



Gross violation of a woman's integrity

Trends in the criminal justice system *1998–2017*

The Swedish National Council for Crime Prevention (Brå) – centre for knowledge about crime and crime prevention measures

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English summary of report 2019:8

Summary

In its appropriation directions for 2017, the Swedish National Council for Crime Prevention was instructed to examine the offence of gross violation of a woman's integrity in the criminal justice system and to analyse what might have caused a visible decrease in the numbers of reported, cleared, and convicted offences. The offence of gross violation of a woman's integrity was introduced on 1 July 1998 as part of the work to combat men's violence against women in intimate relationships. The aim was to increase the extent to which the criminal law protects women who are exposed to systematic assault, abuse, and violations of integrity by a partner, and to emphasise the seriousness of this type of repeated criminality in intimate relationships. The structure of the offence is unique in that it involves a number of separate criminalised acts being assessed together as a single entity, and provides the basis for a more severe sanction than would be imposed if the various criminal acts were assessed individually.

During the first years following the introduction of the offence, the numbers of reported, cleared, and convicted offences increased. However, since 2009 there has been a decline in both the number of reported offences and the number of convictions. The clearance rate for gross violation of a woman's integrity peaked in 2003 and 2004, and has since declined by half. These declines resulted in the government's instruction to the National Council to conduct a detailed study of the trend in gross violation of a woman's integrity and to analyse the causes of the declining number of reported, cleared, and convicted offences. The instruction includes examining whether the trends may have been affected by the way in which the provision has been applied at various points in the criminal justice system and by the use of other, similar penal code provisions. The National Council was also instructed to analyse whether the trend in reported offences may have been affected by changes in the actual level of exposure to intimate partner violence or in the reporting rate.

The Council was further instructed to, as far as possible, analyse whether the observed trends, and their causes, also apply to the gross violation of integrity offence.¹ Finally, the National Council was instructed to analyse developments in the length of prison sentences for gross violation of a woman's integrity and gross violation of integrity against the background of changes to the sentencing scale that entered into force in 2013. This final part of the instruction has been presented in a separate report entitled *Effects of the increase in the minimum sentence for violation of integrity offences*, and will not be addressed further in this summary.

Research questions and possible explanations

The report focuses on answering three central questions. The first is why the number of *reported offences* of gross violation of a woman's integrity declined during the period 2009–2015. Three possible contributory explanations are discussed: whether the decline is linked to a reduction in actual levels of intimate partner violence; whether the decline may be due to a change in reporting propensities for intimate partner violence among women; and whether there have been changes to the way in which incidents of intimate partner violence are initially handled in the criminal justice system, such that they are more frequently registered as underlying or related offences (rather than as a gross violation of integrity offence) at the time of the report.

The second question examined is why the *clearance rate* for gross violation of a woman's integrity declined during the period 2005–2017. Four possible contributory explanations are addressed: that the trend is linked to a more general decline in the clearance rate for offences against the person; that there have been changes to the way in which decisions to prosecute and decisions to reclassify offences at the time of an indictment are registered in case-management systems; that there have been changes in the conditions for investigating gross violation of a woman's integrity offences; and whether changes in case law regarding the requirements for a conviction may in turn have affected what is required in order to bring a prosecution for this offence.

The third main question addressed in the report is why the number of convictions for gross violation of a woman's integrity declined during the period 2009–2017. The possible contributory explanations examined are that the trend is linked to the declines in levels of reported and cleared offences, that there has been a trend towards

¹ The Swedish penal code offences “gross violation of integrity” and “gross violation of a woman's integrity” are identical in terms of their construction; the difference lies in the fact that the application of the gross violation of a woman's integrity offence is restricted to cases where the offence was committed against a woman, by a man to whom the woman has been married or with whom she has lived in a marriage-like relationship.

more stringent evidentiary requirements, with more corroborating evidence being required to support the victim's narrative, and that the legal assessment of what is required for a series of criminal acts to be prosecuted as, and result in a conviction for, gross violation of a woman's integrity has become more restrictive.

