

WASHINGTON COUNTY SAFETY AUDIT

CONSENSUS REPORT

HOW DO VICTIMS OF VIOLATIONS OF RELIEF FROM ABUSE ORDERS
EXPERIENCE WASHINGTON COUNTY'S RESPONSE?



Submitted by Crime Research Group:

Robin Joy, Ph.D., J.D.

Marcia Bellas, Ph.D.

This work was supported by:

Circle

Barre City Police

Washington County State's Attorney

This report was made possible by:

OVW Grant #2015-WE-AX-0027

Introduction

Circle, in partnership with the Barre City Police Department, the Washington County State's Attorney's office, and Deaf Vermonters Advocacy Services, received a grant from the Office of Violence Against Women that includes funding to conduct a SAFETY AUDIT in Washington County. A safety audit is designed to identify gaps in the system's response to domestic violence, and recommend ways to both increase victims' safety and system accountability. A premise of the safety audit is that gaps arise primarily because of the way that systems operate (e.g., policies, procedures and work routines), rather than because of individual failings of those working in the system. Thus, a safety audit team looks at the organization of the response system that may create problems, and identifies ways to address these problems.

The Washington County Coordinated Community Response team (CCR) identified ideas for a research question on which to focus the audit. Representatives from Circle, the Barre City Police Department and the Washington County State's Attorney's Office decided to focus on one primary question:

How do survivors of domestic abuse who report a Violation of an Abuse Protection Order (VAPO) experience the system's response?

This question was selected because it was narrow in focus, yet touched on several aspects of the county's response to domestic violence.

Circle contracted with Crime Research Group, Inc. (CRG) to help facilitate the safety audit, which would be carried out by volunteers from Washington County's Coordinated Community Response team. The following people¹ volunteered to join the safety audit team¹:

Melissa Baptiewright, Clinician, Central Vermont Addiction Medicine

Kacey Bitgood, Clinician, Central Vermont Addiction Medicine

Julie Cadorette, Probation Officer

Karol Diamond, Co-Director, Circle

Jocelyn Hard, Advocate, Disability Rights Vermont

Diane Kinney, Co-Director, Circle

Meg Kuhner, Retired Co-Director, Circle

¹ Some volunteers dropped out of the project and were replaced with other volunteers, so team membership was inconsistent during the audit.

Ally Manousos, Domestic Violence Specialist, Department for Children and Families (DCF)
James Pontbriand, Detective, Barre City Police
Cheryl Reed, Reach Up Case Manager, Economic Services, DCF
Crystal Ryan, Victim Advocate, Circle

Some team members participated in a two-day training in September 2017 conducted by Praxis International on the methods and ethics involved in conducting a safety audit. Praxis consultant, Rhonda Martinson, introduced participants to a variety of possible data collection methods, including mapping the individuals/agencies involved in the system's response to domestic violence and the flow of cases, interviews with those involved, focus groups with victims (and/or separate focus groups with offenders, depending on a team's research question), observations and case reviews. During a safety audit, team members collect data using methods appropriate to their research question, then "debrief" as a group, to identify patterns or themes, discuss safety gaps, and develop recommendations. Praxis International developed the template for safety audits and provided materials to the safety audit team.²

Methodology

After the training, the audit activities started with a focus group consisting of victims who experienced a Violation of Relief from Abuse Order (VAPO). The themes and concerns the victims raised were then used to guide the rest of the audit. Team members interviewed administrators and direct service workers in Probation and Parole, DCF, Circle, batterer intervention programs, police departments (chiefs, officers, dispatchers), the courts (judges, state's attorney, victim advocates, and defense attorneys). Members of the team observed police officers and dispatchers as they engaged in routine work activities, and also observed VAPO court hearings. Overall, team members conducted 33 interviews, and 17 observations.³ The audit team carried out document reviews of police reports, agency policies and forms. During the nine months of the audit, the team met an average of once per month to discuss observations and findings, identify gaps in the system's response, and recommend ways to increase victims' safety and system accountability. This report represents the consensus of the safety audit team.

² For more details on safety audits, visit: <http://www.praxisinternational.org/institutional-analysiscommunity-assessment-2/what-is-a-safety-audit/>

³ During the Audit, the State's Attorney (a grant partner) unexpectedly resigned. This created some difficulties for the audit team in determining what were transitional versus systemic issues at the State's Attorney's office. Team members were also unable to review the State's Attorney's files as planned.

Data on Violation of Relief from Abuse Orders (VAPOs)

Vermont Statute 13 VSA 1030 addresses VAPOs. Section A indicates that a person who violates an abuse prevention order “shall be imprisoned not more than one year or fined not more than \$5,000.00, or both.” Section B states that a person convicted of a second or subsequent offense “shall be imprisoned for not more than three years or fined not more than \$25,000, or both.”⁴ Table 1 illustrates the disposition of charges in Washington County from 2013 to 2017.

