).

### Petition

When the petitioner files for an order of protection he or she fills out a petition that requests the court to intervene or hear the matter. In the petition, the petitioner has to clearly lay out what the relationship is to the respondent to establish that in fact there exists a domestic relationship between the two parties. The petition also asks the petitioner to describe in his or her own words why the petitioner is afraid of the respondent. This allows courts to determine whether enough legitimate fear exists to bring the two opposing parties into court to hear the matter. One study showed that during the most recent episode of intimate partner abuse, 64% of participants reported being pushed or shoved, 28% reported being hit, 6% conveyed having a gun or knife used against them, and 48% reported being threatened in such a way that they believed that their life was in danger (Zoellner et al., 2000, p. 1088). The petition allows the petitioner to ask the court for child support, child custody, spousal support, possession to the parties' residence, anger management counseling for the respondent, and application of the Brady Act against the respondent. The Brady Act restricts an individual's rights to sell, trade, manufacture, or carry any type of firearms. In 2000, federal legislation (18 U.S. Code § 922, 2006) prohibited the purchase and possession of firearms and possession of firearms or ammunition by individuals who have a protective order issued against them (U.S.C.A, 18-1-44-922, 2006).



However, law enforcement officers and military personnel are exempt from the federal law (U.S.C.A, 18-1-44-922).

Once the petition is filled out, the petitioner is asked to provide a valid address at which the respondent can be found as well as characters of the respondent, such as height, weight, eye color, hair color, date of birth, and any distinguishing features like tattoos and scars.

### Temporary Order

Once the petition for an order of protection is completed, the presiding judge of the domestic, family, or civil court reviews the petition, mainly focusing the relationship between the parties and the section where the petitioner gives his or her sworn testimony of why he or she needs to have an order of protection. The judge determines if the petition meets the basic requirements as to the parties' relationship and whether the petition indicates in the petition that the element of fear exists. If the judge finds that the criteria are met, then he or she issues what is called an ex parte order of protection. Ex parte is a Latin phrase that means "one side". Therefore, the ex parte order is a temporary protective order that prohibits the respondent from harassing or coming near the petitioner from the time that the temporary order is served on the respondent by an officer or court official until the time of the scheduled court date of the hearing on the permanent order. In the state of Tennessee, the ex parte order of protection is only good for 2 weeks unless it is continued by the judge (T.C.A. 36-3-605, 2008).

## Permanent Order

If the ex parte order is served and the petitioner has not dropped the order of protection, the case comes before a judge in court. This allows both parties to be present and argue their sides of the issues. After hearing the facts from both sides of the case, the judge issues a ruling in the case or a permanent order.

Dismissal Orders. There are several different types of orders that a judge can issue in any given matter. Three different types of dismissals exist.

First, the judge can dismiss the matter at the request of the petitioner (T.C.A. 35-3-6. 2008). For the judge to dismiss the petition, the petitioner has to appear in court and persuade the judge that he or she is no longer afraid of the respondent. A few studies have been done to determine why petitioners drop the protective order. The three most common reasons why the petitioner drops the protective order include reconciliation with the respondent, coercion, intimidation, and pressure by the respondent, and economic dependency of petitioner on the respondent (Logan et al., 2005, p. 889).

Fear seems to be a common reason why many petitioners do not follow through with the protection. Many victims of domestic violence are fearful of permanently leaving the relationship, fearful of retaliation and further abuse, and fearful of the court experience because of their own perceptions or previous negative experiences with the legal system (Postmus, 2007, p. 350). However, fear is not the only reason petitioners drop their petitions for orders of protection. Clergy, family members, therapists, and courts, historically, have pressured women to stay with abusive partners (Baker, 1997, p. 56). Studies have shown

that the percentage of petitions dropped range from 20% to 45% (Postmus, p. 350).

Second, the case can be dismissed for failure to prosecute. This usually originates when the petitioner either fails to attend the scheduled court date or does not help move along the matter (e.g., failing to provide a valid address to serve the respondent) (T.C.A. 35-3-6. 2008). In fact, Harrell and Smith in 1996 interviewed 355 women and found that 40% of the women did not return for a permanent order for various reasons (Postmus, 2007, p. 350). Many women who did not return blamed law enforcement personnel for not properly locating and serving the respondent with the ex parte order (Postmus, p. 350). In fact, 41% of the women who did not appear to complete the legal process did blame the reason on law enforcement personnel for not properly locating and serving the respondent with the ex parte order (Postmus, p. 350). Dismissal based on failure to prosecute accounts for more than half of dismissals (Zoellner et al, 2000, p. 1088). In fact, it is estimated that 63% of civil protective orders filed fail to secure a 1 year restraining order, with 5% withdrawing the request, 55% having their request dismissed for failure to prosecute, or 2% having their request denied by the court (Zoellner et al, p. 1088). Consequently, only 45% of the civil protective order petitions filed obtain a final protective order (Zoellner et al, p. 1088).

The third type of dismissal order is the court's dismissal of the matter based on the petitioner's failure to meet the requirements for an order of protection as set by the state statutes (T.C.A. 35-3-6. 2008). The petitioner either

failed to qualify within the relationship guidelines or failed to provide sufficient evidence that the petitioner feels threatened and afraid of respondent.

Nondismissal Orders. A second type of order that the court can grant is an order to which both parties stipulate or agree to the issuance of the protective order. The stipulated order can include provisions that the parties have or do not have social contact with each other (T.C.A. 35-3-6. 2008). With social contact the respondent is allowed very limited contact with the petitioner by phone or other electronic communication. However, without social contact the respondent is completely prohibited from communicating with or coming within a specified distance of the petitioner. One study found that, the majority of women who petitioned for a civil protective order wanted the no contact provisions, but only one half of the orders included the no contact provision (Postmus, 2007, p. 351).

The third type of order of protection results if the respondent fails to appear before the court after being made legally aware of the existing legal action, whereby the judge will grant the order of protection by default. A default order grants the civil protective order based solely on the petitioner's ex parte testimony (T.C.A. 35-3-6. 2008).

In contested cases, a hearing is held that allows both sides to present their evidence and witnesses. After the hearing, if the judge finds sufficient evidence, the judge will issue the protection order with or without social contact. Contested cases differ from the stipulated orders in that both sides do not agree with the order (T.C.A. 35-3-6. 2008).

There are cases in which both sides would like the other party to be ordered by the court to have no contact with the opposing party. For cases such as these the judge can issue the fifth type of order which is a mutual restraining orders prohibiting both sides from coming near the other. While this is technically considered a restraining order instead of an order of protection, it still serves the same purpose of a protective order ordering to refrain from coming near or harassing the other.

One final type of outcome that can occur is an order to transfer, sending the matter to another existing legal action such as divorce proceedings or other civil or criminal proceeding. This allows the court to which the matter is transferred to hear the case in the context of the type of proceeding that is involved such as divorce or criminal proceedings involving the parties (T.C.A. 36-3-6, 2009).

#### Violation

Once the court issues an order of protection, the respondent has to adhere to that order or he or she will be held in contempt of court. If a party violates the court order, then the petitioner can file a petition to show cause that a violation has occurred (T.C.A., 36-3-612, 2008). The show cause petition orders both parties back into court. If the court finds that a violation of the original court order or permanent order has taken place, then the court can extend the duration of the order of protection to last up to 10 years instead of 1 (T.C.A. 36-3-611). On top of extending the protection time, the judge can also issue a fine of \$50, order

jail time, and transfer the case to criminal court, which has the jurisdiction to issue harsher punishments (T.C.A 36-3-612).

### Court Costs

At the time of the court hearing or case dismissal, court costs are ordered and assigned to the case. Almost half of all the states mandate judges to order respondents to pay court costs and attorney's fees related to securing the order (Eigenberg et al., 2003, p. 417). Court costs in the state of Tennessee consist of the following: state litigation (\$23.75), county litigation (universally set statewide at \$23.75), service of process fees (\$20.00), and the court cost (which in 2005 was universally set in the state of Tennessee at \$100, but before that it varied from county to county) (T.C.A., 8-21-401, 2008).

The cost can be taxed to the petitioner, respondent, the state, or split between the petitioner and respondent. However, only a few states allow charges to be assessed against the petitioner seeking the protective order (Eigenberg et al., 2003, p. 419). The state of Tennessee was one of the few states that allowed courts to assess costs to the petitioner until July 2008 when the state prohibited the courts from continuing to penalize victims of domestic violence for filing for a protective order. Despite the state of Tennessee's recent legislation, many jurisdictions within the state have interpreted this law differently. Some have completely stopped assessing court costs to the petitioners all together, while others continue to tax court cost to cases that get dismissed by claiming that the court did not find the petitioner to be a victim of domestic violence. Thus, the jurisdiction is able to legally get around the state legislation.

When the case is dismissed, the court costs are assessed against the petitioner except where some agreement is reached by both parties and is accepted by the court. Usually, with mutual restraining orders the court costs are taxed to both parties, meaning that the cost is to be equally split by both parties. If the order of protection is granted by the court in stipulated agreed orders of protection or contested orders of protection, the court costs are often taxed to the respondent.

In rare cases, the court waives the court costs and assesses costs to the state. In July 2008, the state of Tennessee issued a law stating that the courts could not assess court costs against victims of domestic violence who file filing for a protective order in compliance with the guidelines for federal funding issued to the states (T.C.A. 36-3-617, 2008). This federal financial support to victim assistance agencies, such as domestic violence agencies and legal aid, is money that would have been lost if the state did not comply with federal guidelines.

Orders of Protection differ from most other civil legal actions in that no court costs can be requested or collected up front before allowing the petitioner to file the petition (T.C.A. 36-3-617, 2008). By not collecting any court costs, the courts and clerks decrease the chances of actually collecting court cost in the matter. Therefore, the courts and clerks lose money by this type of litigation, but the actual financial cost loss is unknown, as is the characteristics of cases in which the court is more likely to recover court costs.

## Prevalence

When it comes to the characteristics of order of protection cases, many assumptions are often made. In general, when a person thinks about a protective order he or she normally pictures a helpless, badly battered female asking the court to protect her from the aggressive male with whom she had or has an intimate relationship, whether they were or are current spouses or in a “dating” relationship. Many also assume that the domestic abuse that leads to petitioning the court for protection was a very violent or physical act. These assumptions are supported by the research that women who request civil protective orders have been shown by research to have been physically and sexually abused with increasing severity (Postmus, 2007, p. 349). Research has also shown that a history of violence exist prior to the petition requesting an order of protection. Harrell and Smith conducted a study in 1996 that found that 56% of women requesting protective orders reported a history of physical assaults, threats to kill or harm, or attempts or threats to take the children (Harrell & Smith, 1996, as cited in Logan, Shannon, Cole, & Walker, 2006, 2005 p. 867). Another study by Keilititz et al in 1997 also found that 37% of their sample of women with protective orders had been injured with a weapon, more than one half had been beaten or choked, and as many as 99% had been intimidated through threats, stalking, and harassment (as cited in Logan et al., p. 867).