Data

A number of different data sets have been collected in order to answer the questions posed in the study:

- *Statistical data from Sweden's official crime statistics* are used to describe the trends in the number of reported and cleared offences of gross violation of a woman's integrity, and also the number of offences resulting in a conviction. The same data are also used as a basis for interpreting possible transfer effects between gross violation of a woman's integrity and other underlying offences (e.g. assault and molestation) or related offences (gross violation of integrity, unlawful persecution).
- Information from the *Swedish Crime Survey* (SCS) has been used to examine whether there have been changes in levels of actual exposure to intimate partner violence or reporting rates for these offences, or in confidence in the criminal justice system.
- Data have been collected from the National Council's *Register of suspected offenders* for four years: 2004, 2008, 2012, and 2016, showing all offences linked to a suspect that were either initially registered as gross violation of a woman's integrity or that were registered under this offence code when the final decision was taken in the police investigation. These data have been used to examine possible changes in reclassification practices between gross violation of a woman's integrity and either underlying offences or related offences. The same data have also been used to study possible changes in the registration of decisions to prosecute or of the grounds for discontinuing investigations, as well as to examine processing times for police investigations. The data have also been used as a basis for following a sample of decisions to prosecute for gross violation of a woman's integrity through the courts.
- The study has drawn a random sample of a total of 400 decisions to prosecute for gross violation of a woman's integrity from the four surveyed years (2004, 2008, 2012, and 2016). For each of these decisions to prosecute, the *indictments and court judgements* have been collected and coded in order to study the

way the gross violation of a woman's integrity provision is applied in the context of prosecutions and court decisions.

- In addition, the offence descriptions from a total of 800 *police reports* on gross violation of a woman's integrity, 200 from each of the four surveyed years, have been studied in order to examine the way the provision is applied in the context of the initial registration of offences.
- An *interview study* has also been conducted with a total of 43 individuals: police officers, prosecutors and injured party counsel who have specialised in intimate partner violence and also judges.

The decline in the number of reported cases of gross violation of a woman's integrity

Decline unlikely to be due to an actual decline in victimisation levels

It appears unlikely that the decline in the number of reported offences of gross violation of a woman's integrity is due to a reduction in the exposure of women to repeated intimate partner violence. The Swedish Crime Survey (SCS) shows that the proportion of women who report having experienced threats or violence from a partner at least once during the past year, as well as the proportion exposed to repeated threats or violence from a partner, was relatively stable until around 2014, and has then increased in recent years. At present, there is uncertainty regarding the extent to which this recent increase represents an actual increase or an increase in the reporting rate, primarily for less serious incidents. Irrespective of this, the data do not indicate a decrease in self-reported victimisation during the period in which there has been a decline in the number of cases of gross violation of a woman's integrity reported to the police.

The healthcare sector does not collect statistical data on injuries or care provision linked specifically to exposure to intimate partner violence. However, cases of lethal violence against women in which the perpetrator was a partner or former partner have not declined during the period since 2008.

Decline unlikely to be a result of changes in the reporting rate

The reduction in the number of reported offences is also unlikely to be the result of any significant change in the extent to which women report incidents of intimate partner violence to the police. Data from the SCS on the reporting rate for such incidents show neither a declining nor an increasing trend during the period in which the

number of offences reported to the police has declined. About the same proportion of the women exposed to intimate partner violence state that they have reported at least one incident to the police throughout the period examined, and the proportion of self-reported incidents of intimate-partner offences reported to the police has neither increased nor decreased over time. However, comparing SCS data on the reporting rate for intimate partner violence with actual police reports on gross violation of a woman's integrity is problematic for a number of reasons, and these results should thus be interpreted with caution.

The study's analysis of the offence descriptions included in police reports also indicates that the reporting rate has remained relatively stable across all four of the years examined on the basis of register data. There were no major changes in the characteristics or seriousness of the criminal incidents that resulted in the police reports, which indicates that the types of incidents initially registered as gross violation of a woman's integrity have remained essentially the same throughout the period examined. At the same time, certain differences over time emerged with respect to the levels of *prior victimisation* described in the offence reports. The extent to which the reports included detailed information on prior incidents of physical violence, threats and other offences and injuries increased over the period covered by the study. One way of interpreting this would be that the level of victimisation initially required for an incident to be registered as a gross violation of a woman's integrity has increased over time, and that fewer incidents involving only a single offence are now being registered under this offence code. Another interpretation would be that the extent to which police officers describe prior victimisation and injuries when registering an offence report has increased over time. These interpretations are not mutually exclusive.

Changes in initial registration routines have contributed to the decline

The results based on interviews, police reports, and data from the register of suspected offenders show that there have been changes in the routines governing the ways in which relevant offences are registered. It appears likely that this has affected the number of recorded offences of gross violation of a woman's integrity.