Table 1: Charge Dispositions in Washington County 2013-2017

Washington County 2013-2017	Diversion or Treatment Court	Acquitted	Change of Venue	Dismissed by Court	Guilty	Dismissed by State	Totals
Felony VAPO				1	11	9	21
Misdemeanor VAPO	2	2	4	7	83	76	174

During the five-year period from 2013 to 2017, Washington County disposed of 21 Felony VAPOs and 174 Misdemeanor VAPOs. Almost an equal number of charges for both felonies and misdemeanors resulted in a guilty disposition or a dismissal by the state.

Table 2 shows the average sentences in Washington County for Felony VAPOs from 2013-2017.

Table 2: Average Sentences in Washington County 2013-2017

Felony VAPO Sentences	Average Total Minimum in Years	Average Total Maximum in Years	Days to Serve (for Splits only)	Total Number of Charges
Incarceration	1.04	2.17		5
Probation	0.15	2.25		4
Split	0.85	2.5	45.5	12

The most common sentence for Felony VAPOs was a split sentence, where the defendant serves some time in a facility and then the remainder of the sentence on probation.

Table 3 shows the average sentences in Washington County for Misdemeanor VAPOs.

⁴ “Violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child” (see <https://legislature.vermont.gov/statutes/section/13/019/01030>).

Table 3: Average Sentences in Washington County 2013-2017

Misdemeanor VAPO Sentences	Average Total Minimum in Years	Average Total Maximum in Years	Days to Serve (for Splits only)	Total Number of Charges
Deferred	0.82			12
Fine Only				2
Incarceration	0.09	0.69		39
Probation	0.14	0.85		22
Split Sentence	0.14	.91	41.38	8

The most common sentence for Misdemeanor VAPOs was incarceration followed by probation.

A VAPO can only occur when a Relief from Abuse (RFA) order exists in the Family Division. RFAs require a victim’s involvement—to complete the paperwork (often with the help of an advocate from Circle), which must then be approved by a judge. Next, a police officer serves the RFA to the offender/defendant, summarizing the main stipulations of the order, and the information is entered into a law enforcement database. Importantly, the RFA is not effective (and therefore a violation cannot occur) until an RFA is served on the offender.

Victims often choose not to seek an RFA in the Court’s Family Division, relying on the judge in the Criminal Division to order conditions that include the offender stay away from the victim. In domestic violence cases, a judge will typically order that an offender not contact or go within a certain distance of the victim as part of an offender’s Conditions of Release. In such cases, violations are charged as Violations of Conditions of Release (VCR), but the ramifications of VCRs versus VAPOs differ, as will be discussed later in the report.

The following section describes gaps in the system’s response to VAPOs identified by the team, and suggests recommendations to address them to increase safety of the victim and accountability in the system’s response. The team also includes some gaps specific to RFAs. Although these are technically beyond the purview of the audit team’s research question, they are important ways of increasing victim safety and system accountability.

Identified Gaps – Audit Team Recommendations

How/When Orders are Issued/Served

- **GAP: After court hours RFA issuance**

Multiple agency administrators and workers identified gaps in the RFA issuance process after the court house has closed, since a representative of the court must sign the RFA order and obtain the approval of a judge for the RFA to be served. This process needs to be as timely as possible to enable police to serve the defendant with the order. Any delay in getting the order to the defendant allows the defendant to leave the jurisdiction and avoid service. This leaves the victim with an unenforceable order during a time of great risk, given that immediate violence or fear of violence created the need for the RFA order. Delays identified in the after-hours RFA issuance process are as follows:

- There can be difficulties in getting a judge to respond after regular court hours.
- It is difficult for some victims who live further away to travel to one of the two police departments (Montpelier and Barre City) where a court clerk can process after-hours RFA paperwork (an RFA can also be processed at a hospital if the victim is taken there).
- The technology used to transmit the paperwork to the judge to sign is outdated.
- If Circle is unable to assist a person in filing an after-hours order, the victim has limited access to the paperwork.

Recommendations:

- The Judiciary is working to increase access to a judge after-hours for setting bail, so it's an opportune time to increase access to judges after-hours for RFAs. To measure the efficacy of after-hour access, the Judiciary, police agencies, and domestic violence advocates should decide on the ideal time frame starting with the victim entering the police department to the issuance of the order (e.g., one hour, two hours?), then implement policies for handling cases in that time period and assure accountability.
- All police stations should have forms on hand for RFA filings.

- **GAP: Notifying victims when an order has been served.**

Victims and police reported that they are often unaware that an RFA order has been served on a defendant. Because it is not a crime to violate an RFA order if it has not yet been served, victims reported fear in not knowing if they were protected. Another issue is that if one law enforcement agency in the county serves the order, and the defendant violates it before it gets entered into the law enforcement database, a different law enforcement agency responding to a call may have trouble determining if the order has been served.

