



STATEWIDE DOMESTIC ABUSE DATA

A report to the Legislature on the collection of domestic abuse data
Minnesota Department of Public Safety
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INTRODUCTION

Minnesota has a long history of improving the response to the issue of domestic abuse through strengthening criminal laws, ensuring that civil protective orders are accessible and enforced, promoting coordinated community responses, and supporting services to domestic abuse victims and survivors. The success of these efforts can be demonstrated in many ways, including identifying the number of victims served, improved relationships between stakeholders, and increased prosecution of domestic abuse cases. However, our ability to identify the true extent of the problem of domestic abuse, and the effectiveness of our efforts, is hampered by the lack of statewide data on the incidence of domestic abuse.

In 2014, the legislature directed the commissioner of public safety to develop recommendations for the collection and reporting of comprehensive, statewide data on victims of domestic abuse, including law enforcement response, arrests, and prosecution. [See Appendix A] This report outlines the current ways domestic abuse data is collected, the inherent challenges with statewide domestic abuse data collection, and recommendations for establishing a systematic process for statewide data collection and reporting.

The recommendations presented here were made after consultation with representatives of the Minnesota Peace Officers Standards and Training (POST) Board, state and local law enforcement agencies, prosecutors, programs providing services to domestic abuse victims, the Bureau of Criminal Apprehension (BCA), and the State Court Administrator's Office.

DOMESTIC ABUSE DATA BEING COLLECTED

A critical part of this effort was to determine what domestic abuse data is currently being collected and the methods by which that data is collected. Three categories of domestic abuse data were identified: law enforcement response data, prosecutor case review, and criminal cases (including charging and case outcome).

Law enforcement response

One of the most critical areas where information is desired is the law enforcement response to domestic abuse incidents including: calls for service, the nature of the crimes involved, and whether an arrest was made.

Law enforcement agencies keep records of calls for service in their records management systems. In addition, each agency must track and report certain incident and arrest data under the requirements of the federal Uniform Crime Reporting (UCR) Program. This UCR data is transmitted to the BCA, either through the agency's records management system (RMS) or through the BCA's web-based portal. The BCA prepares an annual *Minnesota Uniform Crime Report* that summarizes the UCR data submitted by local law enforcement agencies.

UCR data provides important information about the extent of criminal activity in the state and nation; however, the Summary Reporting method, which is how Minnesota currently reports crime data, has limitations. The list of reportable crimes is limited and must adhere to the federal definitions of those crimes, and the information about those incidents is limited. Because of the structure of the Summary Reporting method, the UCR data that is transmitted to the BCA does not have sufficient detail to accurately identify incidents as domestic abuse related. For example, agencies might report the number of "aggravated assaults" (as defined under the UCR program) that occurred in their jurisdiction; however, the agencies have no way to indicate the relationship between the parties for those "aggravated assaults." This has long been a recognized shortcoming of the Summary Reporting method to identify the incidence of domestic abuse and other types of crimes. In comparison, the National Crime Victimization Survey, administered by the Bureau of Justice Statistics, provides a greater ability to identify the incidence of many person crimes such as domestic abuse and sexual assault. This national survey, however, does not provide state-level detail.

In addition to the reporting of UCR data, individual agencies may be classifying cases and collecting data on the nature of their responses based on their local practice and RMS capabilities. While some agencies may be classifying cases as "domestic abuse" related within the records managements systems, there is currently no established, accepted protocol for Minnesota law enforcement agencies to classify a case as a "domestic."

In addition, agencies may be able to analyze within their RMS the number of incidents based on the specific crime at issue, associated with a specific statute. Under Minnesota's statutory scheme, there are some criminal charges that are clearly domestic abuse related, including domestic assault (Minn. Stat. § 609.2242), domestic abuse by strangulation (Minn. Stat. § 609.2247), and violation of an order for protection (Minn. Stat. § 518B.01, subd. 14). However, there are a large number of common domestic abuse crimes that cannot be identified as such because those crimes do not include a relationship component. For example, homicide, terroristic threats, stalking, felony assaults, and sexual assault might all be committed by a person with the required relationship under section 518B.01, but that relationship component is not required under the criminal statute in question. Because of this, we cannot rely on an analysis of statutes cited and charged to determine the full extent of domestic abuse-related cases.

Agencies must also comply with state requirements to submit supplemental reports on various crimes, including homicide. In the homicide supplemental report, agencies provide additional information about the crime such as the relationship between the parties, providing some indication of whether the homicide was one involving parties with the required relationship under section 518B.01, subd. 2. Agencies submit this supplemental data electronically by entering data directly into the BCA's web-based Supplemental Reporting System (SRS).

