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BEYOND THE GATEKEEPERS:
COURT PROFESSIONAL RESPONSES TO
MUNICIPAL DOMESTIC VIOLENCE CASES IN AN URBAN AREA

Dissertation proposal submitted to the
Division of Graduate Studies and Research
of the University of Cincinnati

in partial fulfillment of the
requirements for the degree of

DOCTOR OF PHILOSOPHY

in the Division of Criminal Justice
of the College of Education

1999

by

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Doctor of Philosophy

in Criminal Justice

It is entitled Beyond the Gatekeepers: Court Professionals' Responses to Municipal Domestic Violence Cases in an Urban Area.

Approved by:

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ABSTRACT

Historically, the United States in general, and the legal system in particular, have condoned wife abuse. Although legal repudiation of abuse began to appear in case law in the mid to late 1800s, protection for women battered by their intimate male partners has, nonetheless, been slow in coming. Despite considerable changes in contemporary policies and the written law over the past two decades, battered women continue to suffer from lack of protection and inadequate means to handle this criminal offense. Domestic violence victims not only experience abuse by their batterers, but often confront unresponsive or even openly hostile key agents within the criminal justice system. While the issue of domestic violence has received increased national attention, most of the available research within the criminal justice system focuses on police and their responses to the incident. Similar to the police, anecdotal data suggest that court professionals are unlikely to take most intimate partner battering cases seriously.

The purpose of this study was to examine and compare intensive self-report interview and survey data on court professionals (14 judges, 18 prosecutors, and 31 public defenders) regarding their experiences with, beliefs about, and attitudes toward domestic violence. Using a one-shot cross-sectional design, the study provides detailed information about court professionals’ and domestic violence, pointing to the need for policy changes and future research in this area.
ACKNOWLEDGMENTS

An accomplishment, such as achieving the dissertation cannot be done alone. Although many have offered support and encouragement, special appreciation is extended to those people who were instrumental in my attaining this degree. I am grateful to my Chair, Dr. Joanne Belknap, for her invaluable advice and expertise on the topic of domestic violence. Dr. Belknap provided me with superior lessons, notwithstanding, showing me how to take an elemental concept and turn it into a nationally funded project. Moreover, Dr. Belknap’s commitment to my obtaining a quality education has been unparalleled.

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I would like to thank my friends and family for their support throughout my extended educational career. Without their love, encouragement and confidence, I would not have finished my graduate program. Specifically, my parents and sister have provided me with much support and guidance. While I never will be able to repay the many things they have done for me throughout this journey, the sacrifices they have made for me have not been in vain.

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"Yes, he may have beaten her, but nagging and a sharp tongue can be just as bad. Maybe she used her sharp tongue so often that she provoked him to hit her." Goolkasian 1986, quoting a trial judge.

CHAPTER 1
WOMAN BATTERING AS A PROBLEM

Violence against women is a major social problem in the United States. Research has consistently reported that men tend to batter women in approximately 95 percent of the battering incidents (Bachman 1994; Belknap 1996; Dobash, Dobash, Wilson and Daly 1992). Specifically, according to The National Crime Victimization Survey (NCVS), women are 10 times more likely than men to be victims of violence inflicted by their intimate partners (Zawitz 1994). Domestic violence represents the single greatest cause of injury to women (Zorza 1992). Based on a national survey of reported incidents of violence (from slapping to choking or using a weapon), Straus (1991) estimates "that over 6 million women are beaten every year in the United States" (p. 30). Finally, it is important to note that attacks by intimates are more dangerous to women than attacks by strangers: 52 percent of the women victimized by an intimate sustain injury, compared with 20 percent of those

Thus, this research focuses on women as victims in light of the fact that women are most often the victims of domestic violence. Thus the pronoun "she" will be used to refer to the abuse individuals, and the term "woman battering" will be used interchangeably with "domestic violence" "domestic assault" and "domestic abuse."
victimized by a stranger\(^2\) (Martin 1994; see also Bachman and Saltzman 1995; National Crime Victimization Survey 1982, where as many as half of the domestic “simple assaults” actually involved bodily injury as serious or more serious than 90 percent of all rapes, robberies and aggravated assaults). Thus, the prevalence of domestic assault as well as the seriousness of individual acts warrant attention from scholars and policy makers.

