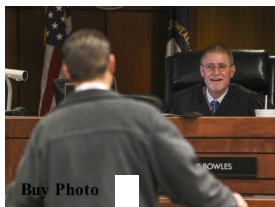


New dating restraining orders put to the test

Matthew Glowicki, @MattGlo 11:24 p.m. EDT April 23, 2016



(Photo: By Michael Clevenger, The Courier-Journal)

Soon after the rape, the thought ran through her mind.

They were scheduled to work together the next day. She would have to be close to him, look at the face of the man whom she said wouldn't listen when she screamed for him to stop.

At the hospital, a legal advocate relayed a slew of information, much of it muddled in her head by the time she left. But she did remember being told she could seek some sort of legal protective order, one that months before she couldn't have received.

A police officer had taken a report, but she didn't want the man arrested. She just wanted to feel secure, to keep him, a new co-worker, away from her and her young daughter.

That night, Michelle – the CJ is not using her real name to protect her identity – went to the courthouse to file for the order, putting her among the first 100 in the county to seek an interpersonal protective order.

IPOs, which went into effect Jan. 1, extend help to those otherwise not covered by civil restraining orders – victims of dating violence and abuse, sexual assault and stalking. After a decade of failed attempts, legislation finally passed in 2015 and was applauded for its potential to close gaps in the protective order system.

For three months, IPO cases have moved through the court system, by many accounts, smoothly. The court system, victim advocates, sheriffs deputies and others have worked in tandem toward a smooth launch. Dozens of protective orders have been granted to men and women, from students still in Jefferson County Public Schools to older adults on the dating scene. Almost no violations of the IPOs have been reported.

But putting the new law into practice has not been without its growing pains.

For Michelle, that meant her petition was originally denied.

In fact, it was Michelle's case that led to a shift in District Court Judge David P. Bowles' evaluation of the IPO cases, one that has already led to the protection of additional victims.

Interpreting the law

Bowles, the sole judge presiding over IPOs, holds court on the cases every Monday and Thursday.

A bailiff stands as a quiet barrier between the tables where the parties sit. Others on the docket are asked to wait in the hallway until their case is called, keeping the courtroom quiet and more private.

Bowles swears them in and reads aloud the statement of the person seeking protection. Both sides can tell their side of the story. Then Bowles must decide if he's legally able to act on the case.

That authority comes from state law, which outlines what does and does not qualify for an IPO.



For most of the nearly 100 cases that have come before him since the start of the year, Bowles said it's apparent to him if it falls under his jurisdiction. And initially, it seemed Michelle's case did not.

She told the court of the encounter, of how one night in January, she and a co-worker had what started as consensual sex. He eventually made sexual demands that she refused. She screamed for him to stop. Still, she said, he forced himself on her.

In the weeks that followed, Michelle questioned her safety. She avoided the mall and other spots where she thought he might go. She moved in with her mom for a time, scared to be at her apartment alone with her young daughter. She eventually went to the police to file a report.

(Photo: By Michael Clevenger, The Courier-Journal)

"There's always that what-if," she said. "I don't think he would do anything, but my daughter is too important to risk."

The man didn't speak much in court. When he did, his voice made her anxious. She couldn't bring herself to look at him.

But the two were not dating, and for that reason, Bowles said he wasn't able to grant her protection under the law.

Defeated, in tears, she left the court, holding a folder she never opened of pictures and documents detailing the sexual assault. How could they just let him go, she remembers thinking.

"I was very hurt," she said. "You know what happened, and yet you're still going to let him be around me?"

But as Bowles explained in an interview, the new law has some ambiguities that have surfaced in his courtroom, as in Michelle's case. And as a new piece of law, IPO cases haven't worked their way up to higher courts that can provide guidance on interpretation.

After Michelle - with an attorney she obtained through the Legal Aid Society - appealed Bowles' ruling, the judge went back to the statute, reading through it again five or six times. Bowles said the law, in different parts, implies different qualifications for an IPO.



(Photo: By Michael Clevenger, The Courier-Journal)

Victims of dating violence and abuse are covered by the state law, as are victims of stalking and sexual assault. The question was, Bowles said, if a dating relationship needed to be proven in all cases or if the latter two criteria could stand alone.

"Our job is to look at the statutes and try to rule on the law in the way that the legislators intended," he said. "Sometimes we're not sure."

Michelle appeared before the judge in early March, again looking to the court for help.

Bowles told her he reasoned the intent of the General Assembly was to also protect sexual assault and stalking victims. He granted the order.

The tears came again. Different tears.

"I don't want to feel like I have to move away to feel safe," Michelle said. "I want to feel like I can live my life and go where I want to go and still feel safe. I needed it for my own sanity, really."

Early results

As the court system prepared last year to begin hearing these cases, it wasn't clear how many people would file.

Would the docket overflow, stressing an already busy district court? Would people even know about IPOs?

Bowles said he's surprised at how small the number has been, though he acknowledged it's still early to draw conclusions or trends.

