A REVIEW OF THE CIVIL PROTECTION ORDER SYSTEM IN BRITISH COLUMBIA

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The Crime Reduction Research Program

The Crime Reduction Research Program (CRRP) is the joint-research model in British Columbia between academics, the provincial government, and police agencies operated by the Office of Crime Reduction – Gang Outreach. The CRRP is supported and informed by a Crime Reduction Research Working Group that includes representation from the Ministry of Public Safety Solicitor General (represented by Community Safety and Crime Prevention Branch and Police Services Branch), the Combined Forces Special Enforcement Unit of British Columbia, and the Royal Canadian Mounted Police "E" Division.

The CRRP focuses on investing in research that can be applied to support policing operations and informing evidence-based decisions on policies and programs related to public safety in British Columbia. Each year, the CRRP reviews submissions of research proposals in support of this mandate. The CRRP Working Group supports successful proposals by working with researchers to refine the study design as necessary, provide or acquire necessary data for projects, and advise on the validity of data interpretation and the practicality of recommendations.

The CRRP operates a $1M annual funding allocation in the form of grants that are dedicated to support university-led research at Canadian institutions. This project was supported through the 2018/19 CRRP funding allotment.

Executive Summary

In British Columbia, any person who is fearful of being victimized by a family member, including a current or former intimate partner, can apply for a civil protection order under Section 183 of the provincial *Family Law Act*.[1] Civil protection orders are issued if the court decides that a family member is at-risk of experiencing family violence by another family member. Protection orders are commonly available to victims-survivors of intimate partner abuse and, in some cases, for those who are concerned about potential future victimization by an intimate partner (Benitez et al., 2010). Protection orders take different forms, including those issued by the criminal justice system, such as by a police officer who orders a no contact condition as part of a person's release into the community following an arrest. Peace bonds also exist under federal legislation in Canada. These can apply to family members and non-family members. Unlike criminal no contact orders, these do not require that a criminal offence was committed, although the applicant does need to articulate a reason why the applicant fears the respondent (Basanti, 2017). Protection orders are also available provincially. In British Columbia, this takes the form of a civil protection order issued by family courts under the provincial *Family Law Act* introduced in 2013 replacing the former *Family Relations Act* (Basanti, 2017).

Civil protection orders are limited in British Columbia to family members, meaning that they could be sought against a spouse or former spouse, someone who a person is or was cohabitating with in a marriage-like relationship, or a person who they are living with and related to, someone who is a parent or guardian of the person's child, or the person's child or children. In other words, people who are in a dating relationship, but who are not yet living together, are excluded from accessing the civil protection orders system via the *Family Law Act* in British Columbia. A civil protection order in British Columbia, which can be issued either by the Supreme Court or Provincial Court, can prevent the restrained party from directly or indirectly communicating with or contacting the protected party (Section 183(3)(a)(i), or any other family members named in the order, such as children or parents of the protected party, for a pre-determined period of time, which is typically one year (Section 183(4)). Once a civil protection order is granted through the family court system, regardless of whether it is done in the Provincial or Supreme Court, the order and its conditions are submitted to the Protective Order Registry (POR), which is a confidential database that contains information on all criminal no contact and civil protection orders from across the province. Although the conditions of a civil protective order are issued by the Family Courts, they are criminally enforceable by the police via Section 127(1) of the *Criminal Code of Canada*. Section 127(1) is labelled "disobeying order of court", and it applies when a person "…disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order…unless a punishment or other mode of proceeding is expressly provided by law".

Benefits of civil protection orders include that a victim-survivor, or potential victim-survivor, of intimate partner abuse can access a mechanism to increase their safety without necessarily needing to involve the criminal justice system. This can be empowering to victims-survivors, and it can validate that their concerns are real. However, there are several limitations to the civil protection

[1] https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/11025_09

order system. Accessing civil protection orders can be difficult for those who speak a different language than English, given the complexity of the forms, and for those who work or who live in more remote communities, given the limited operating hours of courts and lack of court presence in some communities. Consequently, many victims-survivors of intimate partner abuse are not willing or able to access the civil protection order system. In addition, some victims-survivors are not aware of the existence of this form of protection. Moreover, although issued civilly, civil protection orders are criminally enforceable by police. Unfortunately, a common issue with civil protection orders is the lack of police enforcement. This may be due to confusion about whether police have the legal ability to enforce a civil protection order, a lack of familiarity with the system, or a lack of willingness to enforce what police may perceive as orders pertaining to family matters. This is troubling, as some studies have found that most civil protection orders are violated at least once by the restrained party (Benitez et al., 2010).

While there have been prior studies on the benefits and challenges of civil protection orders, as well as studies on the rate of violations of civil protection orders, little research has directly examined the prevalence of civil protection orders in Canada, the strengths and challenges of this system according to subject matter experts, or the tendency for civil protection orders to be violated, leading to the current study.

This current study involved three main methods. Semi-structured interviews were conducted with 13 family justice counsellors who assist with civil protection order applications throughout British Columbia. The second method involved a secondary data analysis of 2,451 civil protection orders stored in the provincial Protection Order Registry. The third method involved providing the names of restrained parties from the Protection Order Registry data to “E” Division RCMP who subsequently ran criminal record checks through the Canadian Police Intelligence Centre (CPIC) database. This information was used to create a database indicating whether the individual had previously or subsequently been convicted of a criminal offence, the nature of the offence they were convicted of or pled guilty to, and the sentence that was given for that conviction.

Interview participants generally felt positively about the civil protection order system, although they also identified some weaknesses. Benefits included that victims-survivors could obtain a measure of protection without necessarily involving the police, yet these orders were still enforceable by police, giving them some teeth. However, the interview participants perceived that civil protection orders involved a lot of paperwork, which could be particularly challenging for people experiencing an acute crisis who may not speak English and who may not be able to hire a lawyer for assistance with the forms or for representation in court. In addition, court operating hours were perceived to be a barrier to accessing a civil protection order. Another challenge with the system was that while, as stated in the provincial *Family Law Act*, these orders are enforceable by the police, police officers were unwilling or unlikely to criminally enforce breaches of conditions. Overall, participants felt that a civil protection order was an additional tool that they could offer clients who needed support, and, if both parties were willing to comply with the conditions, then they could reduce victimization, but there were limitations to this system and some improvements were needed, such as education to police officers about their role in enforcing these orders.

The authors of this report also analyzed 2,451 civil protection orders that had been granted by the family law courts in British Columbia between 2015 and 2018 and were held in the Protection

Order Registry. Most civil protection orders included at least one other protected party; most of the time these were young children. Unfortunately, there was a substantial amount of missing data regarding the demographics of applicants, respondents, and other protected parties. 57 of the 90 courts operating across British Columbia were represented in the Protection Order Registry. Some courts were more commonly represented in the data than others, likely because they acted as a regional court for nearby jurisdictions. Given this, the researchers were unable to conclusively identify whether any jurisdiction was overrepresented or underrepresented in the data, though it appeared as though some jurisdictions had fewer civil protection orders than would have been anticipated, given the presence of a family law court in that jurisdiction. There appeared to be significant concerns with data accuracy, regarding the dates when civil protection orders were submitted to or entered into the Protection Order Registry. Overall, it appears as though most civil protection orders took approximately one year from the date of initial filing to the date of expiry.

On average, judges issued three conditions from Section 183(3). Nearly all civil protection orders included the main two conditions of no direct or indirect contact or communication with the protected party, and no attending at, near, or entering a particular place or set of places. In addition, half of the orders included conditions not to have direct or indirect communication with a child. Nearly all civil protection orders included at least one restriction on the restrained party's ability to attend at, near, or entering a place. Most often, restricted parties were prevented from attending at, near, or entering any of the protected party's(ies) residence, place of employment, or school. There was a wide range of distances given by judges in terms of how far the restrained party needed to stay away from these people or places. The court can also attach any terms or conditions that they deem necessary to protect the safety and security of the protected party(ies) or to implement the order. The most common additional conditions attached to protection orders were for the restrained party to immediately attend a police station to relinquish their weapons or firearms and for the police to remove a restrained party from a prohibited location if found there. Importantly, more than one-in-ten files stated that police could enforce the civil protection order if they had reasonable grounds to believe it had been contravened. It is not necessary to clarify this in the conditions of a civil protection order itself because the *Family Law Act* already clearly stipulates that police can enforce contraventions of a civil protection order using reasonable force as necessary. Including it as part of the stated conditions may lead police officers to believe that they can only enforce civil protection orders when this clause is included, which is not correct. Two-thirds of the civil protection orders included at least one exception to the conditions. When exceptions were made, most commonly, it was to allow for communication either directly or indirectly through legal counsel.

A list of restrained parties, as well as date of birth when available, was provided to the "E" Division RCMP who conducted a search in the Canadian Police Intelligence Centre (CPIC) system where all court outcomes are registered. A database was provided with the dates, offence types, and sentences given for any registered conviction from across Canada. This information was used to analyze the criminal histories and criminal recidivism of people in British Columbia who were restrained by a civil protection order between 2015 and 2019. Overall, one-third of the restrained parties with a civil protection order issued between 2015 and 2019 had at least one conviction for a criminal offence either prior to or following the civil protection order being granted. On average, those who were convicted of at least one criminal offence had experienced 4.6 different court dates

in which they were given a criminal sentence. More than four-fifths of the restrained parties with a criminal conviction had at least one court date and criminal conviction prior to their first civil protection order issued between 2015 and 2019, while just under half of those with a criminal conviction had at least one court date and criminal conviction following the civil protection order. The most common form of offending were breaches or failures to comply, such as breach of a probation order or of a recognizance, although over half of this sub-sample had at least one conviction for a violent offence. Section 127(1) was treated as a proxy measure for whether the restrained party had ever violated a civil protection order. 29 offenders had one or more Section 127(1) convictions following the granting of the civil protection order in the current study, while 93 individuals had at least one subsequent Section 127(1) charge following the granting of the civil protection order, most of which were stayed.

Based on the literature review, combined with findings from the semi-structured interviews and data analyses, the authors of this report made several recommendations to enhance the civil protection order system. These were to: include treatment orders or counselling as part of the civil protection order conditions; improve connections to services for protected parties; provide more support to applicants; register civil protection orders on CPIC; provide direct access to the Protection Order Registry for police and provide training on their enforcement role; improve data quality in the Protection Order Registry; extending the civil protection order system to other kinds of relationships; clarifying who should serve the civil protection order and how it should be served; providing further training and education to judges; increasing access to civil protection orders outside of the typical court hours; and conducting future research. Limitations of the study included that the research team only had access to approved civil protection orders, and therefore could not calculate what proportion of application were approved in jurisdictions throughout British Columbia, recidivism and violation dates were based on court dates and not actual dates of re-offending, and police officers who are responsible for criminally enforcing civil protection orders did not participate in the study. While the current study provided the first descriptive overview of civil protection orders issued in British Columbia, there are future research questions that should be addressed to enhance understanding about the complexities of the civil protection order system and how to further enhance this system to provide better safety of those who are at-risk of, or who are already experiencing, family violence.

Table of Contents

List of Tables

List of Figures

Introduction

In 2017, Basanti studied the effects of civil protection orders on the perceptions of safety of victims of intimate partner violence in British Columbia. This study contained anonymous survey results from women who had previously experienced intimate partner violence, interview data from a small number of female victims, and interview data from several professionals, primarily police officers, who assisted victims either by supporting their application for a civil protective order or by enforcing the conditions in the order. This study provided a preliminary exploration of the awareness of the civil protection order system among victims of intimate partner violence and documented some of the challenges victims of intimate partner violence experience when applying for these orders.

All protection orders issued in British Columbia, whether civil or criminal, are documented in the Protection Order Registry, which is held by VictimLinkBC. However, Basanti's study did not examine any quantitative data on the number of civil protection orders issued in British Columbia or their association with official recidivism. Thus, this report increases the knowledge about the efficacy and efficiency of the protective order system in British Columbia via an examination of the Protection Order Registry data, supplemented by interviews with subject matter experts.

Project Objectives

This report has two main objectives. The first is to provide a descriptive analysis of the number of civil protective orders issued in British Columbia over several years. This analysis includes a description of the number and main characteristics of the order, the general types of people listed in the order, the types of conditions included in the order, and which jurisdictions in British Columbia are more or less likely to issue civil protection orders. The second objective is to collect further knowledge around the challenges and benefits of the civil protection order process in terms of providing protection for victims of intimate partner violence.

Project Methodology

This study involved three main methods. First, semi-structured interviews were conducted with service providers who assist with civil protection order applications throughout British Columbia. The participants were family justice counsellors who worked at Family Justice Centres. All interviews were conducted by the principal investigators or a trained research assistant. All interviews were conducted in person. The interviews lasted approximately 90 minutes. The ethics of the research project, including the interview schedule and project methodology, were reviewed and approved by the University of the Fraser Valley's Human Research Ethics Board prior to any data being collected. Participation in the interviews was voluntary and those willing to participate were provided with an information sheet prior to the interview that included a detailed overview of the purpose of the interview. Immediately before the interview began, all participants were provided with the information sheet and asked to provide their verbal consent to participate in an interview. Interviews were not recorded using video or audio recording devices. Research

assistants attended each interview and anonymously transcribed the conversation. Once the interviews were completed, all the anonymized information was entered into a Microsoft Word document and analyzed for common themes. The analyses focused on themes emerging from the specific content provided by respondents during their interviews, in addition to latent content illustrating any underlying themes.

The second method involved a secondary data analysis of data stored on civil protection orders in the provincial Protection Order Registry. To access this data, the authors applied to the Court Services Branch of the Ministry of Attorney General with a request to be provided with a database of civil protection orders issued across British Columbia in relation to intimate partner violence. Specifically, the researchers requested information on the date the civil protection order was issued, in which jurisdiction it was issued, the conditions that were attached to the order, tombstone information for those involved, and data on breaches, which was reportedly stored in the Protection Order Registry. The data was requested as far back as 2002 when the Protection Order Registry was first created, which would enable the researchers to study changes over time. The researcher team's request was granted and a database containing Protection Order Registry data was provided to the "E" Division RCMP who securely transferred the database into the secure crime lab located at the University of the Fraser Valley. Access to the secure crime lab is restricted to those with Enhanced Reliability security clearance or higher. Consequently, only the research team and research students with a confirmed security clearance were able to access this dataset. Although data was requested from as early as 2002, the database contained civil protection orders from 2015 through to the start of September 2019. While the researchers had requested information on civil protection orders involving intimate partners, as discussed below in the findings, a significant number of civil protection orders appeared to concern a parent who was restrained from one or more children, without the involvement of the other parent in the file. Moreover, no data was provided on violations of civil protection orders, suggesting that this information was not available in the Protection Order Registry. Once the database was received in the secure crime lab, the research team developed a coding sheet to extract relevant information and began coding the data with the assistance of security cleared research students. The data was coded onto anonymized coding sheets that were then entered into an SPSS database for analysis.

The third method involved providing the names of restrained parties from the Protection Order Registry data to "E" Division RCMP who subsequently ran criminal record checks through the Canadian Police Intelligence Centre (CPIC) database. This information was used to create a database indicating whether the individual had previously or subsequently been convicted of a criminal offence, the nature of the offence they were convicted of or pled guilty to, and the sentence that was given for that conviction. Once this database was securely transferred into the secure crime lab, the names of the individuals with a criminal conviction on file were matched back with the main dataset of civil protection orders, and the criminal history and recidivism data was coded to allow for statistical analysis.

The Civil Protection Order System in British Columbia

In British Columbia, any person who is fearful of being victimized by a family member, including a current or former intimate partner, can apply for a civil protection order under Section 183 of the provincial *Family Law Act*.[2] Civil protection orders are issued if the court decides that a family member is at-risk of experiencing family violence by another family member. As defined in the *Family Law Act*, family violence is inclusive of physical, sexual, or psychological/emotional abuse, including when a child has been exposed to family violence. Under Section 183 of the *Family Law Act*, the at-risk family member can apply for a civil protection order, as can people on behalf of the at-risk family member, including the court itself. This means, for example, that a parent could request a civil protection order to protect a child from the other parent should they fear that the child would be the victim of or otherwise exposed to family violence. A court could also intervene and order a civil protection order if family violence was occurring, and children were exposed to the violence. However, the focus of the current study is on civil protection orders where a person applies for a civil protection order against a current or former intimate partner. Unfortunately, civil protection orders are limited in British Columbia to family members, meaning that they could be sought against a spouse or former spouse, someone who a person is or was cohabitating with in a marriage-like relationship, or a person who they are living with and related to, someone who is a parent or guardian of the person's child, or the person's child or children. In other words, people who are in a dating relationship, but who are not yet living together, are excluded from accessing the civil protection orders system via the *Family Law Act* in British Columbia.

Like protective or restraining orders elsewhere, a civil protection order in British Columbia can prevent the restrained party from directly or indirectly communicating with or contacting the protected party (Section 183(3)(a)(i), or any other family members named in the order, such as children or parents of the protected party, for a pre-determined period of time, which is typically one year (Section 183(4)). At times, exceptions can be made to this restriction on communication, such as to allow for communication over email when discussing matters related to the children (Section 183(3)(b)). Additional conditions can be included, such as that the restrained party must not attend, be near, or enter a place where the protected party(ies) may be found (Section 183(3)(a)(ii)), like their home or place of work, or a child's school or daycare; that the restrained party must not follow the protected party (Section 183(3)(a)(iii)), or that the restrained party cannot possess any weapons or firearms (Section 183(3)(a)(iv)) or documentation relating to a weapon or firearm (Section 183(3)(a)(v)). The order could also specify certain actions for police officers to take, including removing the restrained party from the home either immediately or within a stated period of time (Section 183(3)(c)(i)); to accompany either the protected party, the restrained party, or another party while they attend the home to remove their personal belongings (Section 183(3)(c)(ii)), or to seize objects from the restrained party, such as any firearms that may belong to them (Section 183(3)(c)(iii)). Under Section 183(3)(d), the court could require the restrained party to report to court or to a person appointed by the court, while under Section

[2] https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/11025_09

183(3)(e), the judge can attach any other terms or conditions that they believe are necessary to protect the safety and security of the protected party(ies) or to implement the order.

Civil protection orders can be sought from two levels of court in British Columbia. Regardless of which pathway is followed, the civil protection order that is issued does not differ. Applicants can seek a civil protection order through the Provincial Court, where it is free of charge but where they will be required to give verbal testimony to a judge articulating the need for a civil protection order. Applicants could alternatively apply through the Supreme Court in British Columbia, which does come with a fee of up to several hundred dollars, but which enables the applicant to have their lawyer submit an affidavit on their behalf. Generally, applicants can choose which way to proceed; however, if they are simultaneously applying for a divorce or division of property, the application must be made through the Supreme Court, as these matters are not heard by the Provincial Court in British Columbia. In most cases, the applicant is expected to serve notice to the subject of the order so that they can be present in court to address the allegations (Basanti, 2017). However, if the applicant feels it is unsafe to wait, the court can agree to make an *ex parte* order, meaning that the matter can be heard without the respondent in attendance. In these cases, the restrained party is served with the order afterwards and can respond at that time by applying to have the order set aside.

According to Koshan (2023), British Columbia is unique in hosting a repository of civil protection orders. Once a civil protection order is granted through the family court system, regardless of whether it is done in the Provincial or Supreme Court, the order and its conditions are submitted to the Protective Order Registry (POR), which is a confidential database that contains information on all criminal no contact and civil protection orders from across the province. Of note, this system is not directly accessible by the police. It is hosted by VictimLinkBC, who are available 24 hours a day, 7 days a week. Police are instructed to call a 1-800 number to indirectly access the registry. By calling VictimLinkBC, police can ask about the conditions that are in place and over what period of time those conditions are enforceable. Although the conditions of a civil protective order are issued by the Family Courts, they are criminally enforceable by the police via Section 127(1) of the *Criminal Code of Canada*. Section 127(1) is labelled "disobeying order of court", and it applies when a person "…disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order…unless a punishment or other mode of proceeding is expressly provided by law". So, while a victim-survivor does not need to involve the police at the outset, a civil protection order does not necessarily prevent the involvement of the criminal justice system should breaches of the conditions occur. However, according to Koshan (2023), inclusion of the phrase "unless a punishment or other mode of proceeding is expressly provided by law" makes interpretation and application of this section of the code unclear, and police may be unwilling to apply it.

Literature Review on Civil Protection Orders

Nearly half (44 per cent) of all women and girls in Canada aged 15 years of age and older have been victimized by an intimate partner in their lifetime (Cotter, 2021). Unfortunately, national victimization data suggests that only 19% of victims-survivors of intimate partner abuse have ever

reported their victimization to the police (Conroy, 2021). These statistics suggest there is a significant dark figure associated with intimate partner violence, resulting in missed opportunities to connect victims-survivors to important services that can enhance their safety. However, the civil protection order system can potentially reduce some of the gaps.

WHAT ARE CIVIL PROTECTION ORDERS

Protection orders are commonly available to victims-survivors of intimate partner abuse and, in some cases, for those who are concerned about potential future victimization by an intimate partner (Benitez et al., 2010). Protection orders take different forms, including those issued by the criminal justice system, such as by a police officer who orders a no contact condition as part of a person's release into the community following an arrest. Peace bonds also exist under federal legislation in Canada. These can apply to family members and non-family members. Unlike criminal no contact orders, these do not require that a criminal offence was committed, although the applicant does need to articulate a reason why the applicant fears the respondent (Basanti, 2017). Protection orders are also available provincially. In British Columbia, this takes the form of a civil protection order issued by family courts under the provincial *Family Law Act* introduced in 2013 replacing the former *Family Relations Act* (Basanti, 2017).

Regardless of their specific wording, civil protection orders can be sought by a victim or potential victim to prevent an abusive partner from contacting or communicating with them, which theoretically prevents them from experiencing future threats, intimidation, or physical abuse by that individual (Bejinariu et al., 2021; Koshan, 2023). In some jurisdictions, children can also be included in a civil protection order, though research in the United States (Durfee, 2018 as cited in Messing et al., 2021; Groggel, 2021), as well as Koshan (2023) in Canada suggested that judges were unlikely to include children on civil protection orders or otherwise limit or prevent them from seeing their parent. This may be due to where the law is situated in British Columbia, i.e., under the provincial *Family Law Act*, and the language of the legislation, which, as part of its definition of family violence, includes the direct or indirect exposure of children to any of physical, sexual, psychological, or emotional forms of abuse.

A recent paper by Koshan (2023) explored the civil protection order system in Alberta. According to Koshan, the civil protection order system was first introduced in Canada in the 1990s to increase access to mechanisms of protection outside the traditional criminal justice or family law systems. In Alberta, Emergency Protection Orders can be granted under the provincial *Protection Against Family Violence Act* of 2000. Under Section 2 of this act, an emergency protection order can be granted when family violence has occurred and the applicant fears that the violence will continue and given the seriousness or urgency of the potential continued violence, is in need of immediate protection. Once an Emergency Protection Order is issued, there is an automatic review to determine whether the order should remain in place. This contrasts with other provinces, such as British Columbia and Manitoba, where civil protection orders are only reviewed if the restrained party applies for it (Koshan, 2023). Protection orders in Alberta can be accessed for family members who were living together, married, or raising children together, although not for those who are dating but living apart (Koshan, 2023). Koshan (2023) observed that, compared to other provinces' legislation, the definition of family violence in Alberta is restricted to physical or

property-related harm, and a civil protection order consequently cannot be sought for situations of family violence that is limited to psychological, emotional, or financial abuse, or coercive control, which is not the case in British Columbia.