Unfortunately, it is impossible to know the exact dimensions of violence against women in our society. Crimes of violence among intimates, more than other forms of violent instances, are under-reported and underestimated (Gelles and Cornell 1985; Lagan and Innes 1986). Indeed, Bachman (1994) estimates that almost half of all incidents of violence against women by intimates are never reported to the police. Further, the National Coalition Against Domestic Violence claims that only one in one hundred incidents of domestic violence is reported (Welch 1994). Even with a majority of the abuse incidents not being reported, woman battering incidents constitute the largest category of calls screened by police officers each year (Cornell and Langley 1985). Parnas (1967) concludes that the Chicago police received more calls concerning family conflicts than they did calls concerning murder, aggravated assault and battery, and all other serious crimes combined. The evidence is clear, then, that the police spend a lot of time and resources on problems relating to domestic “conflicts” where the vast majority of these cases are woman battering.

\(^2\)The phrase “domestic violence” is sometimes used to include sibling violence, child abuse as well as wife beating. This research, however, uses the term “domestic violence” exclusively to describe attacks against individuals by an intimate partner (including married or divorced individuals, as well as co-habitating, dating and former dating relationships). These attacks include physical assault and sexual assault committed, threatened or attempted by intimate partners.
Change in the Law’s Focus

The origins of the high incidence of woman abuse can be traced to the historical repression of women and the patriarchal nature of our society (Dobash and Dobash 1979). Statutes prohibiting wife beating have existed in the United States since 1641. The enforcement of these laws, however, was almost nonexistent (Pleck 1987: 21; see also Dobash and Dobash 1979). The observation that domestic violence dates from the time men and women formed monogamous relationships reveals something of the depth and intensity of the problem (U.S. Commission on Civil Rights 1982). During early British Common Law, a husband (who was legally responsible for the members of his family, including his wife3) was prohibited only from using a rod “thicker than his thumb” to enforce obedience to his lawful command (Dobash and Dobash 1979; Walker 1989). Violence by husbands against wives represents a form of social control legitimated by conventional law and morality, and has historically been beyond the purview of criminal justice agents (Dobash and Dobash 1979; Martin 1976). Subsequent to the “rule of thumb” law, a United States court4 upheld that the state could interfere with a husband’s chastisement of his wife, only if the husband exceeded the bounds of “moderate” violence (Sewell 1989; Tong 1984).

3The law deemed that since the husband was responsible for his wife’s debts, crimes and torts, he had the authority to control her actions (Poor v. Poor 8 N.H. 307, 314-15, 1836).

4In 1824, the supreme court of Mississippi acknowledged a husband’s right to physically chastise his wife. This decision marked the beginning of legalized physical chastisement of wives under U.S. law. A husband was then legally permitted to physically chastise his wife “without subjecting himself to vexatious prosecutions for assault and battery, resulting in the discredit and shame of all parties concerned” (Dobash and Dobash 1979: 62).
Essentially, the state ruled that court interference was a greater evil than the domestic violence incident, and "was hesitant to invade the domestic forum" (Sewell 1989: 992).

