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IMPROVING COORDINATED RESPONSES FOR VICTIMS OF INTIMATE PARTNER VIOLENCE: LAW ENFORCEMENT COMPLIANCE WITH STATE MANDATED INTIMATE PARTNER VIOLENCE DOCUMENTATION

Catherine Cerulli, J.D., Ph.D.,

University of Rochester School of Medicine and Dentistry, Department of Psychiatry, Laboratory of Interpersonal Violence and Victimization, 300 Crittenden Blvd., Rochester, NY 14642, T: 585-275-5269, F: 585-276-0307

Elizabeth A. Edwardsen, M.D.,

University of Rochester School of Medicine and Dentistry, Department of Emergency Medicine

Dale Hall, J.D.,

Private Practice, South Carolina

Ko Ling Chan, Ph.D., and

University of Hong Kong, Department of Social Work

Kenneth R. Conner, Psy.D., M.P.H.

University of Rochester School of Medicine and Dentistry, Department of Psychiatry

Catherine Cerulli: Catherine_Cerulli@urmc.rochester.edu; Elizabeth A. Edwardsen: Elizabeth_Edwardsen@urmc.rochester.edu; Dale Hall: dale.hall@comcast.net; Ko Ling Chan: eklchan@hkucc.hku.hk; Kenneth R. Conner: Kenneth_Conner@urmc.rochester.edu

Abstract

New York State law mandates specific IPV documentation under all circumstances meeting the enumerated relationship and crime criteria at the scene of a domestic dispute. Law enforcement compliance with this mandate is unknown. We reviewed law enforcement completion rates of Domestic Violence Incident Reports (DVIRs) and assessed correlations with individual or legal factors. Law enforcement officers filed DVIRs in 54% of the cases (n=191), more often when injury occurred ($p<.01$) and the defendant had prior court contact ($p<.05$). The discussion explores policy implications and potential means to rectify the gap between mandated processes and implementation.

Keywords

Intimate Partner Violence; Abuse; Domestic Violence; Law Enforcement

Recognition of the high prevalence of intimate partner violence (IPV) has led to widespread public health initiatives, updated medical practices (Eisenstat & Bancroft, 1999), and innovations in the civil and criminal legal arenas to address the problem. Coordinated responses to IPV include, but are not limited to, the justice system, the health care system, social services and the education system.

The economic toll of intimate partner violence (IPV) on communities and victims themselves has been well documented. The Centers for Disease Control estimates the yearly national costs at \$5.8 billion (CDC). Figures released in 2005 estimate the cost of IPV for medical care, mental health services, lost time from work due to injury and death at \$8.3 billion (Max, Rice, Finklestein, Bardwell, & Leadbetter, 2004). However, both of these estimates exclude the costs associated with policing, prosecution, defense and incarceration of cases that come into contact with civil and criminal courts.

Since the early 1980's, the police have been modifying their IPV response policies after research and successful civil suits unveiled early concerns that police were reluctant to get involved in domestic disputes (Epstein, 1999). After increased attention to this problem, from both the legal and research communities, mandatory arrest policies were initiated, tested and replicated in a number of communities with mixed reviews (Maxwell, Garner, & Fagan, 2001; Sherman & Berk, 1984; Sherman, 1992). Many states require that officers complete a mandatory reporting form specific for domestic violence calls for service. Attorneys may use these forms to assess whether the police collected evidence, who was present at the scene, and whether there were any injuries. Whether the victim had injuries may predict healthcare service use, which in turn may lead to additional evidence and possible medically related witnesses.

This study examines law enforcement compliance with completion of a New York State mandated Domestic Violence Incident Report (DVIR) form. Additionally, the study examined whether victim injury predicts compliance and if compliance affects the perpetrator's conviction.