Much of the existing research on civil protection orders has been conducted in the United States of America, where these orders are a common form of help-seeking for victims-survivors of intimate partner abuse. Bejinariu et al. (2021) discussed two key aspects of the civil protection order system that distinguished it from similar orders issued by the criminal justice system. First, civil protection orders are granted based on a lower burden of proof, where the applicant needs to demonstrate their case with a preponderance of evidence, whereas the criminal justice system requires a higher degree of proof, such as beyond a reasonable doubt. Second, whereas in the criminal justice system the victim-survivor may be represented by a lawyer, in most cases, civil protection orders are conducted *pro se* where the applicant acts on their own behalf. In addition, whereas protection orders issued through the criminal justice system are sought or issued by criminal justice practitioners, such as police or prosecutors making them criminal justice system-led, civil protection orders are victim-survivor-led, where the victim-survivor makes the decision to apply for the protection order.

Protection orders for victims-survivors of intimate partner violence were introduced in the United States in the 1970s (Benitez et al., 2010). According to Bejinariu et al. (2023), historically, civil protection orders only applied to adults in a heterosexual relationship who had been married; however, these restrictions began changing in 1994 with the national *Violence Against Women Act*. More recently, states are increasingly including dating relationships and same-sex partner relationships in the language of their statutes. Still, civil protection orders can vary widely across jurisdictions. Bejinariu et al. (2023) conducted a content analysis of civil protection orders across the United States of America. The researchers focused on the extent to which these statues encompassed two protective measures for the victim and two accountability measures for the offender. The protective measures included use of gender-neutral language, meaning that any gender could be considered a victim of abuse, and the inclusion of dating relationships, extending the application of protection orders beyond only those who live together. The first accountability measure was whether the statute referenced firearm restrictions because, in the United States, it is estimated that firearms are used in approximately half of all intimate partner homicides (Kivisto et al., 2019, as cited in Bejinariu et al., 2023). The second accountability measure was whether the statute included reference to conditions for treatment programs or counseling programs for the abuser. Statutes that encompassed all four measures were viewed as more comprehensive. The researchers concluded that comprehensiveness of civil protection order statutes varied by geography, with states in the Southeast of the United States having less comprehensive civil protection orders than elsewhere.

To obtain a civil protection order, an application must be made in the courts. This typically requires the applicant to complete paperwork and then appear in court in front of a judge to articulate why they believe a civil protection order is needed (e.g., Carcirieri et al., 2019). If a civil protection order is granted, the judge will assign specific conditions and a timeframe. Although many jurisdictions follow a similar overall process, there are some variations. In most jurisdictions in the United States, the victim-survivor first files a petition for a temporary protection order that is granted *ex*

parte, meaning that the subject of the restraining order is not required to be given advance notice or to attend the matter in court (Carcirieri et al., 2019; Logan et al., 2005; Messing et al., 2021). The temporary protection order is issued for anywhere from 14 to 30 days (Bejinariu et al., 2023). During this timeframe, a full court hearing is scheduled where the matter is heard in court. This usually requires the victim-survivor to articulate to the judge why they are asking for the protection order to be extended which, as Bejinariu et al. (2023) explain, typically involves them explaining what kind or kinds of abuse they were experiencing, the context of the abuse, such as when and where the abuse occurred, and other relevant information, such as whether the abuse was reported to the police or whether children were exposed. The victim-survivor can then request the order to be extended for a longer period, such as one or more years (Messing et al., 2021). The role of the judge is to determine whether there was an intimate or domestic relationship, whether there appeared to be threats posed by at least one of the parties to another party's safety (Messing et al., 2021), and, in some cases, to determine whether any abuse happened (Carcirieri et al., 2019; Durfee & Goodmark, 2021; Logan et al., 2005). Some jurisdictions use mediators as part of the process, which allows for a consent order where the applicant and respondent come to an agreement about the conditions that is then reviewed and approved by a hearing officer without necessitating that the parties appear in court for a more formal civil trial (Carcirieri et al., 2019).

There are several major differences when comparing this process to the civil protection order system in British Columbia. While civil protection orders can be issued *ex parte*, there is typically only a single civil protection order issued, and it is typically issued for one year unless the judge determines otherwise. In other words, short-term temporary protection orders are not typically issued, and the applicant does not normally specify the timeframe over which they are seeking the civil protection order to last. Messing et al. (2021) discussed the civil protection order in one state that followed a different process than what many others do, where there was only a single appearance in front of a judge where the civil protection order would be granted for one year. While this appears more like the system in British Columbia, one major difference is that the order could be served on the respondent up to one year following its issuance, and the start date of the protection order did not appear to begin until the respondent was served. In contrast, in British Columbia, the civil protection order comes into effect as soon as the judge issues it, regardless of whether the respondent/restrained party has been served. This practice contrasts with other provinces, such as Alberta, Saskatchewan, Manitoba, and Nova Scotia, where the protection order only comes into effect once the restrained party has been served a copy of the order (Basanti, 2017). Another major difference in British Columbia appears to be around the context of the abuse. As explained by Bejinariu et al. (2023), civil protection orders issued in the United States appear to be very reactive, requiring that the victim-survivor be able to articulate what has already happened and whether they reported it to the authorities. As explained by Carcirieri et al. (2019), a civil trial will hear from the applicant, respondent, and any witnesses, and will make a determination about whether any abuse occurred, after which they will assign the civil protection order and the necessary conditions. In contrast, the *Family Law Act* in British Columbia allows *potential* victims-survivors to apply for a civil protection order meaning that it is not required that they already experienced one or more forms of abuse to qualify for this type of protection. In this case, the courts are not determining whether abuse occurred, but are determining whether one or more parties poses a threat of future harm towards one or more other parties involved in the application.

Like in British Columbia, a wide range of conditions can be attached to the civil protection order, including prohibitions on contact or communication between the restrained and protected parties, or exceptions on contact for certain situations, as well as restrictions on space, where the restricted party can be prohibited from entering in or near a space where the protected party is likely to be. Conditions that restrict access to firearms or require the restricted party to turn over their firearms can also be attached the civil protection orders in both Canada and the United States. However, there are several additional possible conditions in the United States that are not available in British Columbia, including a condition that requires the restricted party to move out of the shared home regardless of title, a condition that orders the division of property, a condition ordering the restricted party to pay child support, and a condition ordering the restricted party to attend treatment, such as for substance abuse or a batterer intervention program (Bejinariu et al., 2023). There is also a condition that awards temporary custody to the protected party. However, this latter condition could also occur in British Columbia by way of preventing any contact or communication between the restricted party and their children.

Similarly, civil protection orders also vary within Canada (Basanti, 2017). For example, civil protection orders in British Columbia are typically issued for one year in duration. In contrast, civil protection orders in Ontario are typically permanent (Basanti, 2017). In several other provinces, the civil protection order is entered onto CPIC, which does not appear to be the case in British Columbia (Basanti, 2017). While police officers in British Columbia can access information about civil protection orders by calling the Protection Order Registry, **it would likely be quicker for police officers to be able to see this information on CPIC**. Some Canadian provinces, such as Prince Edward Island, can attach conditions requiring the restrained person to pay for the rent or mortgage of the residence, even when they are prevented from living there because of the protection order (Basanti, 2017; Koshan, 2023). While, in British Columbia, the restrained party may be prohibited from entering the family residence, there are no conditions that would outright require them to continue to pay for the rent or mortgage. However, under Section 183(3)(e)(i), the court may attach any other condition or term that it deems necessary to protect the safety and security of the protected parties, which could theoretically be used to order a similar condition. Likewise, British Columbia does not outright include a condition for the restrained party to attend counselling, which is an option in Manitoba and in the Northwest Territories (Basanti, 2017). Again, theoretically, this could be ordered by a judge in British Columbia under subsection (e)(i).

BENEFITS OF THE CIVIL PROTECTION ORDER SYSTEM

While there are many challenges to the civil protection order system, which will be discussed in a subsequent section, one of the major benefits of offering civil protection orders to victims-survivors of intimate partner abuse is that it provides them an opportunity to bypass formal criminal justice system involvement. For some, this may be perceived as a limitation to the system, as it does not necessarily trigger other safety mechanisms that would normally be put in place if criminal charges were being pursued. However, for many victims-survivors, the criminal justice system's response to intimate partner abuse is a barrier to formally reporting victimization. For example, many victims-survivors do not want to necessarily see their partner arrested or charged with a criminal offence so they may not report their victimization to the police given that most jurisdictions follow mandatory arrest and charge policies (Messing et al., 2021). For many victims-survivors, enhancing

their safety or that of their children is the primary goal, rather than seeking a more formalized response to their victimization. Enabling victims-survivors to bypass the criminal justice system through a civil protection order application means they have an alternative pathway to seek enhanced safety. Moreover, accessing the civil protection order system can be empowering for victims-survivors, as it represents a choice that they have made rather than a decision that someone else has made about them (Messing et al., 2021). Accessing the civil protection order system can serve to validate their experiences of abuse (Carcirieri et al., 2019) and it may give victims-survivors of abuse some control over the manner and method of contact between them and their abuser (Carcirieri et al., 2019).

While civil protection orders allow victims-survivors to bypass the criminal justice system in their search for increased safety, it is important to acknowledge that the civil protection order system is criminally enforceable. If a restrained party breaches one or more of the conditions of the order, police officers can make an arrest and the individual can be charged with and prosecuted for committing a criminal offence (Messing et al., 2021). As such, the civil protection order system does not always bypass the criminal justice system. However, Messing et al. (2021) noted that even this aspect of a civil protection order remains somewhat under the victims-survivors control because they may decide not to report any breaches of conditions to the authorities.

Another benefit to the civil protection order system is that those applying for protection through this system can represent themselves in court as they are not required to have a lawyer (Carcirieri et al., 2019). This can theoretically increase access to all socioeconomic classes. However, the civil protection order system can also be complex to navigate (Carcirieri et al., 2019), and so those who can afford to may hire a lawyer to guide them through the process, whereas those who cannot afford to may be deterred from completing the process. In a study in Canada by Basanti (2017), just over three-quarters (77.6 per cent) of women who applied for a civil protection order received some form of assistance with the application. Most commonly (46.2 per cent), this took the form of accessing a lawyer. One prior study found that the likelihood of being granted a civil protection order was more than twice as likely for victims-survivors who were represented by a lawyer (Rosenberg & Grab, 2015 as cited in Carcirieri et al., 2019). Similarly, an earlier study by Durfee (2009) found that civil protection order applications prepared by lawyers were more likely to result in the order being granted than civil protection order applications where a legal advocate assisted or where the victim-survivor prepared the application on their own.

BARRIERS TO SEEKING A CIVIL PROTECTION ORDER

Several studies have examined barriers to seeking a civil protection order among victims-survivors of intimate partner abuse. Accessing civil protection orders is not equal for all populations. Those who do not speak English as a first language, those with a lack of financial resources, or those who live in more rural or remote communities may struggle with the application process, which is often complicated and which may require the applicant to travel to make the application in person (Basanti, 2017; Koshan, 2023; Troshynski et al., 2021). There may also be financial consequences associated with taking time off work to attend court and having to speak to the application in front of a judge (Hughes & Brush, 2015). Although the civil protection order system does not typically have any direct costs, as discussed above, the complexity of the application may compel some

applicants to retain a lawyer to assist them. In one study of 172 women who sought a civil protection order in a U.S. state, over one-third (37 per cent) were represented by a lawyer, even though this was not a requirement of the system where they were applying for the order (Carcirieri et al., 2019). It is important to note that many of these lawyers were reported to have acted on a pro bono basis, which is important because of the number of victims-survivors of abuse who may not have the financial resources to employ a lawyer to support them through this process (Carcirieri et al., 2019). Geography is another factor that results in civil protection orders not being equally accessible. Research by Logan et al. (2005) suggested that civil protection orders were less accessible in rural areas, where there was also, more commonly, a lack of resources, such as housing, childcare, or employment, to help the protected party leave the abusive relationship. Similarly, Groggel (2021) found that judges in non-metropolitan areas of an American state were less likely than judges in metropolitan areas of the same state to grant civil protection order requests.

Messing et al. (2021) collected surveys from 660 women accessing one of 10 emergency shelters in the United States and found that approximately two-thirds (65.5 per cent) had not previously sought out a civil protection order. In total, 308 women provided responses on the survey about the reasons why they had not sought a civil protection order in the past. Not seeking a civil protection order was a conscious choice that many of these women made. Some expressed fears that seeking or obtaining a civil protection order would increase their partner's violence while others felt that they would put their partner at risk, for instance, in terms of their reputation or even, particularly for marginalized groups, their partner's physical safety, if they obtained a civil protection order. Some women did not apply for a civil protection order as they saw it as either unnecessary or ineffective. Others wanted to maintain their relationship with the partner, though they wanted the violence to stop (Messing et al., 2021). Similarly, Logan et al. (2005) found that many women saw the protection order as a simple piece of paper that offered no real protection, as they believed that police were unlikely to enforce violations.

It is important to understand that failing to seek a civil protection order is not always a conscious choice. Research suggests that many victims-survivors of intimate partner abuse are not aware of civil protection orders and how they might be able to help increase their safety (e.g., Basanti, 2017; Logan et al., 2005). Basanti (2017) surveyed 44 women, mostly from British Columbia, about their experiences with abuse and the use of the civil protection order system. Over half (59.5 per cent) had never applied for a civil protection order; one-quarter (24.0 per cent) because they did not know that this system existed, while 12% knew about the civil protection order, but did not know how to apply or did not understand the process. Interestingly, women who were unemployed and those with a physical disability were significantly more likely to have applied for a civil protection order than women who were employed or those who did not have a physical disability. Logan et al. (2005) conducted focus groups with women in urban and rural areas of Kentucky and found that another barrier was the fear that they would be criminalized or held responsible, in some way, if the protection order was violated. Similarly, 20% of the women in Basanti's (2017) study who did not apply for a civil protection order were concerned that it would make the violence worse. When asked what would increase the likelihood that they would apply for a civil protection order in the future, the most common response was that they wanted to know how the orders were enforced. This was an interesting finding, given that, as discussed below, much of the research suggests that a

major challenge with the civil protection order system is the lack of police enforcement of the orders. In fact, the lack of police enforcement of civil protection orders is a direct barrier for some of those who choose not to apply for it (e.g., Weisz & Schell, 2020, as cited in Hefner et al., 2022).

What these studies show is that there is still more work that needs to be done in educating victims-survivors of intimate partner abuse about their options, including accessing protection orders through the family law system. In Basanti's (2017) study with women in Canada, most commonly this sample of victims-survivors learned about civil protection orders through police officers (41.2 per cent), followed by lawyers (23.5 per cent) or victim service workers (17.6 per cent). More recently, in British Columbia, Family Justice Centres play a role in educating people experiencing abuse about the civil protection order system.[3] In addition, there is a need for a stronger commitment from the criminal justice system by increasing the threat of enforcement and giving victims-survivors more confidence that a civil protection order can enhance their safety. However, as will be discussed below, a civil protection order is not always going to be a good fit for victims-survivors, and unique circumstances must be considered in understanding why some victims-survivors are unwilling or unable to seek a civil protection order for intimate partner abuse.

CHALLENGES WITH THE CIVIL PROTECTION ORDER SYSTEM

Civil protection orders can be manipulated by applicants, particularly those seeking to portray one parent in a poor light in advance of a court proceeding (Koshan, 2023). For example, this might occur in advance of a family law proceeding where custody over children is being discussed. Participants interviewed by Koshan (2023) suggested that applying for a civil protection order can also be a tactic of abuse. For example, an abuser may seek a civil protection order against the victim-survivor as a way of causing them psychological, emotional, or financial harm, or as an attempt to further control them (Durfee & Goodmark, 2021; Reeves, 2020). Cross-filings, where both the victim-survivor and their abuser separately file for a civil protection order against the other, can be used as a tactic of abuse, where the abuser is the first to file the protection order, thereby putting the victim-survivor at risk of being criminalized by the order until they can have the order dismissed and reissued against the abuser (Durfee & Goodmark, 2021). In an analysis of cross-filings in Arizona, Durfee and Goodmark (2021) found that men were more likely to be involved as an applicant for a civil protection order in a cross-filing than as an applicant in a single filing. Whereas women were the first to file a civil protection order in 83% of the single files, only 60% of those who filed first in a cross-filing were women. Men were also significantly less likely than women to include allegations of physical violence, intimidation, or verbal abuse as part of their application. These findings led the authors to conclude that cross-filing of civil protection orders was a gendered phenomenon used more often by men to misuse the civil protection order system.

Unfortunately, according to Koshan (2023), there has been an increasing tendency to issue mutual protection orders in Alberta, where both parties are restrained from each other (i.e., one of the orders is not dismissed), which suggests that the courts are not properly assessing risk for family violence and identifying one party as at risk for violence or abuse by the other. Interview

[3] These Centres did not exist at the time Basanti (2017) conducted her study.

participants in her study felt that mutual protection orders were often consented to by applicants who wanted the process to be over more quickly, or who were worried about the financial aspects of pushing back against a mutual order. Unfortunately, mutual orders of protection increase the risk that a victim-survivor of intimate partner abuse will be criminalized, as any communication or contact with the other partner may result in both being charged with a criminal offence for violating the order (Durfee & Goodmark, 2021). Another challenge is that the conditions stated in a civil protection order can sometimes conflict with conditions given in other orders, such as a custody or visitation order (Basanti, 2017). In Alberta, Koshan's (2023) interview participants shared that the courts often did not have access to existing orders issued elsewhere, and so it was up to the involved parties to be aware of what conditions might conflict and seek an adjustment to the order.

When a victim-survivor applies for a civil protection order in court, the decision of whether to grant the order is left to a judge's discretion. Rates of approval have been found to vary widely. For example, Carcirieri et al. (2019) interviewed women who applied for a civil protection order and found that 20% were not granted. Similarly, Groggel (2021) reviewed civil protection orders granted in Nebraska and found that 20% were denied by the judge. In contrast, Logan et al. (2005) observed emergency civil protection orders in Kentucky courts and found that 50.2% of those in an urban court were dismissed, while 52.4% of those in an urban court were dismissed. One of the main reasons why the orders in this latter study were not granted was described by service providers as attitudes of the criminal justice system, such as negative attitudes towards victims-survivors of intimate partner violence and a lack of knowledge about intimate partner violence more broadly. This was perceived to be more of an issue in rural areas than urban ones (Logan et al., 2005). Groggel (2021) found that judges were more likely to grant a civil protection order when there was physical or sexual abuse, recent abuse, severe forms of abuse, such as those resulting in injury, or threats. However, they were less likely to grant civil protection orders sought by male victims or where the applicant and respondent had children or were currently married. In a different study by Lucken et al. (2015) of nearly 500 civil protection orders, judges in Florida were significantly less likely to grant the civil protection order when the respondent objected to the application (four times less likely), when the respondent had previously requested a protection order (1.85 times less likely), or when the respondent was employed (1.56 times less likely). In contrast, judges were no more or less likely to grant the protection order when the applicant stated that the respondent had threatened to kill them or when the respondent had threatened to or had used a weapon against the applicant. In other words, judges were not making the decisions about whether to grant the order based on the concerning behaviours that the applicant alleged the respondent was engaging in (Lucken et al., 2015). These various findings suggest a need for **greater education of judges about intimate partner abuse**, particularly for those in more rural areas.

Once the civil protection order has been granted by the court, another challenge is introduced when determining who serves the order on the restrained party. This is a particular issue in areas that grant emergency protection orders as a first step in the civil protection order process, as these are conducted without the respondent being required to be present. In a study by Logan et al. (2005) where they interviewed service providers familiar with the civil protection order system, those who were in a rural area were significantly more likely than those in an urban area to report that serving the civil protection order was a barrier to enforcement. Although there are typically no

direct fees associated with civil protection order applications, some victims-survivors face a cost when they hire someone to serve the order on the restrained party (Logan et al., 2005). Consequently, in some of the areas where they conducted their study, more than half of the granted civil protection orders were never served on the restrained parties resulting in these orders not being in effect.

Civil protection orders can be overturned before the set expiry date for several reasons. This includes if the respondent files a counter claim or notice to drop the order and the court agrees. However, one of the main reasons for civil protection orders to be overturned is when the applicant requests that the order be dropped (Durfee & Goodmark, 2021; Groggel, 2022; Logan et al., 2005). Unfortunately, this may be due to pressure placed on the applicant by the respondent or by other family members or the applicant may also be indirectly pressured to drop the order due to being dependent on the restrained party (Logan et al., 2005). For example, if the applicant is unable to financially bear the cost of remaining in the home without the restrained party's contributions, they may request the courts to drop the order. The applicant may also want to return to the intimate partner relationship with the restrained party and will ask the court to overturn the order (Durfee & Goodmark, 2021; Groggel, 2022; Logan et al., 2005).

Although civil protection orders in some jurisdictions can include a treatment order, research by Durfee and Goodmark (2021) in Arizona suggested that these kinds of conditions were rarely granted. In their study, although up to 43% of applicants had requested that the restrained person be required to attend counselling or a domestic violence course, less than 1% of the granted orders included this condition. According to a small sample of judges (n = 15) who were interviewed, judges were typically unwilling to include this condition as they had no way of determining whether the restrained person complied with this condition. However, it is important to note that judges may not be informed about whether *any* of the conditions are complied with, and so the decision not to include an attendance condition when requested seems questionable.

EFFECTIVENESS OF CIVIL PROTECTION ORDERS

Civil protection orders are designed to prevent violence from occurring in the future by reducing or restricting contact and communication between parties experiencing conflict. Therefore, one measure of success is whether there are any future incidents of violence or other forms of abuse. Benitez et al. (2010) conducted a review of prior studies measuring the effectiveness of protection orders. Most of the studies reviewed examined the rate of protection order violations. Overall, they reviewed 15 published studies and found a wide range of protection order violations, ranging from 7% to 81% (Benitez et al., 2010). One explanation for this wide range in violation rates may be the method of study. For example, studies that rely on victim-survivor self-reporting of civil protection order breaches will invariably identify higher rates of recidivism than studies that rely on more formal sources of data, such as police or court data, which require that the violation be observed, formally reported, investigated, and result in a criminal charge or conviction. Another reason for the wide variation in rates may come from the nature of violence. Research tends to measure protection order violations based on subsequent physical violence, whereas intimate partner abuse encompasses a variety of other forms of abuse, including psychological, emotional, and financial abuse (Carcirieri et al., 2019) that are not as easily captured through a review of police or court

records. Consequently, research that relies on formal measures of re-victimization, such as new arrests or convictions for criminal offences relating to intimate partner violence, will likely overestimate the effectiveness of civil protection orders at preventing future violence

Another measure of civil protection order effectiveness is whether the order is violated in any way. In one study conducted in Canada, Basanti (2017) conducted an anonymous survey with a small sample of women and found that for nearly one-third (31.3 per cent), their partner had violated the civil protection order at least one time. For most of these women (87.5 per cent), their partner had violated the protection order several times. All but one of the women reported these violations at least once to the police. Unfortunately, nearly half (46.7 per cent) shared that the police did not investigate the violation. Only one-in-five (20 per cent) women in this study reported that the police had arrested their partner for violating the order, while one-third reported that the police only spoke with the violator. Moreover, the women shared that, in several cases, the police officer admonished her for reporting the violation. For example, one woman stated that the police officer told her she was making too big a deal out of the situation, while another woman stated that she felt the police officer wanted to see physical evidence of a violation before they were willing to recommend charges. Another woman reported feeling that the police officer ignored and belittled her. When asked to rate how safe or unsafe they felt by the police response, 40% of the women felt very unsafe with another 13.3% reporting that they felt unsafe. Women who reported that the police arrested the restrained party were significantly more likely to feel safe; however, this was reported by participants as the least common response taken by police officers to reported violations. Despite the small sample of women involved in the study, Basanti's (2017) findings were very concerning as they suggested that most of the women were made to feel unsafe by the police lack of response to reported violations of civil protection orders, which contributed to their overall feeling that a civil protection order is just a piece of paper that does nothing to protect them. Similarly, research by Hefner et al. (2022) in the United States discussed several examples where a woman with a protection order in place reported violations to the police or the courts only to receive no response. This deterred them from reporting future violations of the protection order.