Currently, however, every state in the United States legislatively recognizes that spouse abuse is against the law and authorizes the punishment of abusers. Presently, women are no longer deemed men’s property and possess a legal status separate from their husbands⁵ (Dobash and Dobash 1979; Pleck 1987). The few changes made from traditional British Common Law reestablished traditional doctrine concerning the family unit and proper gender roles (Pleck 1987). For example, the early 20th Century family court system advocated for family unity rather than punitive solutions to the batterer. Generally, judges chose to "solve" the abuse problem at a more informal level rather than impose criminal penalties (e.g., if the batterer reported that the incident arose because of poor cooking or housework, social service agencies would offer advice to the victim on the improvement of cooking and cleaning skills) (Pleck 1987). Effectively, these attempts at reconciliation translated into judicial coercion of abuse victims by forcing wives to withdraw complaints upon learning that reporting spouse abuse was futile. Despite the favorable statutory and judicial reforms of the late 19th Century (e.g., eradication of chastisement), domestic violence largely subsided as a critical social issue in the ensuing decade. Predictably, the violence persisted, from 1900 to 1970 although, the perception of domestic violence as a serious crime began to fade. The battered woman's situation remained largely unchanged, and existing pro-

⁵In 1871, Alabama and Massachusetts judicially eradicated a husband’s right to physically abuse his wife (Fulghan v. State 46 Ala. 143, 146-47 1871; Commonwealth v. McAfee 108 Mass, 458, 461 1871).
victim domestic violence legislation was either ignored or sidestepped by police and court agencies.

**Context Behind the Resurgence of Contemporary Consciousness**

Currently, all states legally deem wife beating illegal, yet woman battering continues. It is possible that deeply rooted ideas and cultural standards sustain the reluctance of courts to effectively intervene in domestic violence situations. The resurgence of contemporary public consciousness regarding domestic violence can be attributed to numerous catalysts: the rise of the women’s movement, court challenges levied against police departments from victims and their families for lack of adequate protection, and academic research that scientifically controlled for the effects of arrest in domestic violence cases (Belknap 1995).

First, the second wave of the women’s movement in the 1970s brought the social issue of woman battering to the political forefront and fervently advocated that woman battering was not a private matter ill suited to public intervention (Buzawa and Buzawa 1990). Historically, police were reluctant (even emphatically resisting) to arrest for domestic assaults, suggesting that it was a “family squabble” and not a crime (Berk and Loseke 1981; Buzawa and Buzawa 1990; Parnas 1971). Essentially, a certain latitude was permissible in allowing adults to use force to solve family disputes (Martin 1976). Contrary to this view,

---

*A 1970 survey found that 25 percent of the male respondents and 17 percent of the female sample approved of a husband’s slapping his wife under certain circumstances. As of 1985, only twenty states declared that a husband could be criminally liable for raping his wife, although most of these states limited the applicable situations (Finkelhor and Yllo 1985).*
feminists advocated that woman abuse was a prevalent crime and called for mandatory and presumptive arrest policies and the implementation of battered women’s shelters (Belknap 1995, 1996; Frish 1992; Stark 1993; U.S. Commission on Civil Rights 1982). Shelters (initially run out of advocate’s homes) provided women and their children who were being physically and sexually abused in their homes with a safe and supportive environment. Moreover, shelters encouraged the empowerment of women, inspiring them to take control of their own lives (often after years of abuse) (U.S. Commission on Civil Rights 1982). As battered women and their children crowded into these “safe-haven” shelters, “conversations revolved around the almost universal frustration of seeking help from police, the courts, and social service agencies” (Asmus, Ritmeester and Pence 1991:123). Currently, over 3,000 advocacy programs for battered women have been established throughout the United States, providing services to more than half a million women and children annually (Asmus, Ritmeester and Pence 1991).

The second catalyst in affecting a change towards domestic assault was the legal challenge brought by battered woman against police departments “in order to force them to do what the law empowered them to do—to protect battered women” (Zorza 1992: 54). In the 1970s, as in the 1870s, wife beating began as a women’s rights issue and picked up support as a law and order issue. In both centuries, women activists sought to pressure the police and prosecutors to arrest and prosecute male perpetrators, and they advocated for more than the token punishment of fines the judges were handing down (Sewell 1989). Lawsuits