In the past there was a mandate for law enforcement agencies to individually report domestic abuse statistics to the Department of Public Safety (DPS). Former section 611A.036 (repealed 2014) provided: "Every local law enforcement agency shall collect data related to domestic abuse victims in the form required by the commissioner. The data shall be collected and transmitted to the commissioner at such times as the commissioner shall, by rule, require." In practice, this strategy of individual agencies submitting domestic abuse forms, which ultimately went to the Office of Justice Programs (OJP), proved to be ineffective and was abandoned. Specifically, there was a lack of consistent reporting by agencies leading to a fundamental problem of unreliable data. In addition, this strategy was burdensome on law enforcement agencies, and OJP did not have a systematic process for tracking these reports and identification of jurisdictions not reporting.

In addition to Summary Reporting, the FBI's UCR Program offers a much more detailed incident reporting methodology which is the National Incident Based Reporting System (NIBRS). The BCA received legislative funding in 2013 to develop a new Crime Reporting System (CRS). While the new CRS will accept both Summary and NIBRS submissions, the BCA is advocating for agencies to transition to NIBRS. While not mandatory at this time, the goal is to have the majority of agencies transitioned to NIBRS within five years. NIBRS includes the ability to enter relationship data for crimes against persons, so this new reporting system may provide a mechanism for systematically collecting information about domestic abuse incidents.

Prosecutor case review

Following an investigation, law enforcement agencies refer cases to prosecutors' offices for review for possible charging. Prosecutors will either charge the case, with that case information then ending up in the Minnesota Court Information System (MNCIS), or decline the case. Currently, there is no systematic statewide collection of data on referrals by law enforcement agencies to prosecutors' offices.

Many prosecuting agencies have records management systems that have the ability to track referrals from law enforcement agencies and the decisions made on those referrals. For example, MCAPS4 (Minnesota County Attorneys Prosecution System), a system being used in 60 county attorneys' offices, as well as several large and medium size city prosecutors' offices, has the capability to track domestic abuse information, although individual agencies using the system may not necessarily have set it up to do so. Other counties have their own records

management systems, for example, Hennepin, Ramsey, and Washington counties. Some jurisdictions have domestic abuse units or designated screening attorneys who track their referrals and charging decisions in domestic abuse cases.

Tracking domestic abuse charging decisions is hampered by the same issue as incident reports. Other than a handful of criminal charges that are clearly domestic abuse-related, not all case referrals from law enforcement that are domestic abuse-related will be identified as such. Absent some local process, designation, or screening unit, identifying cases as domestic abuse by statute alone will not adequately capture the full scope of domestic abuse cases.

It should be noted that some jurisdictions have studied their own processes, focusing in on the case referral process. For example, Maplewood Police Department conducted an examination of domestic abuse incidents, referrals to prosecutors, and charging decisions. This study identified areas of improvement for both law enforcement response and the referral process.

Criminal cases

All data related to criminal cases are maintained in the Minnesota Court Information System (MNCIS). This data includes the types of charges filed and the outcomes of those charges. However, as noted above, aside from a handful of clearly-classified domestic abuse crimes, there are a large number of common domestic abuse crimes that cannot be identified as such in MNCIS because those crimes do not require a relationship component.

The State Court Administrator's Office is responsible for analyzing and reporting on criminal case data, and can report on those cases charged under specific statutes.

It should be noted that civil orders for protection filed under Minnesota Statutes chapter 518B are, by definition, domestic abuse-related. Like criminal case information, the State Court Administrator's Office can report on the number of civil protective order filings in Minnesota. At this time, there is no established way to systematically cross reference criminal case data with data on civil protective orders.

IDENTIFICATION OF WHAT DOMESTIC ABUSE DATA TO COLLECT

The discussion about domestic abuse data collection that took place as part of this effort revealed a clear desire for rich data that goes beyond just the incidence of domestic abuse-related crimes but which shows more about the nature and context of domestic abuse and the criminal justice response. For example, regarding law enforcement intervention, it would be useful to know not just the number of domestic abuse-related calls, but to know if those calls involved weapons, whether children were present, and whether there had been prior calls to that household. For prosecutors, it would be helpful to know factors that would make a case more likely to be charged, such as the existence of an OFP. And for criminal case data, in addition to the fundamental desire to know what cases can be classified as "domestic abuse,"

there is a desire to know how many of those cases involve offenders with prior domestic abuse criminal cases, whether DANCOs are issued, and whether the charges were filed by a city or county prosecutor. A list of desired data elements is included in Appendix B.

