

The legal consequences of intimate partner violence for men and women

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Abstract

Activists claim that assaults on women by their intimate partners tend to go unreported, and that, when they are reported, offenders are treated leniently while victims are mistreated. I review a research program consisting of seven studies that examines whether assaults involving intimate partners have different consequences than other assaults, and whether these consequences depend on the gender of offenders and victims. The consequences examined include: whether the assault was reported to the police; the reasons the victim gave for reporting or not reporting; whether the victim signed a complaint; whether the offender was punished; and whether the victim was satisfied with the way the case was handled. The evidence does not support the idea that assaults by male partners are particularly likely to be underreported or treated leniently. Rather, the results suggest that offenders who assault women are *more* likely to suffer legal consequences than those who assault men, whether their victim is their partner or someone else.

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1. Introduction

Activists who study violence against women and wives typically study it in isolation. They treat it as sexism, arguing that misogynist men assault women in order to maintain their dominance (e.g., [Belknap, 2001](#); [Dobash & Dobash, 1998](#)). They believe that misogynist societies tolerate violence against women, leading offenders to think they can “get away with it.” The result is an epidemic of violence against women, most of it hidden because it does not get reported to the police.

A major claim of the activists is that men hit their female partners in part because they think that they will not suffer any legal consequences (e.g., [Belknap, 2001](#); [Dobash & Dobash, 1979](#)). The victim does not report the incident to the police because of her dependence on her husband, her fear of reprisal, or her emotional vulnerability to her husband’s “sweet-talking” (e.g., [Browne & Williams, 1993](#); [Walker, 1979](#)). If she does report the incident, her husband only gets a “slap on the wrist.” The criminal justice system is ineffective in its prosecution of violent husbands and its ability to protect the victim from future attack (e.g., [Buzawa & Buzawa, 2003](#); [Koss, 2000](#)). In addition, her experience with the criminal justice system is likely to be extremely negative. For example, [Erez and Belknap \(1998\)](#) claim that the

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attitudes and behavior of agents of the criminal justice system are often “harmful and demoralizing to victims” and “may cause battered women a deeper despair than the abuse itself” (p. 263). In sum, the victim gets blamed and the offender gets off.

In this paper, I discuss a series of studies my colleagues and I conducted that address the question of whether the criminal justice response to intimate partner violence and violence against women is unique. In these studies, we compare the response to assaults involving intimate partners and female victims to the response to other assaults. I cite some studies done by others but I do not review the literature that studies violence against wives in isolation. Only by comparing different types of violence can we determine whether a particular type is underreported or treated leniently. This comparative method is also useful for understanding the causes of violence against women and intimate partner violence (see Felson, 2002, 2006 for reviews).

The research reviewed examines the following outcomes: whether victims and third parties report incidents to the police; whether victims sign complaints; whether the police make an arrest; whether the offender is convicted and incarcerated; and whether the victim is satisfied with the way the police and the court handled the case. I also review evidence concerning the victim’s reasons for reporting or not reporting the incident and the specific complaints that victims make about the police. Finally, I discuss an experimental study that examines how the gender and marital status of the offender and victim affect attitudes toward reporting assaults.

In most of the studies of victimization data, my colleagues and I estimate equations that include as independent variables: the gender of the offender; the gender of the victim; and a set of dummy variables reflecting whether the offender was an intimate partner, a family member, someone else known, or a stranger. Using these equations, we attempt to disentangle the effects of gender and victim–offender relationship. It may be that the response to intimate partner violence is different from the response to violence against strangers but similar to the response to other forms of domestic violence or violence involving friends and acquaintances. It may also be that the response to male and female offenders and victims does not depend on how they are related to each other. In our equations, we always include controls for whether the victim was injured, other characteristics of the assault, and the social-demographic characteristics of the victim. Finally, we look for statistical interactions between gender and partner relationship. From the activists’ perspective, the response to men’s violence against their female partners is unique (e.g., Belknap, 2001; Dobash & Dobash, 1998; Koss et al., 1994).