in Oakland\textsuperscript{8} and New York City\textsuperscript{9} made it clear to police departments throughout the United States that they were vulnerable to being sued if they failed to protect the rights of battered women. The court challenges culminated in the case of \textit{Thurman v. City of Torrington, Conn.} (42 U.S.C. §1983 \textit{Thurman v. City of Torrington}, 595 F. Supp 1521 1984), where a federal jury awarded Tracey Thurman and her son $2.3 million because the police were negligent in failing to protect her from her abusive husband (e.g., the police blatantly ignored repeated calls to her residence and when they did arrive, abstained from offering assistance while her husband beat Tracey Thurman in the head, and repeatedly stabbed her in the chest, neck and throat, causing permanent scarring and paralysis) (Belknap 1996; Frisch 1992). The possibility that the town might be liable for attorney fees and even for damages in a case by injured women became a persuasive bargaining chip to many battered women's lawyers and advocates to alter police policy (Buzawa and Buzawa 1990). Thus, domestic violence statutes were created to make the law enforcement agencies provide "equal protection" for battered women to be treated with the same intolerance as stranger assaults.

The final factor influencing the contemporary resurgence of domestic violence was empirical research on police response to domestic abuse. By 1984 Sherman and Berk

\textsuperscript{8}Scott v. Hart, No. C-76-2395, where a class action suit against Chief of Police Hart in Alameda County, CA. sought redress for 5 African-American women who claimed that the police violated the victims' Fourteenth Amendment equal protection rights because African-American women generally received less police response than white women and because the police failed to protect the women by refusing to arrest the abusers.

\textsuperscript{9}Bruno v. Codd, 396 N.Y.S.2d 974 (Sup. Ct. 1977), where 12 battered married women claimed that the police failed to arrest their abusive husbands and that the court denied them access to the court system because of their refusal to intervene, despite evidence of physical abuse.

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published the "Minneapolis Experiment," a study subsequently universally cited as "proof" that arrests have a deterrent effect on men who batter their wives. These widely disseminated findings reported that arrest was the most effective of three standard methods police used to reduce domestic violence. The other police methods—attempting to counsel both parties or sending assailants away from the home for several hours—were found to be considerably less effective in deterring future spousal assault violence, in the cases examined. The finding that arrest leads to a reduced likelihood of new charges of violence within six months of the initial arrest encouraged many jurisdictions across the country to institute either mandatory or presumptive arrests for battering cases (Sherman and Cohn 1989). Moreover, this legislation allowed officers to arrest for misdemeanor assaults on the basis of probable cause in domestic violence cases. The law attempted to recognize the unique dynamics of domestic assaults, "for in all other misdemeanor assaults, officers must either witness the assault or have a signed complaint by a citizen in order to arrest" (Ferraro 1988: 158). The intention of the arrest law was to shift the responsibility of initiating an arrest from the victim to the responding law enforcement officer. This law offered some degree of safety for women who might previously have faced retaliation when forced to

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10 The difference between mandatory arrest and presumptive arrest is that with mandatory arrest an officer must arrest if he or she finds probable cause that a crime was committed. Alternatively, under a presumptive arrest policy, the police officer may exercise his/her discretion, thereby calling for an arrest unless circumstances compel another alternative.

11 Probable cause refers to the legal criteria for determining whether it is legally reasonable to believe that an offense has been committed and a specific individual has committed the offense.
initiate a citizen's arrest or file an official complaint following an assault. In general, despite legislated efforts to expand police protection, the law remains ineffective in protecting women or punishing batterers (Quarm and Schwartz 1985). Researchers posits that “it is possible that change in policy precedes change in attitude” (Sigler, Crowley and Johnson 1990: 443), suggesting that the failure of the police to comply with the laws may be based upon the officer’s own implicit assumptions about the crime.