As part of this discussion, there was also the recognition of a desire for a beginning-to-end analysis of domestic abuse cases, tracking cases from initial response by law enforcement agencies to conviction and beyond. Such an analysis is inherently challenging, however, because many of the desired data elements are currently not being collected by any criminal justice agency. Further, the relevant data that is being collected is being done so at different points in the process, by different agencies, and through different systems that are not necessarily linked together. An evaluation of domestic abuse cases from beginning to end would, more realistically, require a comprehensive, well-funded, research project.

DATA COLLECTION AND REPORTING OPTIONS

In identifying possible options for data collection, it was felt that any recommendation should involve a strategy that systematically collects data, that has benchmarks of reliability, that ideally relies on existing records management systems and planned-for advancements in eCitation/eCharging, and that law enforcement and prosecutorial agencies can incorporate into their procedures without undue burden. Further, any strategy should also address the inherent problem of not being able to identify which criminal cases going through the court system are domestic abuse-related.

The exploration of data collection led to a short list of options. The following are descriptions of those options along with their advantages and the challenges.

Using National Incident Based Reporting System (NIBRS)

Minnesota is moving toward statewide use of NIBRS, with the goal of full implementation within five years. NIBRS has the ability to include more detail about each incident, including the relationship between the offender and the victim for crimes against persons. With this move, law enforcement agencies will have the potential ability to classify a criminal charge as “domestic abuse,” and the BCA, as the repository of that data, will have the ability to more accurately report on domestic abuse-related incidents.

Currently, law enforcement agencies are not required by the state to sign on to NIBRS, but all agencies will be encouraged to move to the new crime incident reporting system and it is anticipated that the majority of agencies will do so. Increased participation could occur if there was state funding to assist local agencies with the financial cost of switching to NIBRS, including the IT and training costs involved.

The list of victim-offender relationships under NIBRS includes those that clearly come under the identified relationships under Minnesota Statutes section 518B.01, subd. 2, for example,

spouse and ex-spouse, and parent or child. However, the NIBRS relationship list does not align exactly with the statutory definition. Any implementation would require some agreement on how the statutorily defined relationships, or other agreed-upon subset of those relationships, align within the established NIBRS definitions.

While NIBRS captures data on a broader range of crimes than Summary Reporting, the categories are structured such that not all domestic abuse incidents will be reported. For more serious offenses (the “Group A” category which includes all levels of assault), data is collected on both incidents and arrests. For the less serious category (“Group B” which includes disorderly conduct and “non-violent family offenses”), law enforcement agencies only report on arrests.

Finally, it is important to recognize that relying on NIBRS data would only capture information about law enforcement responses at the incident and arrest stage, and not data about what happens when that case is eventually charged. Further, not all cases identified at the law enforcement stage as domestic abuse-related will ultimately be charged as such an offense. In those situations, the NIBRS data reported by law enforcement to the BCA will not be altered or “corrected” to reflect the offenses charged by the prosecutor.

Creating a domestic abuse “indicator”

Overall, the goal in domestic abuse data collection, whether it be in the pre-charging or post-charging phase, is to be able to identify which criminal cases are domestic abuse related. One strategy is to attach some type of indicator to a case when it originates at the first response by a law enforcement agency that would remain with it as the incident data is transmitted through the various criminal justice entities. The indicator or code would identify the case as a domestic abuse-related case such that the relationship between the offender and the victim fits some qualifying criteria.

Such a strategy would benefit from the eCitation and eCharging processes recently launched by the courts in cooperation with the BCA. These processes, which are used by a large number of agencies now and which become mandatory on July 1, 2016, provides for the electronic submission of citation data from law enforcement agencies to the BCA and eventually to MNCIS, the court’s case management system. (See data flow diagram in Appendix C.) For those local agencies without a direct connection to the BCA port, submission of data can take place through the BCA’s web-based interface, allowing agencies to electronically submit their citations.

In addition, the incident data submitted by law enforcement agencies to the BCA can be sent via the “eReferral” process (under the umbrella of eCharging) to a prosecutor’s RMS. A prosecutor can file complaints electronically, relying on this same law enforcement data or by originating the complaint from their office through the eCharging application. Either way, a domestic abuse indicator could theoretically be attached to the case information transmitted to

the courts, as well be maintained within the prosecutorial agencies' own records managements systems.