2. Reporting to the police

The evidence as to whether intimate violence is less likely to be reported to the police than other types of violence between strangers is mixed. For example, Felson (2000) examined police notification using data from a violence survey collected in 1980 in Albany, NY. Respondents were asked about disputes that involved slapping or hitting with a fist. The evidence suggested that violent disputes between people who knew each other, particularly couples, were less likely than disputes involving strangers to be reported to the police (see also Block, 1974; Gartner & Macmillan, 1995). Note that these incidents are more likely to involve slaps than hitting with a fist. Self-reports of violence or crime from the general population are always dominated by minor incidents because minor incidents are so much more frequent. Note also that there was no clear victim in this study, and no information on *who* called the police. However, there was information about whether there were witnesses present. Analyses showed that witnesses were much less likely to be present during incidents involving couples and that this was one reason why these incidents were less likely to be reported to the police.

The evidence from victimization studies, which tend to focus on more serious forms of violence with clear victims, suggests a slightly different picture (Felson, Messner, & Hoskin, 1999; Felson & Paré, 2005). Our analyses were based on the National Crime Victimization Survey (NCVS) and the National Violence against Women Survey (NVAW). The NCVS collects information on victimizations from a nationally representative sample of households in the United States. The data we use were collected between 1992 and 1998. Respondents are asked about specific behaviors, but they are aware that they are participating in a crime survey. The NVAW involves data collected between 1994 and 1996, from a nationally representative sample of 8000 women and 8005 men (see Tjaden & Thoennes, 2000). It was presented to respondents as a study of personal safety, as opposed to a crime survey, or a violence survey. It is important to note that the context of the survey can affect the types of behaviors reported to interviewers.

In our analyses of both data sets, we examined third party reporting separately from victim reporting. The analyses show that third parties are less likely to report assaults involving intimates than assaults involving people in other

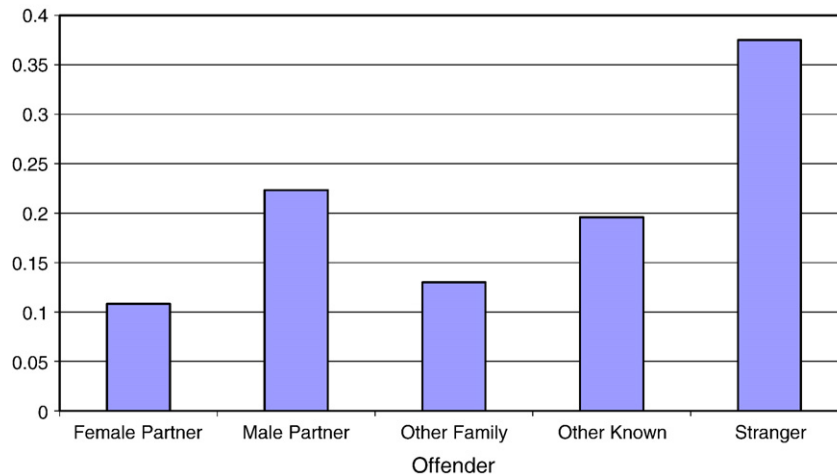


Fig. 1. Probability of victim reporting based on victim–offender relationship. Note: Probabilities are calculated from a multinomial logistic equation using the following formula: $p = (\exp[g_1(x)]) / (1 + \exp[g_1(x)] + \exp[g_2(x)])$. Estimates are based on incidents involving: male offender (reverse for female partner), physical assault, no alcohol or drug use by victim or offender, no weapon, victim injured, during the 1990s, outside victim's home, no prior incident; victim is a woman (reverse for female partner), high school graduate, White, \$20,000–\$50,000 income, and 18–29 years old.

relationships, particularly if the assaults are minor.¹ Our evidence also shows that third parties – who add significantly to the number of crimes reported – are much less likely to be present during assaults against intimate partners than other assaults. The fact that this type of assault tends to occur “behind closed doors” reduces the likelihood that it will be reported.