There appears to have been a trend towards relevant offences more frequently being registered as the individual underlying offences, e.g. assault or molestation, at the time the report is registered, rather than as a gross violation of a woman's integrity. The interview data indicate that police officers who attend incidents of intimate partner violence are now expressly instructed to classify criminal incidents as the individual underlying offences, so that investigators and

prosecutors can later aggregate these into a charge of gross violation of a woman's integrity in those cases where it is relevant. Previously, it was common for the criminal incident to be initially registered as a gross violation of a woman's integrity if the offence to which the police responded had occurred in the context of an intimate relationship. The National Council's analysis of police reports shows that the number of reports of gross violation of a woman's integrity that have been registered by officers at the scene of incidents of intimate partner violence has declined successively. This decline is primarily interpreted as being an effect of the police more frequently registering criminal incidents under the offence codes for the underlying offences in cases where the offence report is registered at the scene. Further, a larger proportion of the offence reports examined from 2004 described only *one* criminal incident, as compared with the subsequent three years included in the study (2008, 2012, and 2016). This indicates that individual criminal incidents were more frequently registered as gross violation of a woman's integrity in 2004 than in the three more recent surveyed years. The police and the prosecution service's case-management systems are also not adapted for offences which, like gross violation of a woman's integrity, consist of a number of underlying offences. This creates an incentive to either register incidents as underlying offences or to register offences as both gross violation of a woman's integrity and the underlying offences in the same report.

Trends in the statistics on reported assault offences in intimate relationships and on reported cases of unlawful threat or molestation do not contradict this interpretation. It is thus likely that the decline in the number of reported cases of gross violation of a woman's integrity is in part due to such cases having instead been registered under the offence codes for the underlying offences, which is in turn due to changes over time in initial registration routines. At the same time, it appears unlikely that the decline in registered cases of gross violation of a woman's integrity is due to incidents having instead been registered under the offence codes for unlawful persecution or gross violation of integrity.

Data from the register of suspected offenders indicate, however, that to the extent that cases are initially registered under the offence codes for the underlying offences, they appear to have remained registered as the underlying offences throughout the investigation to much the same extent over time. This indicates that these offences are not subsequently combined to form a gross violation of a woman's integrity at a later point in the investigation to the extent that might be expected.

The decline in the clearance rate for gross violation of a woman's integrity

The decline is part of a more general declining trend in clearances for offences against the person

The declining trend in the clearance rate for gross violation of a woman's integrity is part of a more general pattern for offences against the person. The clearance rate for related offences, such as assault, unlawful threat, and molestation, both against women and in general, has also decreased. Taken together, the clearance rate for all offences against the person has decreased by half since 2002. It is thus reasonable to conclude that part of the reduction in the clearance rate for gross violation of a woman's integrity is due to the same factors as the more general decline in the clearance rate for offences against the person. In the context of the current project it has not however been possible to carry out any major analysis of the more general decline in the clearance rate for offences against the person.

The fact that the clearance rate for gross violation of a woman's integrity follows a more general declining trend that is also found for other offences against the person does not, however, preclude the possibility that there are also specific circumstances associated with this offence that have also had an impact on this trend. In the same way, factors that may have affected the clearance rate for gross violation of a woman's integrity may also have had an impact on the clearance rate for other offences. Such factors have been examined in the report and are deemed to have contributed to the decline in clearances (see the section below entitled *Insufficient staffing levels and a heavy workload have affected the conditions for investigating gross violation of a woman's integrity*).

The clearance rate for gross violation of a woman's integrity is likely to have been overestimated during the period 1998–2006

The data collected from the register of suspected offenders, in combination with data from court indictments, indicate that the official statistics overestimated the clearance rate for gross violation of a woman's integrity during the period 1998–2006, at least to some extent. Accordingly, the subsequent decline has not been as dramatic as the offence clearance statistics would suggest.