One of the major concerns with orders of protections is that parties will try to use the process as a “poor man’s divorce” because legislation allows judges to rule on issues of child custody or visitation, child support, spousal support, and



procession of residence. Most of the states allow judges to make such child custody, child visitation, and temporary child support arrangements (Eigenberg et al., 2003, p. 417). Around two thirds of the states allow judges to order temporary spousal support and half of states allow judges to order procession of residence (Eigenberg et al., p. 417). Research has shown that half of the petitioners who had children with the respondent wanted custody of the children, and 37% wanted the protective order to be extended to the protection of the children (Postmus, 2007, p. 351). However, only half of these requests were granted by the courts (Postmus, p. 351).

Although, many individuals who apply for an order of protection have minor children, only 27% of battered rural women have stipulations in the protective order about custody (Logan et al, 2006, p. 907). However, another study found that compared rural and urban areas found that courts in rural areas issued more such stipulations (Postmus, 2007, p. 352). These stipulations included more property division, child custody arrangements, temporary spousal support, and anger management counseling for both the respondent and the petitioner (Postmus, p. 352). Despite the concerns, many of the petitioners who request an order of protection are not trying to obtain a cheap divorce or child custody ruling (Postmus, p. 349). Instead, some women have reported that they decided to seek a protective order when the abuse started to affect their children (Postmus, p. 349).

## Legal Treatment

Courts and Court Clerks. Attitudes of judges and court clerks toward orders of protection are mixed. While orders of protection attempt to serve an important need, they can get be misused by individuals. Although there are petitioners that really need the protective orders, most petitions are not so clear cut. Clerks often get discouraged when they see orders of protections dropped after they took the time to sit down and explain the legalities of the petition and the court process. A study by McGregor and Hopkins (1991) found that judges tend to hold battered petitioners partially responsible for their victimization and do not understand why so many petitioners fail to complete the process (McGregor & Hopkins, 1991, as cited in Wan, 2000, p. 610). One clerk at a Tennessee Clerk's conference suggested that up to 70% of all petitions filed are dropped. Also, orders of protection are the only or at least one of the few legal remedies that do not require any type of court costs up front; in fact clerks and courts are prohibited from requiring the petitioners to pay up-front court costs payments. Collecting the court costs after the order of protection process often becomes an unsuccessful endeavor. Often, the protective orders become a financial drain on the court system, the counties, and the states.

It may be that the courts create their own problems. The court can be extremely intimidating for petitioners. Research conducted by McGregor and Hopkins in 1991 noted that there are complications for petitioners in the orders of protection process. The study found that battered women are likely to encounter difficulty appearing calm and rational during the hearings (McGregor & Hopkins,

1991, as cited in Wan, 2000, p. 609). Therefore, the petitioners are often ridiculed by the court personnel for not presenting their cases appropriately (Wan, p. 609). Hence, many of the petitioners are unlikely to rely on the courts again after receiving such treatment (Wan, p. 609). Many petitioners believe that the judges and the court system are biased against them. Rhode found in the 1989 study that family court judges were generally unsympathetic toward petitioners (Wan, p. 610). Such attitudes compound the harm for domestic violence victims. The judge's attitude or behavior toward the victim can have an iatrogenic impact on the petitioners (Wan, p. 610). The perception is supported by various reports of women being talked down to by judges and women being blamed for the violence directly (Logan et al., 2005, p. 893). However, this is not always the case. Many studies have shown positive attitudes and efforts made by the courts and court personnel (Wan, p. 610). In fact, one study found that as many as 67% of petitioners thought the judges who heard their cases were good natured because they expressed concern about their safety, referred them to other services, and were firm with the respondent regarding the consequences of violating protective order (Wan, p. 611).

Judges in the civil cases have quite a bit of discretion when deciding on the ruling of the court. Judges are given the discretion to determine the stipulations of the restraining orders, including the no contact provisions and possession of the house; custody, visitation, and support of children; alimony or financial support; court costs; and the seizure of weapons (Postmus, 2007, p. 351). Judges have not always been given this power. Historically, protective

orders were limited in scope and solely focused on prohibiting further violence, but new legislation began to grant judges more discretion to tailor remedies to assist the petitioners (Eigenberg et al., 2003, p. 412).

Enforcement of the Protective Order. Law enforcement has not always had the authority to act on issues of domestic violence. Historically, protective orders were issued in civil court and the police did not have the authority to enforce them (Eigenberg et al., 2003, p. 412). If there was a violation, the petitioner had to go to court and report any violations to the judge (Eigenberg et al., p. 412). Only then could the court impose sanctions, which usually were limited to relatively small fines that hardly provided incentives for the respondent to refrain from further acts of violence (Eigenberg et al., p. 412).

As domestic violence became more of a recognized social problem in the United States, the law began to change. By 1983, 28 states had adopted legislation that gave the police the authority to make warrantless arrests in cases of domestic violence where officers had probable cause to believe that batterers had committed misdemeanor assaults, even if officers had not witnessed the assaults themselves (Eigenberg et al., 2003, p. 411). The prosecution of most domestic violation cases as misdemeanors, however, did little to protect most domestic violence victims. Civil orders of protections are designed to do what criminal court cannot. One study by Kane in 1999 showed that 16% of the domestic violence respondents were in violation of restraining orders, but of that 16% fewer than 50% were arrested (Kane, 2000, p. 564). Various studies have shown that law enforcement is perceived as being generally negative toward the

petitioners and unsympathetic toward their issues. This negativity leads the petitioners to doubt that the law enforcement and courts will assist in trying to provide safety to the petitioner. Thus, petitioners become more likely to either drop or fail to prosecute the protective order. Without law enforcement's enforcement of orders of protection, respondents can violate orders without impunity.

Although the system of protective orders may not be perfect, the system can work with the cooperation of law enforcement, courts, clerks, and the general public. Closer examination of what would be viewed as an effective system may generate more knowledge of the ineffectiveness of the order of protection itself.

### Effectiveness

There has been a great deal of debate on the effectiveness of these protective orders. In theory, orders are useful because they can prohibit the respondents from having contact with the petitioner and restrict their ability to continue the abuse (Eigenberg et al., 2003, p. 412). Studies that have been conducted on protective orders indicate that the order is not an effective means of stopping domestic violence. One study found that 29% of women reported that their domestic partner had violated the domestic violence order (Logan et al. 2005, p. 897). Moreover, 26% of petitioners reported that the verbal abuse continued after receiving a protective order, 10% reported the respondent still threatened to kill them, 7% experienced severe violence, 3% were threatened with a weapon, 16% were stalked, and 1% experienced sexual assault (Logan et al., p. 897). Consequently, many of the petitioners struggle to get the protective

orders enforced and may lose hope in the justice system (Eigenberg et al., p. 412).

While several studies have suggested that the protective order system does not work, protective orders may deter some respondents (Eigenberg et al., 2003, p. 412). For example, stalking by intimate partners has been found to decrease by 74% after the issuance of a protective order (Logan & Cole, 2007, p. 548). Other research by Kaci in 1994 (as cited in Gist et al., 2001) and Keilitz, Hannaford, and Efke in 1997 (as cited in Gist et al., 2001) indicate that 86% to 92% of the women reported that the violence had stopped after obtaining a protective order. Keilitz et al. in 1997 (as cited in Gist et al., 2001) found that at the 6-month follow-up interview, 85% of the women reported life improvement, 93% felt better about themselves, and 81% felt safer.

Some of the ineffectiveness of the system is not the system itself but the lack of resources and knowledge of the system by victims of domestic violence. Research also shows that there is a wide variation in the number of women who actually obtain protective orders indicating that approximately 20% to 63% of women seeking protective orders are successful in obtaining one (Logan et al., 2006, p. 877). Many victims do not know what the order of protection means or what options exist to aid victims. In rural areas half of the rural key informants in a study by Logan et al. (2005) indicated that the absence of resources was the greatest barrier for women to file for a protective order (Logan et al., 2005, p. 889).

## Conclusion

Civil protective orders have several promising aspects that can truly assist victims of domestic violence. However, the current system needs modifications before it can truly be effective. Experts agree that while protective orders are only one remedy, they can be successful only when civil and criminal justice systems work together to address the problem of domestic violence (Williams, 2008, p. 377).

## CHAPTER 3

### METHODOLOGY

#### Purpose

The problem that arises from orders of protection is that very little research has been done that solely focuses on the court system itself. The purpose of this study is to evaluate the court division's handling of protective orders. The court characteristics that will be evaluated include:

#### Petitioner Characteristics

- Age of Petitioner
- Sex of Petitioner
- Repeat Petitioners

#### Respondent Characteristics

- Age of Respondent
- Sex of Respondent
- Height of Respondent
- Weight of Respondent
- Hair Color of Respondent
- Eye Color of Respondent
- Repeat Respondents

#### Characters of Alleged Violence

- Parties' Relationship
- Type of Violence
- Weapon Used

#### Remedies Requested

- Child Protection
- Child Custody
- Child Support
- Spousal Support
- Residency
- Anger Management

#### Permanent Order Disposition

- Dismissal Orders
- Type of Order



- Brady Act
- Granted Order of Protection

#### Violation Order Disposition

- Violation

#### Court Cost

- Amount of Court Costs Taxed
- Party Court Costs Taxed
- Total Amount of Fees Paid
- Clerk's Fees Paid
- Officer's Fees Paid
- State Litigation Paid
- County Litigation Paid

Knowing the characteristics of petitioners or respondents can help in the creation of preventive programs designed particularly for domestic violence.

Determining the number of order of protections that petitioners follow through with permanent order and the number will allow comparisons to date from jurisdictions dismissed can help determine the current rate of percentage of the protective order. Also, examining the types of orders granted by the court can help determine the most common or most favored type of protective order, especially in relation to the demographics of the petitioner, respondent, and the relationship of the petitioner and respondent. Such evaluation can also help determine if the relationship between the parties (petitioners and respondents) affects the probability of obtaining a permanent order.

One of the problems that the courts and court clerks currently face is the financial burden imposed on the system by these protective orders. This study is an attempt to evaluate how effective the courts are at collecting court cost in these legal matters and also to whom the court taxes the court cost

## Data Collection

### Meigs County

The study is conducted using the archival court data of the Domestic Relations Court of Meigs County, Tennessee. The Domestic Relations Court was established in July 2000 to handle domestic violence cases. Cases that are handled within the court are divorces, child support or paternity, and orders of protection. However, the study only focused on the protective order aspect of the court. The cases used in the study included all cases from the beginning of the court until December 2008.

Meigs County, located in southeast Tennessee, is a very rural area with, according to the 2000 United States Census Bureau, a population of 11,086. (US Census Bureau, 2000). Thus, Meigs County is amongst the smallest counties in the state of Tennessee.

### Domestic Relations Court System

Meigs County Domestic Relations Court was chosen for both its rural characteristics as well as the highly effective court system that handles orders of protection. In fact, in 2007 the Domestic Relations Judge in Meigs County was honored with the Judge Wheatcraft Award by the Tennessee Coalition against Domestic and Sexual Violence for her leadership within the judicial system in the area of domestic violence. While serving as the Domestic Relations Court Judge for the past 8 years, Judge Crowley also served as the General Sessions Judge and Juvenile Court Judge for Meigs County.