The evidence from our analyses of victimization surveys does not support the idea that *victims* of partner assault are less likely to report the incident than victims of assaults by other people they know (see also Avakame, Fyfe, & McCoy, 1999; Bachman, 1998). One can see this pattern in the NVAW data (see Fig. 1). The figure shows that, overall, victims are less likely to report assaults by people they know than assaults by strangers. It also shows one way in which intimate partner violence is unique: men are particularly unlikely to report assaults by their female partners. This finding does not support claims that women have special inhibitions about reporting their male partners (e.g., Belknap, 2001; Dobash & Dobash, 1998). Finally, the NVAW examines victimizations since becoming an adult, so we were able to examine whether reporting patterns had changed over time. We found no evidence that the reporting of partner assault has increased since the 1960s. Thus, we see no evidence that media attention to this problem or changes in law enforcement have had an impact on reporting. In addition, the lack of period effects suggest that our findings on reporting, based on data collected in the 1980s and 1990s, apply to other time periods.

In all of these studies we observe significant effects of gender, controlling for the victim–offender relationship. There is some variation in results depending on the sample, but in general the results show that both victims and third parties are more likely to report violence if the victim is a woman. This pattern is observed with controls for whether the victim is injured and other measures of seriousness. Sometimes we also see evidence that violence between men and women is more likely to be reported than same-sex violence.

3. Reasons for reporting and not reporting

We have also used the victimization data to examine the reasons victims give for reporting and not reporting incidents of assault to the police (Felson, Messner, Hoskin, & Deane, 2002; Felson & Paré, 2005). We were interested in whether victims of intimate partner violence are any different from other victims in their reasons for calling or not calling the police. For example, we have observed some evidence in our work (albeit mixed) that female victims of partner violence are particularly likely to say that they did not call the police because of fear of reprisal. However, fear

¹ The reluctance of third parties to intervene in violent incidents involving intimates has also been demonstrated in experimental research (Shotland & Straw, 1976).

of reprisal is not a common reason for non-reporting in victimization data. In fact, fear of future attacks by the offender is more likely to motivate reporting than fear of reprisal is to be an inhibitor. Discussions of victim reporting have ignored the possibility that there may be greater incentive for a victim to report an incident by someone they know because these people are more likely to pose a future threat.

We did not find much difference between victims of partner assault and victims of other assaults in the reasons they give for non-reporting. For example, victims were no more likely to think an assault by their partner was a private matter than an assault by someone else they knew. Victims rarely mentioned the desire to protect the offender as the reason why they did not call the police and they were no more likely to have this concern when the offender was a partner than when the offender was some other family member. Victims did not view partner violence as too trivial to be reported, nor did they think the police would take it less seriously or not believe them. In fact, victims of domestic assaults were *more* likely than victims of other assaults to view them as important, and they thought the police did also. We did observe one special concern among victims of intimate partner violence: they were more likely than other victims to think that the police could not do anything to help.

4. An experimental study of attitudes toward reporting

In an unpublished work with Scott Feld, we examined experimentally whether the gender of the victim and offender and whether they were married or not affect whether people think the police should be notified about an assault. Experimental data are useful because they allow greater certainty that differences between incidents are adequately controlled. The data were based on a telephone survey conducted on a representative sample of 800 American adults in 2006. Respondents were presented with a scenario such as the following: “Imagine that a young man, John, gets very angry at his wife, Beth, for no good reason. John swears at Beth in front of a group of Beth’s friends, and hits her hard enough to bruise her arm.” Other versions involved a woman assaulting her husband, and acquaintances involving different gender combinations. Respondents were then asked about the seriousness of the offense and whether they thought the victim should call the police.

We estimated equations that included the gender of the perpetrator, the gender of the victim, whether they were married or not, as well as interaction terms. The results showed that attitudes toward calling the police do not depend on whether the perpetrator is a spouse or an acquaintance. We did observe strong statistical interactions involving the gender of the offender and victim. The results showed that respondents were particularly likely to morally condemn men’s assaults on women, and to favor reporting them to the police. For example, approximately 80% of respondents thought a husband’s violence was a serious moral violation while only 60% thought a wife’s violence was a serious moral violation, in spite of the fact that the injuries were identical in both experimental conditions. This pattern was observed regardless of whether the offender and victim were spouses or acquaintances. The evidence suggested that attitudes toward reporting men who assault women reflected greater moral condemnation as well as the belief that the victims of these assaults are in greater danger. Neither moral judgments nor attitudes toward reporting depended on the gender, age, level of education, or political ideology of the respondent. In other words, we observed a consensus across groups.