The overestimate is linked to changes in the way in which decisions to prosecute were registered in the Swedish Prosecution Authority's case-management system before and after the introduction of the current system, known as Cåbra, in 2007. This conclusion is based on a relatively substantial discrepancy found for the first of the four years examined in the study (2004), between the decisions to prosecute which had been entered into the register of suspected offenders on the basis of data retrieved from the Prosecution Authority's system at the

time (Brådis), and the data collected from the actual court indictments relating to these decisions to prosecute. In 2004, 34 percent of all prosecution decisions that had been registered as prosecutions for gross violation of a woman's integrity in the register of suspected offenders were registered in the actual indictments as prosecutions for underlying offences (e.g. assault or unlawful threats). No such discrepancy was found in the subsequent years for which data have been collected. For these years, the decisions recorded in the register of suspected offenders are, in most cases, consistent with the actual indictments. These results indicate that approximately one-third of the decisions to prosecute for gross violation of a woman's integrity prior to the introduction of the Cåbra case-management system may have in fact been prosecutions for underlying offences. This means that the clearance rate for gross violation of a woman's integrity was overestimated during the years prior to the introduction of Cåbra, and that the real clearance level is more fairly reflected in the statistics from 2008 onwards.

Insufficient staffing levels and a heavy workload have affected the conditions for investigating gross violation of a woman's integrity

There remains a declining trend in the clearance rate for gross violation of a woman's integrity, even when the overestimation of the clearance rate described above has been taken into account. Previous studies have identified a number of factors that increase the likelihood of clearing offences that involve intimate partner violence, and these factors also appear to be well known among those actors in the criminal justice system who specialise in this form of violence. The results of the current study indicate that a high workload, insufficient staffing levels and increasingly lengthy investigation times have made it more difficult for those working with intimate partner violence to work on the basis of these factors. This is indicated by both the interviews conducted in the project and data collected from other sources. Insufficient staffing levels produce backlogs of cases and a heavy workload for individual investigators, which makes police investigations vulnerable. Investigations of gross violation of a woman's integrity are often very demanding, and are thus probably particularly sensitive to insufficient staffing levels. These factors have contributed to a decline in the justice system's ability to support victims, and have reduced the opportunities to work with recently reported cases. They have also contributed to a decline in the available expertise regarding investigative interviews and the treatment of victims, witnesses and suspects. In line with these developments, the Swedish Crime Survey shows a decline in levels of confidence in the justice system among women who have repeatedly been exposed to intimate partner violence. Reduced confidence may have an impact on the extent to which these women are willing to

participate in the criminal justice process and also on the extent to which they report repeated incidents of intimate partner violence to the police.

The National Council's study also indicates that heavy workload and insufficient staffing levels may also lead to a situation in which considerations of procedural economy make it more likely that cases of gross violation of a woman's integrity will be reclassified as one or more underlying offences during the course of an investigation, which in turn leads to offenders being prosecuted for individual underlying offences rather than for gross violation of a woman's integrity.

Initial investigatory measures, not least those conducted at the crime scene, are important for the possibility of clearing offences. The National Council's study indicates that these measures have, in fact, improved over time. However, since there has been a decline in the number of police reports regarding gross violation of a woman's integrity that have been registered by officers at the scene of incidents of intimate partner violence, there has also been a decline in the proportion of cases in which the conditions for conducting important initial investigatory measures are favourable.

An increase in the requirements for corroborating evidence relating to all of the individual criminal acts included in an indictment for gross violation of a woman's integrity, in combination with a trend towards a more restrictive legal assessment of what is necessary for a series of criminal acts to be prosecuted as a gross violation of a woman's integrity, has probably also contributed to a reduction in the number of prosecutions.

The declining trend in convictions for gross violation of a woman's integrity

The government's instruction to the National Council also included studying possible reasons for the reduced number of convictions for gross violation of a woman's integrity. The current study has focused on the declining trend in court convictions for gross violation of a woman's integrity because, in principle, a conviction for gross violation of a woman's integrity always involves being convicted by a district court.²

Fewer convictions, but slight increase in the conviction rate

The number of district court convictions for gross violation of a woman's integrity has declined since 2009. This is primarily an effect of the declines in the numbers of reported and cleared offences. The

² Very few convictions for gross violation of a woman's integrity are registered as either of the two alternative non-court conviction forms: waivers of prosecution or summary sanction orders.

proportion of cases resulting in a conviction has declined in relation to the number of reported offences but has increased in relation to the number of prosecutions. Thus the conviction rate for prosecuted offences has increased somewhat over time. This is interpreted as being the result of an adaptation to increased requirements for corroborating evidence in relation to individual criminal incidents, and of a change in the assessments made by the criminal justice system towards an increasing number of underlying criminal incidents being required for a conviction for gross violation of a woman's integrity. There thus appears to have been a trend towards fewer but safer prosecutions, since a larger proportion of the cases prosecuted meet the legal requirements for a conviction.