The court clerks in Meigs County are known to have positive interactions with the public, including order of protection petitioners. The clerks will take the extra time to answer any questions the petitioner may have concerning the protective order. Petitioners are informed from the very beginning of the process they can expect or anticipate throughout the proceedings. The clerks notify the petitioner that the court system is a bureaucracy and ask the petitioner to keep that mind in dealing with the system, decreasing frustrations with the court system.

The court system also has a very close relationship with victim advocate services. When an individual requests to fill out a petition for an order of protection, the clerks immediately inform the petitioner about available victim assistance services, located nearby. If the petitioner expresses an interest in victim assistance from the HOPE Center, the clerk will call the court advocate to come meet with the petitioner or will allow the petitioner to call the advocate on the office phone. The advocate can do what the clerks and the court cannot do, which is advocate for the petitioner. The advocate will take the petitioner through the petition process and then appear at the scheduled court hearing. Meigs County's Domestic Relations Court allows the advocate to stand beside the petitioner and speak for the petitioner during the court hearing. If the petitioner fails to appear for the scheduled court hearing, the court advocate and the court clerks attempt to get in contact with the petitioner to find out the reason behind the petitioner's failure to appear.

## Court Case Files

Since the time of the court's conception in 2000, over 500 order of protection cases have been filed. This case study looks at all of the cases filed within that 8 year period by examining the characteristics of the petition, ex parte order, and the permanent order in each case.

The data were obtained from the Meigs County Courthouse in the Clerk & Master's and Domestic Relations Court Clerk's Office. The clerk's office allowed the researcher to examine all order of protection case files, docket books, and minute books. During the data collection, the data were entered into Microsoft's Excel Spreadsheet and then converted to the SPSS statistical package.

The study also examines the court financial records that were provided by the clerk's office to determine whether the court costs were paid in each case. The clerk's office provided a computer output of all paid cases based on the court receipt records. If a case is not included on the paid records, then the case is assumed to not have had the court costs paid.

## Variables

### Independent Variables

#### Petitioner Characteristics

- Age of Petitioner – this indicates the age of the petitioner at the time of filing the petition for an order of protection
- Sex of Petitioner – this indicates whether the petitioner is male or female

- Repeat Petitioners – petitioners involved as petitioner in more than one case

#### Respondent Characteristics

- Age of Respondent – this indicates the age of the respondent at the time of filing the petition for an order of protection
- Sex of Respondent – this indicates whether the respondent is male or female
- Height of Respondent – this indicates the height of the respondent
- Weight of Respondent – this indicates the weight of the respondent
- Hair Color of Respondent – this indicates the hair color of the respondent
- Eye Color of Respondent – this indicates the eye color of the respondent
- Repeat Respondents – respondents involved as respondents in more than one case

#### Characters of Alleged Violence

- Parties' Relationship – this specifies the relationship between the petitioner and the respondent
- Type of Violence – this shows the type of violence that the petitioner is seeking protection from (physical abuse, verbal threats, sexual assault, stalking, and emotional abuse)

- Weapon Used – this shows whether or not respondent used weapon and also the type of weapon used (gun, knife, baseball bat, or car)

### Dependent Variables

#### Remedies Requested

- Child Protection – this indicates whether the petitioner requested that the protective order also protect the child or children from the respondent
- Child Custody – this indicates whether child custody is requested by the petitioner and also the number of children the petitioner wants custody.
- Child Support – this indicates whether child support is sought and how many children the petitioner wants child support for
- Spousal Support – this shows whether the petitioner wants financial support from the respondent
- Residency – this shows whether the petitioner wants possession or ownership of the parties' residency
- Anger Management – this shows whether the petitioner wants the respondent to be ordered to attend anger management counseling

#### Permanent Order Disposition

- Dismissal Orders – this shows whether the case was dismissed

- Type of Order – this indicates the type of permanent order granted by the court (dismissal, agreed order, contested order, mutual restraining order, or transfer order)
- Brady Act – this indicates whether the Brady Act was applied or invoked
- Granted Order of Protection – this shows whether a permanent protective order was granted

#### Violation Order Disposition

- Violation – this indicates whether the petitioner reported a violation of the court protective order

#### Court Costs

- Amount of Court Costs Taxed – this is the amount of court costs assessed in the protective order case
- Party Court Costs Taxed – this indicates who is responsible for paying the designated court costs
- Total Amount of Fees Paid – this shows the total amount of money paid in the case
- Clerk's Fees Paid – this shows how much of the clerk's fees were paid in the case
- Officer's Fees Paid – this shows how much of the officer's fees were paid in the case
- State Litigation Paid – this shows how much of the state litigation fees were paid in the case

- County Litigation Paid – this shows how much of the county litigation fees were paid in the case

### Hypotheses

#### Hypothesis 1:

It is hypothesized that the petitioners who are or were in an intimate relationship with the respondents will be more likely to dismiss or have the case dismissed prior to the permanent order.

#### Hypothesis 2:

It is predicted that married petitioners are more likely to receive a permanent order than are petitioners not married.

#### Hypothesis 3:

It is predicted that the type of permanent order issued and the order payee of the court cost has a strong correlation to the court fees being paid.

#### Hypothesis 4:

It is hypothesized that the type of violence reported and the remedies requested will correlate with the type of permanent order granted.

#### Hypothesis 5:

The study predicts that the type of violence and use of weapon claimed by the petitioner will have a direct relationship to whether the Brady Act was enacted.

#### Hypothesis 6:

It is predicted that over half of the cases filed are dismissed.



### Hypothesis 7:

It is predicted that the State of Tennessee losses money instead of making a profit on court cost; this means that more than half of all cases filled do not pay the designated court cost.

### Hypothesis 8:

It is predicted that less than 10% of all cases report a violation of the order of protection.

## Analytical Approach

Most of the data were measured at the nominal level. Univariate statistics were used to determine the distribution of case variables. Bivariate statistics were used to determine the association between two nominal case variables. Multivariate analyses used included binary logistic regression analysis with dichotomous dependent variables.

### Model 1

Model 1 used a contingency table and the chi-square statistic to examine the association between the victim-offender relationship and dismissals requested by petitioner. The independent variable consisted of intimate and nonintimates.

### Model 2

Model 2 used a contingency table and the chi-square statistic to also examine the association between the victim-offender relationship and dismissals requested by petitioner. The independent variable consisted of spousal and nonspousal.

### Model 3

Model 3 used a contingency table and the chi-square statistic to examine the association between the type of order granted by the court and violations to the order of protection reported by the petitioner. The dependent variable consisted of violations reported and no violations reported.

### Model 4

Model 4 used a contingency table and the chi-square statistic to examine the association between the reported use in the petition and the issuance of the Brady Act. The independent variable consisted of the reported use a gun and no reported use of a gun.

### Model 5

Model 5 used a contingency table and the chi-square statistic to examine the association between the petitioner's request for anger management counseling for the respondent and the type of order granted by the court. The independent variable consisted of the petitioner's request for anger management counseling for the respondent.

### Model 6

Model 6 used logistic regression analysis to examine the relationship between application on Brady Act restrictions (dependant variable) and the allegations in the petition of gun use by respondent, petitioner's request to extend protection to children, contested order of protection permanent orders granted by the court, and the respondent having scars.

### Model 7

Model 7 used logistic regression analysis to examine the relationship between dismissal orders of protection by the request of the petitioner (dependant variable) and the court costs paid, the petitioner being the payee of the court costs, and an intimate relationship reported between the petitioner and respondent.

### Model 8

Model 8 used logistic regression analysis to examine the relationship between recovery of court costs (dependant variable) and the dismissals by both the petitioner's request and petitioner's failure to prosecute.

### Model 9

Model 9 used logistic regression analysis to examine the relationship between violations to the order of protection (dependant variable) and the allegations in the petition of stalking, the court granting an agreed order of protection without social contact, and the respondent having scars.

### Conclusion

By examining the archival data of the court system in Meigs County, Tennessee, the researcher attempted to gain further understanding of the effectiveness of the civil protective order.

## CHAPTER 4

### ANALYSIS

#### Purpose

The primary focus of this study was to look for characteristics of protective orders in a rural court system. The study examines 504 consecutive order of protection cases in the rural Meigs County, Tennessee filed between July 2000 and December 2008. From the analyses, the study generates a better understanding of the relationship between characteristics of the petitions, the parties, and the orders. Nineteen cases were omitted from the study due their unavailability because the courthouse was in the process of rearranging its court records storage room.

Several different techniques were used in the examination of the court data. Most of the data were measured at the nominal level. Univariate statistics were used to determine the distribution of case variables. Bivariate statistics were used to determine the association between two nominal case variables. Multivariate analyses used included binary logistic regression analysis with dichotomous dependent variables.

Model 1 used a contingency table and the chi-square statistic to examine the association between the victim-offender relationship and dismissals requested by petitioner. The independent variable consisted of intimates and nonintimates.

Model 2 used a contingency table and the chi-square statistic to also examine the association between the victim-offender relationship and dismissals

requested by petitioner. The independent variable consisted of spousal and nonspousal.

Model 3 used a contingency table and the chi-square statistic to examine the association between the type of order granted by the court and violations to the order of protection reported by the petitioner. The dependent variable consisted of violations reported and no violations reported.

Model 4 used a contingency table and the chi-square statistic to examine the association between the reported use in the petition and the issuance of the Brady Act. The independent variable consisted of the reported use a gun and no reported use of a gun.

Model 5 used a contingency table and the chi-square statistic to examine the association between the petitioner's request for anger management counseling for the respondent and the type of order granted by the court. The independent variable consisted of the petitioner's request for anger management counseling for the respondent.

Model 6 used logistic regression analysis to examine the relationship between application on Brady Act restrictions (dependant variable) and the allegations in the petition of gun use by respondent, petitioner's request to extend protection to children, contested order of protection permanent orders granted by the court, and the respondent having scars.

Model 7 used logistic regression analysis to examine the relationship between dismissal orders of protection by the request of the petitioner (dependant variable) and the court costs paid, the petitioner being the payee of

the court costs, and an intimate relationship reported between the petitioner and respondent.

Model 8 used logistic regression analysis to examine the relationship between recovery of court costs (dependant variable) and the dismissals by both the petitioner's request and petitioner's failure to prosecute.

Model 9 used logistic regression analysis to examine the relationship between violations to the order of protection (dependant variable) and the allegations in the petition of stalking, the court granting an agreed order of protection without social contact, and the respondent having scars.