Other studies have similarly concluded that civil protection order violations are quite common. In an American study by Logan et al. (2005) interviewing women, on average, 40 days after a civil protection order was granted, over one-quarter (29 per cent) of the women reported that the order had already been violated. The form that the violation took was mostly verbal abuse, but also included threats to kill, threats with a weapon, stalking, sexual assault, and physical re-victimization. On average, women in rural areas reported that the restrained party had violated the civil protection order 4.19 times, while women in urban areas reported an average of 1.41 violations. In contrast, Messing et al. (2017) studied a sample of 755 women and found civil protection orders were associated with significant reductions in moderate (e.g., pushing, shoving, slapping, kicking) forms of intimate partner violence over an eight month period. However, they did not find any significant reductions in severe (e.g., strangulation, being beaten up, having a weapon used, sexual assault) violence. In contrast, they found that the use of other safety measures, such as changing locks or installing security systems, did not reduce future violence or abuse, nor did attendance at a batterer treatment program or jail time. The only other factor that reduced future incidents of both moderate and severe forms of intimate partner violence were if the woman went to a shelter.

An important effect when measuring civil protection order violations is whether police officers enforce the reported violations. **If the police have reasonable or probable grounds to believe that the restrained party violated the conditions, they should consider arresting and charging the person**. Unfortunately, numerous studies have identified that police officers rarely respond to violations of civil protection order conditions, leading people familiar with the system to describe civil protection orders as just a piece of paper (e.g., Basanti, 2017; Logan et al., 2005). Police officers may view violations of a civil protection order as too trivial to respond to criminally (Brewster, 2001; Koshan, 2023). There may also be confusion as to whether the police can criminally enforce a civil protection order that was issued outside of the criminal justice system. Police officers are not typically as familiar with the family law system as they are with the criminal justice system, and consequently may not recognize if the family law legislation stipulates that they are to criminally enforce these orders (Basanti, 2017). However, when they are enforced, a violation of a civil protection order can be penalized with a fine or jail time (Benitez et al., 2010).

Basanti (2017) reported that, in British Columbia, 70 Reports to Crown Counsel by police recommending charges for breaches of *Family Law Act* protection orders were submitted in 2013/2014. This doubled the following year to 135 Reports to Crown Counsel with recommended charges. The most common response by Crown Counsel in both years was to approve the recommended charges, although the proportion approved in 2014/2015 was lower (61 per cent) than the proportion approved in 2013/2014 (70 per cent). However, it was unclear how many civil protection orders were in place across British Columbia during these time frames and what proportion appeared to be violated. Moreover, the court outcomes were not available making it unclear whether these charges resulted in convictions or sentences.

Following their review of 15 studies examining protection order effectiveness, Benitez et al. (2010) concluded that there was a substantial likelihood that a protection order would be violated and that the violation would most likely occur within the first three months following the granting of the order. They also identified factors across several studies that were predictive of a protection order violation. People with a criminal record, those with a history of substance abuse or mental health system contact, those with a history of violence, and those who were unemployed or underemployed were all at increased likelihood of violating a protection order. Benitez et al. (2010) also concluded that more severe forms of intimate partner violence prior to the protection order being issued were more likely to result in protection order violations than intimate partner violence that was less severe. This conclusion suggested that protection orders were more effective for those experiencing less severe forms of violence prior to the application. Other factors that have been associated with protection order violations were victims-survivors who belonged to lower socioeconomic classes and victims-survivors who had biological children with the restrained party (Benitez et al., 2010), presumably as the presence of children necessitated ongoing contact.

In effect, research suggests that the civil protection order system may have greater effects for some victim-survivor populations than for others. As suggested above, civil protection orders may be more effective in situations of less severe abuse. While generally a victim-survivor needs to experience and articulate fear for their safety based on the likely actions of the abuser, victims-survivors have different thresholds at which they experience fear, and what may drive one person to apply for a civil protection order may not be perceived in the same way by another. Moreover,

certain types of intimate partner abuse may not work well with a civil protection order. Even though it is designed specifically to prevent contact and communication between the victim-survivor and the abuser, research suggests that civil protection orders are less effective with perpetrators who harass or stalk the victim-survivor (Benitez et al., 2010; Logan et al., 2007; Logan & Walker, 2009). In fact, some studies suggest that stalking behaviours are worsened after a civil protection order is issued or that some abusers may resort to stalking-like behaviours in place of the physical abuse (Brewster, 2001). Women who were stalked are also significantly more likely to experience physical or sexual re-victimization and for that victimization to be more severe with a greater likelihood of injuries occurring (Logan & Walker, 2009). Another factor that appears to limit the success of protection orders is when the restrained party already has a criminal record (Basanti, 2017; Benitez et al., 2010). In this case, those with a prior criminal record appear to be less deterred by the threat of a new potential criminal charge for violating the order.

For police officers to be able to criminally enforce civil protection orders, they must be made aware of breaches of the conditions. For some populations in Canada, this will pose a barrier to enforcement. As observed by Koshan's (2023) interview participants, Indigenous and racialized populations are typically less willing to report violations of civil protection orders to the police for a variety of reasons, including experiences of racism and fear of how they may be treated by the police. Still, several studies suggest that most women who experience a protection order violation report it to the police (Basanti, 2017; Logan & Walker, 2009). Of note, reporting a civil protection order violation may be more likely when the violation takes the form of a more severe physical re-victimization (e.g., Logan & Walker, 2009). In one study that compared what women thought they would do with a civil protection order violation to what they actually did, Hefner et al. (2022) found that, although two-thirds (66 per cent) of women reported that if the civil protection order they had just received was violated they would report this to the police, at follow-up, less than half (46 per cent) of those whose protection order was violated did report it to the police. One reason for this was that the women did not always interpret a violation as a violation. For example, if the restrained party texted the protected party and the protected party ignored it, or if they saw the person while out in public and they were within the prohibited range, these were not necessarily viewed as violations or were viewed as only minor violations that did not necessitate a legal response. However, one caveat to this study was the small sample size of 24 women who received a civil protection order.

Other measures of success may be more subjective. For example, the victim-survivor experiencing increased feelings of safety is a measure of success (Logan & Walker, 2009) and this can result in improved psychological wellbeing. Vaile Wright and Johnson (2012) studied changes in post-traumatic stress disorder symptoms over a six-month period for a sample of abused women with a civil protection order (n = 40) compared to a sample of abused women without a civil protection order (n = 66). The women with a civil protection order experienced more significant reductions in post-traumatic stress disorder symptoms compared to those without an order. The reduction was found specifically for reduced symptoms of hyperarousal suggesting that women with a civil protection order experienced less fear and a greater sense of security than women without a civil protection order (Vaile Wright & Johnson, 2023). However, while both groups experienced reductions in depression, there were no statistically significant differences when comparing the reductions in depression between those with and those without a civil protection order.

Basanti (2017) surveyed a small sample of women, primarily from British Columbia, and asked them to rate their perceptions of safety and quality of life prior to obtaining a civil protection order. Prior to having the civil protection order, most of these women felt unsafe (35.3 per cent) or very unsafe (47.1 per cent) and most reported either a poor (58.8 per cent) or very poor (11.8 per cent) quality of life. While there were some improvements in terms of their feelings of safety and quality of life following the protection order, many women continued to struggle because they felt that the civil protection order was ineffective at deterring their intimate partner from harassing or otherwise abusing them and, in some cases, made their abuser more unpredictable and dangerous (Basanti, 2017). Still, those who reported that their partner had violated the civil protection order rated their quality of life significantly lower than women whose partner did not violate the order. Ultimately, those who felt safer after receiving a protection order had also taken other actions to protect themselves, such as moving to a different town or province, or accessing transition homes or shelters.

Different findings were obtained by Logan and Walker (2009). Their study involved 698 women who had received a civil protection order. The researchers found that 60% of the women experienced violence by the restrained person following the granting of the civil protection order. Despite this, most women felt extremely (43 per cent) or fairly (34 per cent) safe with the civil protection order in place and felt that the system was either extremely (51 per cent) or fairly (27 per cent) effective. Those who felt less safe had experienced stalking and/or physical re-victimization by the restrained party.

Overall, according to the research literature, while civil protection orders may result in increased levels of safety or feelings of wellbeing among victims-survivors of abuse, there are ongoing challenges with the system, including violations of the orders and a lack of police enforcement, that can lead victims-survivors to perceive civil protection orders as just a piece of paper. Still, while there have been prior studies on the benefits and challenges of civil protection orders, as well as studies on the rate of violations of civil protection orders, little research has directly examined the prevalence of civil protection orders in Canada, the strengths and challenges of this system according to subject matter experts, or the tendency for civil protection orders to be violated. These issues are what lead to the current study.

Current Study

Basanti's (2017) findings implied that the civil protection order system in British Columbia would benefit from a more comprehensive review. Thus, the current study sought to collect more in-depth feedback from professionals whose work intersects with the civil protection order system, as well as to obtain data regarding the nature and extent of civil protection orders being issued in British Columbia. Data was also collected regarding the criminal histories and criminal recidivism of the restrained parties.

Findings From Qualitative Interviews with Family Justice Counsellors

In total, 13 semi-structured interviews were conducted with family justice counsellors working in communities throughout British Columbia. Although police officers were also intended to be interviewed, those who were invited to participate stated that they were not the right person to talk to about this issue given that it was a civil matter. This is a particularly interesting finding given that police are supposed to criminally enforce civil protection orders when conditions are violated. However, the police officers approached for this study stated that they did not have access to the Protective Order Registry and were not comfortable speaking about how the civil protection order system operated. Given this, the findings in this section reflected interviews conducted with family justice counsellors.

In British Columbia, family justice counsellors[4] are accredited mediators who work with families going through a separation or divorce experiencing parenting related conflicts, such as guardianship over children. Family justice counsellors will conduct needs assessments to identify what legal and non-legal needs are present in the situation that can include assessing for the presence of family violence and determining whether a consensual dispute resolution process may be a suitable fit. Family justice counsellors also provide information and referrals, including about civil protection orders. There is no cost to access a family justice counsellor in British Columbia. For some provincial courts, a referral to a family justice counsellor is mandatory while, in other cases, this is voluntary.

The family justice counsellors were interviewed for this study about their role in civil protection orders and their perceptions of the civil protection order system in British Columbia. The 13 participants had worked as a family justice counsellor from just over two years to over 30 years, with an approximate average of 10.8 years of experience. Participants identified their role as a neutral party that offered mediation and resolution to help families in conflict address issues around separation, which often included planning for children post-separation. Family justice counsellors meet separately with the parents and children to gather information and ensure that there are no safety issues, and will often mediate with the families. While participants were clear to state that they do not provide legal advice, they will provide information about the *Family Law Act* or *Divorce Act*, reviewing family court processes and procedures, and explaining terms, such as child support, spousal support, and permission to travel or relocate. Some participants stated that they may also assist with paperwork or drafting documents, while many others said that they may help with short-term counselling or with safety planning. This could include informing a client about protection orders or assisting them with the civil protection order paperwork. Family justice counsellors also provide referrals to other resources in the community. One participant described the process as a 'self-help model' where they provide a range of information and options but not advice.

[4] https://www2.gov.bc.ca/gov/content/life-events/divorce/family-justice/who-can-help/family-justice-counsellors/when-should-i-see-them

Participants were asked more specifically about their role with the civil protection order process. The participants primarily identified their role as information providers to potential applicants and respondents about the civil protection order process, as well as the benefits of obtaining a civil protection order, and what happens if a breach of the order occurs. They may first do an assessment to determine whether a civil protection order is an appropriate step for the individual. Many of the participants also indicated that they would directly assist clients by helping them fill out the application forms. One participant stated that they could also go with the client to court to assist them in applying for the protection order. Family justice counsellors can also refer the client to duty counsel for assistance in filling out the protection order forms or reviewing the form before the client submits it. They may also work with clients who have been restrained via a civil protection order or criminal no contact order. In that situation, the family justice counsellor will help the client understand what these types of orders mean and give them information about their options.

CRIMINAL VS CIVIL PROTECTION ORDERS

As described above, individuals can be restrained in several ways, including through a police or court issued criminal no contact order or through the *Family Law Act* issued civil protection order. A person could be simultaneously restrained by a civil protection order and through a criminal no contact order. Participants were asked what the main differences were between these types of orders. From the perspective of participants, the differences included that the orders fall under different acts, with criminal no contact orders coming under the federal *Criminal Code* while protection orders are issued under the provincial *Family Law Act*. Another main difference between civil protection orders and criminal no contact orders was that the civil protection orders could be sought without the involvement of the police or criminal justice system, whereas a criminal no contact order can only be issued by the police or courts. Some of the participants explained that the burden of proof was less for a civil protection order. Participants indicated that going through the *Family Law Act* meant that the burden of proof was based on the balance of probabilities whereas the *Criminal Code* sets the burden of proof as beyond a reasonable doubt. Similarly, another difference was that criminal no contact orders were reactive whereas civil protection orders could be proactive. In other words, obtaining a criminal no contact order would generally require that the person had already been harmed, i.e., that a criminal offence had already occurred, whereas a civil protection order could be used to prevent harm from occurring because a judge may issue a civil protection order if the applicant is able to demonstrate that they felt unsafe or that future harm may occur. Another way to describe the differences between the two were that civil protection orders were applicant-led, whereas criminal no contact orders were police- or criminal justice system-led. In other words, a police officer could issue a no contact order at their own discretion regardless of whether the person who was harmed wanted that order in place.

Another way that participants identified that these orders differed was in terms of the types of relationships they applied to. *Family Law Act* protection orders will only apply to current or former members of a family, including intimate partners, their children, or other extended family members. In contrast, criminal no contact orders did not have the same restrictions. For example, if a person was being harassed or stalked by a co-worker, they would not be able to obtain a civil protection order in this situation. Instead, the criminal no contact order would apply, which would require that

police become involved in the situation. Usually, a criminal no contact order results from an arrest, charge, or conviction for a criminal offence. For example, an individual may be arrested for a criminal offence, such as criminal harassment, and released on conditions that include no contact with the alleged victim.

There was some confusion among participants about the enforcement of these two types of restraining orders. While some participants understood that breaches of both types of orders could result in criminal charges, other participants believed that only criminal no contact orders were criminally enforced. For example, one person stated that since civil protection orders did not go through a judicial fact-finding process, there would be no criminal implications to them. This lack of clarity on criminal enforcement may be because some participants had been working in this field for more than one decade, and civil protection orders only became criminally enforceable after the introduction of the *Family Law Act* in 2013. These results suggest **the need for education about the implications of a breach of a civil protection order, and greater awareness about the role of police officers in criminally enforcing violations or breaches of civil protection orders.**

Participants were also unclear as to which type of order would take precedence if both a criminal no contact and civil protection order were simultaneously in place with different conditions, such as if a child was named in one of the orders but not the other, or if one order allowed for occasional visits but the other stated no contact at all. Most felt that the criminal order was more significant and would take precedence over the civil protection order. The reasons for this included that a no contact order was associated with a criminal offence, was issued by a court of higher authority, and would fall under the *Violence Against Women in Relationships* policy. However, while participants generally felt that a criminal no contact order would take precedence over a civil protection order, several participants stated that, in practice, this did not always occur. One participant stated that if the civil protection order was more detailed or specific than a criminal no contact order, the one that offered more protection would be followed. When asked how often criminal no contact and civil protection orders were both in place, some participants suggested around half to three-quarters of the clients they worked with would have both in place, whereas others stated that it was uncommon for their clients to have both as having one should negate the need for a second order. This may reflect regional differences in how civil protection orders are issued. For example, one participant who had worked in different jurisdictions stated that, in their experience, it was more common in larger cities to have both a criminal no contact order and civil protection order in place at the same time. Interestingly, one participant shared that they were finding it more difficult for clients to obtain a civil protection order if they did not already have a criminal order in place.

When asked about training needs in relation to civil protection orders, participants stated that they had all received training on this subject matter. However, some participants were not often exposed to civil protection order requests resulting in a lack of practical familiarity with this system even though they had been trained on the system and had a general understanding of it. Two participants felt that they would benefit from more training on how the civil protection order system differed from criminal orders as they remained unclear on how these differed. Another participant stated that, while they supported individuals who were applying for protection orders, they often were not informed of the outcomes of these applications leaving them unclear as to what

threshold needed to be met for a civil protection order to be granted. Another participant felt that it would be beneficial to have more trauma training, as this was typically an issue for their clients.

REASONS TO APPLY FOR A CIVIL PROTECTION ORDER

Participants were asked to share some of the reasons why clients may want to apply for a civil protection order. In line with the *Family Law Act,* participants explained that clients who feared for their safety would apply for a civil protection order. On occasion, police would advise victims-survivors to seek a civil protection order. For example, if a victim-survivor was being harassed or stalked but the police were unable to move forward with an arrest or criminal charges at that time, they might advise the individual to seek a civil protection order in the meantime. Harassing, stalking, or threatening behaviours were referenced by nearly half of the participants as common reasons for why their clients might seek or be recommended to seek a civil protection order. Clients who attempted to report victimization to the police but felt unheard by them may also seek a civil protection order. Participants indicated that they might also suggest that the client seek a civil protection order if the victim-survivor was experiencing abuse but did not want to involve the police. Civil protection orders may also be used by clients who are concerned about the other parent's treatment of their children, such as if the client believed the children were being harmed in some way, if the children were being intimidated or bullied by the other parent, or if the children were afraid of the other parent. In other words, civil protection orders were used when there were concerns about the physical safety or emotional wellbeing of the applicant or their children, or when the applicant was being harassed or stalked. Some participants reported that they used civil protection orders in a more proactive way. For example, several participants stated that if their client was fearful of someone who had a criminal no contact order that was expiring soon, they would recommend that their client seek out a civil protection order to extend the restraining period. Other clients would apply for a civil protection order if they did not have or were unable to get a criminal no contact order issued.

Using a Likert scale anchored by one (rarely) and five (often), participants were asked how frequently they encouraged their clients to apply for a civil protection order. Twelve of the 13 participants provided an answer to this question The average score was 3.75, indicating that this was fairly common for them. One participant, who rarely encouraged protection orders, stated that they would start small, for example, by asking the client if they had told the other person to stop calling or texting them. They would start with taking small steps to ending the harassment before escalating to the point where they would recommend a civil protection order. One participant, who did not provide a rating, stated that if safety issues were raised, they would tell their clients about the civil protection order but would not necessarily encourage them to apply. Instead, this participant explained that they would present applying for a civil protection order as one of the client's options. This participant felt that it was important to first determine what was driving the issue, as sometimes clients would be upset with a family member but not actually at risk from them. In contrast, one of the participants to answer this question as a "5" stated that if the client was disclosing this information (i.e., about possible harm or victimization), the family justice counsellor had a responsibility to encourage the client to apply for a protection order, even if this conflicted with their own personal belief system. This participant felt that it was important to help their client get to a safe place. Similarly, a second participant stated that they would recommend a protection

order if they felt the client was in danger, but not if the family justice counsellor felt it was more a tool for revenge or to manipulate a parenting conflict. However, a different participant stated that they would often encourage the client to apply for a protection order because they felt uncomfortable making judgments about the person's safety and felt it would be better to have a judge determine whether a protection order was needed. For others, it depended on the context. For example, if the person disclosed violence or that things were escalating, such as increasing substance abuse, they would encourage their client to apply for a civil protection order. Another participant reported that they would encourage a protection order if the other party had been arrested and released by the police because they felt the release order conditions would expire quickly.

STRENGTHS AND CHALLENGES OF THE CIVIL PROTECTION ORDER SYSTEM

Participants were asked about the strengths and challenges of the civil protection order system. One of the main strengths identified was that the civil protection order system provided individuals with the ability to obtain a protection order without involving the police. Several participants mentioned that the system was better now because, since the introduction of the *Family Law Act* in 2013, civil protection orders were enforced through the *Criminal Code*, whereas they were not enforceable prior to this. Other strengths included that these orders could last for one year or longer in duration, and that they could be granted *ex parte* in situations where there were immediate safety concerns.

Another benefit was that the civil protection order could apply to more than just the individual, for example, potentially allowing for the children or one or both parents of the applicant to be included. Similarly, the fact that a family member could apply on another person's behalf was viewed as a strength. Another perceived benefit was that it would give the protected party a boundary and some emotional space to distance themselves from their ex-partner, allowing them to carry on with their lives without spending every day being fearful. Notably, civil protection orders can apply to ex-partners as well, so the applicant does not need to be currently residing with the party they were seeking protection from, which was also viewed as a strength.

A few participants stated that another benefit of the civil protection order system was that the protected party did not need to worry about serving the restrained party with the order. Presumably, the restrained party would either already be in court to hear the order issued or, if not, the courts could require that a sheriff serve the order outside of court. The centralized system was also viewed as a benefit because police officers could access information about civil protection orders at any time. Finally, the fact that the civil protection order system is theoretically free of charge was another perceived benefit, though, as outlined above, some applicants hired a lawyer to help them with this process.

However, there were also some perceived concerns or challenges with the system. Participants stated that there was a significant amount of paperwork for the applicant to fill out that was only provided in the English language making it difficult for immigrants or refugees seeking protection from a family member to access unless a staff member spoke their language. Moreover, even for those who were native English speakers, the amount of paperwork required was seen as a significant deterrent to applying. Participants shared that there were around four to five different

forms that needed to be filled out, all of which they perceived to be full of "legalese". One participant indicated that filling out the paperwork could easily take over one hour, which was very difficult for people in crisis. While they acknowledged that the provincial government had created a "booklet" to help guide applicants through the process, the booklet was 40 pages long. Given the complexity of the application process, while applying for a civil protection order in provincial court does not cost the participant any money, participants stated that applicants were often advised to retain a lawyer to assist with the process. While legal aid may be available to some applicants, participants noted that in family violence cases, legal aid was quickly depleted due to the frequency with which the partners are appearing in court. In other words, while a free system theoretically accessible by all who may need it, in practice, the civil protection order system was not viewed as providing equal access to justice among all potential users. Similarly, in some more rural or remote areas, access to judges is difficult making it a challenge, at times, to quickly get a civil protection order issued. An individual also cannot obtain a civil protection order on a weekend as the courts are not in operation.