This strategy would require law enforcement agencies, prosecutorial agencies, and the judicial branch to modify their records managements systems to allow for this indicator to be attached to the case and remain with that case as it flows through the systems. While this recommendation is made at a high level, it is recognized that it involves the significant coordination and planning of numerous stakeholders, technological challenges and costs, reliance by criminal justice agencies on electronic records managements systems, and a phased-in approach as local law enforcement and prosecutorial agencies increasingly adopt electronic records managements systems that can collect and transmit the desired data through the eCitation and eCharging systems. Further, this would require determination of what relationship triggers the application of the "domestic abuse indicator, established protocols for when a domestic abuse indicator is attached to a case, and training of those who must implement this new process.

In considering a plan to attach a "domestic abuse indicator" to a case, it will be important to determine how to define "domestic abuse." Under Minnesota Statutes section 518B.01, subd. 2, domestic abuse is defined as violence or threat of violence by a "family or household member." A "family or household member" includes current and past intimate partner relationships, familial relationships like parent and child, parents in common, and persons who reside together. [See Appendix A] Using only a single indicator based on the statutory definition means that a broad range of relationships will be included with a broad range of harm reflected, from interpersonal partner violence to child abuse to other family violence. It will be important to identify the overall goal of this data collection effort to then determine what relationships should be included in this "indicator." Moreover, as part of this assessment, careful consideration should be made at the development stage as to whether other relationships or factors should be tracked.

The BCA is the repository for data submitted by both law enforcement and prosecutorial agencies and, consequently, has the ability to report on data submitted to its system. The BCA routinely reports on Summary data, and, eventually, will also be reporting on NIBRS data submitted by local law enforcement agencies. Similarly, the State Court Administrator's Office is responsible for analyzing and reporting on criminal case data, and can analyze the data that is collected and maintained within MNCIS. For both the BCA and the SCAO, having a domestic abuse indicator attached to the case will make it possible to identify and report on domestic abuse case data within their respective systems.

It is important to recognize that not all law enforcement incident data is transmitted to the BCA. For those law enforcement responses that do not result in a citation or criminal charge, or UCR reporting is not otherwise required, data is only maintained in the individual agencies' record management systems. One strategy to collect law enforcement incident data is to add

domestic abuse reporting to the list of statutorily required supplemental reports. The BCA has had success with law enforcement agencies submitting supplemental crime reports. This approach would require a statutory directive to the agencies about what information must be collected and then reported to the BCA, some of which might not currently be collected by agencies under their existing practices and records management systems.

Like other reporting mandates, the effectiveness of supplemental reporting is dependent on the cooperation of local agencies to submit and analyze the data. Also, unlike the other types of cases in which there is a state-required supplemental report, the volume of domestic abuse cases handled by law enforcement agencies is considerable. Consequently, this approach may not be practical unless the requested data elements are limited and easily identifiable. Further it would need to be incorporated into records management systems so agencies can easily and systematically retrieve and report on this information through the supplemental reporting process.

Similarly, even if there was a system to attach a domestic abuse indicator, at the prosecution review stage, there is currently no systematic process to identify and report on those cases that have been declined by prosecutors. Currently individual prosecutorial practices related to case review are not uniform. Not all offices maintain records on their review decisions. There are a number of different records management systems that are employed but not necessarily set up to track this information, and not all jurisdictions are set up with electronic submission of law enforcement data into prosecutors' records management systems. Requiring prosecuting agencies to report on their review of domestic abuse cases may be challenging given the volume of these cases, the resources available to collect and report on this information, especially for smaller offices, and the suitability and availability of records management systems used by prosecuting agencies.

Prior efforts to collect domestic abuse data from law enforcement agencies relied on a system of manual data retrieval, and reporting that proved burdensome and unsuccessful. The technological tools available to criminal justice agencies have advanced significantly since then and there are a greater opportunities to incorporate data collection into the records management systems adopted by criminal justice agencies. To the extent possible, a technological solution should be developed that automates the reporting by law enforcement and prosecutorial agencies of domestic abuse data, relying on existing and emerging data management and reporting systems.

Intensive examination

Finally, in any discussion regarding domestic abuse data in the criminal justice context, a long list of desired data is quickly generated. (See Appendix B) From greater detail about the individual circumstances of the incident, to more information about the reasons for prosecutors' decisions to decline, those who work on domestic abuse prevention and advocacy

are anxious to learn more about the nature of law enforcement and prosecutorial response to domestic abuse, along with the circumstances that led to the initial call for service. Correspondingly, criminal justice agencies are anxious to learn about the scope and effectiveness of their efforts.