CURRENT STUDY

We know little about law enforcement compliance with mandated IPV reporting requirements. Under many state laws, police complete required paperwork at the scene of an IPV investigation. This document may be the standardized police reporting form or a special IPV supplemental form. In New York State, legislation was enacted in 1994 requiring the police to complete the DVIR at the scene in all IPV investigations. The DVIR provides space to record the victim's narrative, any perpetrator admissions, injuries and whether medical care was called to the scene of the incident (N.Y.S.C.P.L. §140.10 (4)(c)). While we confirmed whether law enforcement filed a DVIR by reviewing documents at the police department, many prosecutors' offices do not have resources to conduct such reviews. The DVIR has the potential to provide essential information to the prosecutor about what evidence exists, where to obtain it, and what, if any, statements may need to be entered at trial. Whether these mandated forms are in fact being completed and provided to prosecutors has not been studied in depth. An earlier study demonstrated that police complete the DVIR in nearly 50% of the IPV police calls for service (Cerulli & Tomkins, 2002). If prosecutors need to rely on medical documentation, they must first know if there has been an injury, and whether and where medical care was provided. DVIRs are critical in holding perpetrators accountable.

This study reviews a subset of IPV cases adjudicated by a Western New York prosecutor's office. Our first hypothesis is that law enforcement compliance with completing the DVIR is significantly correlated to whether there is a recognized injury at the scene and subsequent medical care. The presence or absence of an injury plays a key role in the immediate victim services needed at the scene, as well as the level of the crime charged and subsequent punishment should a conviction be secured. A second exploratory hypothesis is whether the filing of a DVIR impacts the level of case disposition. Independent variables include victim and perpetrator socio-demographic information (gender, relationship, age), injury, use of weapon, and medical documentation. The dependent variable is whether law enforcement completed the DVIR.

METHODS

Researchers reviewed IPV cases adjudicated between October 1, 2002 and October 31, 2003. During the 13-month period, the prosecutor handled a total of 3,337 cases in a specialized domestic violence and sexual assault unit. We reviewed all case files (1,141, 34.2%) resulting in a conviction or guilty plea. Only closed cases were examined. Under state law, dismissed and sealed cases were unable to be reviewed without court order. The study was conducted six years after the statute was implemented. Police had all participated in mandatory trainings offered by the district attorney. There have been no statutory changes at a state level or policy changes at a local level that alter reporting requirements. The definition of "when" forms must be completed has broadened and is now consistent with the department's internal policy at the time of data collection. The state office responsible for assisting with statewide efforts created an interdisciplinary team that included law enforcement, prosecutors, and advocates to make the form more user-friendly. Ideally, the completion of such forms at the scene of calls for service might assist individual citizens, via the adjudication of these cases, and at a community level, to evaluate the success of efforts to ameliorate violence as measured by case volumes.

Based on the file reviews, we included all cases in which the victim was elderly (over the age of 60), a teenager (12–18 years of age), Hispanic or disabled as these victims are largely underrepresented in the literature (n=97). We then drew a random sample of 94 of the remaining cases in which violence occurred between intimate partners as defined by those married, formerly married, dating, or having a child in common. Same sex couples were included. Our total sample was comprised of 191 intimate partner violence cases. There is no definition of "domestic violence" per se in the statute, nor an enumerated crime entitled "domestic violence". Rather, in New York State, these cases are charged with the same statutory provisions utilized for stranger or acquaintance crimes: assault, stalking, harassment, disorderly conduct, aggravated harassment, etc. It is the party relationship which defines the crime as an IPV offense.

In a retrospective chart review, we recorded the variables of interest on a coding sheet upon reviewing the DVIR, which law enforcement completed at the scene of the offense. The DVIR contained much of the demographic information about the victim and the defendant, as well as case-level variables. For files missing this form, researchers reviewed

supplemental crime reports on file with the police department to complete the coding sheet. University IRB approved all aspects of this study.

ANALYSIS

In New York State, a violation level conviction is essentially equivalent to a traffic infraction, resulting in a fine and, at the most, 15 days in the local correctional facility. Felony and misdemeanor convictions are more serious, as they can result in more sanctions, including longer incarceration periods, fines, probation supervision, etc. Felony convictions were merged with misdemeanor as there were only six of the former. Race for “other” was merged with “Black” as well given the small sample size.

