

Study Shows Petitioners Pursue a Wide Array of Goals through Protection Orders, at Odds with Experts over Potential of PO's

This study interviewed recipients of protection orders (POs) and lawyers about the aims and effectiveness of the process. In seeking a PO, petitioners view safety as the most important goal, but have superordinate goals for the way they wish to live their lives: The wish to move on with life and feel at peace resonated with nearly all participants. Petitioners use the PO process to navigate complex relationships with the respondent, and often wish to get the respondent help. Lawyers' perceptions were fairly pessimistic, and varied from participants' perceptions.

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Summary and Commentary by Lauren B. Cattaneo, George Mason University

Introduction:

- The legal system is a key component of the societal response to intimate partner violence, with protection orders (POs) a frequently used tool.
- The accessibility and flexibility of POs is potentially a good match for the variability among survivors.
- Research on POs has focused on safety, with mixed findings.
- Research on victims' perspectives has shown that they tend to view PO's positively, but that those perceptions change over time, that victims fear violation of the orders, and that they are somewhat pessimistic about abusers' behavior changing.
- This study uses the framework of empowerment, which highlights the importance of understanding survivors' own goals, as opposed to those imposed by a system.
- Research Questions:
 - What are survivors' goals in seeking POs?
 - Which goals are most important to survivors, and most reachable?
 - How do these goals relate to the aims of the court?

Method:

- We collected data in three phases in an urban US court.
- In phase 1 we interviewed 11 female PO recipients about their goals in the process, generating a list of 32 goals.
- In phase 2, we surveyed 157 PO recipients (139=female). Participants noted which of those 32 goals were relevant to them, which were most important, and how much progress they'd made on each one at the time of the PO hearing.
- In Phase 3, we surveyed lawyers who worked with PO cases about the appropriateness and attainability of petitioners' goals.

Results

What are petitioners' goals?

- Participants tended to endorse a large number (13 on average) of goals.

- The most often-endorsed goals suggested a desire for an emotional dividend from the process: “move forward with my life” (92%), “feel more at peace” (89.2%), and for “the respondent to realize how badly he treated me/my family” (85.4%).
- The next two most frequently endorsed goals (79%) both focused on the respondent: to get him to take her more seriously, and to get the respondent help.
- Of the top five goals endorsed by participants, only one can be requested in a PO: getting the respondent help.
- About two-thirds of the sample endorsed goals typically associated with a PO (get him to stay away, stop hitting, stop threatening, document what happened).
- Ending the relationship was another commonly endorsed goal, with over half of the sample wishing to stop the respondent from trying to continue the relationship (56.1%) and more than a third stating that they wanted to stop themselves from returning to the relationship (36.9%).

Which goals were most important to petitioners, and where did they make progress?

- The goals that were “most important” to participants were those typically associated with a PO (32% stop respondent from hitting or physically hurting me; 21% make respondent stay away from me, 19.1% stop respondent from threatening me; and 15.3% stop respondent from contacting me).
- Participants reported least success in getting the respondent help and in changing the respondent’s behavior toward h/her.
- Petitioners reported most progress on ending the relationship with respondent, having a record of events, and moving on with life.

How do petitioners’ goals compare to the court’s aims?

- Lawyers tended to view goals that focus on changing the respondent’s behavior as more congruent with the court’s aims, and goals related to the petitioner’s feelings or behavior as less so.
- Lawyers were pessimistic about the attainability of petitioners’ goals. Only two goals were rated as likely to be attained: stopping the respondent’s physical abuse, and creating an official record of the petitioner’s efforts.
- Lawyers rated feeling-oriented goals as relatively unlikely to be attained.

Discussion

- Fitting with prior research, safety was a central goal for survivors in this study, but it was not their only focus.
- Results suggest that in seeking a PO, petitioners generally have superordinate goals: The wish to move on with life and feel at peace resonated with nearly all participants. The PO is likely just one strategy petitioners use toward these ends.
- Petitioners often use the PO process to navigate their relationship with the respondent in a way that goes beyond changing behavior: The vast majority wished to have the respondent understand the impact of abuse, and to take them seriously.
- Several commonly-endorsed goals highlight the complexity of these relationships: A third of participants hoped that the order would help the petitioner to stay out of the relationship him or herself, and the majority of petitioners hoped the PO process would result in the respondent getting some kind of help.

- The data from our group of lawyers provide important context for these results. Petitioners' most commonly endorsed goals tended to be viewed as neither a good fit nor as likely to be reached in court.
- Lawyers' sense of the capacity of the system may be at odds with some of petitioners' most commonly held aims, begging the question of how this disparity might influence interactions between lawyer and client.
- When participants were asked which goals were most important, they narrowed their responses to goals most typically associated with a PO; perhaps they viewed them as key to achievement of superordinate goals. Petitioners who viewed other goals as more important may have sought help elsewhere.
- Petitioners' goals might be reached both through PO stipulations and through the court process itself (communicating the impact of the abuser's behavior, showing that you mean business).

Applications and Comments by Reviewer

- The framework of empowerment helps to locate interventions within the context of a survivor's struggle to live her life in the way s/he wants, and assumes the expertise of the survivor is necessary to inform intervention.
- Results encourage flexibility and creativity in stipulations within the PO: Are there multiple ways for a survivor to feel s/he has been heard? Are there ways to ensure the respondent gets help?
- For attorneys and advocates, conversations with petitioners might include consideration of superordinate goals, and what may or may not be possible within the system.
- It is important to acknowledge the complexity of petitioner/respondent relationships, to convey to petitioners that they are free to discuss that complexity, and to fine tune the PO to meet that reality. To do otherwise likely only alienates petitioners.
- The pessimism of the lawyers in this study suggests that more information is needed to understand what changes might be made to improve their effectiveness.

Practitioner Implications: Prof. Laurie S. Kohn, Associate Professor of Clinical Law, George Washington Law School, Director Family Justice Litigation Clinic

- The findings suggest that to provide client-centered representation to PO petitioners, lawyers should inquire into the goals of their clients at the outset and throughout the case. Knowing these goals would allow the lawyer to use the significant flexibility of the PO remedy to fashion a PO that could most effectively meet those goals. For example, most PO statutes allow the court to award relief that is not enumerated but is appropriate to the resolution of the case. Based on this authority, an order could direct a respondent to pay for a petitioner, who seeks a greater sense of security, to take self-defense classes.

- The findings similarly have significant implications for lawyers representing petitioners in the context of pretrial settlement discussions, where the forms of relief in the PO can be established by the parties and not by the judge at trial. This context allows lawyers to exercise even more creativity in fashioning the relief in a PO.
- At times, despite creative and client-centered lawyering, a lawyer may not be able to use the PO remedy to allow a petitioner to meet her goals. However, if lawyers seek out petitioners' goals, they will still be able to provide more holistic lawyering by furnishing effective and appropriate referrals to supplement the PO remedy.
- Finally, the findings of this study raise implications for legislative reform and judicial education. If practitioners are correct that there is discontinuity between petitioners' goals and the PO system's potential, then advocates should consider reforms to render the statutes more responsive to the widely-held goals of petitioners. For example, if a PO statute does not provide for or allow judges to order respondents to complete treatment then such reforms should be explored. Similarly, the study strongly suggests the need for judicial education about the ways non-traditional relief might be helpful to petitioners.