Another barrier for clients who wished to access a civil protection order was a general fear of the legal system and the stress or fear of having to testify in court to obtain a civil protection order. The process itself was described as intimidating and easily overwhelming, particularly for people experiencing a crisis due to abuse or threats to the safety of themselves or their children. While duty counsel can assist in some cases, they were not always available, which resulted in participants feeling that the lack of access to legal advice was a challenge of the civil protection order system. There was also the fear of going to court to make a statement about why they were fearful of their intimate partner and then not having the order be granted. Alternatively, if granted, the client may not know what would happen next, for example, whether police officers will escort them to get their belongings from the home or who is going to notify the restrained party if they were not in court to answer to the application. Childcare was another perceived issue. Here, the issue was who would look after the children while the applicant went to court to seek the protection order.

Another challenge with the civil protection order system was that participants perceived police officers as being more resistant to enforcing these types of orders, and so people may not be as willing to trust in the effectiveness of the order. This included some of the participants themselves, who perceived there to be no benefits to the civil protection order system if police were unwilling or unlikely to criminally enforce breaches of conditions. This finding, which is consistent with the broader literature, speaks to the **need for training for police officers regarding their duties in enforcing breaches of civil protection orders.**

One participant suggested that effectively notifying protected parties, such as if there was a change in the order, could be difficult, especially if they were staying at a transition house or moving. There can also be confusion with the expiry of the orders. The *Family Law Act* states that if a judge does not specify an expiry date, the duration of the civil protection order is automatically one year. On occasion, a judge will state that the civil protection order will not expire; however, police may interpret the order as expiring within one year because no specific expiry date was provided on the order. Some participants also stated that they did not have access to the protective order registry.

The concern here was that, if they needed information about an order, they would need to go through the courts to request that information.

Another challenge was related to the conditions itself. Participants reported that sometimes a judge will issue conditions that state no contact between the protected and restrained parties with some exceptions, such as if engaging in mediation with a third party or to discuss parenting issues or arrangements. Some participants felt that if a protection order was being issued, the affected parties were not at a stage where mediation would be an appropriate step. Participants also felt that giving an allowance to discuss parenting time or arrangements made it difficult to enforce the conditions because the restrained party could make everything about the children as a way of maintaining contact with the protected party without technically breaching the order.

Overall, participants felt that a civil protection order was an additional tool that they could offer clients who needed support; however, the application process was too onerous and not guaranteed, and police were unlikely to enforce the conditions, which can give protected parties a false sense of security. Despite this, when asked to rate the effectiveness of the civil protection order system on a scale of 1 through 5, where 1 represented 'very ineffective' and 5 represented 'very effective', the average rating was 3.3 or neutral. Those who rated the system as less than a three stated that there rating was based on their belief that a civil protection order was difficult to enforce. Those who rated the system as more than a three stated that this was because it gave police the potential to enforce the order resulting in it carrying more weight than other options. However, most participants who gave this reason also stated that this did not mean that police officers would carry out the order, just that it gave them the power to do so. A second reason was that it could shift the power balance somewhat between the person being victimized and the person doing the victimization. However, these participants acknowledged that this shift in power could also result in a temporary elevated level of risk to the protected party. In other words, those who perceived that the civil protection order system was at least somewhat effective were cautious in their rationale.

Participants were asked their thoughts on the overall effectiveness of the civil protection order system at reducing victimization. Overall, participants appeared to think that civil protection orders were helpful to the extent that the parties involved were willing to follow them. Sometimes both the protected and restrained parties may violate the conditions, such as if they decided to re-initiate their relationship. Civil protection orders have the threat of police enforcement and were, therefore, seen as having some teeth. Civil protection orders were also viewed as motivational for some abusers because it would highlight how problematic their behaviour had become and encourage them to seek help, such as through counselling. However, some participants wished that civil protection orders could last longer than one year. Several participants stated that because they do not work with clients over the long term, they rarely get an opportunity to see whether and how effective civil protection orders are over a longer period.

It is important to note that civil protection orders could also increase the risk for victimization for some people. Participants reflected that civil protection orders could anger the restrained party because it shifted the balance of power over to the protected party. The concern among family justice counsellors was that this may escalate the restrained party's desire to re-assert control. One participant stated that the time immediately after a protection order was issued represented a

high-risk period for the victim-survivor, and they suggested that it was preferable for clients be out of town or away when the order was served. Most people who are served with a civil protection order were viewed as compliant, particularly when breaches were enforced right away, but several red flags were identified by participants where it was felt that the restrained party was more likely to react with anger or violence. This included when the person showed signs of obsessive jealousy, possessiveness, and misogyny. The concern among participants was that the civil protection order could provide a false sense of security for victims-survivors, and participants noted that if the restrained party really wanted to hurt or kill the protected party, the civil protection order would not prevent this from happening. Given this, in some cases, a victim-survivor of abuse would not be willing to obtain a civil protection order for fear of how the abuser might respond. For participants, this was viewed as happening in a minority of the applications; however, the fear of potential violence was viewed as a barrier for victims-survivors who might otherwise apply for a protection order. Participants also expressed concern for the safety of victims-survivors around the time when they make the application for a civil protection order but the order is not granted by the courts. In this case, the victim-survivor has taken a risk by seeking the protection order and the other person is now aware that they have done so.

PERCEIVED EFFECTIVENESS OF THE CIVIL PROTECTION ORDER SYSTEM COMPARED TO CRIMINAL NO CONTACT ORDERS

When asked to compare the perceived effectiveness of civil protection orders to criminal no contact orders, none of the participants perceived the civil protection order system as being more effective. Of the 12 participants who provided a rating, seven perceived civil protection orders to be less effective than criminal no contact orders. Generally, these participants felt that police officers were more comfortable enforcing orders issued through the criminal justice system than they were orders issued through the family law system. The basis for this conclusion was that police worked within the criminal law every day. This finding points to **the need for greater education for police officers about the civil protection order system and their responsibilities related to it**. Some participants believed that police officers would take a criminal order more seriously than one originating from a family law system, while other participants felt that police officers were confused by civil protection orders. Conversely, five participants felt that civil protection orders were just as effective as criminal no contact ones. Several participants believed that it did not matter what kind of court issued the order because whether the order was followed or breached had more to do with the nature and character of the person the order was applied to. Moreover, these participants stated that both types of orders carried the weight of police enforcement, so it did not matter which one was issued.

Participants were also asked to rate the perceived effectiveness of the civil protection order system in providing for the mental or emotional wellbeing of victims, where 1 would indicate 'very ineffective' and 5 would indicate 'very effective'. The overall rating among all participants was essentially neutral (2.96). In terms of supporting the mental or emotional wellbeing of victims-survivors, the strengths of the civil protection order system included that it gave protected parties space and that the lack of contact with the restrained party can benefit mental wellbeing, it can provide a sense of safety and security resulting in reducing anxiety, and it validated the protected party's fears and that what they were experiencing was not normal. However, participants also

expressed that the civil protection order system can also negatively affect emotional and mental wellbeing because it can be a stressful and emotional process requiring a lot of paperwork and that also required the protected party to have to re-tell their story that can trigger their trauma. Several participants stated that, in the end, a civil protection order was just a piece of paper that can give a victim-survivor the illusion of safety. Several participants also stated that more services were needed to better address emotional and mental wellbeing. For example, one participant felt that, unless counselling was provided, there was a risk of ongoing victimization, while another participant stated that without sufficient access to housing that will provide them with a safe place to stay for longer than 30 days, the system is not really helping them. When asked to compare the effects of the civil protection order system to the effects of criminal no contact orders on providing for the wellbeing of victims, five participants felt that the civil protection order system was less effective. Several participants felt that criminal no contact orders better addressed emotional or mental wellbeing because they were seen as being more credible. It was felt that criminal no contact orders resulted in the restrained party being more likely to be supervised by someone, for example, a probation officer, who would supervise whether the individual was following the criminal no contact order conditions. Another participant stated that if a victim of crime has reported their victimization to the police that resulted in a no contact order, they would also be given access to other supportive resources that can help address their emotional or mental wellbeing. Five other participants felt that the systems had the same effect in providing for the emotional or mental wellbeing of victims. Two participants felt that the civil protection order system was more likely to support the emotional and mental wellbeing of the victim. The other participant stated that, because their staff had a lot of training and had backgrounds in mental health, their clients were more likely to feel believed and supported. Another stated that the civil protection order system was empowering because it involved the victim making the choice to submit an application for protection rather than having the police do this on their behalf.

PERCEIVED BARRIERS TO ACCESSING THE CIVIL PROTECTION ORDER SYSTEM

Participants were asked about the most common barriers in their own jurisdiction to applying for civil protection orders. Many participants mentioned the lack of resources. There were a variety of ways that this was discussed. Lack of resources included issues like not being able to find safe housing or other resources or services for people who are applying for a protection order. More commonly though, the lack of resources related to access to the system itself. For example, getting to the court, a lack of court time, and the hours when court was open were mentioned by participants as barriers, while others stated that accessing legal aid or duty counsel was not always possible, which led to barriers with completing the forms. One suggestion was to **have night court or other opportunities outside of the typical 9:00am to 4:00pm availability between Monday to Friday once per week to allow for those who worked during the day or who had childcare obligations to attend court for their application.**

Some participants stated that judges themselves could be a barrier. On this issue, one participant concluded that there were a couple of judges who were less likely to issue a civil protection order if there was not already a criminal order in place, while another participant reported that a client told them that she had heard that no one who applies ever gets approved for a protection order. Other barriers to accessing the system included cultural and language barriers. Victims may prefer to

manage their fear or victimization on their own without making it more broadly known to their community. This could also be due to perceived stigma or feeling they will be a bother to others. Language was also a barrier because, as mentioned above, the required forms were only available in English. In addition, fearing how the restrained party would react to a protection order was also perceived as a barrier to using this system. Related to this, many participants indicated that it was their impression that a barrier to accessing this system was the fear that the order would not be followed.

Participants were asked how easy or difficult it would be for an applicant to get a civil protection order. Most said that they were not able to answer this question as they were usually no longer involved once the applicant had completed the paperwork. Those who did give an estimate suggested that the civil protection orders were likely granted in most cases, estimating that 60% or more would be approved given that the threshold was lower than in criminal court, that the courts tend to take protection orders quite seriously, and that judges were more likely to err on the side of caution. One participant estimated that around 95% of the applications they supported would be approved and this was because they would only suggest that the person apply for a civil protection order if they believed the situation warranted it. Interestingly, they stated that judges relied on family justice counsellors to outline the situation to assist the judge in determining if the situation warranted a protection order. However, it is not currently a requirement that a person interested in applying for a civil protection order first speak to a family justice counsellor for advice about or support with this process. It is also unclear what proportion of people who apply for a civil protection order have first spoken to a family justice counsellor, whether this represents a minority or majority of cases appearing before the court, or what effect the family justice counsellor has on the judge's decision.

The participants were also asked to rank how clear the application process was on a scale of one to five where one was 'extremely unclear' and five was 'extremely clear'. On average, participants ranked the clarity of the application process as a 3.1, meaning that it was neither unclear nor clear. Those who felt the process was somewhat or extremely unclear stated that there was a lot of paperwork, and that it was very difficult for the applicant to complete without support from someone, particularly considering that they were already going through an overwhelming time. Given the amount of paperwork, it was likely that at least something would not be completely correctly, and to get it to pass in court all the forms needed to be completed correctly. This was particularly true for applicants with language, cultural, or financial barriers. For those who ranked the process as somewhat clear (no participant ranked the process as extremely clear), the comments were similar in that there was a lot of stress among those who were applying but that the paperwork was easy to complete with support, such as if duty counsel was helping them. In other words, while there is a lot of paperwork to complete in a civil protection order application, it was viewed as relatively straightforward if someone was able to help the applicant. When asked how they would change the application process, if they could, participants focused on providing support, such as by **making legal aid or legal advice more accessible so that it would be easier for applicants to get support in completing the application**. Another participant recommended having the applicant complete an affidavit so that everything the judge needed to know would be included. Of note, an affidavit is required in certain cases, such as Supreme Court cases where the applicant is represented by a lawyer, but not for all applications. In other words, **it may be**

beneficial to require all civil protection order applications include an affidavit from the applicant in which they outline the rationale for their application.

One participant suggested adding a tick box on the form where an applicant could indicate if the application needed to be heard urgently. Currently, applicants are required to fill out a separate form that participants did not think was necessary. Similarly, another participant stated that having one clear form where you apply for the protection order, make an *ex parte* request, and provide an affidavit would help. Some participants thought that it would also be helpful to provide the civil protection order application forms in different languages. Another participant suggested that having an online application process would help to address access to court issues, though they were also unsure how practical this would be.

When asked what factors made it more likely for a judge to grant an application for a civil protection order, many factors were mentioned. Several participants felt that judges would look at the totality of the situation. Here, judges would examine the history of violence or abuse in the relationship, including both the length of time it had been happening for and the patterns of the abuse, question whether there has been an escalation or if children had been exposed to any violence, inquire about what harms had been experienced, look at victim vulnerability factors, and what services were already in place. Whether there was a safety concern or an immediate danger for the victim or children was also identified by participants as an important factor. Although the British Columbia *Family Law Act* encompasses a wide range of abusive behaviours, several participants specifically stated that evidence of physical harm or threats would increase the likelihood of a protection order being granted. Other participants felt that judges were more focused on the abuser's criminal history, for example, whether the individual had a criminal order in place or whether there any recent convictions. Overall, providing a detailed affidavit that provided recent circumstances that caused fear or distress and identifying immediate safety concerns were seen as contributing to the increased likelihood that a judge would approve the protection order request.

Some participants mentioned that judges would consider whether the applicant was using the civil protection order system to gain an advantage in their family court system, or if the applicant was abusing the system to alienate the other parent from their child(ren). In the view of some participants, in these cases, judges needed to determine whether the child was truly at risk from the other parent, though it was unclear how this process unfolded.

Participants were asked about how quickly the civil protection order process worked. Some stated that they were not sure about this, while others spoke in rather general terms. For example, some participants noted that an application could be made with a notice of motion to have the protection order issued within seven days, but also noted that this might depend on whether a judge was available to hear the case. The delay in some cases was due to court availability, but, in many cases, there needed to be time for the subject of the protection order to be informed so that they were able to appear in court to speak to the application. In highest risk situations, the process was viewed to be fairly quick, potentially concluding within a single day if there is an immediate safety concern. In emergency situations, the protection order could be made in the same day without notice being given to the other party. However, this may vary by jurisdiction, as access to judges for protection order hearings may be more difficult in more rural or remote locations. Several

participants noted that if the applicant came in on a Friday afternoon seeking a civil protection order, it was extremely unlikely that the order would be secured before the weekend. If unable to get a protection order in this kind of situation, the victim-survivor would need to involve the police if there were any immediate safety concerns or go to a safe house for the weekend.

There are various ways that the subject of a protective order, i.e., the restrained party, may be informed about the order. As noted above, the subject may be in court to speak to the protection order application and would be immediately informed about the order and its conditions. However, when an *ex parte* order is made, someone must serve the order to the restrained party. Participants were asked who would be responsible for this process. Several participants explained that it would be the protected party's responsibility to ensure that the restrained party was served. This seems to be at odds with the purpose of a civil protection order, which is to restrict contact and communication between the protected party and the restrained party. Given that the reason for issuing a protection order is because the restrained party poses a threat to the protected party, requiring the protected party to serve the order puts them in a potentially dangerous situation. Even if the order is served by email from the protected party to the restrained party, this still invites an opportunity for communication that would otherwise likely be prohibited by the order. Other participants thought that the protection order should be mailed out by the court registry. Many participants thought that sheriffs, police, or other peace officers would serve the order. Two participants stated that there was a process server company that could be used for this and that it was free of charge to the protected party. However, this did not seem to be common knowledge and may be specific to particular jurisdictions.

PROTECTION ORDER CONDITIONS

Protection orders can be crafted with a wide variety of different conditions depending on the situation. Participants were asked what conditions protected parties were typically seeking and which were typically granted. According to participants, among the more common conditions were those prohibiting either direct or indirect contact (no contact), orders to not go (no-go) onto or near particular property, such as the shared residence, the children's school, or the protected party's workplace. Children can be included in the no contact or no-go conditions, but participants mentioned that it could be more difficult to include these conditions in protection orders. In fact, there may be exceptions to the typical no contact or no-go conditions to allow for the restrained parent to communicate with or see their children. For example, indirect contact or communication, such as through text or email, may be permitted only for the purposes of arranging parenting time. Another exception may be that while there is to be no direct contact between the protected and restrained parties, communication could occur via a third party, such as a lawyer or another family member.

No direct or indirect contact and no-go conditions were viewed as the more common conditions requested and issued on a civil protection order. These conditions were universally viewed by participants as very important. However, these conditions were also viewed by some participants as difficult to enforce at times, particularly when there were exceptions made. For example, if there was a no contact or communication condition except to discuss the children or make parenting arrangements, some participants felt that inevitably these conversations would stray to other

topics. These kinds of exceptions provide a grey area during which further abuse can be perpetuated under the guise of talking about the children. Another participant felt that the no-go condition could be problematic, as this could mean that the restrained party must leave the family home. This could be challenging if the person does not have another place to stay.

Participants mentioned that additional conditions are sometimes sought, such as for the judge to order that police officers get involved in enforcing the order. It is unclear why this condition would need to be issued given that civil protection orders are already enforceable by police, and it is possible that this may lead to confusion, where police may interpret that they only criminally enforce these orders when directly specified to do so by a judge. As no police officers participated in an interview for this report, it is not certain whether this outcome occurs. It is likely that this provision would be added by judges under Section 183(3)(e) where a judge can include any condition they deem necessary to implement the order. This suggests a need for **education for police officers around the requirement that they enforce all civil protection orders, regardless of whether there is a condition requiring them to do them**. More specifically, Section 188(2) of the *Family Law Act* makes it clear that police officers may take action to enforce a civil protection order should they have reasonable and probable grounds to believe that a breach has occurred. It is also important to **educate judges to not include this additional provision stating that police are to enforce the order** because it is unnecessary and potentially leads to confusion among police about whether they are able to enforce civil protection orders when there is no such provision included in the conditions.

Another condition that could be added, though was viewed as relatively rare by participants, concerned restrictions of weapons. For example, the *Family Law Act* permits for the restrained party to face a condition prohibiting them from carrying guns or firearms, knives, or other weapons. Several participants mentioned that restrictions should also be placed on use of alcohol or drugs. However, these kinds of conditions were viewed as being more commonly listed on criminal no contact orders and less commonly included on civil protection orders.

It was important for some participants that the conditions be very clear about the restrictions on contact and communication, and that the choice of whether these conditions appeared in a protection order was not left to the protected party. For example, one participant shared that it was becoming more common to see orders where communication between parties was allowed unless the protected party decided to end that communication. This puts pressure on the protected party to be the one deciding on no contact rather than a more neutral party making that decision. Another participant explained that when communication was restricted to exclusively over text but the conditions under which this communication was allowed were not stated, this could become problematic. Given this, participants suggested that the order should very specifically state that communication via text should only be permitted for specific purposes.

In British Columbia, civil protection orders can apply to family members. By extension, this could mean that, for example, the parent of the protected party could also be included in the order if there was reason to be concerned for their safety. More often, children are the additional parties included in a protection order. Participants observed that it was irregular to see anyone other than the victim and their children listed on a civil protection order, though several participants mentioned that, on occasion, a new intimate partner may be listed as a protected party.

Participants were asked about how often they saw situations where the conditions stated in a civil protection order directly conflicted with the conditions stated in a criminal no contact order. Some participants felt that they had seen this quite often, although one participant felt that it was happening less often than it used to. A common example given was where one order prevents any communication between the protected and restrained parties, while the other order permits communication between the protected and restrained parties in limited circumstances, such as to make parenting arrangements or for the restrained party to see the children. There were concerns about putting the protected party at risk of breaching an order by telling them that they could follow the order that allowed for limited contact because, by rule, the most onerous or most restrictive order takes precedence. In contrast, another participant said that the criminal order would take precedence over the civil order suggesting that it was not the conditions that mattered but the court that the order was issued through.

When asked how often conditions were breached by the restrained party and what the typical response was to a breach, several participants stated that this was not information that they were typically privy to. However, a few participants provided comments. One participant felt that police officers were getting better at enforcing breaches, particularly with higher risk cases, while another participant said that police do not typically enforce them. A third participant said that enforcement of an order depended on the individual police officer. For example, one participant felt that police officers did not have a strong understanding of the power and control dynamics in abusive relationships and saw breaches of civil protection orders as a family argument that was not severe enough to arrest anyone. Another participant said that, on occasion, the victim engineered the breach either unintentionally because they forgot that the conditions were in place or intentionally, such as by allowing the restrained party to move back in and then phoning the police to say that the restrained person was breaching conditions. A different participant felt that how police responded would depend on the protected party's role in the breach. In other words, if the protected party was the one to initiate the contact, police would be less likely to enforce the breach. However, it is important to understand the motivation behind this. While some participants perceived that a protected party might, on occasion, intentionally bait the restrained party to breach their conditions, others suggested that the protected party might be pressured by other family members to ignore conditions, such as those that prevented the restrained party from speaking to or seeing the children. Several participants felt that the language of "indirect" contact was not clear to the involved parties. For example, the restrained party asking the children or a third party about something the protected party said or did would be considered indirect contact, as would having a third party, such as a different family member, reach out to the protected party on their behalf or sending something like an image through social media to the protected party. Nonetheless, for the most part, participants did not have much exposure to how often conditions were breached and what the typical police response was because they were more often involved at the front end of the application and were not necessarily involved following the issuing of the civil protection order.

Participants were asked whether there were any other conditions that protected parties should be able to request. Importantly, housing was mentioned by some participants. In British Columbia, this appears to be complicated as one participant noted that the restrained party could manipulate the protected party and children to leave the house where the civil protection order would then prevent them from being able to get back into the house. Given this, some participants

recommended that, in line with the other provinces, **the victim and children should be given housing and the restrained party be ordered to leave the home**. Other suggested conditions included access to supports. For example, ordering counselling for both parties was recommended by several participants, as was counselling for the children. This could include the PEACE program, formally known as the Children who Witness Abuse program. Another support could be a condition to access the Family Justice Centre mediation services to enhance the ability of the family to get assistance in working through the conflict.

PERCEPTIONS OF THE PROTECTION ORDER REGISTRY

As explained above, once issued, all civil protection orders are stored in the Protection Order Registry, which is a province-wide database. Participants were asked about their familiarity with this system, and the perceived benefits and challenges with it. Some participants knew it existed but were otherwise not familiar with the system because they did not have direct access to it. Generally, these participants explained that protection orders were automatically registered in the registry, so their clients did not need to take any steps to do this. However, one participant explained that they could refer their clients to the Protection Order Registry for updates and notifications. Two participants explained that guardianship applications needed to be checked through it, meaning that if a person was applying to be a guardian, they needed to have both a criminal record check and a protection order check as part of the approval process.