### Frequencies

Frequencies were analyzed for the petitioner and respondent characteristics, remedies requested by the petitioner, repeat petitioners and respondents, characteristics of violence alleged, the ex parte or temporary order disposition, permanent order disposition, violation order disposition, and court costs (see Table 1). The petitioner characteristics include the age and the gender. The respondent's characteristics consist of the age, gender, height, and weight. The remedies requested include child custody, child support, protection of the child from the respondent, financial support for the petitioner, possession of the parties' residence, and anger management counseling for the respondent. The repetitiveness of cases analyses cases where petitioner and respondent are involved in more than one order of protection case. Characteristics of the violence alleged includes the relationship between the petitioner and respondent, the type of violence reported (physical, verbal threats, sexual, stalking, and

emotional), and whether a weapon was used. The temporary order disposition consists of whether the respondent was served the legal papers and whether the service of process took place within the county. The permanent order disposition reports the types of orders granted by the court and whether the Brady Act was implemented or applied. The violation order disposition indicates whether a violation was reported. The court costs include the court ordered payee of the court fees and whether the court fees were completely paid.

Table 1 shows the petitioner's sex.

Table 1.

*Petitioner's Sex*

		Frequency	Percent	Valid Percent
Valid	Male	56	11.1	11.1
	Female	448	88.9	88.9
	Total	504	100.0	100.0

Table 1 indicates that the majority of petitioners who seek an order of protection are female (89%). A surprising 11% of the petitioners in the Meigs County Court system are male.

Table 2 shows the frequency of petitioners involved in more than one case.

Table 2.

*Petitioner as a Repeat Victim*

		Frequency	Percent	Valid Percent
Valid	No	397	78.8	78.8
	Yes	107	21.2	21.2
	Total	504	100.0	100.0

Table 2 indicates that one fifth of the petitioners seeking orders of protections are or have been petitioners in other order of protection cases. However, 79% of the cases the petitioners are only involved in one case.

Table 3 shows the respondent's sex.

Table 3.

*Respondent's Sex*

		Frequency	Percent	Valid Percent
Valid	Male	432	85.7	85.7
	Female	72	14.3	14.3
	Total	504	100.0	100.0



Table 3 indicates that the majority of respondents against whom the petitioners seek an order of protection are male (86%). A surprising 14% of the respondents are female.

Table 4 shows the frequency of respondents involved in more than one case.

Table 4.

*Respondent as a Repeat Offender*

		Frequency	Percent	Valid Percent
Valid	No	389	77.2	77.2
	Yes	115	22.8	22.8
	Total	504	100.0	100.0

Table 4 indicates that 23% of the respondents have had other orders of protections filed against them. However, 77% of the respondents are only involved in one case.

Table 5 shows the petitioner's relationship to the respondent.

Table 5.

*Petitioner-Respondent Relationship*

		Frequency	Percent	Valid Percent
Valid	Spouse	297	58.9	58.9
	Intimate Partner (not spouse)	116	23.0	23.0
	In Laws	4	.8	.8
	Child	26	5.2	5.2
	Parent	17	3.4	3.4
	Relative	16	3.2	3.2
	Sibling	24	4.8	4.8
	Other	4	.8	.8
	Total	504	100.0	100.0

The relationship between the petitioner and respondent has to be considered to be a domestic one in order to meet the criteria for an order of protection. If the parties are or were spouses or intimate (non spouses), then they meet this criterion. Table 5 indicates that 82% of the petitions involved spouses (59%) or intimates (23%) Other relationships that are considered to be domestic by statute are in-laws (1%), children of the respondent (5%), parent of the respondent (3%), sibling of respondent (5%), and other relatives (3%). A last 1% of the cases reported a relationship that was not domestic.

Table 6 shows the number of children the petitioner and respondent have together.

Table 6.

*Number of children the Parties Share*

		Frequency	Percent	Valid Percent
Valid	0	274	54.4	54.4
	1	119	23.6	23.6
	2	72	14.3	14.3
	3	29	5.8	5.8
	4	8	1.6	1.6
	5	2	.4	.4
	Total	504	100.0	100.0

As Table 6 shows, the majority of petitioners (54%) did not have children with the respondents. However, in 46% of the cases, the parties had at least one child.

Table 7 shows whether the petitioner requested that the protection order also protect minor children.

Table 7.

*Requests that the Child or Children are Protected*

		Frequency	Percent	Valid Percent
Valid	No	365	72.4	72.6
	Yes	138	27.4	27.4
	Total	503	99.8	100.0
Missing	System	1	.2	
Total		504	100.0	

Table 7 shows that in slightly more than one fourth of the cases (27%), the petitioner requested the court to protect his or her children as well as himself or herself. However, the petitioner did not request extended protection for any children in 72% of the cases.

Table 8 indicates whether the petitioner requested child support from the respondent through the protective order.

Table 8.

*Request for Child Support*

		Frequency	Percent	Valid Percent
Valid	No	350	69.4	69.4
	Yes	154	30.6	30.6
	Total	504	100.0	100.0

Table 8 indicates that child support was sought in the petitioner in 31% of the order of protection cases. Conversely, in 69% of the cases child support was not requested by the petitioner.

Table 9 indicates whether the petitioner requested child custody from the respondent through the protective order.

Table 9.

*Requests for Child Custody*

		Frequency	Percent	Valid Percent
Valid	No	331	65.7	65.7
	Yes	173	34.3	34.3
	Total	504	100.0	100.0

Table 9 indicates that the petitioner sought custody of the parties' child or children through the order of protection in 34% of the cases. Conversely, child custody was not sought by the petitioner in 66% of the cases.

Table 10 indicates whether the petitioner requested financial support from the respondent through the protective order.

Table 10.

*Requests for Petitioner Support*

		Frequency	Percent	Valid Percent
Valid	No	404	80.2	80.2
	Yes	100	19.8	19.8
	Total	504	100.0	100.0

Table 10 indicates that 20% of petitioners requested the court to order financial support to the petitioner. However, in 80% of the cases no financial support for the petitioner was requested.

Table 11 indicates whether the petitioner requested that the respondent be ordered by the court to attend anger management counseling.

Table 11.

*Requests for Anger Management*

		Frequency	Percent	Valid Percent
Valid	No	256	50.8	50.8
	Yes	248	49.2	49.2
	Total	504	100.0	100.0

Table 11 indicates that the petitioner requested that respondent be ordered to seek anger management counseling in 49% of the cases, whereas no such request was made in 51% of petitions. While the petition for an order of

protection allows petitioners to request anger management counseling for respondent, the court does not have the authority to order anger management counseling.

Table 12 shows whether the petitioner requested possession of the parties residence.

Table 12.

*Requests for Residence*

		Frequency	Percent	Valid Percent
Valid	No	347	68.8	68.8
	Yes	157	31.2	31.2
	Total	504	100.0	100.0

The petition for an order of protection also allows the petitioner to request possession of the parties' residence. Table 12 indicates that in 31% of the cases the petitioner requested possession of the parties' residence. However, in 69% of the cases, the petitioner did not seek the parties' residence. It is unclear from the court data whether the petitioner and respondent shared and or owned a residence together. The protective order can not order the respondent to give up his or her claim on the deed, but it can temporarily allow the petitioner to stay at the residence without the presence of the respondent until a more permanent arrangement can be made in another civil suit.

Table 13 indicates if physical violence was reported by the petitioner.

Table 13.

*Physical Violence*

		Frequency	Percent	Valid Percent
Valid	No	223	44.2	44.3
	Yes	280	55.6	55.7
	Total	503	99.8	100.0
Missing	System	1	.2	
Total		504	100.0	

Table 13 indicates that in over half (56%) of the cases filed, the petitioner alleged that the respondent was physically violent toward the petitioner. Conversely, in 44% of the cases, the petitioner did not report that any physical violence had occurred.

Table 14 indicates if verbal threats were reported by the petitioner.

Table 14.

*Verbal Threats*

		Frequency	Percent	Valid Percent
Valid	No	175	34.7	34.7
	Yes	329	65.3	65.3
	Total	504	100.0	100.0



Table 14 indicates that in 65% of the cases filed, the petitioner alleged that the respondent had made verbal threats. However, in 35% of the cases, the petitioner did not report that the respondent had made any verbal threats.

Table 15 indicates if sexual violence was reported by the petitioner.

Table 15.

*Sexual Violence*

		Frequency	Percent	Valid Percent
Valid	No	492	97.6	97.6
	Yes	12	2.4	2.4
	Total	504	100.0	100.0

Table 15 indicates that only a small percentage (2%) of the cases involved the allegations of sexually assault. In the majority of the cases filed (98%) sexual assault was not alleged.

Table 16 indicates if stalking was reported by the petitioner.

Table 16.

*Stalking*

		Frequency	Percent	Valid Percent
Valid	No	479	95.0	95.0
	Yes	25	5.0	5.0
	Total	504	100.0	100.0

Table 16 indicates that only a small percentage (5%) of the cases involved the respondent stalking the petitioner. The majority of the cases filed (95%) did not report that the respondent stalked the petitioner.

Table 17 shows what type of weapon was reportedly used by the respondent.

Table 17.

*Weapons Used*

		Frequency	Percent	Valid Percent
Valid	No	440	87.3	87.3
	Knife	15	3	3
	Gun	34	6.7	6.7
	Car	8	1.6	1.6
	Baseball Bat	3	0.6	0.6
	Other	4	0.8	0.8
	Total	504	100	100

Table 17 indicates that in 87% of the petitions weapon use was not alleged. However, 13% of the petitioners alleged that the respondent did use a

weapon (3% reported the use of a knife, 7% the use of a gun, 2% reported that the respondent tried to run over the petitioner with a car, 1% the use of a baseball bat, and 1% reported other objects as being used as weapons).

Table 18 indicates whether the respondent was served with the ex parte order of protection.

Table 18.

*Ex Parte Served on Defendant*

		Frequency	Percent	Valid Percent
Valid	Yes	453	89.9	90.4
	No, bad Address	30	6.0	6.0
	No, officer failed to Serve	1	.2	.2
	No, petitioner's request	17	3.4	3.4
	Total	501	99.4	100.0
Missing	Unknown	3	.6	
Total		504	100.0	

Table 18 indicates that in the majority of the cases (90%) the ex parte orders were served on the respondent. However, in 10% of the cases the respondent was never served with the temporary order (6% were not served due to the petitioner not providing a valid or good address for respondent, less than ½% was due to the officer failing to serve the respondent before the ex-parte expired, 3% were not served due to the petitioner dropping order before the

respondent was served). In less than 1% of the cases, it is unknown if the respondent was served.

Table 19 indicates whether the service of process took place within the county.

Table 19.

*Respondent Served within the County*

		Frequency	Percent	Valid Percent
Valid	No	98	19.4	19.4
	Yes	406	80.6	80.6
	Total	504	100.0	100.0

Table 19 indicates that the majority (81%) of respondents were served within the county, while only 19% of the cases involved service outside the county.

Table 20 indicates the type of order issued by the court.

Table 20.