Law enforcement agencies and the judicial system are directly responsible for effectively implementing and applying existing domestic violence legislation. Their largely inadequate response to date, however, presents a serious impediment to eradicating woman battering (Waits 1985). Misconceptions about the nature of the battering relationship are still prevalent in society among key agents within the criminal justice system (e.g., police, prosecutors, and judges). Many law enforcement officials even when instructed in alternative realities, are reluctant to relinquish their faith in battering myths (police may fear arrest only increases violence, thus not arrest and place the victim in heightened danger), or alternatively they may agree with the batterers that domestic violence is a private matter and a waste of their time when they could be out pursuing “real” criminals. Finn and Colson (1990) note that while a judge in their sample originally considered domestic violence a relationship problem, he later came to see it as a complex problem of persistent intimidation and physical injury. In effect, the authors conclude, the judge now views domestic violence as a violent crime and as serious as any other form of assault and battery.

Although the combination of feminist organizations, law suits, and findings from the Minneapolis field experiments have challenged the criminal justice system practice of “doing
business as usual" regarding responses to woman battering, even with legal mandates reporting that it is illegal to abuse an intimate partner, the effective prosecution and conviction of batterers seems to be lagging. Despite considerable changes in contemporary policies and the written law over almost two decades, battered women continue to suffer from lack of protection and inadequate means to handle this criminal offense. It is possible that the arrest statutes simply moved discretion from the point of arrest to the point of prosecutorial screening (Davis and Smith 1995), and prosecutors are being negligent in their duty to prosecute and convict batterers.

The criminal justice system’s response to battered women has often been superficial, inefficient and left victims confused and discouraged. Although the legal system has become less accepting of the physical assault of women, especially in severe cases, an assault on an intimate partner continues to carry fewer legal sanctions than a similar assault of a stranger and is not applied consistently to all applicable cases (Ford 1983).

The legal system’s failure to respond more consistently and effectively to “domestic” cases has alarming implications for battered women and their children. Giles-Sim (1985) found that if a child is exposed to violence in the home and is the victim of adult violence, that child is quite likely—as much as 1,000 times more likely than a child raised in a nonviolent home—to grow up and engage in acts of violence in his or her own relationships (Cahn 1991; see also Bowker (1982) suggesting children who witness events establish the continued proliferation of abuse). In addition, men who batter woman are more likely to be abusive toward their children (Browne 1987; Zorza 1992). Further, some research has shown that the severity of the incident cuts across from the mother to the child (Bowker, Arbitell
and McFerron 1988). Moreover, the element of further escalation in domestic assaults presents an ominous and very real threat. Compared with victims of violence by strangers, victims of domestic violence are at a far greater risk of recurring serious victimization. Even in cases where the battered woman leaves the relationship, evidence suggests that the greatest risk of domestic violence is faced by separated and divorced women (Mahoney 1991).

In general, criticisms leveled at the criminal justice system have emphasized the comparative lack of serious consequences accorded acts of domestic assaults, even with the knowledge that the attacks reoccur and escalate in severity and that the attacks may potentially affect the children as severely as the mother. Similar criminal behavior against strangers incurs severe sanctions, while the hesitancy to invoke legal sanctions in cases of woman battering has historically been linked to nonresponse from agents within the criminal justice system for varied reasons. When exploring woman battering as a concept, it is imperative that all institutional responses be sought in a systemic fashion (e.g., police, prosecutors, judges) (see Belknap and McCall 1994; Cahn 1992). Moreover, Lerman 1992 notes: "It is the experience of many programs which provide services to battered women that one cannot so much as make a dent in the rate of domestic violence without a coordinated response" (pp. 220-221).

\[\text{\textsuperscript{12}}\text{Langan and Innes (1986) found that although most incidents of domestic violence are labeled as misdemeanors, many of these assaults are actually serious events. They note that the tendency to classify domestic assaults as misdemeanors contradicts the seriousness of these events.}\]
Chapter 2 provides a review of the extant literature on court professionals' responses to woman battering. The legal system offers the last and sometimes the only protection available to domestic violence victims who hope to end the violence in their lives. Failure to deal effectively with perpetrators and victims of domestic assault leads to victimization by the legal system itself, as well as the increased likelihood of the repetition of violent behavior in the next generation. Examination of the theoretical and empirical research on attitudes toward domestic assault by agents within the criminal system will have important implications for increasing the likelihood of meaningful and effective responses to battered women. To date, investigation of the possible differences between court professionals on their attitude of domestic violence appears to be virtually nonexistent.
 CHAPTER 2
 REVIEW OF THE LITERATURE