Given their lack of familiarity with the Protection Order Registry, when asked about the benefits and challenges of having a registry, many of the participants were uncertain. However, some participants mentioned that it was beneficial to have a central place that could be checked for the existence of an order and that the Registry was accessible 24 hours a day and seven days per week. Interestingly, many participants stated that a benefit was the direct access that police had to the system, as they could quickly check whether an order was in place and enforce breaches of the order. In fact, police do not actually have direct access to the Protection Order Registry. To determine whether a civil protection order is in place and what the conditions or the timeframe of the order is, police officers need to call VictimLinkBC to ask for that information. Similarly, a few participants stated that victims could access the information in the registry, which was helpful when they had misplaced the paper version of the order.

When it came to challenges with the system, delays were the primary issue that participants identified. There could be a delay between when the order was issued and when it was entered into the Protection Order Registry. If police are called in the interim, they may not be aware that there is an order in place. For example, if an order was issued on a Friday afternoon, it may not be entered into the Protection Order Registry until Monday morning. While victims do not need to submit the order to the registry, as this information is automatically included, they do need to register to be notified about any changes. For instance, if registered, they may be notified about pending expiry dates towards the end of the order's duration. One participant suggested that **there should be automatic registration of protected parties for notifications**. Another participant suggested that there could sometimes be errors in the Protection Order Registry, for example, if the wrong person's information was entered.

Participants were asked whether they ever felt that they needed direct access to the registry. Most participants stated that they did not need direct access explaining that they dealt with the court registry directly. Still, a few participants said that it would make it easier for them if they did have access to the system. The basis for this was that there were occasions when clients would call them to ask about what was in the order. In these situations, family justice counsellors would be unable to answer their clients. The only option for a family justice counsellor would be to tell their client to contact the registry directly. One participant stated that because they were not able to access the Protection Order Registry, they would always require that the parent provide them with a copy of the order so that they could see the conditions prior to giving them any information. In this case, they stated that, as part of their background screening with the families they were working with, they would ask directly about whether any protection orders were in place. While it would be helpful for family justice counsellors to be able to directly access the Protection Order Registry to confirm whether any orders were in place and what the conditions were, particularly as it is possible for the individual to lie about or fail to disclose an order, participants felt that they would find out about the order, for example, from the other parent, and then would ask the client to provide a copy of the order.

When asked whether they would make any changes to the Protection Order Registry, participants stated that they would like it to be **easier to get access to the protection order information online**. This would include the protected and restrained parties being able to access their order online and allow for victim services or others involved in the file to log in to access that information. Some participants recommended **automatically registering the protected party for notifications**, rather than requiring that they independently register with the provincial Victim Service Unit for this service. Related to this, some participants explained that it would be helpful to send out a reminder about upcoming expiries of orders so that, if a protection order was still needed, the protected party could apply to renew it. Interestingly, one participant stated that they would eliminate the Protection Order Registry because they felt it gave a false sense of security to the protected parties and was dangerous when dealing with domestic violence.

Participants were asked whether they believed there would be value in developing a National Registry of civil protection orders. Most of the participants agreed that there would be value in this. The main reason given for this view was that it would reduce the need for protected parties to re-apply for a protection order if they moved from one province to another, as information about a current order could be accessed regardless of where the protected party resided. Requiring the victim-survivor to re-apply for a civil protection order in their new jurisdiction can have the unintended consequence of informing the abuser of their current location. Another benefit of a National Registry would be that, if the abuser moved to a different province and began a new relationship and a new cycle of violence, it would provide police officers with more insight into their pattern of violence in relationships.

ENHANCING THE PROTECTION ORDER SYSTEM

In addition to providing their thoughts on how to improve the Protection Order Registry, participants were asked their thoughts on how to improve the civil protection order process. Given the previous comments made by participants, it was not surprising that one of the more common

suggestions was to increase the resources available to help applicants. Increasing access to legal aid, duty counsel, or providing the applicant with a lawyer were among the suggestions made by participants, in addition to increasing access to out of court resources that can provide support, such as the Family Justice Centres, interpreters, or advocates who can provide emotional support. Similarly, making counselling a possible condition on protection orders was suggested, both for the protected party and the restrained party, especially when children were involved. Assisting the applicant with the paperwork and reducing the amount of paperwork required for the application and streamlining the paperwork and process were additional suggestions. One participant suggested having a 1-800 telephone number where applicants could call for advice and guidance while completing the civil protection order paperwork. Speeding up the process was also recommended.

As with the Protection Order Registry, another comment was to make the civil protection order information more directly available to clients. Several participants also suggested that providing an online application form would be helpful because, for some clients, the "local" courthouse may be located several hours away. This could involve moving the entire process online, including meeting with the judge to discuss the application. Increasing after-hours application times was another suggestion. Enabling online applications may be a way to address both the concerns about geographical distance from court for some applicants and the concerns around hours of operation of the court, the difficulty in accessing the court during work hours, and the closure of the courts on weekends. In effect, online applications could be offered during the times when the court is not otherwise available.

A few participants suggested that more training be given to police officers about civil protection orders to increase their awareness about their existence and the importance of enforcing them. If police officers are unable to issue a police no contact order or peace bond, referring them to somewhere, like a Family Justice Centre, for advice on applying for a civil protection order was recommended. It was unclear how often these referrals were made by police as no interviews were conducted with police officers. Promoting more awareness about the civil protection order system, how it works, and who has access to it was also suggested as a beneficial step. For example, some participants felt that many people were not aware that they could make an application on behalf of another family member, while another participant stated that they only knew of the experiences of the clients that came to them and was not sure otherwise how potential applicants learn about the civil protection order system. Overall, most of the participants did not think that victims of abuse had a good level of awareness of the civil protection order system. Engaging in an information campaign by pushing information about the civil protection order process to traditional and social media was suggested by some participants, in addition to providing more information about Family Justice Centres. Some participants felt that police officers should provide cards or information about the civil protection order system when responding to domestic violence calls for service. While family justice counsellors already receive clients who are referred to them by different agencies, such as transition homes and social workers, increasing awareness about the civil protection order system among those who work with families experiencing abuse was also suggested. Participants also felt that providing more information to the applicant was needed, including what kinds of information they should be providing when making an application, what

they can apply for and how, and, if granted, what happens next, and what happens if the conditions are breached.

Overall, the family justice counsellor participants felt that there was a role for civil protection orders in increasing the safety for victims-survivors or potential victims-survivors of intimate partner abuse but also felt that there were several concerning challenges. These included the lack of police enforcement of civil protection order conditions, conflicting conditions between civil protection order and criminal no contact orders, and difficulty in obtaining civil protection orders in the first place because of the complexity of the paperwork and the restricted hours when court was available for the application to be heard. Given this, while family justice counsellors largely supported the civil protection order system, there were several recommendations to enhance it, including expanding court hours to facilitate access to civil protection orders and providing greater access to legal aid or duty counsel so clients filling out the civil protection order paperwork could be better supported during this process.

Protection Order Registry Data

As outlined in the methodology section, a database containing civil protection orders issued between 2015 and 2019 was provided to the authors of this report by the province of British Columbia. Originally, there were 2,981 files in the database. Although the research team requested civil protection orders involving intimate partners, a large number of the files provided did not appear to fit this designation. More specifically, 530 files were not analyzed for the current report because they were a child-focused protection order, such as a custody or parenting order where there was either no applicant or where the conditions did not concern protecting one adult from another, or the file was an amendment to a previously issued protection order, such as an updated date of expiry, vacating of a previous order, or the file involved a different kind of order, such as a protection intervention order. In addition, mutual protection orders, where both the applicant and respondent were protected and restrained simultaneously against each other, were removed from the sample. This left 2,451 files for analysis. However, it should be noted that not all these files necessarily involved a civil protection order for intimate partner violence related concerns. The research team could not conclusively identify which files involved current or former intimate partners as there was no information provided regarding the relationship status of the involved parties or the context under which the civil protection order had been granted. While one of the variables contained in the provided database recorded the "role" of the individual, the typical "roles" were as an applicant/claimant or respondent. On occasion, other roles were included, such as a mother, father, or grandparent. However, there was no role code for intimate partner. **It is recommended that the role code of "intimate partner" be added to the Protection Order Registry in the future as there is otherwise no way to easily determine how many civil protection orders have been issued in British Columbia specifically in relation to current or former intimate partners.**

As the Protection Order Registry contains data on civil protection orders that have been granted, data on civil protection orders that were applied for but not granted were not available to the research team. Therefore, the research team is unable to describe what percentage of civil

protection orders tend to be granted or how this may vary across different jurisdictions in British Columbia Given this, it would likely be necessary to conduct an observational study in family court to identify what proportion of civil protection orders appear to be granted by judges and the context under which they are requested and granted.

With these caveats in mind, the database analyzed by the research team for the current report consisted of 2,451 civil protection orders that were granted between 2015 and 2019 in British Columbia. The database was provided to the research team towards the end of 2019. Given this, the bulk of the civil protection orders issued in 2019 that were analyzed were issued between January and September. The database contained court file information, basic demographics of the applicant, respondent, and any other protected parties, the length of the civil protection order, and any conditions or exceptions to the order. As the database contained personal identifiers, a coding sheet was developed and used by security cleared members of the research team to extract the relevant information for analysis, which was then coded into an SPSS database for analysis. As will be discussed below, the research team also worked with the RCMP "E" Division Data Analysis Unit to extract criminal history and recidivism data from CPIC for the restrained parties. Again, this data was anonymized and coded by security cleared members of the research team.

TIMEFRAME OF CIVIL PROTECTION ORDERS

The number of civil protection orders issued in British Columbia increased steadily year-over-year between 2015 and 2019. Figure 1 represents the year in which the application for a civil protection order was granted. While 2019 appears to show a decrease, three months of data (October through December) were not available in 2019 based on when the dataset was created. With an average of 55.4 civil protection orders being granted in each of the first nine months of 2019, if this trend had continued for the remaining three months, there would have been approximately 665.2 civil protection orders issued in all of 2019, which is a slight decrease from 2018. However, between 2015 and 2018, the number of civil protection orders issued increased year over year.

FIGURE 1: CIVIL PROTECTION ORDERS ISSUED PER YEAR 2015-2019 (N = 2,450)

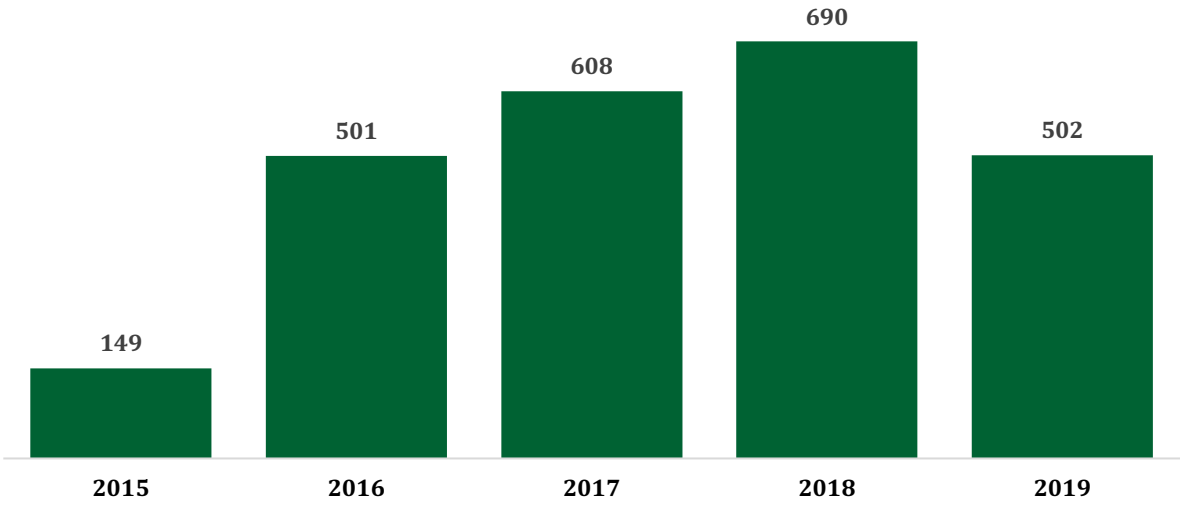


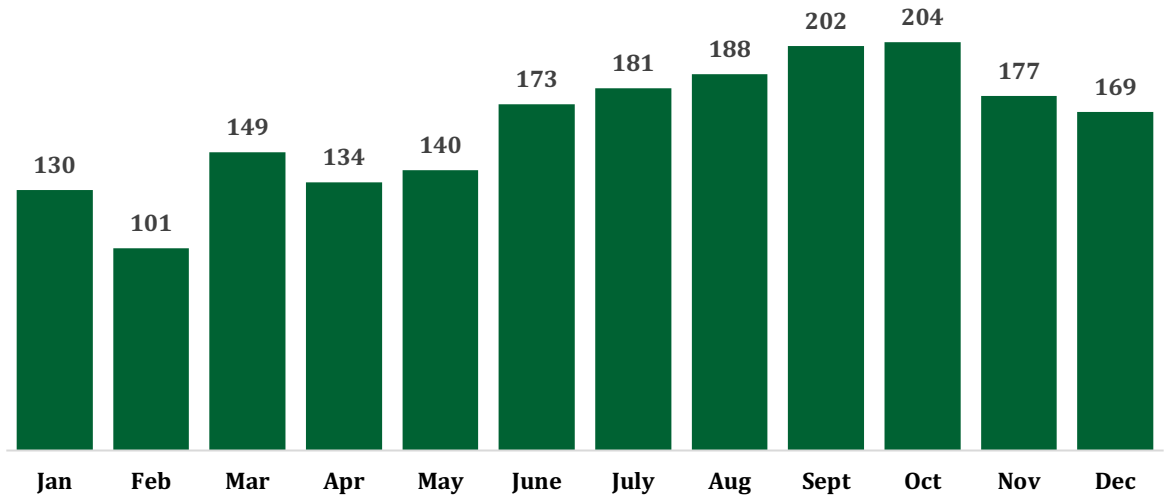
Table 1 shows the year over year change in rate of granted civil protection orders from 2015 through to the end of 2018. There was either a substantial increase in the use of the Protection Order Registry to record civil protection orders or a substantial increase in the number of civil protection orders sought when comparing 2016 to 2015 given the more than 200% increase in civil protection orders held in the Protection Order Registry between these two years. There continued to be smaller increases over the next two years. Given that only nine months of data was provided for 2019, this year was not included in Table 1. However, as mentioned above, it could be expected that approximately 665.2 civil protection orders would have been issued in2019. If that were the case, this would represent a very slight decrease of 3.6% from the number of civil protection orders issued in 2018.

TABLE 1: YEAR OVER YEAR RATE CHANGE IN CIVIL PROTECTION ORDERS ISSUED IN BRITISH COLUMBIA FROM 2015 TO 2018 (N = 1,948)

	2015 to 2016	2016 to 2017	2017 to 2018
Year over Year Change in Rate of Granted CPOs	236.2%	21.4%	13.5%

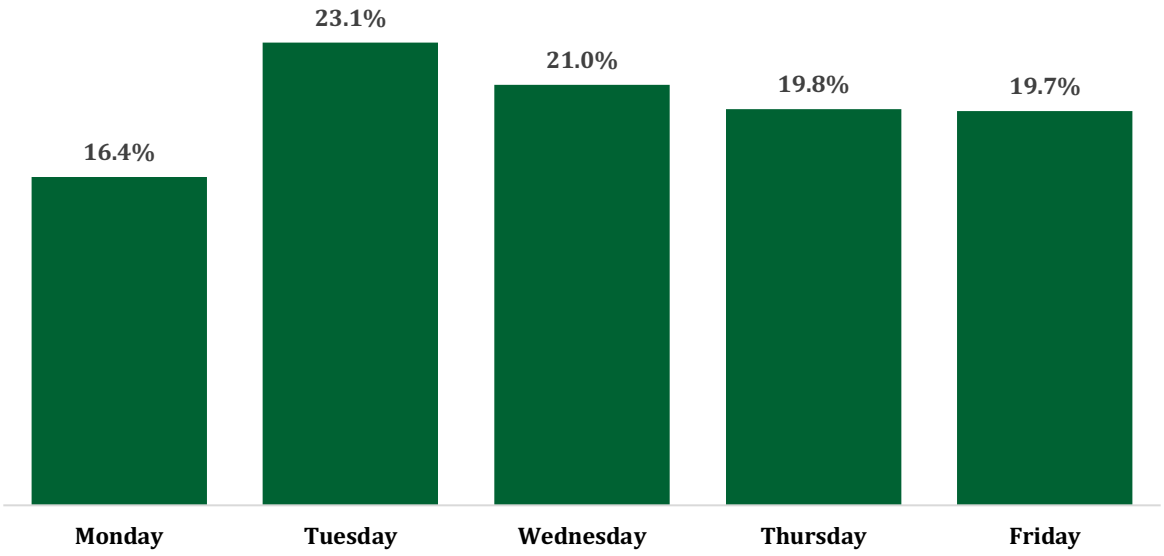
When considering the month that civil protection orders were issued, there was no clear pattern. As demonstrated in Figure 2, the most common month when civil protection orders were issued appeared to be October, followed closely by September, while the least common month was February, which likely reflects that there are fewer days of the month. Of note, data from 2019 was excluded from this analysis given that only nine months of data were available.

FIGURE 2: NUMBER OF CIVIL PROTECTION ORDERS GRANTED PER MONTH 2015-2018 (N = 1,948)



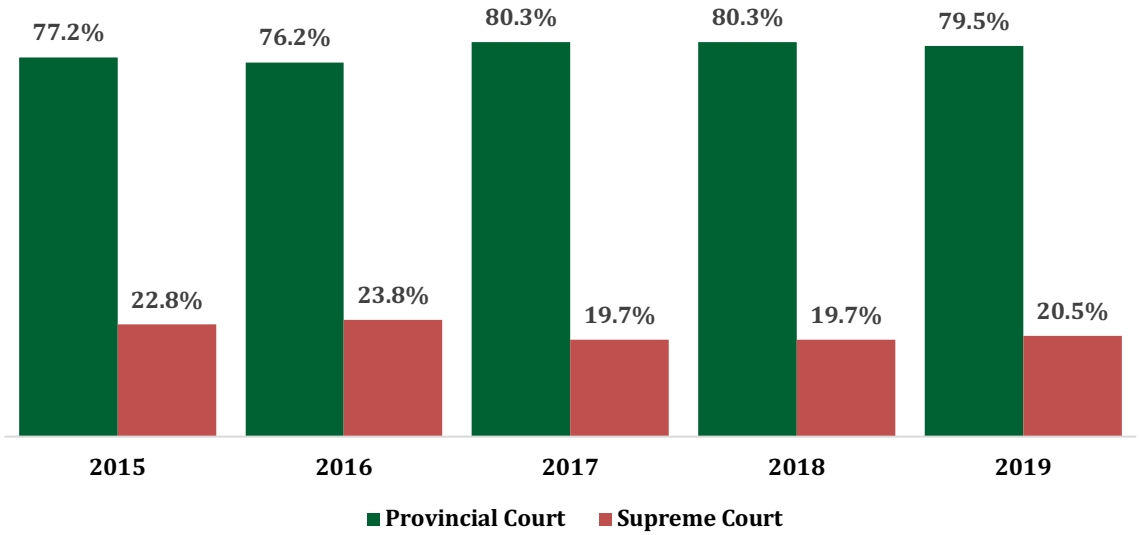
As expected, given court schedules, civil protection orders were granted between Mondays and Fridays. As shown in Figure 3, nearly one-quarter of all civil protection orders issued between 2015 and 2018 were granted on a Tuesday, while the least likely day for a civil protection order to be granted was a Monday.

FIGURE 3: DAY OF WEEK WHEN CIVIL PROTECTION ORDER GRANTED BETWEEN 2015-2018 (N = 1,947)



Returning to the full sample of civil protection orders issued between 2015 and 2019, most orders were sought and issued in Provincial Court (79.4 per cent) as compared to the Supreme Court (20.6 per cent) (see Figure 4). As discussed above, this was likely because seeking a civil protection order through the Provincial Court can be done free of cost, whereas there is a fee associated with seeking the application in Supreme Court. However, if the civil protection order is being sought while other issues are being heard by the court, such as divorce or division of property, the application must go through the Supreme Court, as these matters are not heard at the provincial level. As shown in Figure 4, these trends were consistent year over year, with up to one-fifth of civil protection orders being heard in Supreme Court on an annual basis.

FIGURE 4: CIVIL PROTECTION ORDERS ISSUED BY PROVINCIAL VS. SUPREME COURTS IN BRITISH COLUMBIA 2015-2019 (N = 2,450)



According to the British Columbia provincial government[5], there are 90 court locations across British Columbia, although only 43 of these (47.7 per cent) are staffed and operational Monday through Fridays from 9am to 4pm. The remaining 47 court locations are listed as circuit courts, meaning that they are only staffed on the days when court is in session.

In total, 57 different courts in British Columbia were represented in the data. The top 10 courts that granted the most civil protection order applications between 2015 and 2019 are provided in Table 2. Again, these data represented only those orders that were granted. The remaining 47 jurisdictions each granted less than 100 applications between 2015 and 2019. Some of these jurisdictions operate both a Provincial Court and Supreme Court. Those listed as n/a in the Supreme Court column operate only a Provincial Court (see Table 2). The City of Vancouver is unique in that, while it does operate both levels of court, these are divided into the Vancouver Law Court for Supreme Court cases and Robson Square Provincial Court. Of note, while the City of Surrey does not have a Supreme Court, one file was entered into the Protection Order Registry as heard in Supreme Court, which is likely a coding error. While Abbotsford now operates both a Provincial and a Supreme Court, the Supreme Court was introduced in 2021. Given this, all civil protection orders included in the current analysis were issued by the Provincial Court.

[5] https://www2.gov.bc.ca/gov/content/justice/courthouse-services/courthouse-locations#n

TABLE 2: NUMBER OF CIVIL PROTECTION ORDERS GRANTED BY THE TOP 10 JURISDICTIONS BETWEEN 2015-2019 (N = 2,451)

	# in Provincial	# in Supreme	Total # Granted	% of the Data
Surrey Provincial Court	305	n/a	306	12.5%
New Westminster Law Court	44	148	192	7.8%
Victoria Law Court	152	29	181	7.4%
Abbotsford Provincial Court	156	n/a	156	6.4%
Port Coquitlam Provincial Court	153	n/a	153	6.2%
Vancouver Law Court	0	153	153	6.2%
Kamloops Law Court	117	10	127	5.2%
Robson Square Provincial Court	117	n/a	117	4.8%
Nanaimo Law Court	80	25	105	4.3%
Chilliwack Law Court	70	31	101	4.1%

Most of the Supreme Court civil protection orders were issued in one of two jurisdictions: the Vancouver Law Courts (29.8 per cent) or New Westminster (28.8 per cent). Whereas there are both Provincial and Supreme Courts in New Westminster for family matters, Vancouver only operates a Supreme Court, as the Provincial Court is located separately at Robson Square. Given this, 100% of the civil protection order applications at the Vancouver Law Court were made through the Supreme Court. It was interesting to find that, in British Columbia, around 80% of all civil protection orders were consistently issued by Provincial Courts; however, in New Westminster, the reverse was true (see Table 2). More specifically, 77.1% of all civil protection orders issued by the New Westminster Law Courts were at the Supreme Court level, with the remaining 22.9% being issued at the Provincial Court level. It is unclear why this pattern was present. One possibility is that The Supreme Court in New Westminster serves as the "local" Supreme Court for the surrounding areas that either have no law court (e.g., Burnaby, Langley) or which have only a provincial court (e.g., Richmond, Surrey).