5. Arrest

According to some conventional wisdom, the police treat offenders who assault their female partners leniently (e.g., Buzawa, Austin, & Buzawa, 1995; Dobash & Dobash, 1979; Eisikovits & Buchbinder, 2000). They do not make arrests because they do not take the behavior seriously, this argument goes, because of their concerns for family privacy, or because they believe that victims will not cooperate in prosecution (e.g., Belknap, 2001; Koss, 2000). Mandatory and pro-arrest policies were designed to counteract the police tendency toward leniency.

We have examined the effects of gender and victim–offender relationship on arrest using both the NCVS and the NVAW (Felson & Ackerman, 2001; Felson & Paré, 2007). The NCVS study does not show that offenders who assault their partners are particularly likely to avoid arrest. In the case of minor assault there is some leniency shown when the victim knows the offender *in any way*. In other words, the police are less likely to treat a push or a shove as a serious matter, deserving of arrest, if the parties know each other. On the other hand, in incidents involving weapons or injury, the offender’s relationship to the victim does not affect whether the police make an arrest.

In the NVAW, we observe a partner \times gender interaction in the case of minor assaults (Felson & Paré, 2007). The results show that the police are particularly unlikely to arrest women who assault their male partners, not men who

assault their female partners. We also find evidence that the likelihood of arrest for partner assault increased in the 1990s. These findings suggest that mandatory arrest laws did have their intended effect on the response of the police to partner violence, at least by the 1990s. After the introduction of mandatory arrest policies, the police were more likely to arrest offenders who assaulted their partners than other offenders. Thus, our results suggest that the police became more punitive toward men who assaulted their partners, where they had treated them like other offenders earlier. They continued to be lenient toward women who assaulted their male partners, but not as lenient as before.

One reason the police might not make an arrest is that the victim will not cooperate. Are women less cooperative than other victims in the prosecution of their violent partners? The evidence from the NCVS shows that women are just as likely to sign complaints against their violent partners as they are to sign complaints against other people they know. On the other hand, both men and women are more reluctant to sign complaints against people they know than against strangers. Thus, our research questions the idea that women are particularly unlikely to cooperate in the prosecution of their assaultive partners. In fact, women are *more* likely than men to sign complaints against their assailants, particularly if the assailants are their husbands. In addition, victims are more likely to sign complaints against male offenders than female offenders.

Finally, it is important to mention a factor that increases the relative likelihood that someone who assaults an intimate partner is arrested. Intimate partners can be identified whereas strangers often cannot.

6. Victim's satisfaction with the police

Another approach is to examine whether victims of partner assault are less satisfied with the police response than other victims. The NVAW includes a question in which assault victims were asked: "How satisfied were you with the way the police handled the case?" Victims were also asked if they had specific complaints about the police. For example, they were asked if the police should have made an arrest, taken the complaint more seriously, done more investigation, or been more supportive. Note that this subjective approach recognizes that victims may have other interests besides seeing the offender punished. In addition, the attitude of victims toward their treatment should reflect, to some extent, the behavior of legal actors. For example, if the police are disrespectful or skeptical about their charges, the victim is likely to notice it.

We find that about 1/3 of victims of violence in the NVAW were dissatisfied with the way police handled their case (Felson & Paré, 2007). The most common complaint about the police was that they were too lenient. We regressed victim satisfaction and each of the complaints on the gender of offender and victim, and the victim–offender relationship, to see if some types of victims were more dissatisfied than others. As usual, we controlled for injury, other characteristics of the offense, and social-demographic variables. We found no evidence that female victims of assaults by partners are more likely to be dissatisfied than male victims of assaults by partners. Nor are victims of intimate partners particularly likely to complain about police leniency, skepticism, insensitivity, or the failure of the police to do enough investigation. These findings do not support the literature criticizing the police for their handling of violence by male partners. In fact, it is male victims of partner violence who are particularly likely to complain about a lack of police investigation. Perhaps the police do not take these offenses as seriously as other offenses or they believe that husbands can handle themselves.