Police Response

Virtually all proposals to reform societal responses to domestic assault center heavily on police actions. This is likely due to the fact that their output is the most visible. Woman battering unquestionably looms as one of the more serious and complex problems facing the contemporary law enforcement community. The police have not always responded to this challenge in the most appropriate fashion. Historically, woman battering has been viewed as an essentially private, family matter not suitable for aggressive governmental intervention (Berk and Loeske 1981; Buzawa and Buzawa 1990; Martin 1976; Mitchell 1992; Parnas 1971). Society has recently expanded the role of government, however, "as a protector not only outside the home, but within it as well" (Mitchell 1992). Even with the expansion, however, often the police response to domestic assaults has contributed to be inadequate and ineffective (Waits 1985).

Research reports that police officers generally hesitate to answer domestic violence calls for fear of personal safety (Buzawa and Buzawa 1990; see Garner and Clemmer 1986 who concluded that domestic violence consistently ranks below both robbery and burglary as a source of danger to police). Moreover, research has indicated that upon response to a domestic violence call, police frequently downplay the seriousness of the incident by assigning these calls low priority and longer response time (see Waits 1985, where 17% of
domestic calls to Kentucky police received no response; also see U.S. Commission on Civil Rights 1982, where rural areas respond to only one of six domestic calls). One study found the police were reluctant to make arrests for domestic violence because they disliked intervening in family incidents (Berk and Loseke 1981). Parnas (1971) reported that most officers believe that “handling family squabbles is not really police work” (p. 542). Graduates of the police academy then, may be more anxious to pursue bank robbers and solve murder mysteries, than to arrest disputing couples. Arrest power is significant in domestic violence cases for several reasons: first many offenders deny criminality or even wrongdoing after physically assaulting their partners (Pieck 1989). Second, being arrested may be the first step towards effective treatment for violent behavior problems.

Elliott (1989) argued that arrest practices for nonfamily assaults were not significantly different from those for domestic assaults. Additionally, Sanders (1988) in his review of the prosecution of domestic violence in England and Wales, noted that the relevant factor is not whether the assault is “nondomestic” or “domestic,” but the circumstances under which arrests occur. However, Buzawa, Austin and Buzawa (1995) reported that officers made fewer arrests for cases involving domestic assaults than for stranger assault cases. Moreover, Ford (1987) provided a hypothetical example (which according to judges, prosecutors and public defenders contained sufficient grounds to establish probable cause), to 439 police officers in Indiana to compare their self-reported likelihood of arrest to a variety of attitudes and stereotypes about domestic violence. Ford (1987) reported only 20 percent of officers indicated a greater than 50-50 chance that they would arrest under given circumstances. Given that the state policy mandated arrest where probable cause exists, the
twenty percent rate certainly does not seem to be the procedurally correct answer and suggests that the police are not sufficiently arresting in domestic assault incidents.

**Mediation Policy**

In the recent past, police training on woman abuse was almost nonexistent, and few police departments had policies on how officers should respond to these calls for service (Belknap 1996). In the initial move to change police responses to woman battering, where situations clearly presented officers with sufficient cause to arrest an abuser, police were encouraged to calm the parties and utilize mediation as a means of settling the dispute (Bard 1971; Belknap 1996; Parnas 1971). Mediation enthusiasts contended that this process was well-suited to resolving disputes among family members. Indeed, mediation and crisis intervention were seen as better tools for dealing with the problem of family violence than arrest, because mutually agreed solutions, rather than the public acrimony of a criminal court proceeding, are viewed as less destructive to family relationships (Zorza 1992).