It is important to remember that Table 2 reflects raw numbers of civil protection orders rather than rates that would control for population size. This explains why the top 10 jurisdictions for granted protection orders were primarily found in the Lower Mainland. Moreover, while the court houses are labelled by jurisdiction (e.g., "Surrey" Provincial Court), it is important to acknowledge that many municipalities in British Columbia share court services. For example, while the City of Burnaby is one of the largest three municipalities in British Columbia, there are no family court services operating in there. Instead, residents would need to access the law courts in nearby jurisdictions, such as Vancouver or New Westminster. In fact, half of the largest 10 municipalities in British Columbia do not operate a family law courthouse within their jurisdiction.

Population estimates were obtained from the British Columbia provincial government [6] and used to calculate average population sizes between 2015 and 2019. The largest 10 municipalities in British

[6] https://www2.gov.bc.ca/gov/content/data/statistics/people-population-community/population/population-estimates

Columbia are provided in Table 3, along with their average population size from 2015 to 2019. As shown in the righthand column, of the 10 largest municipalities in British Columbia, half (Burnaby, Coquitlam, Delta, Langley, and Saanich) do not operate Provincial or Supreme courts. This may explain why, despite New Westminster being the second most common court to issue civil protection orders in British Columbia, it is only the 18th largest city in British Columbia.

Given that multiple cities will use the court services offered by different jurisdictions, it is not possible to calculate civil protection order rates based on city population size. Despite this, there were some findings of interest. For example, one of the largest municipalities in British Columbia is the City of Richmond with the fourth largest population size behind Vancouver, Surrey, and Burnaby. However, civil protection orders were far less commonly issued by the Richmond Law Courts, with only 39 (representing 1.6 per cent of the data) civil protection orders being issued between 2015 and 2019 (see Table 3). It is unclear why so few civil protection orders were issued in Richmond over this period. Although it was expected that circuit courts, such as in Grand Forks (n = 3), Lillooet (n = 1), and Masset (n = 3), were far less likely to issue civil protection orders than fully-staffed Provincial or Supreme Courts, it was surprising to see that only one civil protection order appeared to have been issued across all of 2015 to 2019 in Prince Rupert where both a Provincial Court and Supreme Court are in operation. These findings raise some important questions about equality of access to civil protection orders across the province. While the current study is unable to address these questions in more depth, **future research should explore whether the level of awareness about civil protection orders and support for (and consequently more promotion of) the civil protection order system among service providers varies by jurisdiction**. Furthermore, **exploring the barriers to accessing civil protection orders in more remote communities would also be beneficial**. As will be discussed in the recommendations section of the report, the **inconsistent access to civil protection orders across the province is problematic and should be rectified, such as through provision of online applications and court hearings**.

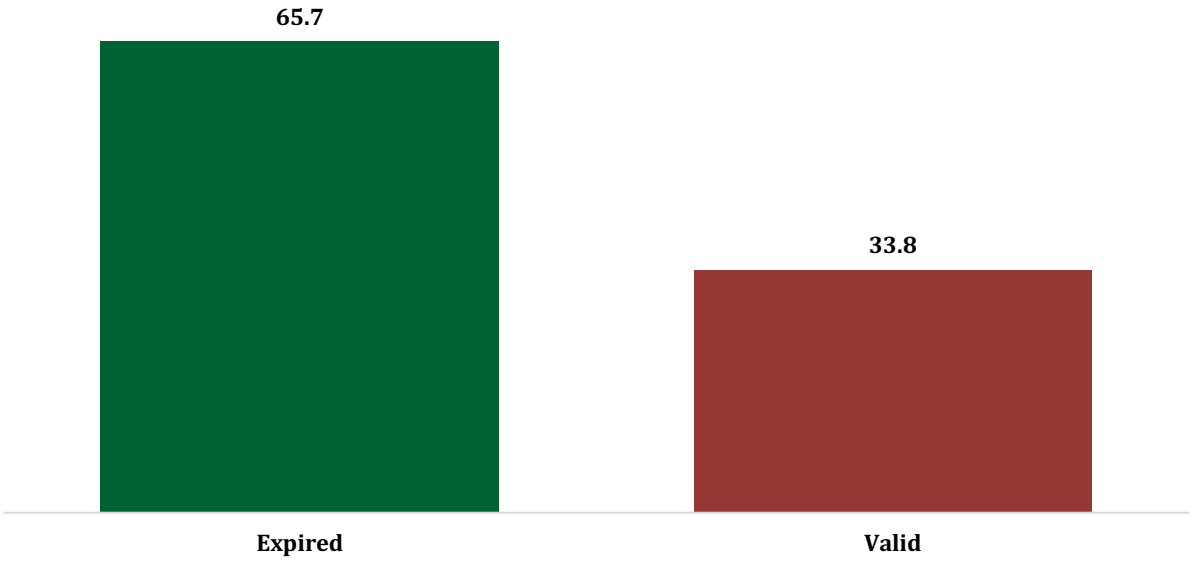
TABLE 3: 10 LARGEST MUNICIPALITIES IN BRITISH COLUMBIA VS. PRESENCE OF COURT HOUSES

	Population Size	Court House in Operation
Vancouver	673,237	Yes
Surrey	553,861	Yes
Burnaby	247,474	No
Richmond	210,264	Yes
Abbotsford	150,882	Yes
Coquitlam	147,914	No
Kelowna	136,748	Yes
Langley, District Municipality	126,540	No
Saanich	119,608	No
Delta	108,025	No

CIVIL PROTECTION ORDER TIMELINES

At the time the data was provided by the Protection Order Registry, not all civil protection orders had expired. Where information was available (see Figure 5), while most civil protection orders had expired, one-third remained valid. These civil protection orders would either expire on the termination date listed on the order, which would typically be one year after the date the order became effective, or the civil protection order could be terminated early, such as if the protected party sought to vacate the order in court or if the restrained party gave notice to set aside the order and that request was granted by the court.

FIGURE 5: CURRENT STATUS OF CIVIL PROTECTION ORDERS (N = 2,451)



The Protection Order Registry contains information on several relevant dates, including the date that the civil protection order application was filed, when the order was granted, when the order became effective, when the order was received at the Registry, when the order was entered into the Registry, and when the order is set to expire. Analyses were conducted using these dates to determine the typical length of time that the civil protection order application process would take, and the typical length of time that civil protection orders were issued for.

Unfortunately, there were several issues with these data. It appeared that for most files, at least one of the dates was not entered correctly into the Registry. For example, when comparing the number of days between when a civil protection order was filed and when the parties appeared in court, 160 of the 2,411 files with both a filing date and appearance date reflected a negative number of days. In other words, the data showed that for 160 civil protection orders, the parties appeared in court between one and 304 days prior to when the civil protection order was filed. Similarly, there were 51 files where a civil protection order was made effective anywhere from two to 547 days prior to when it was received by the Registry. While it is plausible that an order may become effective several days before it is officially received by the Registry, only two of these cases fit

within this timeline. The remaining 49 cases became effective between five and 547 days before the Registry was documented as having received it. Likewise, three files became effective anywhere from four to 61 days before they were granted. However, the timeframe where the greatest number of errors appeared to occur consisted of the dates that were entered for when the civil protection order was received by the Protection Order Registry and when it was entered. In this case, 1,260 civil protection orders reflected a negative date suggesting that the order was entered anywhere from one day prior to being received by the Registry up to 1,296 days beforehand. These errors appear to be driven by the wrong year being entered into the Registry. For example, some civil protection orders that appear to have been received by the Registry in 2019 were documented as being entered in 2016. Overall, 55.4% of the civil protection order data consequently appeared to contain at least one error in dates based on having a unexpected negative timeframe in the overall civil protection order process.

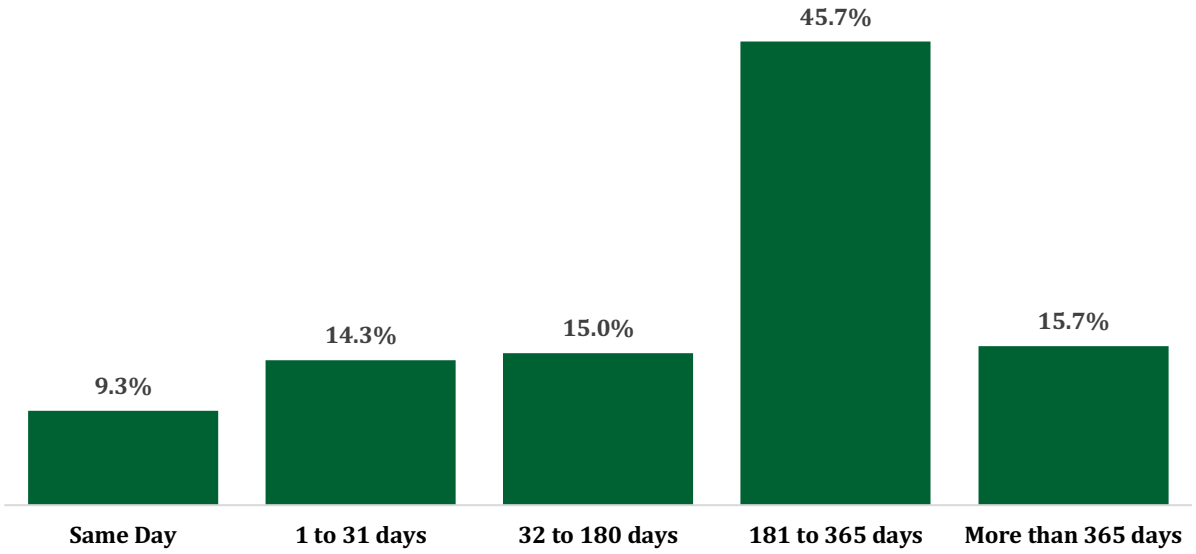
Further, there were also some issues with unexpected timeframes that reflected a much longer than expected process between the various steps. Again, it is likely that the wrong year was entered for some of these dates. As an example, two civil protection orders were documented as having an appearance date one year after they were filed. In total, 1,093 protection orders became effective one or more days after they were granted by the courts. Technically, in British Columbia, a civil protection order becomes effective the moment it is issued by the judge. It is plausible that, in some cases, a court might order a civil protection order to come into effect within a few days or even possibly a few weeks following the order being granted, for example, for a respondent who may soon be released from custody. Still, it was concerning to see that 748 of the civil protection orders appeared to come into effect more than one month after they were granted, while 129 did not appear to come into effect for more than one year after they were recorded as granted by the courts. Overall, 895 (36.5 per cent) of the civil protection orders contained at least one step in the process (file to appearance, appearance to granted, granted to effective, effective to received, or received to being entered) that was recorded in the Protection Order Registry as taking more than one month (31 days) to complete.

There was only one stage in the civil protection order process where the dates did not appear to have any errors. When an appearance date was recorded (n = 2,382), all files showed that the civil protection order was granted on the same date. There were also no negative dates when comparing the date that a civil protection order became effective and when it was terminated, meaning that all civil protection orders expired either the same day they were issued (n = 198, 9.3 per cent) or on a date in the future (n = 1,931, 90.7 per cent). These patterns suggest that, while the other dates may contain errors, the effective dates appear to have been entered accurately. However, according to the termination dates, there were some unnaturally long civil protection orders, for example, lasting as long as 15 years. Furthermore, nearly one-in-ten (9.3 per cent, n = 198) civil protection orders appeared to have been terminated the same day that they came into effect. Figure 6 shows the grouped distribution of civil protection order lengths. Typically, civil protection orders are issued for a one-year period unless the judge sets a different date.[7] In the current study, just under

[7] https://www2.gov.bc.ca/gov/content/safety/crime-prevention/protection-order-registry/qa

half of all civil protection orders between 2015 and 2019 were between six months and one year in length, most of which lasted for one year.

FIGURE 6: LENGTH OF CIVIL PROTECTION ORDERS IN BRITISH COLUMBIA BETWEEN 2015-2019 (N = 2,129)



As a result of the numerous apparent errors in the dates, the civil protection order timeline data could not be reliably analyzed. Rather than providing the average length of time for each step in the process, as this value would be affected by the extreme scores in the data, the most common number of days is reported in Table 4 for each of the various steps. Overall, while there were challenges with the accuracy of these dates, it appeared that most commonly, from the point of filing a civil protection order to the point where the civil protection order expired or was terminated, the process took one year to conclude. Importantly, it appeared as though most individuals who filed a civil protection order were able to appear in court the same day and have the civil protection order granted. However, this data does not capture delays in filing a civil protection order due to the court's operating hours. As discussed above, courts not being available after typical work hours or on the weekends was perceived by interview participants as a barrier to some potential applicants. Therefore, access to the civil protection order system appeared to work in a timely fashion for those who were able to access a court during regular operating hours; however, this data does not reflect delays that may occur prior to being able to access the court system, such as if a civil protection order would have otherwise been sought on a weekend. Moreover, it does not capture how many potential applicants who would otherwise have sought a civil protection order were deterred by the lack of access to courts outside of the Monday to Friday 9am to 4pm scheduled resulting in a failure to apply.

TABLE 4: TIMEFRAME FOR THE CIVIL PROTECTION ORDER AND PROTECTION ORDER REGISTRY PROCESS

Number of days between…	Minimum and Maximum Days to Complete	Most Common Number of Days (% of Data)
Order Filed to Appearance Date	-304 to 366	0 (93.1%)
Appearance Date to Granted Date	0	0 (100%)
Granted Date to Effective Date	-61 to 1,296	0 (53.9%)
Granted Date to Received Date	-29 to 1,297	1 (32.7%)
Received Date to Entered Date	-1,296 to 366	0 (48.1%)
Effective Date to Terminated Date	0 to 5,479	365 (31.0%)
Filed Date to Effective Date	-304 to 1,296	0 (50.2%)
Filed Date to Terminated Date	-2 to 5,801	365 (27.1%)

Overall, given the errors that were present in many of the dates recorded, **it is imperative that steps be taken to address data quality**. There appeared to be fewer errors in the civil protection order dates themselves, particularly in terms of the date when the order became effective, although there were some errors with the termination dates. Data accuracy is essential for these dates, as this information may be sought by police officers when breaches of conditions of civil protection orders are reported.

In total, 147 files (6 per cent) of the civil protection orders included information regarding the timeframe within which a civil protection order needed to be served to the restrained party. The days to serve the restrained party ranged from one day to 33 days, with an average of 5.3 days. In 18.4% of the files where there was a set number of days to serve the order, there was no designation as to who was required to serve the restrained party. More broadly, 596 of the 2,434 civil protection orders (24.5 per cent) included a statement as to who was to serve the order on the restrained party. In nearly half of these cases (44.3 per cent), the court ordered that a sheriff or other peace officer serve the order on the restrained party. In some of these cases, the court also required that proof of the order being served be provided to the Protection Order Registry. Of note, the *Family Law Act* does not require that there be proof that the order was served on restrained party before the police can enforce the civil protection order. Rather, the moment the civil protection order is issued in court, it becomes criminally enforceable by the police. The next most common method of serving the order on the restrained party was by the applicant themselves (24.4 per cent). This could occur in several ways. For example, the applicant may be required to serve the order in person on the restrained party (17 civil protection orders included this statement), or by email (61 civil protection orders included this statement). In total, 68 civil protection orders directed the applicant to serve the civil protection order on the restrained party but did not state how this should be done. Regardless of the method, directing the protected party to serve the order on the restrained party is deeply problematic for at least two reasons. First, doing so might put the protected party at risk, given that the nature of a civil protection order is to prevent the restrained party from coming into contact or otherwise communicating with the protected party. Second, as mentioned above, the civil protection order becomes enforceable criminally the moment it is ordered, therefore, requiring the protected party to be the one to serve the order on the restrained party means that there will automatically be a violation of the civil protection order conditions.

Given this, **the court should never require that the protected party serve the restrained party**. Other options, such as having sheriffs or other law enforcement officers serve the order if it needs to be done in person and directing the Protection Order Registry to serve the order via email or letter mail should be the main ways that a civil protection order is served upon the restrained party.

In addition to being served either by the sheriffs or another law enforcement officer, or by the applicant themselves, 17.3% (n = 103) of the files stated that the protection order was to be served by the court registry process service. For example, a process server would be hired to serve the order on the restrained party. Finally, 13.9% (n = 83) of the orders were directed to be served on the restrained party in some other way. This included having a third party, such as a family member of the protected party, serve the order, having another formal organization (e.g., the military) serve the order on the restrained party, by specifying that the order needed to be served in person but not stating who that person should be leaving the order with a family member of the restrained party, having the lawyer or a social worker provide the order to the restrained party, or serving the order on the restrained party via text or social media, such as through Facebook messenger. Considering the potential threat to safety that a restrained party may pose, directing a non-law enforcement professional to serve the order on the restrained party is not ideal. Again, it is recommended that **civil protection orders be served on the restrained party in person by those with professional training to do so, such as law enforcement or specialized process servers, or via a formal email and/or letter mail from the Protection Order Registry.**

Less than half of the civil protection orders (39.9 per cent) stated a timeframe within which the restrained party could apply to set aside the civil protection order. The number of days they could do so ranged from one day to 60 days, with an average of 8.1 days. Of note, while, in most cases, the judge simply stated that there were *x* number of days to apply to set aside the order, on occasion, this was specified to be business days. While this was uncommon, it could potentially raise confusion about how to interpret the number of days that the restrained party had to apply to have the order set aside. While it was unclear why a timeframe to set aside the order was given in less than half of the cases, one potential explanation may be whether the parties attended court when the civil protection order was issued. It is possible that when the party is not in attendance, judges may be more likely to provide a timeframe within which they need to respond to the order compared to when the restrained party had already appeared in court and was able to speak to the nature of the request. Overall, the Protection Order Registry documented that the parties attended in 79.9% (n = 1,953) of files, though it was not clear whether this meant that both the applicant and respondent attended or that at least one of either the applicant or respondent attended court. The parties were significantly more likely to attend cases heard in Provincial Court (93.6 per cent) than in Supreme Court (28.7 per cent)[8], which makes sense given that lawyers can appear in Supreme Court on behalf of their clients. There was a statistically significant association when comparing whether the parties attended and whether a timeframe was given for the restrained party to apply

[8] x^2 (1) = 1,065.27 p < .001

to set aside the order;[9] however, it was not in the expected direction. A timeframe to set aside the order was twice as likely to be stated when the parties attended court (44.2 per cent) compared to when they did not attend court (23.0 per cent). Again, it was unclear whether parties attending court meant both the applicant and the respondent and so it is possible that these cases reflect situations where only the applicant appeared. In fact, there was some lack of clarity around what was meant by the party attended data as appearance dates were recorded for many of the files where the parties were recorded as not attending court. Of note, there was not a statistically significant relationship when comparing the length of a civil protection order from the date it became effective to the date it was terminated when considering whether the restrained party was given a timeframe within which to apply to set aside the order. Civil protection orders where the restrained party was given a timeframe to apply to set aside the order were, on average, 238.8 days in length, where civil protection orders where the restrained party was not given a timeframe to apply to set aside the order were, on average, 246.3 days in length.[10] The same was true when only considering those civil protection orders that had already expired (201.6 days for those given a timeframe to set aside the order compared to 196.7 days for those not given a timeframe to set aside the order).[11] In other words, it did not appear that providing the restrained party with a timeframe within which to apply to set aside the order resulted in any meaningful changes to the duration of a granted civil protection order.

APPLICANT CHARACTERISTICS

Limited demographic data was available for the applicants, protected parties, and restrained parties. While the database included variables for date of birth and sex of the involved parties, there was a substantial amount of missing data. For example, the sex of the applicant was only recorded in half (52.1 per cent) of the civil protection orders. Of the 1,278 civil protection orders where sex of the applicant was recorded, the majority (83.9 per cent) were identified as female with the remaining 16.1% identified as male.

Date of birth was more commonly available with only 13.0% (n = 319) of the applicants missing this information. However, there again appeared to be a few issues with the dates that were recorded for the applicant's date of birth. For example, several applicants had ages listed for them that would make them infants or children. One applicant was recorded as being 0 years old at the time the civil protection order was granted, while another was three years old. Given this, these cases were considered missing data for the purpose of analysis, but the remainder of the cases were left unchanged. After removing the two cases, date of birth was available for 2,128 of the applicants in civil protection orders. These ages ranged from 16 years old to 92 years old. On average, the applicants in civil protection order files were 38.3 years of age. While applicant sex was missing for

[9] x^2 (1) = 73.69, p < .001

[10] t (2,084.7) = .773, p > .05

[11] t (1,448.3) = - .589, p > .05

many of the applicants, the available data showed a statistically significant difference in the average age of male applicants (43.9 years of age) compared to female applicants (37.4 years of age).[12]

As discussed in the literature review above, applicants for civil protection orders will not always be deemed the protected party by the courts. In the current study, most of those who applied for a civil protection order were in fact given protected status (91.1 per cent), while 8.9% of the applicants were restrained. Again, while there were many cases where the applicant's sex was not recorded, when analyzing 1,264 civil protection orders where both the applicant sex and their status as either protected or restrained was known, there was a clear and statistically significant pattern where female applicants were significantly more likely (97.6 per cent) than male applicants (62.9 per cent) to be given protected status.[13] Overall, 75.2% of the 101 applicants who were restrained were identified as male while 24.8% were identified as female. There was not a statistically significant difference in the average age of applicants who were given protected status (38.3 years old) and applicants who were given restrained status (40.3 years old).[14]

RESPONDENT CHARACTERISTICS

Similar issues occurred with the respondent data. Of the 2,451 civil protection orders, sex of the respondent was only documented in 1,222 (49.9 per cent) of cases. When respondent sex was known, most (84.4 per cent) respondents were male, while 15.6% were female. Again, there were some errors in the data with respect to the respondent's age. While the *Family Law Act* does not clearly stipulate the minimum age at which a person may be subjected to a civil protection order, given that these orders are criminally enforceable by police, it is presumed that the respondent must be at least 12 years of age, which is when the *Youth Criminal Justice Act* becomes applicable. Based on the year of birth recorded for the respondents in this sample, at least two dates of birth for respondents were recorded incorrectly, as they were between the ages of 0 and five years of age yet documented in the database as a restrained person. An additional six cases involved youth who were between 15 and 17 years of age at the time they were restrained by a civil protection order. Unfortunately, there was no way to validate the accuracy of this information. As with the applicant age, presuming that teenagers may be subject to a civil protection order if, for example, dating violence were to occur, these were left in the dataset but the 0- and five-year-old cases were removed from the analysis. Following this, the respondents ranged in age from 16 years old to 92 years old, with an average age of 39.2.

As with the applicant status, the respondent may either be designated by the courts as a protected party or a restrained party. Of 2,437 civil protection orders where this information was available, most (90.5 per cent) of the respondents were documented as restrained, while one-in-ten (9.5 per cent) were considered protected. Again, there was a statistically significant relationship between the respondent's sex and their designation as either the protected or restrained party. Respondents who were female were significantly more likely (41.4 per cent) than respondents who were male

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[12] t (250.4) = 6.38, p < .001

[13] x^2 (1) = 281.49, p < .001

[14] t (1,232) = -1.59, p > .05

(3.3 per cent) to be given protective status.[15] Overall, of the 1,102 respondents who were restrained and where the sex of the respondent was known, 89.8% were identified as men.