*Type of Order Issued*

		Frequency	Percent	Valid Percent
Table	Dismissed on Basis	26	5.2	5.2
	Dismissed by Request	132	26.2	26.4
	Dismissed for Failure to Prosecute	77	15.3	15.4
	Default Judgment	22	4.4	4.4

Table 20 Continued

	Agreed OP with Social Contact	60	11.9	12
	Agreed OP without Social Contact	81	16.1	16.2
	Contested OP	64	12.7	12.8
	Mutual Restraining Order	23	4.6	4.6
	Transferred to Criminal Court	7	1.4	1.4
	Transferred to Divorce Proceedings	8	1.6	1.6
	Total	500	99.2	100
Missing	No Order	4	0.8	
Total		504	100	

Table 20 lists the types of orders issued in the order of protection cases. The orders granted by the court were made after service of process on respondents of the ex parte order in 81% of cases. Thus the table includes mostly cases in which the respondent was served.

For this study, the types of orders granted by the court were broken down into 10 different types. In 5% of the cases the court dismissed the cases after determining that there was no basis to grant the protective order. In 26% of the cases, the judge dismissed the petition because the petitioner requested it. Another 15% of the cases were dismissed after a year for failure to prosecute by the petitioner. In 4% of the cases, the judge issued a default judgment due to the respondent to appear in court. Thus, the judge granted the permanent order of protection by default. In 12% of the cases, an agreed permanent order of protection with social contact was granted. Another 16% of cases had an agreed order of protection without social contact. In 13% of the cases, the court granted an order of protection after its being contested by the respondent. In 5% of the cases, the court issued a mutual restraining order, ordering that both parties stay

away from each other. In 3% of the cases, the case was transferred to another court (1% to criminal court to be heard with criminal charges and 2% to be heard with the divorce proceedings).

Table 21 indicates whether the court applied the Brady Act.

Table 21.

*Brady Act Applied*

		Frequency	Percent	Valid Percent
Valid	No	461	91.5	91.5
	Yes	43	8.5	8.5
	Total	504	100.0	100.0

Table 21 indicates that in 43 (9%) of the cases, the judge ordered Brady Act restrictions, prohibiting the respondent from possessing, buying, or trading guns, ammunition, and weapons. Nevertheless, in the majority of cases (91%) the judge did not apply the Brady Act.

Table 22 shows whether a violation of the order of protection was reported.

Table 22.

*Show Cause Violation of Order of Protection*

		Frequency	Percent	Valid Percent
Valid	No	473	93.8	93.8
	Yes/Granted	17	3.4	3.4
	Yes but Dropped by Request	5	1.0	1.0
	Yes but Dropped on Basis	8	1.6	1.6
	Yes but Dropped for Failure to Prosecute	1	.2	.2
	Total	504	100.0	100.0

Table 22 shows that the majority of the cases (94%) did not report a violation (order to show cause) of the order of protection. However, 6% of the cases did report a violation of the order of protection (in 3% of cases, the court found the respondent to have violated the protection order; in 1% of cases, petitioner filed the affidavit to show cause due to a violation but then asked the court to drop it; in 2% of the violations reported, the court determined that there was no basis for the violation; and fewer than ½% reported a violation that was dismissed due to the petitioner failing to prosecute).

Table 23 shows who was ordered by the court to pay the court costs.

Table 23.

*Payee of the Court Costs*

		Frequency	Percent	Valid Percent
Valid	Petitioner	227	45.0	45.0
	Respondent	251	49.8	49.8
	Both/Split Cost	21	4.2	4.2
	State/TN	5	1.0	1.0
	Total	504	100.0	100.0

Table 23 indicates that in almost all the cases (95%) either the petitioner (45%) or the respondent (50%) was ordered to pay the court costs. The petitioners were assessed the costs in all dismissal cases except in the rare events that the parties agreed to another arrangement at the time of the court hearing. There were a few cases (4%) in which the court ordered the parties split the court cost. The court costs were usually split between the petitioner and respondent when a mutual restraining order was issued, the cases was transferred to the divorce proceedings, or special arrangements were made by an agreement of the parties. In 1% of the cases, the court costs were taxed to the state of Tennessee. Despite who was taxed the court costs by the court, the court costs were not necessary paid.

Table 24 indicates whether the total court costs were collected by the court.



Table 24.

*Court Costs Paid*

		Frequency	Percent	Valid Percent
Valid	No	396	78.6	78.6
	Yes	108	21.4	21.4
	Total	504	100.0	100.0

Table 24 indicates that despite court orders to the contrary assessing most court costs against petitioners and respondents, the court did not recover most of the court costs. Only in 21% of the cases filed were the total court costs recouped.

Contingency Tables

Contingency tables were used to examine bivariate associations between variables specified in the hypotheses.

Individuals invest a great deal in an intimate relationship. Therefore, a contingency table (Table 25) and chi-square were used to examine if petitioners who were invested in an intimate relationship with the respondent would be more likely to request the courts to dismiss the protective order.

Table 25.

*Relationship between Dismissal and Victim-Offender Relationships*

			Parties' Relationship		
			No	Yes	Total
Dismissed by Request	No	Count	75	297	372
		% within Parties' Relationship	82.4%	71.9%	73.8%
	Yes	Count	16	116	132
		% within Parties' Relationship	17.6%	28.1%	26.2%
Total		Count	91	413	504
		% within Parties' Relationship	100.0%	100.0%	100.0%

Table 25 indicates that 28% of intimate petitioners request dismissal compared to 18% of nonintimate. The Pearson's Chi-Square (4.253) (df = 1) indicates that there is significance between the two variables (p = .039).

Due to the assumption that all the cases are independent of each other, Table 26 examines the same variable as Table 25 while excluding all cases where the petitioner or respondent was involved in other cases.

Table 26.

*Relationship between Dismissal and Victim-Offender Relationships*

			Parties' Relationship		
			No	Yes	Total
Dismissed by Request	No	Count	44	211	255
		% within Parties' Relationship	84.6%	73.0%	74.8%
	Yes	Count	8	78	86
		% within Parties' Relationship	15.4%	27.0%	25.2%

Table 26 Continued

Total	Count	52	289	341
	% within Parties' Relationship	100.0%	100.0%	100.0%

Table 26 indicates that 27% of intimate petitioners request dismissal compared to 15% of non intimate, which is a 12% difference. The Pearson's Chi-Square (3.147) (df = 1) indicates that there is significance between the two variables (p = .076).

A great deal of emphasis is placed on the institution of marriage. Hence, a contingency table and chi-square were used to examine if a married petitioner would be more likely to request that the protective order be dismissed than a nonmarried petitioner in Table 27.

Table 27.

*Relationship between Dismissal and Victim-Offender Relationship*

		Were the parties current or former spouses?			
		No	Yes	Total	
Dismissed by Request	No	Count	158	214	372
		% within Were the parties current or former spouses?	76.3%	72.1%	73.8%
	Yes	Count	49	83	132
		% within Were the parties current or former spouses?	23.7%	27.9%	26.2%
Total		Count	207	297	504
		% within Were the parties current or former spouses?	100.0%	100.0%	100.0%

Table 27 indicates that 28% of married petitioners request dismissal compared to 24% of nonmarried petitioners. The Pearson's Chi-Square (1.153) (df = 1) is not significant ( $p = .283$ ).

Due to the assumption that all the cases are independent of each other, Table 28 examines the same variable as Table 27 excluding all cases where the petitioner or respondent was involved in other cases.

Table 28.

*Relationship between Dismissal and Victim-Offender Relationship*

			Were the parties current or former spouses?		
			No	Yes	Total
Dismissed by Request	No	Count	111	144	255
		% within Were the parties current or former spouses?	81.0%	70.6%	74.8%
	Yes	Count	26	60	86
		% within Were the parties current or former spouses?	19.0%	29.4%	25.2%
Total		Count	137	204	341
		% within Were the parties current or former spouses?	100.0%	100.0%	100.0%

Table 28 indicates that 29% of spousal or former spousal petitioner request dismissal compared to 20% of nonspousal petitioners. The Pearson's Chi-Square (4.731) (df = 1) is significant ( $p = .030$ ).

If a respondent is ordered by the court not to have any form of communication or contact with the petitioner, the respondent may feel more resentful than if allowed some limited contact. Therefore, a contingency table (Table 29) and chi-square were used to examine if the agreed court order without social contact might result in more reported violations than in cases that provide someone social contact.

Table 29.

*Relationship between No Social Contact Order and Reported Violations*

		Violation Reported			
		No	Yes	Total	
Was an agreed order w/o social contact granted?	No	Count	403	14	417
		% within Violation Reported Recoded	85.2%	63.6%	84.2%
	Yes	Count	70	8	78
		% within Violation Reported Recoded	14.8%	36.4%	15.8%
Total	Count	473	22	495	
	% within Violation Reported Recoded	100.0%	100.0%	100.0%	

Table 29 shows that 36% of violations are reported by no contact petitioners compared to 15% of contact petitioners, which is a 21% difference. The Pearson's Chi-Square is 7.364 (df = 1) significant (p = .007).

Due to the assumption that all the cases are independent of each other, Table 30 examines the same variables as Table 29 while excluding all cases where the petitioner or respondent was involved in other cases.

Table 30.

*Relationship between No Social Contact Order and Reported Violations*

		Was an agreed order without social contact granted?			
		No	Yes	Total	
Violation Reported	No	Count	271	54	325
		% within Was an agreed order without social contact granted?	97.8%	88.5%	96.2%
	Yes	Count	6	7	13
		% within Was an agreed order without social contact granted?	2.2%	11.5%	3.8%
	Total	Count	277	61	338
		% within Was an agreed order without social contact granted?	100.0%	100.0%	100.0%

Table 30 shows that 12% of couples with an agreed order without social contact have a violation compared to only 2% of couples who do not have an agreed order without contact. The Pearson’s Chi-Square is 11.715 (df = 1) significant (p = .001).

Because the Brady Act takes away an individual’s right to bear arms under some circumstances, it is reasonable to assume that the judge would be more likely to issue Brady Act restrictions in cases in which a gun was reported as

being used in the violent episode. Table 31 shows the relationship between a gun reported as being used and the applying of the Brady Act.

Table 31.

*Relationship between the Application of Brady Act and Use of Gun*

			Was a gun used?		
			No	Yes	Total
Brady Act	No	Count	434	27	461
		% within Was a gun used?	92.3%	79.4%	91.5%
	Yes	Count	36	7	43
		% within Was a gun used?	7.7%	20.6%	8.5%
Total	Count	470	34	504	
	% within Was a gun used?	100.0%	100.0%	100.0%	

Table 31 shows that 21% of the cases involving a gun had the Brady Act applied compared to only 8% of cases without guns. The Pearson's Chi-Square (4.226) (df = 1) indicates that there is significant association between the two variables (p = .04).

Due to the assumption that all the cases are independent of each other, Table 32 examines the same variable as Table 31 while excluding all cases where the petitioner or respondent was involved in other cases.

Table 32.

*Relationship between the Application of Brady Act and Use of Gun*

			Was a gun used?		
			No	Yes	Total
Brady Act	No	Count	292	18	310
		% within Was a gun used?	92.4%	72.0%	90.9%
	Yes	Count	24	7	31
		% within Was a gun used?	7.6%	28.0%	9.1%
Total		Count	316	25	341
		% within Was a gun used?	100.0%	100.0%	100.0%

Table 32 shows that 28% of the cases involving a gun had the Brady Act applied compared to only 8% of cases without guns. The Pearson's Chi-Square (11.672) (df = 1) indicates that there is significant association between the two variables ( $p = .001$ ).