Our evidence does suggest that victims are more dissatisfied with the police when the offender is someone they know as opposed to a stranger. This pattern suggests that the literature criticizing the police for their handling of partner violence may be misdirected. *If* the police are responding inappropriately, they are doing so in response to offenses involving non-strangers, not just partners or male partners. At least that is how victims perceive the situation.

Our analyses of victim complaints about the police suggested two reasons why victims are more likely to be dissatisfied with the police when they know the offender than when they do not. First, victims were much more likely to complain that the police were too lenient if they knew the offender. Since known offenders are not, in fact, more likely to avoid arrest (Felson & Paré, 2007), the results suggest that victims are more punitive toward offenders they know. The police treat them the same, the evidence on arrest above shows, while the victims are more likely to want harsh treatment. Perhaps victims are particularly angry because they perceive violent behavior by friends or family members as more serious violations or perhaps they are more likely to have longstanding grievances with these offenders. However, their punitiveness is not due to a history of violence by known offenders; our equations include controls for the number of prior assaults. Note also that this evidence contradicts the idea that victims of intimate violence are protective of offenders.

The second reason victims are more likely to be dissatisfied with the police response when they know the offender is police skepticism about their charges (Felson & Paré, *in press*). Presumably, the police have more difficulty determining whether an offense occurred and who the guilty party is when the victim knows the offender. In this circumstance, victims find it more difficult to convince the police that the offender is guilty. Anticipation of skepticism may help explain why victims are less likely to report assaults by people they know than assaults by strangers (Felson & Paré, 2005). Perhaps the lower availability of the legal system for victims in these cases sometimes leads them to use violence themselves for retribution (Black, 1983). In general, we believe that the literature on responses to victimization does not give enough attention to the problems victims face in proving their case.

7. The courts

An extensive literature criticizes the criminal justice system for its lenient response to assaults committed by male intimate partners (e.g., Belknap, 2001; Buzawa & Buzawa, 2003; Erez & Belknap, 1998; Koss, 2000). Prosecutors have been described as reluctant to file charges and pursue strict sentences against violent husbands (e.g., Byrne, Kilpatrick, & Howley, 1999). Criminal justice officials, in general, have been criticized for blaming the victim instead of the offender (e.g., Belknap, 2001; Hart, 1993; Koss, 2000). Because of these processes, it is asserted, the men who commit these assaults are likely to avoid criminal prosecution and incarceration. As a result, women who are assaulted by their male partners are less likely than other victims to receive protection from the criminal justice system.

We examined the issue in our analysis of the NVAW (Felson & Paré, 2007). We do find evidence of leniency of the courts toward partner violence, at least in the past. Offenders who assaulted their partners before the 1990s were much less likely to be convicted than other offenders, *regardless of gender*. In addition, offenders convicted of assaulting partners were less likely to be incarcerated than those who were convicted of other assaults.

Leniency in conviction, however, largely disappeared in the 1990s. In addition, victims of partner assaults in the 1990s were more satisfied with their treatment by the courts than other victims. This change supports the idea that public concerns regarding partner violence affected the response of the courts to these assaults. However, leniency in punishment continued into the 1990s. Offenders convicted of assaulting their partners were less likely than other offenders to be incarcerated.

Approximately 1/3 of victims were dissatisfied with how they were treated by the courts in the NVAW data (Felson & Paré, *in press*). We found no evidence, however, that female victims of assaults by partners are more dissatisfied with their treatment by the courts than other victims. This evidence is inconsistent with the idea that female victims of intimate violence are critical of the courts because their cases are not prosecuted or because they experience victim blaming (e.g., Belknap, 2001). In fact, the evidence supports the idea that it is male victims of partner violence who are particularly critical of the courts.

Our results from the NVAW show that legal outcomes are the best predictor of the victim's satisfaction with the criminal justice system. The more severely the offender is treated, the more content the victim. Victims apparently feel punitive and are more satisfied when the offender is arrested and convicted, and most satisfied when the offender is incarcerated for a long time. This is the case for all types of assaults.