Recommendations:

- Law enforcement and interested community partners should explore technological advances used in other jurisdictions to help notify victims and other agencies that an order has been served. For example, New York state has a smart phone application that notifies victims.
- If there is a related criminal case, the order could be served at arraignment.

Reporting the Violation

- **GAP: Response times in rural jurisdictions**

Rural victims reported that they are hesitant to report violations due to long response times by law enforcement. Understaffed law enforcement agencies reported having difficulty responding to violations when the defendant was physically near the victim in a time frame they thought maximized victim safety. Washington County's municipal police forces are concentrated in the center-south area of the county. The western, northern and eastern areas rely on the Vermont State Police for primary coverage, although some towns may have limited contracts with the Sheriff's Department.

Recommendations:

- Police Departments should be fully staffed to maximize public safety.
- Police Departments may see patterns in VAPOs that help with resource deployment. For example, a jurisdiction may notice that calls for VAPOS may be more frequent on certain days/times of the week and therefore can allocate scarce resources accordingly.
- Police dispatchers should request that the closest available unit, regardless of agency affiliation, respond to violations when the defendant is physically near the victim.

- **GAP: Determining if there is a violation**

Not all VAPOs are reported to the police as such, for example, a neighbor may call in a family fight. When an officer responds, they must rely on dispatch to check for Conditions of Release (in the court database) or an RFA (in another database). Officer's do not have the ability to check these databases from their vehicle.

Recommendations:

- A service of process smart phone app, recommended above, may be of use.
- Dispatchers, if possible, should automatically check for orders when officers are sent to a residential address for a "family fight," so that any background information is available before officers arrive.

- **OTHER GAPS identified from review of police reports when responding to VAPOs**

- Police did not record the race of the victim or defendant in the affidavit. And while it is true race plays a role in how people develop bruises and the race should be captured in the affidavit, the same is true from person to person of the same race. It is more important and would better serve the idea of capturing bruises if both law enforcement and/or advocates follow-up with victims over the course of several days to see if additional bruises have developed.
- One report stated that the defendant caused \$900 worth of damage to a victim's vehicle, however, the defendant was not arrested until they walked into the police department, a month later, on an unrelated matter. The affidavit did not detail what the officer did to try to find the defendant in the intervening month.
- In another report of a drive-by violation, the officer's shift ended and the search for the defendant was not continued on the next shift, but rather the next time the officer was on duty.
- Victims reported strong satisfaction with the process of giving recorded statements at the scene rather than having to go to the police department. This practice should be continued.

Criminal Court Process

- **GAP: Victims' lack of understanding about the criminal court process**

Victims reported that the criminal court process was confusing to them and they did not clearly understand the way a criminal case makes its way through to resolution. This contributed to their fear because they did not know if a court hearing, such as a status conference, was likely to enrage their abuser and therefore to increase the risk of a violation.

Recommendations:

- The Judiciary should develop a pamphlet for the Criminal Court that clearly outlines the criminal process and includes definitions of court events. The State's Attorney and Circle advocates should go over the pamphlet with victims.
 - The State's Attorney's office should facilitate greater communication with victims to help ease anxiety about the court process.
- **GAP: Interviewees consistently reported that bail amounts were random and often too low.** Vermont is currently engaged in the National Criminal Justice Reform Project (NCJRP) and is studying the bail issue.

Recommendation:

- The NCJRP considers Domestic Violence Risk Assessment tools.⁵ During the audit period, there was a domestic violence homicide in another county. The defendant was out on bail on a sex offense case when he allegedly murdered his partner. This defendant would have scored “low risk” on the risk assessments, but he may have scored higher risk had a Domestic Violence Risk Assessment been used.

Court Culture

- **GAP: Unprofessional behavior in the courtroom**

Victims reported, and court observers and agency personnel confirmed, that when the judge is not present, some conversations among some of those whose work involves court attendance, such as probation officers and security personnel, is perceived as unprofessional and disrespectful of the situation. The casual nature of courtroom discussions made victims feel as if their case was not important. Some observers noticed what appeared to be favoritism to the defendant from court personnel.

Recommendation:

- Remind the those whose work involves court attendance that their behavior in the courtroom is always public and observable, and that even if court is not in session, standard professional decorum should apply.

Court Safety

- **GAP: Some victims feel unsafe in and around the court house**

Victims felt fearful and vulnerable when entering and exiting the court building (defendants sometimes congregate at the bus stop in front of the building) and intimidated by the defendant’s actions in the courtroom. Some courtroom personnel were concerned about the court’s reliance on unarmed security guards instead of armed deputies.