In the petition the petitioner can request anger management counseling for the respondent. With the hope that counseling will change the respondent, the parties may agree on a permanent order with social contact. Table 33 shows the relationship between the request for anger management counseling for the respondent and the court granting an agreed order with social contact.



Table 33.

*Relationship between Anger Management and Social Contact Order*

			Is Anger Management requested?		
			No	Yes	Total
Was an agreed order with social contact granted?	No	Count	216	228	444
		% within Is Anger Management requested?	84.4%	91.9%	88.1%
	Yes	Count	40	20	60
		% within Is Anger Management requested?	15.6%	8.1%	11.9%
Total	Total	Count	256	248	504
		% within Is Anger Management requested?	100.0%	100.0%	100.0%

Table 33 indicates that 8% of couples who obtain an agreed order with social contact requested anger management compared to 16% who did not maintain that social contact. The Pearson's Chi-Square (6.866) (df = 1) indicates that there is a significant association between the two variables (p = .009).

Due to the assumption that all the cases are independent of each other, Table 34 examines the same variable as Table 33 while excluding all cases where the petitioner or respondent was involved in other cases.

Table 34.

*Relationship between Anger Management and Social Contact Order*

			Is Anger Management requested?		
			No	Yes	Total
Was an agreed order with social contact granted?	No	Count	151	148	299
		% within Is Anger Management requested?	83.9%	91.9%	87.7%
	Yes	Count	29	13	42
		% within Is Anger Management requested?	16.1%	8.1%	12.3%
Total		Count	180	161	341
		% within Is Anger Management requested?	100.0%	100.0%	100.0%

Table 34 indicates that 8% of couples who obtain an agreed order with social contact requested anger management compared to 16% who did not maintain that social contact. The Pearson’s Chi-Square (5.082) (df = 1) indicates that there is significance between the two variables ( $p = .024$ ).

Binary Logistic Regression

The Brady Act indicates that an individual against whom an order of protection was ordered to protect an intimate partner or his or her children from domestic violence will be violating federal law by possessing any firearm or ammunition (U.S.C.A, 18-1-44-922, 2006). Not much is known about the invocation and application by judges of the Brady Act in order of protection cases.

To examine under what circumstances judges invoke Brady, a binary logistic analyses was conducted in which the dependent variable was coded as 1 for application of the Brady Act restrictions and 0 for nonapplication of the restrictions. Several independent variables were used in the original model, including the type of violence alleged, whether the respondent was involved in other order of protection cases, and the sex of the petitioner and respondent. The independent variables in the final model used were gun used (the petitioner reported that the respondent threatened petitioner with gun), request for kids to be protected (the petitioner request that the court protect the petitioner's child or children as well as protecting the petitioner), a contested order of protection was granted (the respondent contested having an order of protection), and respondent having scars. The independent variables use of a gun and request for kids to be protected were coded as 1 being no (a gun was not used and there was no request to protect any children) and 2 being yes (a gun was used and there was a request to protect a child or children). The independent variables contest order of protection granted and respondent having scars were coded as 0 being no (contested order was not granted and the respondent did not have any scars) and 1 being yes (contested order was granted and the respondent did have scars). The final model examining the application of the Brady Act restrictions on gun ownership for people convicted of domestic violence indicates that two variables, respondent's use of a gun and petitioner's request that the order of protection protect petitioner's children from respondent, increase the probability of the judge invoking the Brady Act against respondent.

Binary logistic regression analysis examined an original model that included allegations of physical violence, gun use in the petition, requests for protection of petitioner’s children, whether the order of protection was contested, and if the respondent had a scar. The final model can be seen in Table 35.

Table 35.

*Brady Act*

		Variables in the Equation					
		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1	Gun Used	1.154	.563	4.202	1	.040	3.172
	Kids Protected	1.225	.373	10.783	1	.001	3.403
	Contested	2.791	.380	54.007	1	.000	16.296
	Respondent Scar	1.238	.539	5.280	1	.022	3.448
	Constant	-6.287	.894	49.414	1	.000	.002

Cox and Snell R<sup>2</sup> = .16  
 Results are significant at p<.0005 unless indicated to contrary  
 \*p < .05

Table 35 shows that four variables, use of a gun, request to protect children, a contested order of protection hearing, and respondent having a scar, increased the probability of the Brady Act restrictions on firearms possession being issued by the judge.

Although all the variables increased the likelihood of application of Brady restrictions in the order, some variables resulted in substantially greater odds of Brady application. The order of protection being contested by the respondent had the strongest effect on the likelihood of Brady application which was followed by use of a weapon.

The Chi-Square (60.72) (df=4) was statistically significant for this model ( $p = .0005$ ). While 92.8% of the outcomes were correctly predicted by the model, the initial model was also able to correctly predict 91.5% of the outcomes, which is an improvement of 1.3%. Consequently, in cases involving the use of a gun by respondent, the judge is 217.2% more likely to apply the Brady Act to respondent as in cases involving no gun. Where the petition seeks specific protection of petitioner's children, the judge is 240.3% more likely to apply the Brady Act restrictions on respondent compared to cases where no such protection of children is sought. In cases that a contested order of protection was granted, the judge is almost 1,529.6% more likely to apply the Brady Act restrictions on the respondent compared to cases that are not contested. In cases that the respondent was reported to have a scar or scars, the judge is 244.8% more likely to apply the Brady Act restrictions to the respondent compared to the respondents that do not have any scars.

Due to the assumption that the cases are independent of each other, table 36 examines the same variables in Table 35, while excluding all cases that involve petitioner and respondents involved in more than one order of protection case.

Table 36.

*Brady Act*

		Variables in the Equation					
		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1	Gun Used	1.634	.622	6.899	1	.009	5.124
	Kids Protected	.797	.454	3.082	1	.079	2.220
	Respondent Scar	1.268	.648	3.833	1	.050	3.554
	Contested	2.915	.457	40.752	1	.000	18.444
	Constant	-6.256	1.013	38.097	1	.000	.002

Cox and Shell  $R^2 = .16$   
<sup>a</sup> $p < .05$

The Chi-Square (60.72) (df = 4) was statistically significant for this model ( $p = .005$ ). While 92.4% of the outcomes were correctly predicted by the model, the initial model was also able to correctly predict 90.9% of the outcomes, which is an improvement of 1.5%. The model excluding repeat parties is substantially similar to the model with them. In both models weapon use, request to protect children, contested cases, and respondent scar, increased the odds of the judge applying the Brady restrictions to respondent. In both models, the order of protection being contested had the strongest effect on the imposition of the Brady restrictions on respondents followed by use of a gun. Consequently, in cases involving the use of a gun by respondent, the judge is 412.4% more likely to apply the Brady Act to respondent as in cases involving no gun. Where the petition seeks specific protection of petitioner’s children, the judge is 112% more likely to apply the Brady Act restrictions on respondent compared to cases where no such protection of children is sought. In cases that a contested order of

protection was granted, the judge is almost 1,744.4% more likely to apply the Brady Act restrictions on the respondent compared to cases that are not contested. In cases that the respondent was reported to have a scar or scars, the judge is 255.4% more likely to apply the Brady Act restrictions to the respondent compared to the respondents that do not have any scars.

Given the large percentage of petitions dismissed by petitioner, binary logistic regression analysis was used to investigate factors that increase the odds of dismissal by petitioner. The dependent variable was coded as 2 if the protective order was dismissed by the petitioner's request and 1 if the protective order was not dismissed by the petitioner's request. The independent variables used were fees paid (the payment of court costs), the petitioner is the payee of the court cost (court taxed the court cost to the petitioner), and the relationship between the petitioner and respondent (whether the relationship between petitioner and the respondent was intimate or not). All the independent variables were coded as 1 being no (court cost were not paid, petitioner is not the payee of court cost, or the relationship was not intimate) and 2 being yes (court cost were paid, petitioner was the payee of court cost, and the relationship is intimate). The original model included allegations physical violence, use of a weapon, petitioner and respondent having children together, payment of the court costs, petitioner being assessed the costs, respondent being assessed the costs, and the victim-offender relationship. The final model, seen in Table 37 indicates that three variables increase the likelihood the judge will dismiss the petition on request by petitioner.

Table 37.

*Order of Protection Dismissed by Request of Petitioner*

		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1	Fees Paid	1.678	0.304	30.479	1	0	5.355
	Petitioner is the Payee	3.21	0.332	93.326	1	0	24.789
	Relationship	0.86	0.365	5.561	1	0.018	2.362
	Constant	-9.993	1.105	81.813	1	0	0

Cox and Snell R<sup>2</sup> = .33

Variables are significant at p<.0005 unless indicated to the contrary

\*p < .05

Table 37 shows that payment of court costs, petitioner being ordered to pay the court costs, and petitioner being an intimate partner increased the odds of the petition being dismissed on request of the petitioner. Assessing the costs against petitioner had the strongest effect on the likelihood of dismissal, followed by payment of court costs.

The Chi-Square (198.61) (df = 3) was statistically significant for this model (p = .0005), and 82.1% of the outcomes were correctly predicted, which is more than the initial model was able to predict 73.8%, which is an improvement of 8.3%. Consequently, in cases involving dismissals by petitioner's request, the case was 435.5% more likely to be dismissed if the court costs were paid. If the petitioner was the ordered payee of the court cost it was 2,378.9% more likely for the case to be dismissed by the request of the petitioner. Lastly, if the relationship between the petitioner and respondent is intimate it is 136.2% more likely to be dismissed by the petitioner's request.

Table 38 assesses the factors affecting dismissal on request by petitioners excluding cases involving repeat petitioners and respondents. The results of this



model are substantially similar to the model with repeat petitioners and respondents.

Table 38.

*Order of Protection Dismissed by Request of Petitioner*

		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1	Fees Paid	1.889	.393	23.038	1	.000	6.611
	Petitioner is the Payee	3.348	.417	64.441	1	.000	28.437
	Relationship	1.002	.504	3.958	1	.047	2.724
	Constant	-10.788	1.494	52.143	1	.000	.000

Cox and Snell R<sup>2</sup> = .334

Variables are significant at p, .0005 unless indicated to the contrary.

\*p < .05

Table 38 showed that three variables increased the odds that the judge will allow petitioners to dismiss, court costs being paid, petitioner being the payee of the costs, and victim-offender intimate relationship.

The Chi-Square (138.43) (df = 3) was statistically significant for this model (p = .0005), and 83.6% of the outcomes were correctly predicted, which is more than the initial model was able to predict 74.8%, which is an improvement of 8.8%. Consequently, in cases involving the dismissals by petitioner's request, the case was 561.1% more likely to be dismissed if the court costs were paid. If the petitioner was the ordered payee of the court cost it was 2,743.7% more likely if the petitioner was assessed the costs; and it is 172.4% more likely to be dismissed if the petitioner was an intimate partner of the respondent.