Increased requirements for corroborating evidence for individual criminal incidents

The persons interviewed in the study stated that, in their experience, the requirements for corroborating evidence for the individual criminal incidents included in a prosecution for gross violation of a woman's integrity have increased over time. They also felt that this had decreased the possibilities for bringing prosecutions for this offence.

The National Council's examination of indictments and court judgements also appears to provide support for the view that the requirements for corroborating evidence for the individual underlying offences included in prosecutions for gross violation of a woman's integrity have become more stringent. Over time, the range of types of evidence described in indictments for gross violation of a woman's integrity has expanded, and it has become more difficult to obtain convictions that include a finding of guilt in relation to all of the underlying offences included in the prosecution. In addition, indictments have successively become more detailed in their presentation and description of the various underlying offences included in the prosecution. The National Council's examination of offence reports also shows an increase over time in the level of detail with which offences, initial investigatory measures and also possible injuries sustained by the victim, are described by the recording police officer. This may also be interpreted as an effect of increased evidentiary requirements when cases come to court.

A trend towards "safer" prosecutions

The way the gross violation of a woman's integrity offence is applied in the context of prosecutions and court verdicts has been studied on the basis of interviews, indictments, and court judgements. On the basis of these data sources, there do not appear to have been any major changes with regard to the types of incidents that are

prosecuted as, and that result in convictions for, gross violation of a woman's integrity. The presence of physical violence is central to whether an offence will be categorised as gross violation of a woman's integrity, and as a rule, at least three criminal incidents of a certain degree of severity are required. Other types of offence are viewed as playing a supplementary role. They can be "added" to a case, but do not constitute a sufficient basis for a prosecution for gross violation of a woman's integrity in the absence of physical violence. The National Council's interviews indicate that the parameters for evaluating offences that do not include physical violence are less clear. There also appears to be some variation in how different types of verbal insults are dealt with in investigations of intimate partner violence, and which penal code provisions are used to prosecute them.

The experiences described in these interviews are consistent with the results of the National Council's analysis of indictments and court judgements, and are also confirmed by the results of the analysis of police reports. Physical assault is the dominant offence type in both the indictments and court judgements in each of four years studied in the survey, and an increasing proportion of the prosecutions include three or more incidents of assault over time. The severity of these incidents appears to remain relatively unchanged over time however. Despite the fact that the gross violation of a woman's integrity offence includes a broad range of underlying offences, it is uncommon for prosecutions to include offences other than assault, unlawful threat and (non-sexual) molestation.

The results of the National Council's interviews also indicate variations in the assessment of the temporal relationship between the underlying offences, and that there is no clear case law regarding the time frame within which a certain number of offences should have been committed for a case to be regarded as meeting the criteria for gross violation of a woman's integrity. There is a perception that the emphasis on physical violence has increased over time and that, in combination with variations in the assessment of verbal abuse, and of offences that do not include physical violence, this can lead to incidents that have not involved physical violence not being investigated. In turn, this can lead to investigators missing the existence of a temporal connection between a sequence of related criminal incidents. This can affect the degree to which cases result in prosecutions for gross violation of a woman's integrity or for the underlying offences alone.

One possible interpretation of these results is that there is an ongoing trend towards criminal investigations involving gross violation of a woman's integrity becoming increasingly focused on bringing "safer" prosecutions, based on the criteria that produce convictions, while at

the same time the investigative methods that this approach results in are less focused on the experience of the victimised woman or on the nature of her situation as a whole. It is possible that the legal requirements for a conviction for gross violation of a woman's integrity have become clearer for those working in the criminal justice system, and that as a result, prosecutions for gross violation of a woman's integrity have become fewer but "safer".

The results of the study can further be interpreted as indicating that the criminal justice system has become better at dealing with those forms of intimate partner violence that it was used to dealing with even prior to the introduction of the gross violation of a woman's integrity offence – above all cases of physical assault. At the same time, the justice system appears to be finding it more difficult to establish a legal framework that is able to deal with the totality of the situation of intimate partner violence, not least with regard to the role played by offences linked to lesser penal sanctions, which were originally intended to be included within the scope of the gross violation of a woman's integrity offence.