Whereas there was not a statistically significant relationship when comparing the average age of applicants who were protected versus restrained, there was a statistically significant relationship when comparing the same information for respondents. Respondents who were restrained were statistically significantly older (39.6 years of age) than respondents who were protected (36.8 years of age).[16] There were an additional 38 civil protection orders where more than one respondent was listed. Given that this only constituted 1.6% of the data, and due to the consistent issues with missing demographic information, these cases were not analyzed further.

APPLICANT AND RESPONDENT PAIRS

As shown in Table 5, most commonly, the civil protection orders analyzed involved an unknown sex of applicant and an unknown sex for the respondent. Following this, the next most common pairing was a female applicant with a male respondent. Only 6.4% of the data involved a male applicant with a female respondent. It was very rare to see civil protection orders involving both a male applicant and respondent or a female applicant and respondent.

TABLE 5: SEX OF APPLICANT & RESPONDENT PAIRS (N = 2,451)

Unknown Applicant Unknown Respondent	45.7%
Female Applicant Male Respondent	38.8%
Male Applicant Female Respondent	6.5%
Female Applicant Unknown Respondent	4.2%
Unknown Applicant Male Respondent	1.7%
Male Applicant Male Respondent	1.6%
Female Applicant Female Respondent	0.8%
Unknown Applicant Female Respondent	0.5%
Male Applicant Unknown Respondent	0.3%

Comparisons were also drawn between the ages of the applicant and respondent. Applicants ranged in age from 57 years younger than the respondent to 51 years older. On average though, the difference in age between the applicant and respondent was less than one year (-0.8). While it is entirely possible that some of the applicants and respondents with large age differences may have been in an intimate partner relationship, the large age differentials for many cases suggests that the civil protection orders provided were not restricted to intimate partners and instead also included other relationships, such as a parent being protected from an adult child.

[15] x^2 (1) = 276.16, p < .001

[16] t (1,157) = -2.53, p < .05

CHARACTERISTICS OF THE ADDITIONAL PROTECTED PARTIES

In addition to the main protected party, other family members may be included in a civil protection order. There was at least one additional protected party in the majority (59.0 per cent) of civil protection orders that were granted by family courts in British Columbia between 2015 and 2019. As shown in Table 6, most commonly, there were either one or two additional protected parties included in the civil protection order. Overall, there were at least 2,496 protected parties included in the civil protection order beyond the 2,451 applicants.

TABLE 6: NUMBER OF PROTECTED PARTIES IN ADDITION TO THE APPLICANT (N = 2,451)

	%
Zero additional protected parties	41.0%
One additional protected party	28.8%
Two additional protected parties	20.2%
Three additional protected parties	7.5%
Four or more additional protected parties	2.5%

Most commonly (94.7 per cent), the additional protected parties were children. In total, there were at least 2,365 children either listed as a child on file (n = 1,448) with protected status or who were included in the conditions as an additional protected party (n = 917). The rest of the additional protected parties appeared to include a grandparent or parent of one of the parties or a new intimate partner. However, these other roles were not clearly specified in the data and so should be interpreted with caution.

There was a significant amount of missing data when it came to the sex of the additional protected parties. Generally, this information was only available when the protected party was specifically listed in the Protection Order Registry (e.g., a child on file) as opposed to when they were mentioned only as part of the conditions (e.g., a child). Given the sheer amount of missing data regarding the sex of the protected parties, this data could not be analyzed.

Date of birth was more commonly available for the additional protected parties as judges would typically include this information along with the full name of the protected party, at least when it was a child, when listing the conditions, and when indicating who the conditions applied to. Again, some mistakes in date of birth were reflected in the data, such as when protected parties were calculated to be -28 years of age at the time the protection order was granted. Overall, 94.6% of the additional protected parties where a date of birth was recorded were between the ages of 0 and 17 years old, with most of the protected parties where age was known falling between 0 and eight years of age (61.5 per cent).

CONDITIONS PRESENT IN CIVIL PROTECTION ORDERS

As discussed in the literature review, Section 183 sets out the conditions that judges may include in a civil protection order. Unfortunately, 299 civil protection orders (12.2 per cent of the data) did not contain specific information on the conditions in the Protection Order Registry. Instead, these civil protection orders typically stated that the order was signed on the bench and to view the

electronic record or image for the terms of the conditions. It is not clear why this information would not be entered into the Protection Order Registry where it would conceivably increase the quality of information given to police officers about the context of a civil protection order or to increase the speed with which they could receive information about a civil protection order. Of note, these files were significantly more likely to be present in civil protection orders that were issued by the Supreme Court.[17] More specifically, when the Protection Order Registry referred to an electronic image for the conditions, 77.3% of these orders were made in the Supreme Court. Overall, nearly half (45.3 per cent) of all civil protection orders issued in the Supreme Court did not have their conditions included in detail in the Protection Order Registry. These 304 files were not analyzed further in this section of the report. An additional five civil protection orders did not contain any information on conditions and were also excluded from analysis.

The first set of analyses focused on the conditions issued by judges under Section 183(3) of the *Family Law Act*. Briefly, these included no direct or indirect communication, no attendance orders, no following, no weapon possession, and directives to remove the restrained party from the home or to escort either the restrained party or protected party to the home to collect their belongings, in addition to several other conditions. As shown in Table 7, there were 13 different conditions that the judge could attach to a civil protection order from those listed in Section 183(3) of the *Family Law Act*. On average, judges issued three conditions from Section 183(3). This ranged from no conditions up to nine different conditions. Nearly all civil protection orders issued in British Columbia between 2015 and 2019 included the main two conditions of no direct or indirect contact or communication with the protected party, and no attending at, near, or entering a particular place or set of places. In addition, half of the orders included conditions not to have direct or indirect communication with a child. Just over one-quarter (27.8 per cent) of civil protection orders included a weapon or firearm prohibition (see Table 7). Less common conditions were for the restrained party to vacate the home 0.5 per cent), for the police to escort either the restrained or protected party to the home to remove their belongings (2.1 per cent), or for police to seize any documents pertaining to weapons or firearms (6.0 per cent).

[17] x^2 (1) = 656.75, p < .001

TABLE 7: CONDITIONS ATTACHED TO CIVIL PROTECTION ORDERS (N = 2,152)

	%
No direct/indirect contact or communication with the protected party	91.8%
No attendance at, near, or entering a place	87.2%
No direct/indirect contact or communication with a child	50.8%
No weapon or firearm possession	27.8%
No possession of documents relating to weapons or firearms	13.0%
No following the protected party	8.6%
Police accompany the restrained party to supervise removal of belongings	7.3%
No direct/indirect contact or communication with another named protected party	6.9%
Immediate removal of restrained party from home	6.6%
Police seize firearms/weapons related documents	6.0%
Police accompany the protected party to supervise removal of belongings	2.1%
Restrained party report to the court at a time and manner specified	0.8%
Removal of restrained party from home by a specified date	0.5%

Restrictions Found in Civil Protection Orders

Overall, 1,929 (91.1 per cent) of the civil protection orders included at least one restriction on the restrained party's ability to attend at, near, or entering a place. When examining only those who had received at least one restriction, the average number of restricted areas per civil protection order issued in British Columbia between 2015 and 2019 was 2.7. The number of restricted areas ranged from one to seven. Table 8 provides an overview of where restrained parties were restricted from attending or being near. Most often, restricted parties were prevented from attending at, near, or entering any of the protected party's(ies) residence (97.5 per cent), place of employment (78.7 per cent), or school (69.7 per cent). Some additional locations included in the "other" category included places of worship, family cabins, or places where the child participated in extracurricular activities (see Table 9).

TABLE 8: LOCATIONS WHERE RESTRAINED PARTIES WERE RESTRICTED FROM ATTENDING (N = 1,929)

	%
Residence	97.5%
Place of employment	78.7%
School	69.7%
Daycare	8.2%
Place of education	3.8%
Property	3.5%
A place regularly attended by the children	2.7%
Business	2.6%
Any premises occupied by the applicant and/or the children	1.2%
Recreation centre	0.5%
Vehicle	0.2%
A place where the children are expected to be found	0.3%
Summer Camp	0.2%
Storage Locker	0.1%
Caregiver Residence	0.1%

Unfortunately, there was a substantial amount of variation when it came to the distances specified for the restrained. For example, some civil protection orders stated that the restrained party must stay anywhere from one-half block to up to five blocks away from these locations. Others stated that the restrained person must stay from one-half or one kilometre away up to 10 kilometres away. Many qualified the distance in metres, as well as miles or yards. Again, this ranged widely from 10 metres to 500 metres. Some of the protection orders gave different distances that the restrained party should stay away depending on the location. For example, one file indicated that the restrained person had to be 10 metres away from the applicant unless in court but 100 metres away from the residence. Overall, there was no consistency or apparent reason for how judges determined the distance that the restrained party should keep away from the various restricted areas. This is problematic, not only in terms of inconsistent directions being given to restrained parties across the province, but also in terms of making it complicated for the accused to understand or follow, particularly when the distance varies within the same order based on the different locations. It is recommended that **judges be provided with training on what an appropriate distance might look like in a civil protection order and offer some consistency with the units of measurement given**.

Additional Conditions Found in Civil Protection Orders

As suggested by Section 183(3)(e), the court can attach any terms or conditions that they deem necessary to protect the safety and security of the protected party(ies) or to implement the order. Given this, it was not unsurprising that some additional conditions were attached to protection orders. Just under one-fifth (18.8 per cent) of civil protection orders included at least one additional condition. Between one and three additional conditions were attached. On average, when additional conditions were attached, there were 1.2 additional conditions stated. As shown in Table 9, among

the most common additional conditions attached were for the restrained party to immediately attend a police station to relinquish their weapons or firearms (22.8 per cent) and for the police to remove a restrained party from a prohibited location if found there (22.8 per cent). In addition, 13.9% of the files stated that police could enforce the civil protection order if they had reasonable grounds to believe it had been contravened. Again, this is not necessary to clarify in a civil protection order itself because the *Family Law Act* already clearly stipulates that police can enforce contraventions of a civil protection order using reasonable force as necessary. Including it as part of the stated conditions may lead police officers to believe that they can only enforce civil protection orders when this clause is included, which is not correct. Another 9.4% of the civil protection orders included the additional condition that police were to assist in enforcing the terms. Often, this was phrased in terms of ordering the police to seize or apprehend the children if found with the restrained party and return them to the protected party or other guardian. In total, 23.8% of the civil protection orders included some other type of condition, such as not to speak negatively about the other person while in the presence of the child(ren), prohibiting the restrained party from molesting, annoying, harassing, or attempting to do any of these to the protected party(ies), to clarify that the protected party will exercise all parenting responsibilities or that the child(ren) will reside with the protected party, to not remove children from the area, to not see the child(ren) within 24 hours of consuming drugs or alcohol, to award costs to the protected party, or to not enlist any other party to follow the protected party. Interestingly, one of the additional conditions required the restrained party to complete courses in anger management and substance abuse by a particular date. However, this only occurred in only one of the files.

TABLE 9: ADDITIONAL CONDITIONS INCLUDED IN CIVIL PROTECTION ORDERS (N = 404)

	%
Other	23.8%
Immediately attend police station to relinquish weapons of firearms	22.8%
Police officer may remove restrained party from a prohibited place if found there	22.8%
Carry a copy of the civil protection order on person at all times when outside residence and produce on demand	19.8%
Police to enforce the order if reasonable grounds to believe it was contravened	13.9%
Police officer to assist in enforcing terms	9.4%
No posting of electronic communication on social media referring to the protected party(ies)	3.5%
Police officer may remove any prohibited object if found on restrained party	2.0%
Specifies a potential punishment for contravening the terms	1.7%

Exceptions Found in Civil Protection Orders

Some civil protection orders also included exceptions to the conditions. For example, this could occur if the order included no direct or indirect communication between the protected and restrained parties, except under a listed set of circumstances. Two-thirds (64.3 per cent) of the civil protection orders with information available on the conditions (n = 2,147) contained at least one exception. The number of exceptions ranged from one (29.7 per cent of cases where an exception

was added) to eight exceptions, which occurred in only one case. On average, when there were exceptions, there were 2.9 exceptions made.

Table 10 provides an overview of the nature of these exceptions. When exceptions were made, most commonly, the exception was to allow for communication either directly or indirectly through legal counsel (71.0 per cent). Approximately half of all civil protection orders where an exception was issued contained the combination of allowing for contact or communication between the parties as part of a family case conference (49.8 per cent), settlement conference (47.9 per cent), or a court appearance (52.1 per cent). Just over one-quarter of the civil protection orders (28.1 per cent) included some other kind of exception. This included to specify particular topics that could be discussed (e.g., ongoing renovations) or to enable communication by text or email.

TABLE 10: EXCEPTIONS TO CIVIL PROTECTION ORDER CONDITIONS (N = 1,380)

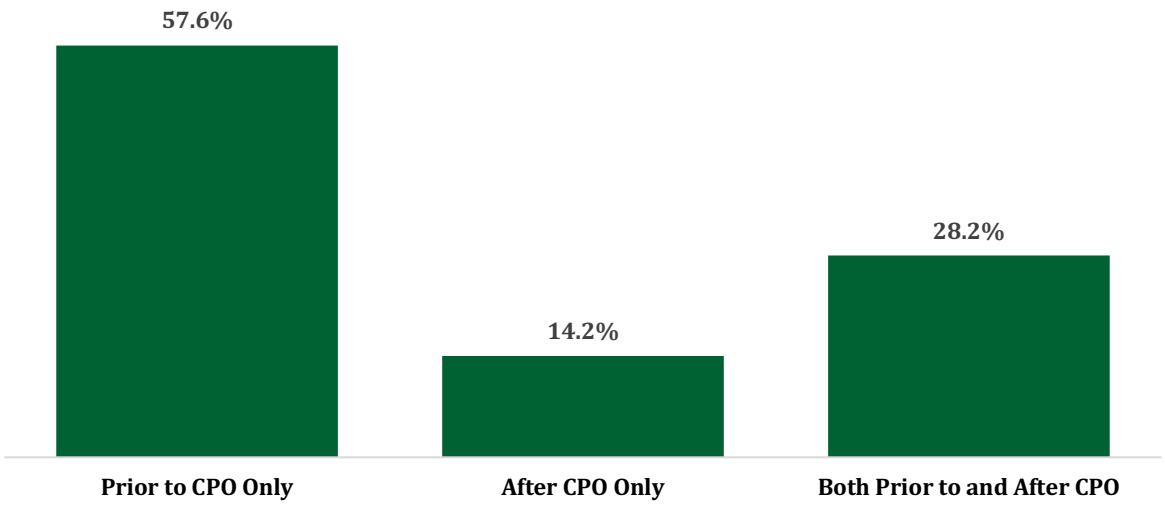
	%
Communication through Legal Counsel	71.0%
Court Appearance	52.1%
Family Case Conference	49.8%
Settlement Conference	47.9%
Other Exception	28.1%
To Discuss Matters Relating to the Children or Parenting	22.7%
Contact through Another Party	7.7%
Contact with Children under Direct Supervision	5.6%
Contact with Children as approved by MCFD	2.5%

CRIMINAL HISTORIES AND RECIDIVISM

A list of restrained parties, as well as date of birth when available, was provided to the "E" Division RCMP who conducted a search in the Canadian Police Intelligence Centre (CPIC) system where all court outcomes are registered. A database was provided with the dates, offence types, and sentences given for any registered conviction from across Canada. This information was used to analyze the criminal histories and criminal recidivism of people in British Columbia who were restrained by a civil protection order between 2015 and 2019. Some caveats are important to note. First, the analyses only examined cases where the individual was convicted and sentenced. The dates provided were, therefore, not of the actual date when the offence(s) occurred. This is an extremely important caveat in the Canadian criminal justice system where there may be many months or even years between the date when a person committed an offence and the date when they were charged and subsequently convicted/plead guilty (Cohen et al., 2021). In addition, it can take several months or longer before the CPIC system is updated with recent convictions and sentences. Given these factors, the recidivism data will not fully reflect the entire population of restrained people who went on to commit a new criminal offence but who had either not yet been convicted and sentenced for it or who had been sentenced but their information had not yet been entered into CPIC. Criminal recidivism data was available until the end of 2020.

Overall, one-third (32.6 per cent) of the restrained parties with a civil protection order issued between 2015 and 2019 had at least one conviction for a criminal offence either prior to or following the civil protection order being granted. Of the 798 restrained parties with a criminal conviction, most (92.5 per cent) were the respondent of the protection order and 7.5% were the applicant. Each unique court date where a sentence was given for a conviction was recorded for individuals. The total number of court dates ranged from one to 30. On average, those who were convicted of at least one criminal offence had experienced 4.6 different court dates in which they were given a criminal sentence. In total, 685 (85.8 per cent) of the restrained parties with a criminal conviction had at least one court date and criminal conviction prior to their first civil protection order issued between 2015 and 2019. In contrast, 42.4% of those with a criminal conviction had at least one court date and criminal conviction following the civil protection order issued between 2015 and 2019. When only considering the 798 restrained parties with at least one conviction, over half (57.6 per cent) only had a criminal conviction prior to the civil protection order, while 14.2% only had a criminal conviction following the civil protection order (see Figure 7). Just over one-quarter (28.2 per cent) had at least one criminal conviction prior to the civil protection order and at least one more conviction after being after a civil protection order against them.

FIGURE 7: CRIMINAL CONVICTION HISTORY AND RECIDIVISM AMONG RESTRAINED PARTIES (N = 798)



Among those with a conviction, whether prior to or following the civil protection order, the most common forms of offending were breaches or failures to comply, such as breach of a probation order or of a recognizance (53.8 per cent) (see Table 11). Failure to abide by a court order under Section 127(1) of the *Criminal Code* was separated out and treated as a proxy for civil protection order violations. In this case, 37 of the restrained parties (4.6 per cent) of the population having a criminal conviction had at least one conviction under Section 127. This will be discussed in more detail below. Just over half of the sample with a criminal record had at least one conviction for a violent (51.4 per cent) or property-related (51.3 per cent) offence. Half (50.8 per cent) of the

restrained parties with at least one criminal conviction either prior to or following the civil protection order had a conviction for an "other" category of offending and one-quarter (25.8 per cent) had at least one conviction for uttering threats or for harassing behaviours, such as criminal harassment or harassing communications. Very few restrained parties had a conviction for a sexual offence (5.4 per cent), a weapons-related offence (5.4 per cent) or violated a court order (4.6 per cent).

TABLE 11: TYPES OF OFFENDING AMONG RESTRAINED PARTIES WITH AT LEAST ONE CRIMINAL CONVICTION EITHER PRIOR TO OR FOLLOWING THE CIVIL PROTECTION ORDER (N = 798)

	%
Breaches or Failures to Comply (e.g., failure to comply with recognizance or probation order)	53.8%
Violent Offending (e.g., assaults, murder)	51.4%
Property Offending (e.g., theft, break and enter)	51.3%
Other (e.g., causing a disturbance, driving while impaired, fraud)	50.8%
Threats or Harassment	25.8%
Failure to Appear/Attend Court (e.g., Section 145 offences)	16.3%
Drug-related Offending (e.g., possession for purposes of trafficking)	15.3%
Sexual Offences (e.g., sexual assault, sexual interference)	5.4%
Weapons-related Offending (e.g., possession of unauthorized firearm)	5.4%
Violations of Court Orders (Section 127.1)	4.6%

Criminal Histories Prior to Civil Protection Orders being Granted

In total, 685 people restrained by a civil protection order between 2015 and 2019 had at least one criminal conviction and sentence prior to the protection order. Nearly half (46.9 per cent) of those with a criminal record prior to the civil protection order had only one (29.3 per cent) or two (17.5 per cent) prior court dates where they received a sentence for a criminal conviction. On average, those with a prior conviction had 4.5 previous court dates with a conviction and sentence with a range of one to 28 prior court dates and sentences. On average, those with at least one prior conviction had been convicted of 8.4 criminal offences before the civil protection order was issued. This ranged from one previous conviction to 68 previous convictions.

Among those who had received at least one conviction prior to the civil protection order being granted, the average length of time between their first conviction and when the civil protection order was granted was approximately 16 years (X = 15.98 years, or 5,834.1 days). This ranged from a first conviction that was five days prior to the civil protection order being issued to a conviction 53 years prior to the civil protection order being issued. Overall, 6.1% of those with a criminal conviction prior to the civil protection order being issued had their first conviction within one year of the civil protection order being granted, while most (93.9 per cent) had their first conviction more than one year before the civil protection order was granted.

When comparing the date of the most recent conviction prior to the civil protection order being issued and the date of the restrained person's first conviction, on average, those with at least one conviction prior to the civil protection order being issued had a criminal history that spanned 7.7

years before the civil protection order that was issued between 2015 and 2019. In total, 29.2% of these individuals had only one prior conviction. When considering only those with at least two prior convictions prior to the civil protection order being issued, the criminal history was an average of nearly 11 years (X = 10.9, or 3,992.95 days). In other words, for the nearly 500 restrained parties that had more than one criminal conviction prior to the civil protection order being issued, they had a fairly lengthy criminal history that spanned over one decade.

Finally, of those with a conviction prior to the civil protection order, the most recent conviction they received was, on average, 8.2 years prior to the date that the civil protection order was issued. Overall, over one-quarter (27.9 per cent) of all individuals who were restrained by a civil protection order between 2015 and 2019 in British Columbia had already been convicted and sentenced at least once for a criminal offence prior to when the civil protection order was granted. The criminal histories for these individuals were quite lengthy; however, for many, several years had passed between their last conviction and the date of the civil protection order that was issued between 2015 and 2019.

Offending Post-Civil Protection Order

In total, 338 individuals who were restrained by a civil protection order between 2015 and 2019 (13.8 per cent of the full sample of 2,451) in British Columbia were convicted of at least one criminal offence after the civil protection order was granted. The length of time between when the civil protection order was granted and when the individual was subsequently convicted and sentenced ranged from three days to just over four years (4.1 years or 1,504 days). On average, those with a post-civil protection order conviction had their first subsequent court date nearly one year (356.1 days) after the granting of the civil protection order. Those who were convicted and sentenced of at least one new criminal offence following the civil protection order had, on average, 1.8 subsequent court dates ranging from one to 16 subsequent court dates, and were convicted of, on average, 3.9 new criminal offences ranging from one to 51 new convictions.