For the first hypothesis, we conducted descriptive analysis to assess sample socio-demographics and Chi-Square to assess for statistically significant correlations between the independent variables, perpetrator’s age, gender, race, prior contact with the district attorney’s office, use of a weapon, level of charge at arrest and injury requiring medical treatment respectively, with the presence of a DVIR.

For the secondary exploratory hypothesis, we utilized logistic regression analysis (Hosmer & Lemeshow, 2000) to assess conviction level, felony/misdemeanor versus violation. Goodness of fit was assessed with the Hosmer-Lemeshow statistic (Hosmer et al., 2000). We converted two of the variables into one variable, injury (yes/no) and medical treatment (yes/no), to create and analyze a three-category variable to assess the seriousness of the injury: no injury, injury without treatment and injury with treatment. As victim and offender gender and race were highly correlated (both at $p < .001$), only perpetrator data were used in the final analyses. The final model is provided below.

FINDINGS

Characteristics of subjects are described in Table 1. Victims were predominantly female and perpetrators were predominantly male. They were of similar age and racial background. Approximately half of victims and perpetrators had prior contact with the court, thus also with this prosecuting attorney’s office. All but one of the victims’ prior contacts had been as a victim. All the perpetrators’ prior contacts had been as offenders and 40% of those contacts involved the same victim. Despite this, there was one stalking charge to address multiple offenses against the same partner. New York was the last state to pass a broad stalking law, which was in effect at the time of this study. Based on findings from this review, the district attorney’s office offered trainings to improve implementation of this law.

New York State Penal Law mandates DVIRs for all police calls for service when a family offense has occurred. While the definition of “family” under New York law is strictly defined (married, formerly married, related by blood or marriage), the local police department has employed an expanded definition of family that includes all those subjects included in this reported study; according to the mandate, 100% of the cases should have the DVIR. However, our review showed out of 191 cases, police only completed the DVIR in 103 (54%) cases, consistent with earlier research noted above (Cerulli & Tomkins, 2002).

In light of evidence that some police do not file DVIRs in accordance with the statutory requirement, it became essential to understand when and why police do complete and file them. We next explored whether police are more or less likely to file a DVIR when an injury has occurred, when medical treatment was provided, when the perpetrator had a weapon or when the level of offense was high (see Table 2 for details). Chi-Square analysis revealed there were no statistically significant correlations between whether the police filed a DVIR and when the perpetrator had used a weapon, whether emergency medical professionals provided medical treatment at the scene or when the level of the crime was high. However, there was a statistically significant relationship between completion of the DVIR and both an injury occurring ($p<.01$) and the defendant having prior contact with the court ($p<.05$).

Along with an increase in filing of DVIRs when an injury was present, police were more likely to file a DVIR when the crime was an assault. Police were less likely to file DVIRs for criminal contempt, although earlier violations may affect the degree of the offense. DVIRs were less likely to be filed for property crimes, and equally as likely for harassment charges (see Table 3 for more). After understanding the nature of the charge, we utilized logistic regression to assess what variables discussed above increased the odds ratio of a conviction for a felony/misdemeanor versus a violation, including the filing of a DVIR.

In both analyses shown in Table 4, two variables were statistically associated with a conviction: the defendant's age and whether the defendant had prior contact with the district attorney's office as a defendant. In the unadjusted analysis, prior contact with the court was associated with (odds ratio, 95% confidence interval) a 3.61 (1.97, 6.61) times greater likelihood of having a felony or misdemeanor conviction for the index event as opposed to a violation conviction. The odds associated for a felony conviction or misdemeanor conviction with prior contact in the multivariate model was similar [3.37 (1.72, 6.61)]. In the unadjusted analysis, younger age was associated with receiving a felony or misdemeanor conviction. However, after adjusting for covariates, older perpetrators are more likely to be convicted of a felony or misdemeanor, suggesting that a one year increase in age is associated with a 5.4% (1.9%, 8.9%) greater likelihood of a felony or misdemeanor conviction. The other variables were not statistically associated with the greater likelihood of a felony or misdemeanor conviction.