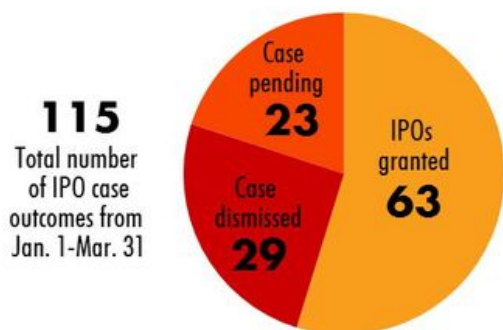
"This could be the crack that we filled," Bowles said.

The petitions start at the Domestic Violence Intake Center in the Hall of Justice. There, petitioners provide a narrative of their situation, which is then forwarded to an on-call judge who reviews the petition.

Jefferson County court data show the judge either denies the petition outright (about 10 percent), issues summonses to those named in the case or grants a temporary IPO in addition to the summonses (nearly an even split).

As of March 31, 115 IPO cases had been filed, and Bowles had already issued a ruling in 80 percent of them. About two-thirds of petitioners ultimately receive a protective order that lasts for three years and can be renewed. The orders vary from case to case but generally prevent communication and physical contact between the parties.

IPO case outcomes



(Photo: Infographic by Madeleine Winer)

In some cases, Bowles has issued a firearms ban. It's another instance of statute interpretation, he said, as there have been questions as to whether subjects of an IPO can be stripped of their guns.

Bowles said federal law includes a gun ban for subjects of a protective order and that such bans are common in family court cases that involve emergency protective orders. Yet he's been challenged on the gun prohibition by a defense attorney who pointed to a sentence in the IPO law that says the statute is "not intended to trigger" the federal law.

On that front, Bowles has ruled federal law preempts state law.

There's no one type of person seeking IPOs, Bowles said. He's seen youths in JCPS – fewer than 10 cases, he estimates – to college students to older men and women who are dating.

In one case, a young woman sought protection from an ex-boyfriend she believed threw a cinder block through her car window. His defense attorney said the case amounted to "a spurned lover who is seeking revenge."

Kentucky expands dating violence protections

One case involved an older pair who met on Match.com. Multiple dates in, she broke off the relationship. He replied with a series of online messages and multiple mailed handwritten letters in which he professed his love, declared God told him they should be together and begged to have her back.

"It's a little overwhelming," Bowles said of the messaging before granting the order.

The majority of petitioners have been women, but some men have filed, too. He's seen same-sex cases and a cross-section of race and ethnicity.

Many of those on the docket don't have an attorney. Some hearings last less than 10 minutes. Others have stretched past two hours.

In one case, a man was served. He told the judge to enter the order so he could move on with his life.

"It would be better for my mental health," he told the court.

Other cases are pending for weeks when one party doesn't show in court. But if a petitioner doesn't show twice, Bowles boots the case from his docket.

Bowles has noticed less physical violence in the IPO cases compared to domestic violence order cases. Rather, he said, there appears to be more controlling and emotionally abusive behaviors.

Marguerite Thomas, the director of legal justice and outreach for the Center for Women and Families, has spent many days this year inside Bowles' courtroom.



(Photo: By Michael Clevenger, The Courier-Journal)

"For a lot of people, it's hard to say there's domestic violence if it's not physical. But there's so much more to it," she said. "It's all about the power and control."

Thomas echoed the hopes of other advocates who say that IPOs might be the early intervention in volatile relationships that stems future abuse and contact with police and the court system.

"Statistically, you are safer having one than not," she said. "The majority of people are going to adhere to it and follow it."

Serving the victim

Making victims feel comfortable in court is key, Thomas said, noting she and other legal advocates help shepherd them through the process and create safety plans for day-to-day life.

She tells them her questions aren't meant to scare them but to make them think about their own emotional and physical safety.

Have you changed your locks? Made private your social media profiles? Is there an external stairwell to your home, and is it well-lit? Have you considered mounting any cameras? Will you change your route to work? Who is in your support network?

"That's part of being a victim," she said. "Always looking over your shoulder."

The IPO has given Michelle some peace of mind, she said a few weeks after receiving it. And while she waited longer for her order than others, she'd do it over again.

"I know it's just a piece of paper," Michelle said, "but it feels like security to me. I feel safer."

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Things to know about IPOs

What: The new law was designed to give people — often young couples or college students who aren't living together, married or share a child — as well as sexual assault or stalking victims the ability to get a civil protective order.

Where: Emergency Protective Orders and Interpersonal Protective Orders are available at the Domestic Violence Intake Center, on the first floor of the Hall of Justice, 600 W. Jefferson St.

More help: The Center for Women and Families offers assistance to those in abusive relationships in both Indiana and Kentucky. Its 24-hour crisis line is 844-BE-SAFE-1.

IPO case outcomes

115: Total cases

63: IPOs granted

29: case dismissed

23: case pending

Source: Office of the Jefferson County Circuit Court Clerk from Jan. 1, 2016 to March 31, 2016

Defining dating violence and abuse

The law defines dating violence and abuse as not only including physical injury, including sexual assault and stalking, but also fear of imminent physical harm. Victim advocates also warn of emotional abuse in the form of isolation, threatening or controlling behavior and verbal manipulation.

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