Such intensive examinations yield valuable information and are essential for informing practices and instituting change. Such comprehensive attempts to collect varied and rich data, while encouraged, are structurally more feasible for a single jurisdiction rather than for systematic, ongoing statewide collection. Such large scale research projects would require significant expertise, funding, and collaboration with criminal justice partners, and are best initiated by community based and government based entities interested in such comprehensive examinations of their respective jurisdictions.

CONCLUSION

The legislative mandate calls for recommendations for statewide data collection. In order to have reliable and comprehensive domestic abuse data, it is recommended that any strategy implemented should institutionalize the collection of data in a manner that does not place an undue burden on law enforcement agencies, that can work with reasonable adaption to existing records management systems used by law enforcement and prosecutorial agencies, and that is integrated into the court data systems.

In addition to the ability to routinely report on domestic abuse data collected, any system should be able to easily respond to requests by community organizations and outside researchers who may want to analyze the data beyond what state agencies have the capacity to do.

Finally, any comprehensive, systems-wide strategy, will require significant multi-system planning, coordination, and technological development, along with sufficient funding for affected agencies to implement.

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APPENDIX A

LEGISLATIVE MANDATE

2014 Session Laws chapter 212, section 13 provides:

The commissioner of public safety, in consultation with the Minnesota Peace Officer Standards and Training Board, and representatives from state, county, and municipal law enforcement agencies, prosecutors' offices, and programs providing services to domestic abuse victims, shall develop recommendations for the collection and reporting of comprehensive, statewide data on victims of domestic abuse as defined in Minnesota Statutes, section 518B.01, subdivision 2, including data related to law enforcement response, arrests, and prosecution. These recommendations shall be submitted to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over data practices by January 15, 2016.

DEFINITION OF DOMESTIC ABUSE

"Domestic abuse" is defined in the Domestic Abuse Act, section 518B.01, subd. 2. A case is considered "domestic abuse" when (1) the offender and the victim have the required relationship, and (2) there has been harm or a threat of harm. Specifically, the statute provides:

- (a) "Domestic abuse" means the following, if committed against a family or household member by a family or household member:
 - (1) physical harm, bodily injury, or assault;
 - (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
 - (3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.
- (b) "Family or household members" means:
 - (1) spouses and former spouses;
 - (2) parents and children;
 - (3) persons related by blood;
 - (4) persons who are presently residing together or who have resided together in the past;
 - (5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
 - (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
 - (7) persons involved in a significant romantic or sexual relationship.

APPENDIX B – DOMESTIC ABUSE DATA – IDENTIFYING DESIRED DATA ELEMENTS¹

LAW ENFORCEMENT RESPONSE

DA calls for service
Call code change
Gone on arrival (GOA)
DA incident reports
Case classification (closed as unfounded, etc.)
Dual arrests
Referrals of DA cases to prosecutor
Details regarding those calls, e.g.

1. Relationship between parties
2. Existence of OFP or HRO
3. Children present
4. Prior contact with LEA
5. Prior criminal history of parties
6. Alcohol/drug use as factor
7. Prior history of victimization of parties
8. Presence of weapons

PROSECUTOR REVIEW

Number of cases referred
Number of cases declined
Number of cases charged
Charges presented vs. charges filed
Types of cases declined and charged
Number of cases deferred
Cases with parties with prior domestic abuse reports or convictions.
Cases with eligible enhancements
How long under review
Reason for decline

CRIMINAL PROSECUTION

Number of cases charged
Offense(s) charged
Level of offense
Number of charges
Outcomes
Length from charging to outcome
DANCOS (pretrial and probationary)
Prior criminal history of offender
Conditions of probation (e.g. how many ordered to batterer intervention programs)
Pre-trial release violations
Probation violations
New charges while on probation or supervised release.

Further analysis:

Court: Trends in incidence, sentencing, etc.
Prosecutor: Recantations, uncooperative victims, dismissals, prior/concurrent involvement with child protection system, etc.

POST CONVICTION

Number of DOC inmates whose current offense is a domestic abuse related crime
Number of DOC inmates with domestic abuse criminal history
Number of inmates with orders for protection issued against them

¹ The intent of this statutory mandate was to explore the options related to criminal justice data. Other data related to domestic abuse may be collected by other agencies and entities for example, applications for Family Violence Waivers for the Minnesota Family Investment Program (Minnesota Department of Human Services); Minnesota hospitalizations and deaths due to injuries caused by an intimate partner (Minnesota Department of Health); and the extent of homelessness that can be traced to domestic violence situations (Minnesota Interagency Taskforce on Homelessness).

APPENDIX C – FLOW CHART

CRIMINAL JUSTICE DATA FLOW

