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## Batterers Slipping through Cracks – Domestic Violence Laws Badly Enforced, State Panel Finds

By Bob Egelko, Chronicle Staff Writer

Victims of domestic violence in California are going unprotected by a system that leaves court orders unenforced, fails to disarm batterers and ignores laws requiring education and treatment of convicted offenders, a task force appointed by Attorney General Bill Lockyer reported Tuesday.

In an 18-month study of responses by police, prosecutors and the judicial system to domestic abuse, the panel found that restraining orders – issued by judges to keep batterers away from their victims – often are not issued when legally required, can't be enforced because they haven't been served on the batterer or are simply ignored by prosecutors.

The report also found that abusers often were allowed to possess guns, in some cases because of a loophole in state law; that most domestic violence cases were assigned to inexperienced prosecutors; and that a law requiring convicted batterers to complete a one-year counseling and treatment program while on probation was largely unenforced.

The 112-page report offered a scathing review of the legal system's implementation of laws California has passed over the last two decades to address violence in one of its most common and least-visible settings.

About 620,000 California women each year – nearly 6 percent of the women in the state – suffer violence at the hands of a partner, the report said. Last year, “intimate partner violence” led to 169 murders in California, and 46,353 adults and juveniles were arrested for spousal abuse, Lockyer said at a news conference in San Francisco.

“The laws already on the books should be holding batterers accountable for their violent behavior, but the criminal justice system often fails to enforce them,” he said. “System fatigue is not an excuse for domestic abuse.”

Casey Gwinn, a former San Diego city attorney who led the 26-member task force, said it found “agencies that have failed to respond to domestic violence victims, failed to enforce the law and failed to work in collaboration.”

The failures hit home in San Francisco in October 2000 when Claire Tempongko, 28, was stabbed to death in her Richmond District apartment in front of her two children, allegedly by her ex-boyfriend, Tari Ramirez.

Ramirez had spent four months in jail for abusing Tempongko in 1999 and had taken part in a domestic violence education program. A month before her death, Tempongko had lodged two police reports against Ramirez – accusing him of trying to choke her and threatening to kill her – but police never served him with a restraining order that had been issued after the first incident, and charges in the second incident were dropped.

An investigation by the city attorney’s office in 2002 faulted the police, district attorney’s office and probation departments for failing to work together to protect Tempongko. The city paid a \$500,000 settlement to her family last year. Ramirez remains at large.

Tuesday’s statewide report found that San Francisco had the worst record of any county in California in failing to include a ban on gun possession in all domestic violence restraining orders – missing in 19.4 percent of such orders last October – and ranked near the bottom in failing to serve family court restraining orders on abusers, with a 28.3 percent omission rate. But the report said San Francisco authorities had reviewed and improved many of their practices.

Deputy Police Chief Antonio Parra, speaking at the news conference, thanked the task force for “constructive criticism” and added, “We all take domestic violence very, very seriously.”

The task force also urged a greater role for community advocacy and support groups, who have long complained that police and health care providers fail to use their services for victims of domestic violence.

“The report stresses the need for victim advocates to be involved at every stage of the justice system,” said task force member Karen Cooper, president of the California Partnership to End Domestic Violence.

The task force focused on 10 counties – Humboldt, Orange, Placer, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Clara, Solano and Tulare – but collected data from all 58 counties and held six hearings. Its findings included:

- At least 17 counties have failed to comply with laws requiring courts to issue a restraining order whenever a domestic abuser is placed on probation, and to enter the orders into the attorney general’s database.
- Orders prohibiting all contact with a victim, or allowing only peaceful contact, are not systematically enforced. According to testimony, one district attorney required five violations of a restraining order before prosecuting, another district attorney required seven, and a third refused to prosecute any such cases.
- In seven of the 10 counties under close study, it was left up to victims to take copies of restraining orders to each police agency.
- Emergency protective orders, which can be obtained by a police officer from a judge at any hour, are seldom issued in most counties and, according to testimony, are discouraged by some police agencies.

- When restraining orders of up to three years are issued by family courts, which handle domestic violence cases unrelated to criminal prosecutions, they are unenforceable between 13 and 50 percent of the time because the batterer has not been formally notified, or because there is no record of notification.
- Bans on gun possession by batterers, legally required in all restraining orders, are rarely enforced. In addition, criminal court judges can prohibit gun possession by an abuser only when they also issue a restraining order against contact with the victim. Lockyer is sponsoring legislation to tighten that law.
- Prosecutors and judges commonly allow batterers to plead guilty without ordering a year of attendance at a counseling and treatment program, as required by law. When offenders are ordered to attend such programs – whose effectiveness remains uncertain – they fail to show up between 30 and 50 percent of the time, and can drop out with little risk of punishment.

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