DISCUSSION

According to the statutory mandate, 100% of the cases reviewed should have had a DVIR filed. Unfortunately, findings demonstrate that only 54% of the cases had these forms on file with the District Attorney. There is a gap between mandated policy and implementation. We find support for the hypothesis that police more often file DVIRs when an injury occurs. Additionally, police more often file DVIRs when the defendant had prior contact with the court, which may become known at the scene of the arrest via the victim, police familiarity with the perpetrator, or the presence of an earlier issued protection order, which is electronically kept on a statewide level.

Although there is a state mandate for police to file DVIRs, findings reveal that whether the police file these forms is not associated with the level of conviction. There was no support

for the second hypothesis that DVIRs were related to conviction level. Rather, we learned that the defendant's prior contact with the system and age are associated with the level of charge at conviction. Findings also revealed that use of a weapon and charge at arrest are not associated with the final conviction. As is common practice, many district attorneys consider prior record when determining whether to offer a reduced charge in a plea negotiation. Because there is often a reduction in the charge, weapon use no longer appears linked to a particular outcome.

This study occurred in a district where police are trained to observe and document injuries at the scene. However, they are not necessarily trained to follow a case through medical treatment to further document injuries and treatment post-arrest. If police file DVIRs only when a victim's injuries are apparent at the scene, they risk failing to document a victim's potential hidden injuries, such as internal injuries or the evolution of bruising evidence. Victims may seek treatment later, and/or discuss IPV medical and safety concerns with their physician. Better coordination between police and medical providers to document medical treatment given following the violent incident, either by a hospital or primary care provider, may be beneficial. In the absence of a police-conducted investigation to compile all potential evidence, prosecutors should inquire whether an injury was identified after the police call for service.

Rather than view victims in separate silos (police call for service, medical care provider's office, court) we must begin to view a domestic violence call for service and subsequent response as a continuum. These interrelated encounters for the victim with helping professionals must be continually documented to facilitate perpetrator accountability. Medical professionals are encouraged and often mandated to educate their patients about their legal rights in the setting of IPV. Similarly, a coordinated community response to address IPV should attempt to connect IPV survivors with health care resources when law enforcement officers respond to calls for domestic violence incidents even if there are no immediately observable injuries, knowing the victim could suffer injuries at a later time, or long-term emotional and psychological harm.

Efforts to identify barriers or misperceptions limiting DVIR completion and filing might improve future compliance. It is possible that despite statutory language to the contrary, police do not file such forms when the victim requests that no arrest is made. It is also possible that the victims may state a wish to pursue the matter in Family Court, obviating, from the police perspective, the need for the DVIR. However, even in Family Court, DVIRs can provide important details to assist the court officials in decision-making around safety plans, custody and visitation issues, and recommending concurrent criminal prosecution now permissible in many jurisdictions.

Despite evidence that the DVIR completion did not impact the level of conviction in this study, the instrument remains a valuable tool for prosecutors in criminal court and civil attorneys in Family Court. The DVIR contains important information that may inform the strategy of the case, how to reach a victim at a safe or alternate contact, and captures the event in the victim's voice through the narrative portion of the document. Prosecutors rely heavily on the information contained in them to know what evidence to secure, including

medical records and possibly medical providers' testimony at trial. While it may not impact the level of case – it may impact what is charged due to the injuries noted and/or the presence of a weapon. Additionally, DVIRs may be used to track prevalence and severity of IPV at a community or state level. The accuracy of the reports is important beyond the immediate use in a criminal trial.

LIMITATIONS

These findings are based on a sample of cases prosecuted in New York with dispositions favorable to the state. Therefore, caution is warranted in applying the findings to cases outside the jurisdiction or those dismissed for failure to prosecute, lack of evidence, lack of victim signature, or procedural defects. Also, as this study was for a city-level court, more serious offenses may be transferred to a higher-level court. However, this exploratory data provides insight into police utilization of state mandated reporting forms, as well as the role of injury, and subsequent documented treatment, on convictions. These two issues appear clearly interwoven. The ideal study is a prospective cohort study in which researchers respond to the call for service with the police, independently document injury and treatment, and then follow the cases through final adjudication. This data does not indicate whether there was injury detected subsequent to the police call for service. It is possible that those victims who did not receive DVIRs suffered injuries, had medical treatment, and/or may have been involved in previous cases where other evidence, such as statements or admissions, may have been helpful to proving their cases.