Although 94.8% of court costs were assessed against petitioner or respondent the next analysis examined to what extent the court costs were actually paid and the factors increasing the odds of actual payment. Table 39 indicates that two variables affected whether court costs were actually paid. A motion by petitioner to dismiss the petition substantially increased the odds of actual payment of court costs, whereas a petitioner's failure to prosecute decreased the likelihood of actual payment.

In order to examine under what circumstances where the court cost were recouped, a logistic regression analysis was used in which the dependent variable was coded as 2 for total court cost being collected and 1 for court cost not being collected. The independent variables used were dismissal by petitioner's request and dismissal for failure to prosecute. Both independent variables were both coded as 1 being no (the case was not dismissed) and 2 being yes (the case was dismissed). In the original model, several independent variables were used including the type of order granted, relationship between the petitioner and respondent, type of remedies requested, payee of the court costs, and the sex of the petitioner and respondent. The final model examining the collection of court fees indicates that that the dismissals by the petitioner's request increased the probability of the court cost being recouped, while dismissal orders for failure to prosecute decreased the probability that the court will collect the court cost.

Table 39.

*Recovery of Court Costs*

		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1	Petitioner's Request	1.277	.236	29.309	1	.000	3.586
	Failure to Prosecute	-1.291	.537	5.781	1	.016	.275
	Constant	-1.600	.718	4.969	1	.026	.202

Cox and Shell  $R^2 = .090$   
<sup>a</sup>p < .05

Table 39 showed that dismissals by the request of the petitioner increased the odds of the court cost being paid while dismissals for failure to prosecute decreased the odds. The Chi-Square (47.68) (df = 2) was statistically significant for this model (p = .0005). While 78.6% of the outcomes were correctly predicted by the model, the initial model also correctly predicted 78.6% of the outcomes. Consequently, in cases involving the full or actual payment of court costs, the court is 285.6% more likely to collect the court fees when petitioner requests a dismissal. However, the courts are 72.5% less likely to collect the court fees when petitioners fail to prosecute. However, because there was no change in the percentage of correctly predicting the outcome in the regression model verses just guessing the outcome, the model is not helpful in predicting whether the court cost will be recovered.

Due to the assumption of independence of the cases, Table 40 examined the same variables in Table 39 while excluding repeat petitioners and repeat respondents.

Table 40.

*Recovery of Court Costs*

		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1	Petitioner's Request	1.218	.285	18.205	1	.000	3.380
	Failure to Prosecute	-1.632	.745	4.801	1	.028	.196
	Constant	-1.133	.934	1.471	1	.225	.322

Cox and Snell  $R^2 = .091$

Variables are significant at the  $p < .0005$  level unless indicated to the contrary.

\* $p < .05$

Table 40 excluding repeat petitioner and respondent was substantially similar to the model where the petitioner dismissal increased likelihood of payment of costs, whereas petitioner failure to prosecute decreased the odds of payment of costs.

The Chi-Square (32.51) (df = 2) was statistically significant for this model ( $p = .0005$ ). While 78.3% of the outcomes were correctly predicted by the model, the initial model also correctly predicted 78.3% of the outcomes. Consequently, in cases involving the payment of fees, the courts are 238% more likely to collect the court fees where petitioner requests a dismissal, and the courts are 80.4% less likely to collect the court fees where petitioners fail to prosecute. However, because there was no change in the percentage of correctly predicting the outcome in the regression model verses just guessing the outcome, the model is not helpful in predicting whether the court cost will be recovered.

In some cases of domestic violence the respondent likes to maintain control over the petitioner. In such cases the petitioner might report stalking by

the respondent and request that the court issue a protective order that requires that the respondent not have any social contact with the petitioner. However, if the respondent is used to having this control over the petitioner, the respondent, despite being ordered by the court not to have any social contact with the petitioner, may be more prone to violate the protective order.

In order to examine under what circumstances a violation is reported, a logistic regression analysis was used in which the dependent variable was coded as 1 for protective order to be violated and 0 for nonviolation of the protective order. The independent variables used were stalking (the petitioner alleged that the respondent was stalking the petitioner in the initial petition for an order) and the issuance of an agreed order without social contact by the court and were both coded as 1 if there was no allegation of the respondent stalking the petitioner and an agreed order without social contact was not granted by the court and 2 if stalking of the petitioner by the respondent was alleged and an agreed order without social contact was granted. The independent variable respondent had scars was coded as 0 if respondent does not have any scars and 1 if respondent has scars. In the original model, several independent variables were used including the type of violence, type of order granted, remedies requested, the use of a weapon, the respondent having scars and tattoos, and the sex of the petitioner and respondent. The final model indicates that three variables, respondent stalking of the petitioner, the court's issuing an agreed order without social contact, and respondent having scars increased the probability of a violation of the protective order being reported to the court.

Table 41.

*Violation to the Order of Protection*

		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1	Stalking	1.876	.626	8.993	1	.003	6.527
	Agreed Order w/o Social Contact	1.106	.477	5.378	1	.020	3.021
	Respondent's Scar(s)	1.458	.567	6.609	1	.010	4.295
	Constant	-5.604	.814	47.385	1	.000	.004

Cox and Snell  $R^2 = .034$

Variables are significant at the  $p < .0005$  level unless indicated to the contrary.

\* $p < .05$

Table 41 showed that the respondent stalking of the petitioner, the court's issuing an agreed order without social contact, and respondent having scars increased the probability of a violation of the protective order being reported to the court. The Chi-Square (16.87) (df = 3) was statistically significant for this model ( $p = .0005$ ). While 95.6% of the outcomes were correctly predicted by the model, the initial model also was able to correctly predict 95.6% of the outcomes. Consequently, in cases of violation, the respondent is 552.7% more likely to violate the protective order if he or she was alleged to have stalked the petitioner. Where the court issues an agreed order without social contact, the respondent is 202.1% more likely to violate the order of protection. In cases that the respondent has a scar or scars, the respondent is 329.5% more likely to violate the order of protection. However, because there was no change in the percentage of correctly predicting the outcome in the regression model versus just guessing the outcome, the model is not helpful in predicting whether a violation to the order of protection will occur.

Due to the assumption that the cases are independent of each other, Table 42 examines the same variables in Table 41, while excluding all cases that involve petitioner and respondents involved in more than one order of protection case.

Table 42.

*Violation to the Order of Protection*

		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1	Stalking	2.642	.795	11.043	1	.001	14.047
	Agreed Order w/o Social Contact	1.511	.683	4.891	1	.027	4.533
	Respondent's Scar(s)	2.318	.706	10.780	1	.001	10.156
	Constant	-6.884	1.145	36.174	1	.000	.001

Cox and Shell  $R^2 = .053$   
 \*p < .05

Table 42 shows that respondent stalking of the petitioner, the court's issuing an agreed order without social contact, and respondent having scars increased the probability of a violation of the protective order being reported to the court. The Chi-Square (18.34) (df = 3) was statistically significant for this model (p = .0005). While 96.2% of the outcomes were correctly predicted by the model, the initial model also was able to correctly predict 96.2% of the outcomes. Consequently, in cases of violation, the respondent is 1,304.7% more likely to violate the protective order if he or she was alleged to have stalked the petitioner. Where the court issues an agreed order without social contact, the respondent is 353.3% more likely to violate the order of protection. In cases that the respondent has a scar or scars, the respondent is 915.6% more likely to violate the order of

protection. However, because there was no change in the percentage of correctly predicting the outcome in the regression model verses just guessing the outcome, the model is not helpful in predicting whether a violation to the order of protection will occur.

### Conclusion

The Meigs County Court data provided a new insight to the civil protective order process. Findings indicate that stalking and sexual assaults are not commonly reported in the petition for an order of protection. Other findings indicate that the court issues more dismissal orders than any other types of order. Moreover, most of the dismissal orders are dismissed at the request of the petitioner. Although the court orders most of the court costs to be paid by either the petitioner or the respondent, the court does not succeed in recovering the bulk of the costs. Instead, the court struggles to recoup the court costs except in cases of dismissals by the request of the petitioner where the court holds up dismissing the case until the petitioner pays the fees. While the Brady Act is not applied by the court very often, use of guns as threats, the request to extend protection to children, contested orders granted, and the respondent having scars increase the portability of the invocation of the Brady Act restrictions. The few violations of orders of protection reported are predicted by reports of stalking prior to the temporary order, the granting an agreed permanent order without social contact, and the respondent having scars.



## CHAPTER 5

### DISCUSSION

#### Methodology

The purpose of this study was to evaluate a domestic relation court's handling of protective orders in a rural county. Data were collected using archival court records of the Domestic Relations Court of Meigs County, Tennessee. The study examined the order of protection process and outcomes in cases that filed petitions from the division's creation in July 2000 until December 2008.

Meigs County Domestic Relations Court was chosen for both its rural characteristics, which according to the 2000 United Census Bureau, has a population of 11,086 (US Census Bureau, 2000), as well as for the recognition the court has achieved as a highly effective court system for the handling of orders of protection.

The data were located at the Meigs County Courthouse in the Clerk & Master's and Domestic Relations Court Clerk's Office. The clerk's office allowed the researcher to examine all order of protection case files, docket books, and minute books. The data were collected, entered into Microsoft Excel, and then converted into the statistical package, SPSS, for analysis. Since the time of the court's conception in the year 2000, over 500 order of protection cases have been filed.

In addition to analyzing characteristics of orders of protections, the study also examines the court financial records to determine whether the court costs were paid in each case. The filed petitions and the financial information were

matched by docket and case numbers entered into Microsoft Excel, and then converted into the statistical package, SPSS, for analysis.

## Findings

### Hypothesis 1

The study found support for hypothesis 1 in the finding that intimates are more likely to request dismissal than are nonintimates. In the logistic regression analysis, the factors that increased the probability of dismissal prior to a final order included the victim-offender relationship even after controlling for other variables, court fees paid and the payee of the court costs.

A contingency table and a chi-square analysis indicated that 28% of intimates requested a dismissal compared to 18% of nonintimates and that the association between the two variables was significant. The significant relationship between the two variables could be caused by petitioner's second thoughts about ending the relationship. Alternatively, the ex parte order alone might have accomplished for the petitioner some degree of safety or changes in the behavior of the respondent. In addition, past research based on interviews of victims of domestic violence shows that most women are afraid to leave the relationship (Postmus, 2007, p. 350).

### Hypothesis 2

Hypothesis 2 was not supported by the data. It was predicted that married petitioners are more likely to receive a permanent order than are nonmarried petitioners based on the belief that some petitioners use the process as an alternative to divorce. Spouses were no more likely to seek a permanent order

than other types of relationships. Contrary to speculation around the courthouse that the majority of spouses seek a protective order as a form of a cheap divorce, it may be that married petitioners instead use the temporary order to scare the respondent into improving his or her behavior because they want to remain in the relationship. Future research would have to directly test that hypothesis.