8. Conclusions

Our results from these seven studies challenge conventional wisdom about the legal consequences of intimate partner violence. We find that victims are just as likely to report partner assaults as they are to report assaults by other people they know. The evidence does not support the idea that female victims are reluctant to report their violent husbands. The key difference for victims – both men and women – is in their response to violence by strangers and non-strangers. If they know the offender in any way, they are less likely to report the incident. Thus one might say that violence between people who know each other in any way is underreported. However, we do see some evidence that third parties are less likely to report minor assaults involving intimates than minor incidents involving people in other relationships.

We see no support for the hypothesis that male violence against female partners is underreported. Both victims and third parties are *more* likely to report violence if the victim is a woman. Nor do we see any evidence that women are particularly likely to tolerate assaults by intimates. In general, women are more likely to call the police than men. In addition, women are just as likely to sign complaints against their violent partners as they are to sign complaints against other people they know.

Our experimental study suggests that Americans are more likely to advocate calling the police when men assault women, regardless of whether they are married or not. Their attitudes reflect stronger moral condemnation of men who assault women as well as the belief that these women are in greater danger, even when the injuries are the same. Chivalry – the tendency to protect women from men – is apparently alive and well. Attitudes toward protecting women from men do not appear to depend on the gender, age, level of education, or political ideology of respondents. We found no experimental evidence to support the idea that respondents were more tolerant of violence when the scenario involved spouses. Note, however, that victims were bruised in these scenarios. Perhaps if we had presented more minor incidents to respondents we might have found a more lenient response to marital violence. It is always important to determine whether effects are different for minor incidents than for serious incidents.

My colleagues and I also examined whether the police responded differently to partner assaults when those assaults were reported (Felson & Ackerman, 2001; Felson & Paré, 2007). We found no evidence that men who assaulted their female partners were able to avoid arrest. Our results suggest that mandatory arrest laws should be reconsidered in light of evidence that the police did not treat men's violence against their partners leniently before these laws were on the books. The police, however, have avoided arresting women who assault their male partners. We also find evidence that the likelihood of arrest for partner assault increased in the 1990s.

Analyses of the NVAW show that victims of intimate assaults are no more likely than other victims to be dissatisfied with the way the police handled the case. Nor were female victims of partner violence more dissatisfied with their treatment by the courts. The evidence does not support those who claim that female victims of partner violence experience a second victimization by the criminal justice system. Rather, the evidence suggests that it is male victims of partner violence who tend to be relatively dissatisfied with their treatment. Again, the effect is in the opposite direction to that predicted by the activists.

These results show the importance of making comparisons across different offenses. Crime victims are often dissatisfied with the way the police and the courts handle their case. This is not surprising given difficulties in identifying suspects, the requirements of due process, and the measured response of agents of the criminal justice system. Victims tend to favor severe punishment of offenders. It is necessary to compare responses to intimate partner violence to responses to other types of violence in order to determine whether those responses are unique. Studies of intimate violence in isolation, reliance on anecdotes, and the use of a utopian standard of comparison are misleading.

We do see some evidence of leniency by the courts toward offenders who assault their partners, regardless of gender. These offenders were less likely than other offenders to be convicted and incarcerated. Leniency in conviction, however, largely disappeared in the 1990s, according to our analyses of the NVAW.

The idea that men's violence against their female partners is underreported and treated leniently when it is reported has had a great impact. Mandatory arrest was a policy instituted because of the belief that the police were not arresting enough violent husbands (and male partners). In general the evidence from this research does not support the idea that the police treated violent husbands more leniently than other violent offenders before mandatory arrest was instituted. However, an evaluation of whether we are too lenient in these cases depends on the values we apply. If we use a standard of equal justice, we would want the same treatment of offenders regardless of gender and social relationship. On the other hand, if we are also interested in protecting victims, we might respond differently to different types of offense. For example, violent husbands tend to be more dangerous than violent wives: they are usually bigger and stronger and they tend to assault with greater frequency (Felson & Cares, 2005). Perhaps violent husbands *should* be treated more punitively than other offenders, even when their offense is no more serious, given the vulnerability of their wives. In other words, it might be useful to view protecting victims and equal justice as competing values that should affect our response to violence by intimate partners.

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