Recommendations:

- Move the bus shelter away from the front of the court house.
- Provide escorts for victims entering and leaving the court house.
- Stagger entry and exit times for victims and defendants in criminal cases.
- Decrease the use of unarmed security guards or contract with an agency that allows security guards to be armed.

⁵ There are several domestic violence risk assessment tools. The DV SIR used by DOC does not consider strangulation to be a risk factor, and is therefore inconsistent with current best practices for assessing risk.

Offender Accountability

- **GAP: Many interviewees perceive that offenders are not being held accountable for their actions.**

A lack of offender accountability figured prominently in interviews, but the meaning of accountability differed from person to person. Some thought that setting low bail for offenders did not hold them accountable. For others, it was a delay in offenders receiving services, receiving not guilty verdicts, or having cases dismissed. Many of these issues have competing Constitutional or statutory limits that contribute to the perception of a lack of accountability. There were, however, some processes identified that could be improved.

Victims often rely on Conditions of Release (issued in the Criminal Division) rather than RFAs (issued in the Family Division) to prohibit the defendant contacting the victim. By relying on Conditions of Release, the victims can shift responsibility away from themselves and onto the Court to issue the order. However, this may leave victims at greater risk of violence. First, Conditions of Release do not necessarily prohibit the possession of firearms, RFAs do. Second, Conditions of Release end when the underlying criminal case is disposed. Third, the penalties for violating an RFA can be higher than the penalties for violating Conditions of Release. These factors make relying on Conditions of Release to prevent contact by a defendant a gap for victim safety and offender (and system) accountability.

Recommendations:

- Develop a resource handbook for court staff/judges with up-to-date treatment options for defendants, and make sure it is updated for new staff/judges coming in.
- Explore with the Judiciary the potential for a Domestic Violence Docket which would include VAPOS, and RFA orders.
- Explore ways to reduce reliance on Conditions of Release instead of RFA Orders.
- Explore best practices for the timing of arraignments relative to the arrest dates.

Training

- **GAP: Training for professionals** - Across the system, interviewees desire more and better training related to domestic violence.

Recommendations:

- Circle staff attend staff meetings of partner agencies, so staff get to know each other and develop better working relationships (e.g., economic services staff who process emergency housing applications).
- Joint trainings on RFAs and VAPOs for staff at the Courts, Circle, State's Attorney's, police agencies, Corrections, and others in the system.

- Train dispatchers about domestic violence, concentrating on the characteristics of victims and defendants/offenders.
- Required domestic violence training for law enforcement should be structured as a series building on previous trainings and introduce new research and best practices rather than simply repeating the same training each time.
- Circle staff should receive training on criminal procedure and family law to better understand those systems and to help identify where advocacy can have the most impact.
- Train judges, State's Attorney's staff, and DOC on available batterer intervention programming.⁶

Other Issues

- There were a few anecdotes of agency staff or colleagues of victims not wanting to work with victims because of a perceived risk of violence to the staff/colleagues. One victim lost her job because she disclosed her fear to a colleague who then felt unsafe continuing to work with the victim.

Recommendations:

- Conduct public awareness campaigns on how the public can support victims of domestic violence.
 - Victims of crimes should be a protected class and not denied housing or employment because of their victim status.
- There were concerns about the layouts of public offices and victim safety in these offices.

Recommendation:

- Every public agency should conduct a visual inspection of their public spaces to determine how best to arrange the space with victim safety in mind, and whether procedures for accessing services enhance victim safety.

- There were concerns about the RFA video (required viewing for victims) being outdated, as well as the requirement that the video be seen in court before the hearing is allowed to proceed which is unduly burdensome for victims.

Recommendations:

- Update the RFA video and include a web-based viewing option.
- Allow for a certificate of viewing to be issued, valid for X amount of time, so that victims that return because of a new order do not have to view the video again.

⁶ At Judicial Rotation, a meeting with all service providers in the county should be held to inform judges on services available and how defendants can access them.

Summary

A team of volunteers representing different agencies in Washington County conducted a safety audit to identify gaps in the system's response to Violation of Abuse Prevention Orders (VAPOs), and recommend ways to increase victims' safety and system accountability. Praxis International provided training and technical assistance about safety audit methods and ethics, and Crime Research Group facilitated the audit. The audit began in September 2017. Data collection and discussions by the team ended in June 2018.

The safety audit revealed a variety of gaps in the areas of how and when Relief from Abuse orders are issued and served, victims' reporting of VAPOs, the criminal court process, court culture, court safety, and several miscellaneous issues. Members of the safety audit team hope that Washington County's Coordinated Community Response team, and agencies that are part of the system that respond to VAPOS, will take ownership of this report and use its recommendations to improve the system's response in ways that will increase both the safety of domestic violence victims and system accountability.