### Hypothesis 3

Hypothesis 3 was supported by the analyses. Logistic regression analyses indicated assessment of costs against the petitioner and payment by petitioner of court costs increased the probability of the court's granting her dismissal motions. Consequently, a petitioner who files for a temporary order and then changes his or her mind, requesting the court to dismiss the petition, is more likely to have the court dismiss the petition if he or she pays the costs incurred by the process. This suggests that the court's dismissal of a petition hinges on the payment of court costs and not on the merits of the petition itself.

Moreover, the multivariate results indicated that although dismissing the petition at the request of the petitioner increased the likelihood of the court recovering its costs, dismissing the petition because of petitioner's failure to prosecute decreased the probability of the court recovering its costs. Although it is understandable that the court wants to cover its costs, future research might want to directly examine differences in alleged violence by petitioners who requests dismissal of the petition and those who fail to prosecute. Past research suggests that petitioners request a dismissal of the order of protection due to fear of retaliation by the respondents (Postmus, 2007, p. 350). Alternatively,

petitioners who request dismissal and pay the fees may feel more satisfied with the changes in behavior by the respondent after the temporary order.

In order to collect some of the court costs, in 2003 the Meigs County Court System decided to require petitioners who request the dismissal of the protective order to pay the court fees before the court will dismiss. This could explain why dismissals of protective orders are conditioned on payment of the court costs being paid by the petitioner. For cases dismissed because of failure to prosecute, petitioners may be less likely to return to court after he or she receive the bill. It is in the best interest of both the court and the petitioner for the court to follow up petitioners who fail to prosecute to ascertain that they are not experiencing continued violence and threats as well as ensuring that the petitioner will pay the court costs. It may be that a petitioner's safety is associated with the courts recover of the fees.

#### Hypothesis 4

It was hypothesized that the type of violence reported and the remedies requested would be associated with the type of permanent order granted. After running several statistical tests, there was no significant finding to support this hypothesis. The absence of significant findings suggests that allegations made in the petition might have been found to be exaggerated by the judge at the hearing where both parties are present. Moreover, a hearing where both parties are present could explain matters not in the petition such as the judge hearing testimony that respondent was provoked by petitioner's violence or infidelity. Alternatively, petitioner's allegations may understate the degree of violence due

to embarrassment of fear. Moreover, past research shows that, historically, therapist, clergy, courts, and family members have pressured women to stay with abusive partners (Baker, 1997, p. 56). Consequently, the absence of support for this hypothesis may be due to variables not specified in the model.

#### Hypothesis 5

The study predicted that the type of violence and use of weapon claimed by the petitioner would increase the probability that Brady Act restrictions would be imposed on the respondent. The Brady Act was applied in only 43 cases or 9%. The type of violence did not increase the probability of Brady restrictions. Instead, logistic regression analyses indicated that respondent contesting the order of protection, the respondent having scars, use of a gun by respondent and petitioner's request that children be protected from respondent increased the probability of the court imposing Brady restrictions on the respondent. The Brady Act prohibits the respondent from buying, selling, or trading firearms and ammunition after a conviction for domestic violence or after issuance of an order of protection in a domestic violence case (U.S.C.A, 18-1-44-922, 2006). Although infrequently applied, the data show that the judge in this division may have singled out the most dangerous cases for these restrictions. Dangerousness, in the model, is a combination of the order of protection being contested, the use of a gun, the respondent having scars, and the threat of children being harmed. The data did not contain respondents' criminal records. The variables found significant of Brady restriction application may have been proxies for the presence of a criminal record for violent crimes.

### Hypothesis 6

It was predicted that over half of the cases filed are dismissed. Univariate statistics indicated that almost half of the cases filed (47%) were dismissed (5% for dismissal on legal basis, 26% for dismissals by petitioner's request, and 15% for dismissals due to failure to prosecute). These findings suggest that for almost half of petitioners seeking orders of protection, the temporary order was sufficient for him or her to accomplish a safety plan or reconciliation with the respondent. It could be that the petitioner used the temporary order as leverage against respondent in some way, such as getting counseling or leaving him or her alone. Additional research would be needed to test these propositions as the current data do not specifically answer these questions. Previous research suggests that dismissal based on failure to prosecute accounts for more than half of dismissals (Zoellner et al., 2000, p. 1088). Moreover, half of the women who fail to appear and complete the legal process blamed law enforcement personnel for not properly locating and serving the abuser with the ex parte order (Postmus, 2007, p. 350). However, it should be noted that this finding supports previous research that estimated that 45% of all petitions filed fail to obtain a final protective order (Zoellner et al., p. 1088). Court practice and planning might they expect a large percentage of ex parte orders will not be extended to permanent orders.

### Hypothesis 7

It was predicted that the State of Tennessee loses money instead of breaking even on court costs. This means that more than half of all cases filed do not pay the designated court costs. The data support this hypothesis. Univariate

statistics indicated that the total costs are recouped in only 21% of the cases. Therefore, in 79% of the cases the county, the state, the officers, and the clerks lost money. Orders of protection differ from other legal actions in that no court costs are collected up front. Most other legal matters require at least the state and county litigation fees and the service of process fees prior to filing the case. The rationale for not charging up front costs is that if an individual is being abused and controlled by another person, he or she may not have the financial means to pay for a protective order. Nevertheless, waiting until the end of the legal matter to assess fees may ensure that the costs are not recouped.

#### Hypothesis 8

It is predicted that fewer than 10% of all cases report a violation of the order of protection. Univariate statistics indicated that protective order violations were reported to the court in only 6% of the cases. The court data seem to indicate that the protective orders are effective, at least in 94% of the cases. Other research has found that many petitioners do not return to the courts to file an show cause order of violation due to a negative previous court experience in which petitioner felt an implicit shared disapproval by the clerks' and judge's against civil protective orders and petitioners. Therefore, because Meigs County has attempted to improve service and control for those factors, this may not entirely explain the low violation rate reported to the court.

Instead, the protective order may in fact be serving its purpose in that most of the respondents just need an authoritative figure, in this case the courts, to notify them that such acts are not tolerated and will not be tolerated. The finding

of only a 6% violation rate is much lower than the estimated 29% rate of violations reported in other research (Logan et al., 2005, p. 897). Instead the finding does support other research that indicates that 86% to 92% of the women reported that the violence had stopped after obtaining a protective order (Gist et al., 2001, p. 645).

### Limitations

The limitations that exist in this study include the single focus on one county in the State of Tennessee. Findings of this study would need to be replicated in studies of other rural courts. A great deal of the prior research, however, has been done in large, urban areas. Consequently, the major limitation of this study might also be an asset. Another limitation is the absence of a comparison group. Future research might want to compare the process and outcomes of orders of protection across rural counties and compare rural and urban counties.

### Implications

Many petitioners request various other remedies in addition to protection from violence. The protective order can be extended far beyond its original purpose and can become what is referred to as a “poor man’s divorce” because the protective order can deal with various issues that are dealt with in divorce or child custody cases. However, the findings that the majority of cases do not seek out a permanent order suggest that women obtaining the ex parte orders are not using the system for a cheap divorce.



Although the legal court fees in a protective order case are less than the average fees in divorce or child custody cases, the analyses in this research do not support the concept of petitioners using the protective order process to obtain a poor man's divorce and child custody. Although orders of protection are only good for a year unless a violation occurs, the legal remedies granted in some of the cases, such as child custody and child support, give the protective order a longer life period than usual despite the court's encouragement of the parties to go through the appropriate courts to gain such remedies. According to the court, the continuation of the validity of the remedies like child support after the order of protection has expired are due to the absence of any other order that conflicts with the order or protection. Thus, the court that issued the order of protection has to fall back on what it ordered in the order of protection when issues of child support and other remedies arise. According to the court, custody and child support cannot simply end just because the protective order expires. There is an absence of legal authority, both statutory and case law, that questions or supports such a practice.

Future law reform should consider addressing the issue of remedies like child support and others that are obtained in an order of protection proceeding and continued to be enforced long past the expiration of the order of protection. This void in the law seems to reflect an unintended consequence of enacting order of protection statutes that allow judges to craft the orders broadly without any stipulation that petitioner seek permanent remedies from appropriate divorce proceedings within a reasonable period of time. Whereas the current study does

not indicate the number of cases in which the remedies requested were approved by the court, the study does show there is a high proportion of petitioner requests (27% for children be included in the protective order, 31% for child support, 34% for child custody, 20% for financial support for the petitioner, 49% for anger management counseling, and 31% for possession of the parties' residence).

Around 20% of the cases involve repeat petitioners (21%) or repeat respondents (23%). Consequently, 1 out of 5 cases are dealing with petitioners involved in two or more protective order cases, a respondent involved in two or more protective cases, or both parties involved in two or more protective cases. If the court was given the authority to order the respondent into counseling, perhaps the number of repeat petitioners and repeat offenders might be reduced.

In the summer of 2008, the state of Tennessee adopted legislation stating that, "no petitioner shall be required to bear the costs, including any court costs, filing fees, litigation taxes or any other costs, associated with the filing, issuance, registration, service, appeal or enforcement of an ex parte order of protection, order of protection, or a petition for either such order, whether issued inside or outside the state" (T.C.A § 36-3-617, 2008). However, the state is still allowed to tax costs to respondents if an order of protection is granted by the courts. Yet, the practice with the Meigs County Court and many other courts in the state is to tax court costs to the petitioner when the order of protection is dismissed either by finding no legal basis, request of the petitioner, or the petitioner's failure to prosecute. The new legislation, which was adopted in to keep the state from

losing federal funding for victim assistance, does not allow the court to continue to collect court costs from the petitioner even if the protective order was dismissed. This is problematic because the courts are not being provided with any type of financial compensation for orders of protection.

Although the data in this study indicate that petitioners requesting to dismiss the protective order account for a great deal of the cost being recouped by the courts, the courts will no longer be able to legally recoup these fees. Dismissal orders make up such a large percentage of the types of orders granted by the court (47%) that it seems unreasonable that the courts are not allowed any revenue to attempt to collect the court fees lost from the protective orders. The policy does not distinguish petitioners able and willing to pay from others. Moreover, according to the law, the court costs in dismissal cases can not be taxed to the respondent in cases where no permanent order of protection is granted by the court. The lack of financial recovery may encourage courts to grant permanent protective orders, regardless of whether or not a legal basis exists to do so, in order to attempt to collect court fees. While Tennessee does allow the courts to send the state a bill of costs, it is known by the courts that receiving any financial recovery is unlikely. Future law reform needs to consider how to compensate state courts for the order of protection process.

### Future Research

In the future, it would be interesting to compare Meigs County with other jurisdictions. A limitation of the study was that no data were available on the economic status of the petitioners and respondents in order of protection cases.

Future studies could collect data to determine whether the lower economic status petitioners are more or less likely than higher economic status petitioners to seek permanent protection orders. Although current legislation does not allow imposition of court costs on petitioners, future research could determine if petitioners with higher economic statuses would be willing and able to pay costs compared to petitioners of lower economic statuses. Finally, future research might consider the focus on financial aspects of order or protections as well as on petitions. The data in this research indicated a pronounced focus on recovery of fees that might have distracted the court from focusing on the legal merits of each case.

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