Information was only available on whether the individual had been convicted of a subsequent offence following the granting of the civil protection order and not on the nature of their relationship with the victim. Given this, it was not possible to determine whether any of the following offences were committed against the protected party(ies). Moreover, as explained above, only the court date was recorded, not the day when the offence occurred. As it can take one year or longer for charges to be laid and cases to appear in court (Cohen et al., 2021), it is possible that some of the convictions and sentencing that occurred following the issuing of the civil protection order were for offences that were committed prior to the civil protection order being issued. With this caveat in mind, Table 12 provides a summary of the types of offences that the 338 restrained parties were convicted of and sentenced for after the granting of a civil protection order. Just over half (51.8 per cent) of the sample with a post-civil protection order conviction received at least one conviction for a breach or failure to comply related offence, which may or may not have been related to the civil protection order. In addition, slightly more than one-third (36.4 per cent) were convicted of a subsequent violent offence or a property offence (34.9 per cent). Just under one-quarter (23.1 per cent) were convicted for uttering threats or harassment-related behaviours

following the granting of the civil protection order. Just over one-in-five (21.9 per cent) were convicted for some other type of crime, such as driving offences, causing a disturbance, obstruction, or fraud. Just under one-in-ten offenders (8.6 per cent) who received a subsequent conviction following their civil protection order were convicted of a Section 127(1) offence where they violated an order of the court, including civil protection orders, while a similar proportion (8.3 per cent) committed a drug offence (see Table 12). A slightly lower proportion committed a weapons-related offence (7.1 per cent). Sex offences and failing to appear or attend court were very uncommon among those with a post-civil protection order conviction.

TABLE 12: CONVICTIONS RECEIVED AFTER THE CIVIL PROTECTION ORDER WAS ISSUED (N = 338)

	%
Any breaches/failures to comply	51.8%
Any violent offending	36.4%
Any property offending	34.9%
Any threats or harassment	23.1%
Any other offences	21.9%
Any Section 127(1)	8.6%
Any drug-related offences	8.3%
Any weapons-related offences	7.1%
Any sex offences	4.7%
Any failures to appear/attend court	3.3%

Violations of Civil Protection Orders

As mentioned above, Section 127(1) was treated as a proxy measure for whether the restrained party had ever violated a civil protection order. Section 127a of the *Criminal Code of Canada* refers to disobeying an order of the court and can be used for both civil and criminal orders. Disobeying an order of the court is considered a hybrid offence in Canada with a maximum penalty of up to two years in jail if prosecuted as an indictable offence. If prosecuted as a summary offence, the penalty would typically be up to $5,000 in fines or up to six months in jail.

As noted above, in total, 37 offenders had at least one conviction under Section 127(1). Nine restrained parties had a conviction under Section 127(1) prior to the civil protection order in the current study. Eight of these individuals had one prior conviction under Section 127(1) while one person had two prior convictions. Most of the 37 offenders had been convicted under Section 127(1) following the civil protection order that was issued between 2015 and 2019. More specifically, 27 offenders had a Section 127(1) conviction following the granting of the civil protection order in the current study, while two had two convictions under Section 127(1) following the granting of the civil protection order. The sentences given to these 29 individuals varied widely, likely as some of the sentences were inclusive of other post-civil protection order offending. Generally, most of these offenders received at least two of the sentence options outlined in Table 13, such as time in custody or a suspended sentence combined with probation. In many cases, the time in custody was minimal as most of the custody sentences were between one day and

seven days with credit given for time spent in custody pre-sentence. The individual who received a 12-month sentence was to serve this time concurrently with an 18-month sentence for a sexual assault. One individual received a one-day custody sentence and two years of probation with time credited for 143 days in pre-sentence custody.

TABLE 13: SENTENCES GIVEN FOR SECTION 127(1) VIOLATIONS (N = 37)

	%	Range
Custody	**35.1%**	**1 Day – 12 Months**
Probation	**51.4%**	**6 Months – 3 Years**
Suspended Sentence	**27.0%**	**Not specified**
Fine	**10.8%**	**$200 - $500**
Conditional Discharge	**5.4%**	**Pending completion of probation**

Data was also collected for individuals who were charged with a Section 127(1) offence after the civil protection order was granted but for whom the charges were stayed or resolved in some other way. In total, 93 individuals (3.8 per cent) had at least one subsequent Section 127(1) offence following the granting of the civil protection order. Most (81.7 per cent) of these individuals had only one subsequent charge for Section 127(1) that did not result in a conviction; however, 13 individuals had two Section 127(1) charges that did not result in a conviction, three had three charges, and one had six charges. Moreover, 102 (89.5 per cent) of the 114 Section 127(1) charges were stayed. Five individuals were given a Section 810 peace bond, four individuals were found not guilty, and the rest saw their charge withdrawn (n = 2) or abated (n = 1).

A variable was created measuring whether the restrained party had either a new conviction for a Section 127(1) charge or a new charge for Section 127(1) that did not result in a conviction. Overall, 113 people (4.6 per cent of the full sample) who were restrained with a civil protection order between 2015 and 2019 in British Columbia were charged or convicted of a subsequent Section 127(1) offence. This suggested that these individuals committed at least one violation of the civil protection order that was identified, reported to the police, and resulted in an investigation and charges being approved by Crown Counsel. It is unclear how many other violations may have occurred that did not meet at least one of these conditions.

Overall, over one-quarter of restrained individuals had a criminal history prior to the civil protection order being issued, while a little over one-in-ten had at least one new conviction post-civil protection order. Unfortunately, the nature of the data did not allow for a determination of whether recidivism was against the same victim. Still, it appeared as though a small subgroup of restrained individuals were subsequently charged with or convicted of violating the civil protection order. This rate was quite low compared to past research, which may indicate a lack of enforcement of civil protection orders by police officers.

Recommendations

A few recommendations were bolded throughout this report. In addition to these, the findings from the interviews with family justice professionals, the results of the Protection Order Registry data analysis, and the literature review on the civil protection order system resulted in several additional major recommendations.

INCLUDE TREATMENT ORDERS OR COUNSELLING ACCESS AS A CIVIL PROTECTION ORDER CONDITION

Whereas in several other provinces a judge can order the restrained party to attend counselling or access a domestic violence treatment program, this is not clearly stated in the British Columbia *Family Law Act*. It is possible that a judge might attach this condition under Section 183(e)(i); however, an analysis of conditions ordered by judges across British Columbia between 2015 and 2019 did not reveal this additional condition ever being stated. Without necessitating that action be taken to address the underlying issues that resulted in the protection order being needed in the first instance, issuing a civil protection order may only temporarily result in increased safety. British Columbia should consider amending the *Family Law Act* to include treatment or counselling orders as another option under Section 183(d).

IMPROVE CONNECTIONS TO SERVICES FOR PROTECTED PARTIES

Like the above recommendation, it would be beneficial to provide supports to the protected party(ies), such as counselling. For example, while women who have been abused can access Stopping the Violence counselling programs, it is unclear how many victims-survivors are aware of this program. In fact, many of the interview participants wanted to see an automatic referral to a community-based victim service agency or other similar program where the protected party could engage in safety planning and develop additional strategies to reduce the risk of victimization and enhance their psychological wellbeing. Given that most civil protection order violations appear to occur in the first three months of the order being made, connecting the protected party to services that can help them improve their safety immediately following the order being issued would be extremely beneficial. Information about local resources could be given in a pamphlet format to the protected parties. However, it would likely be more effective to give the name of the protected party to a local program who could then reach out to the protected party in the subsequent 24 to 48 hours to check on them and discuss the resources that are available, including shelters and transition homes, Stopping the Violence Counselling, community-based victim services, and safety planning support. Doing so would make civil protection orders more than just a piece of paper. It would serve as a gateway to services for those who the courts have determined are at-risk for experiencing family violence.

PROVIDE MORE SUPPORTS FOR APPLICANTS

Since the interviews were conducted with the participants, more tools have been developed to assist applicants with filling out the paperwork for a civil protection order in British Columbia. For example, Legal Aid BC has created a guide that walks potential applicants through the process (https://family.legalaid.bc.ca/abuse-family-violence/protecting-yourself-your-family/apply-

family-law-protection-order-without#0). The guide provides tips on how to complete a civil protection order application, including how they can access a lawyer or legal aid, what information the court will be looking for, and why different sections of the paperwork are present. For example, the guide reviews the different conditions that could be granted and why the applicant might want to ask for these conditions. They have also created a booklet about family law protection orders and peace bonds; however, this document is 40 pages in length, which may deter some potential applicants from using it and likely speaks to the complex nature of the protection order system (https://api2.legalaid.bc.ca/resources/pdfs/pubs/For-Your-Protection-eng.pdf).

Both Basanti's (2017) research and the participants of the current study discussed the complicated nature of the civil protection order system and noting that it could pose a barrier to accessing this system for some populations. Family justice counsellors reported that they assist clients to fill out the paperwork if they believed a civil protection order would be beneficial. It would also be helpful to improve access to legal aid throughout British Columbia, as family justice centres are not available in all communities. It is also important to recognize that while family justice counsellors can provide critical support, they will not and cannot provide legal advice.

REGISTER CIVIL PROTECTION ORDERS ON CPIC

As discussed by Basanti (2017), several provinces register issued civil protection orders on CPIC, which makes this information accessible to police across Canada, regardless of jurisdiction. Whereas British Columbia is unique in holding all protection and no contact orders in a single database that operates province-wide, police do not have direct access to the registry, whereas they do have direct access to CPIC. Of note, prior research by Bates and Hester (2020) suggested that a lack of access to data on civil protection orders in the United Kingdom hampered police enforcement of these orders. This suggests that access to relevant information about the presence of a civil protection order and its associated conditions may potentially increase police willingness to enforce the order. Furthermore, registering these orders with CPIC may allow for civil protection orders that are issued in British Columbia to be enforced in other provinces. For example, the *Family Law Act* in British Columbia includes an Extraprovincial orders clause (Section 191), which states that "The *Enforcement of Canadian Judgment and Degrees Act* applies to an order, made by a court in another jurisdiction in Canada, that is similar to an order made under this Part". In other words, police officers in British Columbia should be able to enforce civil protection orders made by courts in other locations of Canada. While there is currently no national registry for civil protection orders, increasing the number of provinces and territories that submit this information to CPIC is a step towards creating this model. However, it is also important to understand the limitations to CPIC. CPIC entries are often delayed and the lack of a civil protection order on CPIC does not necessarily mean that no civil protection order is in place. Moreover, CPIC might indicate that a civil protection order is in place even if it has been recently dismissed or overturned in court. Given this, while it is recommended that civil protection orders made in British Columbia should also registered on CPIC, protection orders should continue to be registered in the province-wide Protection Order Registry.

PROVIDE DIRECT ACCESS TO THE PROTECTION ORDER REGISTRY FOR POLICE AND PROVIDE TRAINING ON ENFORCEMENT ROLES

It is unclear why police officers in British Columbia do not have direct access to the Protection Order Registry. Currently, officers are directed to call VictimLinkBC to access the information held in the Protection Order Registry, including the conditions attached to the order, the parties that are protected, and order expiry dates. It is not clear how often police officers access the Protection Order Registry or their experiences doing so. However, British Columbia may want to consider giving direct access to this information to police officers to facilitate the enforcement of civil protection orders when violations are reported. A related benefit of providing police direct access to the Protection Order Registry is that it might reenforce to them that they have the ability and responsibility to investigate breaches of civil protection orders. Related to this, it is imperative that police officers receive training that clarifies their legal role as assigned by the *Family Law Act* in enforcing civil protection orders, regardless of whether the civil protection order explicitly orders them to do so.

IMPROVING DATA QUALITY IN THE PROTECTION ORDER REGISTRY

There were numerous issues with data quality in the database provided of civil protection orders, including dates that appeared to have not been correctly entered and a lack of information about the parties involved. For example, there was a substantial amount of missing information when it came to the sex of the involved parties. Many birthdates were also missing and, in some cases, there was a conflict or discrepancy between orders or between what the database recorded and what was stated in the conditions. In some instances, the names of the involved parties were spelled differently in the name column and how they were presented in the conditions. In addition to creating barriers to understanding underserved populations in British Columbia, these gaps in information are problematic for police enforcement. It is recommended that quality assurance measures be implemented to ensure the accuracy of information being recorded in the Registry. Of note, the authors of this report recognize that the data they analyzed was from 2015 to 2019 and some of these issues may have been corrected in the subsequent five years.

Still, other information was lacking that would be beneficial to improving an understanding of who civil protection orders are being issued to and why. For example, while there were codes to indicate if a party was a mother, father, grandparent, etc., there were no codes to reflect that the parties involved were intimate partners, either currently or in the past. Instead, these parties were generally referred to as the applicant/claimant or respondent. It is recommended that information on the nature of the relationship between the restrained and protected parties be collected on the application form and entered into the Protection Order Registry. Similarly, it would be helpful to document applications that are not successful in court and to document when violations of a civil protection order occur. The lack of data available on civil protection orders that are and are not granted in British Columbia and the inability to clearly and accurately measure the proportion of orders that are violated severely hampers the province's ability to understand where there continue to be barriers to accessing the system or challenges with the application process or the civil protection order system.

EXTENDING THE CIVIL PROTECTION ORDER SYSTEM TO OTHER INTIMATE PARTNER RELATIONSHIPS

As civil protection orders exist in British Columbia through the *Family Law Act*, it is restricted to situations involving family members where family violence may occur. By these definitions, intimate partners who are or were dating but not living together are excluded from the system. The only alternative for protection for these individuals is the criminal justice system, either through a no contact order should an incident of intimate partner violence occur or through a peace bond should an incident of intimate partner violence be anticipated. Access to justice is not being equally provided to everyone because dating partners do not have the option of bypassing the criminal justice system when seeking an order to increase their protection from a current or former intimate partner. This is particularly concerning given that there are high rates of intimate partner violence among individuals in a dating relationship, including both youth and adults (Burczycka, 2017; Higgens et al., 2018; Leen et al., 2013; Vagi et al., 2015). Consequently, it is recommended that the *Family Law Act* be amended to include an exception for those who are or were in a relationship of an intimate nature to be permitted to apply for a civil protection order through Section 183 of the *Family Law Act*.

CLARIFYING WHO SHOULD SERVE THE CIVIL PROTECTION ORDER AND HOW IT SHOULD BE SERVED

In a substantial minority of cases, the judge decreed that the protected party should serve the notice on the restrained party, whether in person, by email or text, or in a way not otherwise specified. This should never be allowed because it both puts the protected party's safety at risk and because it would immediately put the restrained party in violation of the order given that, in British Columbia, orders become effective as soon as they are granted by the court. As discussed above, if the order needs to be served, it should be done through email from the Protection Order Registry that can send the information as soon as it is received at the Registry. When required to be sent in person, ideally a Sheriff or some other peace officer would be involved given that there is potential risk associated with serving a protection order on a party who has been deemed by the court to be at risk of committing violence. In some communities, there are process servers who can also fulfil this role. It is recommended that the *Family Law Act* be updated to reflect more clarity on who serves the order and how the order is to be served. Furthermore, as discussed below, it is recommended that judges receive training to clarify that it should never be the responsibility of the protected party to serve the protection order.

FURTHER TRAINING AND EDUCATION OF JUDGES

Judges who hear civil protection order applications invariably are hearing allegations of family violence and making decisions to grant or deny civil protection orders that could affect the safety of the protected party and others associated to them such as their children. It is unclear how much training judges in British Columbia receive about family violence in general or intimate partner violence more specifically. Ensuring that judges receive this education and training is critical. The findings of this study also suggest a need for further training and education about how to craft a civil protection order that effectively enhances the safety of the protected party(s). As noted above, judges must be informed that the protected party should never be expected to serve the protection

order on the restrained party. Further, it would be helpful to provide training around the nature of the conditions that can be attached. Judges should be trained *not* to include the condition that the order be enforced by police given that the *Family Law Act* already states that these orders are enforceable by the police. Including this as a condition leads to confusion for police when the order does not include this statement, which this research study demonstrated was found in most civil protection orders. It would also be helpful for future research and training to examine the distances that are given when restrictions are placed on the restrained party's ability to attend, go near, or enter a place. The results of this study showed substantial variations in the directives that were given for these restrictions. It would be beneficial to understand what distance is generally sufficient to realistically enhance the safety of the protected party, and to encourage judges to use these more consistent guidelines, unless there are exceptional circumstances presented.

It would also be beneficial for future research to study judicial experiences with hearing civil protection order cases. In some cases, there will be counter claims of abuse and both parties will seek a civil protection order from each other. It is unclear what process judges use to determine the validity of these claims. Some cases may involve more significant risk factors for violence and lethality, necessitating that additional conditions be placed on the restrained party. It would also be beneficial for future research to examine whether judges perceive that it would be helpful to use some form of risk assessment or screening tool to make informed decisions in these cases.

INCREASE ACCESS TO CIVIL PROTECTION ORDERS OUTSIDE OF TYPICAL COURT HOURS

One barrier to seeking civil protection orders in British Columbia is that courts are only operational weekdays from 9am until 4pm. Those who are employed during these hours will be required to either take time off work to attend court or apply for the order through the Supreme Court where a lawyer can represent their application via an affidavit. In addition to hiring a lawyer to represent their case, applying for a civil protection order through the Supreme Court has an added cost of up to $280 for a filing fee. Several family justice counsellors interviewed for this study recommended increasing access to civil protection orders outside of the regularly scheduled court hours. One option could be to operate a virtual court not attached to any specific community, but which would hear civil protection order applications that are made outside of the regular court operating hours. This would also be beneficial for those in more rural or remote communities, for whom physically accessing a court can be extremely difficult to do, particularly if needed on an emergency basis.

FUTURE RESEARCH

The current study is the first to analyze civil protection orders issued in British Columbia and, while the results provided a description of where and how civil protection orders were being issued throughout the province, future research is needed to better understand the civil protection order process in British Columbia and how to improve this system. For instance, the current study examined data held in the Protection Order Registry, such as the conditions that were attached to the orders. A future study might compare the conditions that are requested by applicants to the conditions that are issued by judges to determine how often judges comply with the protected party's wishes. Future research should more specifically explore which conditions are more likely to be violated, how soon these violations occur following a civil protection order being issued, which parties are more likely to violate conditions, how often these violations are reported to the

police, and the police response to these violations. It would also be beneficial to study the nature of the requests for a civil protection order to better understand the context or situations that result in someone seeking a civil protection order. As mentioned above, future research with judges would be beneficial to understand how they make decisions around granting protection orders and what conditions to attach. Similarly, research should be conducted with police officers regarding their experiences with receiving violation reports and enforcing civil protection orders as lack of police enforcement was identified as one of the major weaknesses of the civil protection order system. Understanding these barriers from the police perspective is critical to enhancing the civil protection order system moving forward.

Limitations of this Study

While this study is the first to examine civil protection orders that were issued in British Columbia, there were several limitations that need to be acknowledged. The database that was provided to the research team only included information on civil protection orders that were granted over a five-year period, and not those that were sought but not granted by the courts. This meant that the research team could not identify the overall rate of approval of civil protection orders or determine whether there were any regional differences in these rates or any identifiable differences between those requests that are accepted by the court and those that are not accepted. It is assumed that a civil protection order will be issued if the applicant can articulate that a family member is at risk of committing family violence towards them, including physical, sexual, emotional abuse, or exposure of children to the family violence. However, given the nature of the data, this study could not assess this issue. Moreover, regional variations in the rates of civil protection orders that are sought versus granted may suggest that inconsistent approaches are being used to assess the need for a civil protection order that contributes to inconsistent access to protective measures across the province. The researchers could also not fully identify which communities were more or less likely to encourage civil protection orders because many communities in British Columbia do not have a Provincial or Supreme Court in operation. The outcome of this was that some courts, such as in New Westminster, experienced far more civil protection orders being granted than would otherwise be expected. It appeared that this court acted as a service court for many of the neighbouring communities. In addition, it is possible that women in some communities may be deterred from seeking a civil protection order where the orders are less likely to be granted than in other communities. As such, it would be helpful to understand the rate at which civil protection orders are granted, the reasons why they are granted, and which criteria judges tend to place more emphasis on when making decisions about whether to grant a civil protection order. For example, given the limited information provided on civil protection orders issued in British Columbia, it was unclear what proportion of these were granted because of physical violence being present or likely to occur compared to instances where only non-physical forms of violence, such as experiences of coercive control, psychological, or emotional abuse, were the reasons for the application. This is important because all these forms of abuse are considered forms of family violence under the *Family Law Act* but may not be interpreted by judges as significant enough to issue a civil protection order that consequently puts the restrained party at risk of being criminalized.

The researchers were able to provide estimates on the proportion of restrained parties who went on to commit a subsequent criminal offence, including violations of civil protection orders, but there were limitations to these analyses. Given the missing information in the Protection Order Registry for many people, it is possible that the lack of a criminal record for some individuals was due to inaccurate or incomplete information being provided to the "E" Division RCMP based on what was available in the Registry. While the use of CPIC data to measure recidivism meant that the individual in question had been held criminally responsible for committing a subsequent offence, the dates represented court dates and not the actual date when the new offence was committed. Consequently, the research team was unable to accurately measure how quickly new offences were committed following a civil protection order. They were also unable to identify whether the new offences had anything to do with the civil protection order itself because there was no information provided on the nature of the relationship between the offender and the victim-survivor. Moreover, there was no information on whether these offences occurred in the context of intimate partner violence.

While the researchers invited police officers to participate in the current study, none did so. This may say something in and of itself about the challenges with police enforcement of civil protection orders and the infrequency with which this is happening. The lack of police participation meant that information about enforcement challenges was not directly available from police, which limited the ability of the research team to make recommendations to enhance the investigation of violations of civil protection orders. Given that data was not collected from anyone involved in the civil protection orders themselves, such as the protected parties or the police who enforced these orders, the research team was unable to measure the rate at which civil protection orders were violated, how often these were reported to the police, and what proportion of these files were investigated.

While the research team sought to limit the study to civil protection orders for intimate partner violence, the civil protection orders that were provided in the Protection Order Registry database appeared to involve a substantial number of cases that were not directly related to intimate partner violence. For example, many cases were removed from analysis as they involved only a mother or father being restrained from one or more children and did not involve a second adult. Cases that were retained for analysis involved at least two adults or, in some cases, adolescents; however, it is possible that a proportion of these files involved family members seeking a protection order from another family member who was not an intimate partner, such as parents seeking a protection order from an adult child. Without a relationship code that indicated the nature of the relationship between the protected and restrained parties, the research team was unable to conclude that the approximately 2,500 civil protection orders analyzed in the current study involved only intimate partners. In addition, any civil protection orders where both parties were restrained from each other were removed from the current analysis. Future research should explore these mutual orders in more depth to better understand the circumstances they are being issued.

Conclusion

This study examined civil protection orders issued throughout British Columbia over a five-year period between 2015 and 2019. Nearly 2,500 civil protection orders involving at least one restrained party and at least one protected party were analyzed and described. The findings demonstrated that no direct or indirect communication and restrictions on being at, near, or attending a place were among the most common conditions assigned by judges. Unlike other provinces, civil protection orders, which are issued in situations where family violence is likely to occur, were not associated with conditions requiring the restrained party to attend any form of counselling or programming to address their underlying risk. Overall, one-third of those who were restrained from another adult by a civil protection order in British Columbia had a criminal history. Violations of civil protection orders appeared to be quite low, in terms of new charges under Section 127(1) of the *Criminal Code of Canada*. However, the data used to measure protection order violations was court data, and it is possible that many violations of civil protection orders occurred but were either not reported to the police or were reported but no enforcement occurred. Given these challenges, while the current study provided the first descriptive overview of civil protection orders issued in British Columbia, there are future research questions that should be addressed to enhance understanding about the complexities of the civil protection order system and how to further enhance this system to provide better safety of those who are at-risk of, or who are already experiencing, family violence.

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