CONCLUSIONS

Further research is needed to explore creating better linkages between police, medical providers and the legal community to keep victims safe and hold perpetrators accountable. In our study, injury clearly impacted police documentation, which in turn impacted the prosecutor's ability to identify and secure needed evidence. Forty-six percent of our sample cases did not have DVIRs provided to the prosecution. If the prosecutors are operating in the dark, they do not know what evidence to secure, and therefore they may alter the case strategy from one grounded in evidence-based prosecution to one relying on the victim. This undue burden on the victim, to face her abuser in court, may be avoidable if the original police call for service provides the prosecutor with all the needed and required paperwork. How to enforce compliance with this state mandate remains an unanswered question and merits further research. Such research, conducted in the confines of balancing victim-safety, may require a mixed-method approach that includes observations, police interviews, and document reviews post calls for service. By triangulating the data, we may be able to better understand low compliance with state mandates and assist efforts for improved implementation. It is also important to interview prosecutors to assess their perceptions on the usefulness of the DVIR and its utility in the courtroom. Ultimately, improved coordination between all advocates for IPV victims may improve the welfare of victims, the accountability of perpetrators, and resource utilization for law enforcement with reduction of community prevalence of IPV.

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Biographies

Catherine Cerulli, J.D., Ph.D.: Associate Professor, Department of Psychiatry, School of Medicine and Dentistry at the University of Rochester. NIMH awarded Dr. Cerulli a K01 career development grant to conduct a randomized control trial to assess whether enhanced mental health enables IPV victims to better navigate safety. She is a Co-Principal Investigator on an NIJ award to assess whether victim participation in prosecution impacts safety. Formerly an Assistant District Attorney in Monroe County, New York, she created a misdemeanor domestic violence unit.

Elizabeth Edwardsen, M.D.: Associate Professor of Emergency Medicine, School of Medicine and Dentistry at the University of Rochester. Dr. Edwardsen's research interests include IPV, and patient-physician relationships. She has a publication history which includes examining myriad aspects of IPV, including educational efforts to enhance medical students' detection of, and referral for, violence in their patients' lives.

Dale Hall, J.D.: Former Assistant District Attorney, Niagara County Office of the District Attorney. Ms. Hall is now in private practice. She graduated from the State University of New York at Buffalo with her law degree and concentrated her educational and clinical efforts in the legal system's response to IPV. She worked at the Laboratory of Interpersonal Violence and Victimization during the time of this study and was responsible for managing the project.

Kenneth R. Conner, Psy.D., M.P.H.: Professor, Department of Psychiatry, School of Medicine and Dentistry at the University of Rochester. Dr. Conner studies suicidal behavior with an emphasis on the roles of alcohol and other substance use, aggression, and interpersonal conflict and isolation. His clinical interests include motivational interviewing and psychological testing. His current funding includes a 4-year study using a case-control design of attempted suicide among treated alcoholics sponsored by NIAAA (Conner, PI), and a 1-year pilot study using motivational interviewing with substance abusers presenting to the psychiatric emergency department with suicidal ideation sponsored by AFSP (Conner, PI).

Edward K.L. Chan, Ph.D.: Associate Professor, Social Work, University of Hong Kong. Dr. Chan established his expertise in the area of family violence. He had completed a research project commissioned by the Hong Kong Government to study the prevalence rates and the risk factors of spousal and child abuse in Hong Kong, to review the legislative measures and to validate the risk assessment tool. He and his colleagues had also completed the first territory-wide study of IPV against Pregnant Women in 7 Obstetrics & Gynecology Units in 6 clusters of the Hospital Authority.

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Table 1

Sample Description

	Victim (n=191)	Offender (n=191)
Age	33(s.d.=12.53)	33 (s.d.=10.76)
Gender		
Male	18 (9%)	175 (92%)
Female	173 (91%)	16 (8%)
Race ^a		
Black	47 (41%)	88 (49%)
White	60 (52%)	85 (48%)
Other	8 (7%)	6 (3%)
Prior Contact With Court ^b		
Yes	80 (43%)	94 (50%)
No	108 (57%)	94 (50%)

Note. Ethnicity is not reported due to the large number of missing cases. S.D. = Standard Deviation.

^aBecause criminal court systems do not routinely record race, 76 cases are missing that information.

^bThree cases did not have this information in the file.

Table 2

Case Circumstances and Prevalence of Domestic Violence Incident Report

	No DVIR	DVIR Completed	Test Result Chi Square	<i>p</i>
Defendant Gender				
Male	78 (45%)	96 (55%)	.770	.380
Female	9 (56%)	7 (44%)		
Race of the Defendant				
White	38 (45%)	47 (55%)	.307 ^b	.858
Black	39 (45%)	48 (55%)		
Other	2 (33%)	4 (67%)		
Previous Contact with Court				
No	36 (39%)	57 (61%)	4.54	.033
Yes	51 (54%)	42 (46%)		
Injury				
No	51 (56%)	40 (44%)	7.86	.005
Yes	35 (36%)	63 (64%)		
Required Treatment				
No	73 (46%)	86 (54%)	.012	.914
Yes	13 (45%)	16 (55%)		
Weapon				
No	69 (46%)	82 (54%)	.003	.959
Yes	18 (46%)	21 (54%)		
Level of Charge ^a				
Violation	1 (17%)	5 (83%)	3.51 ^b	.173
Misdemeanor	50 (43%)	66 (57%)		
Felony	35 (52%)	32 (49%)		

Note. DVIR = Domestic Violence Incident Report.

^a In New York State, the Penal Law classifies a violation as a charge with the potential sentence of 15 or less days in jail (e.g. harassments, disorderly conduct), a misdemeanor as a charge receiving no more than one year in jail (e.g. assault 3rd, menacing, etc.) and a felony as carrying the potential for more than one year incarceration at a state correctional facility as opposed to a county-run facility.

^b Fisher's Exact Test with 2df

Table 3

Type of Charge and Prevalence of Domestic Violence Incident Report Filed

Type of Charge	No DVIR	DVIR Completed
Harassment	7	8
Criminal Contempt/Stalking	34	23
Assault	21	42
Menacing/Reckless Endangerment	2	5
Unlawful Imprisonment	0	2
Rape	1	0
Property Crimes	21	18

Note. Charges that did not involve a crime to a person or crime to property were deleted including possession of drugs or illegal possession of weapons. DVIR = Domestic Violence Incident Report.

Table 4

Results of Univariate and Multivariate Logistic Regression Analyses

Predictor	<u>Univariate Results</u>		<u>Multivariate Results</u>	
	O.R.	95% C.I.	O.R.	95% C.I.
Female	1.12	[0.40, 3.14]	0.72	[0.17, 3.06]
Black or other minority	0.69	[0.38, 1.25]	0.67	[0.34, 1.32]
Age	0.96	[0.93, 0.99]	1.05	[1.02, 1.09]
Previous contact with court	3.61	[1.97, 6.61]	3.37	[1.72, 6.61]
Injury without medical treatment	0.56	[0.30, 1.10]	0.52	[0.25, 1.11]
Injury with medical treatment	1.20	[0.51, 2.82]	1.62	[0.61, 4.29]
Use of weapon	1.20	[0.51, 2.82]	1.62	[0.61, 4.29]
Misdemeanor or felony charge at arrest	1.07	[0.53, 2.16]	1.46	[0.06, 3.40]
Domestic Violence Incident Report	0.48	[0.27, 0.86]	0.65	[0.33, 1.29]

Note. C.I. = Confidence Interval; O.R. = Odds Ratio.