The mediator, who is a neutral third party without coercive powers, does not sit in judgement of the parties (U.S. Commission on Civil Rights 1982) and focuses on future behavior rather than punishment for past actions. The goal of mediation programs is to help effect a behavioral change in an area that most often involves some specific negative behavior, such as assault or threatening actions (the criminal aspects are set aside) (Lerman 1984; Wright 1985). Supported by numerous social scientists and psychologists, this shift from police nonintervention led to police training in crisis intervention techniques (Bard 1975; Spitzner and McGee 1975), the establishment of police family crisis intervention units.
(Bard 1975), and police crisis teams composed of police officers and social workers (Burnett, Carr, Sinapi and Taylor 1976).

Despite the added training police were receiving, and the implementation of specialized units, there was little evidence that the crisis intervention and mediation approach was meeting with much success. The Attorney General's Task Force on Family Violence (United States Department of Justice 1984) identified a fundamental flaw in the mediation approach, the process of mediation assumes some culpability between the parties to the dispute. Eaton and Hyman (1992) suggest that "in order for mediation to produce a fair result, there must be equality of bargaining power between the parties, a factor that is clearly absent in cases of battering" (p. 430, emphasis added; see also Lerman 1984). The assumption of equal culpability, and the subsequent failure to hold the offender accountable for his (or her) actions, gives the offender no incentive to reform. Moreover, the victims became discouraged with the legal process because this policy sent a message that the criminal justice system does not view the batterer's conduct as a crime and that the victim may be partly responsible for the incident. By the mid-1970s, such reservations about the mediation approach, coupled with the realization that female victims of spousal violence were having their rights infringed upon by the failure of the police to enforce the law and failure to address the issue of violence, led to advocacy of arresting the abuser as the appropriate police response in such cases (Lerman 1984).

**Arrest Policies**

Whether or not police should arrest perpetrators on the scene of batterings tends to dominate the contemporary discussions of appropriate police intervention in intimate partner...
battering cases. The implementation of arrest policies arose from the aforementioned Minneapolis domestic violence experiments by Sherman and Berk (1984), as well as feminist advocates calling for effective policies, successful lawsuits by battered women charging police departments with the failure to protect them, and mediation’s ineffectiveness (Belknap 1995). As a result of these pressures, statutes on police protocol in responding to domestic assaults changed remarkably. Varying levels of domestic assault legislation developed pro-arrest policies (e.g., presumptive, preferred and mandatory arrests).

Prior to the establishment of presumptive arrests, police in most states could not legally make a warrantless arrest for a misdemeanor unless the incident occurred in the officer’s presence (Mullarkey 1988). Because assault and battery is typically charged as a misdemeanor offense, the police rarely made arrests in domestic violence cases. Legal impediments to police officers making warrantless arrests for misdemeanors they did not witness were removed. For example, presumptive arrest statutes, under which police were encouraged to make arrests, typically preserve the police officer’s discretion in deciding whether to make an arrest. Presumptive arrest policies generally provide that the police may make a warrantless arrest in certain circumstances. In cases where the police, at their discretion, opt not to arrest the abuser, the policy requires that the officer file a report and inform the victim of her right to initiate criminal action.

Unlike presumptive arrest statutes which merely allow the police latitude to make an arrest, preferred arrest policies suggest that arrests be made in certain circumstances (Hirschel and Hutchinson 1991). These policies, however, also preserve some level of police discretion in determining whether a particular case fits within those circumstances. It has
been suggested that pro-arrest policies, which attempt to limit the exercise of police
discretion, offer more protection to victims than wholly discretionary or presumptive arrest
policies. However, critics of presumptive and preferred arrest statutes suggest that because
of the police officer’s discretion, change in policy is predicated on the individual officer’s
attitudes and beliefs condoning domestic assault (Goolkasian 1986).

In contrast, to the presumptive and preferred arrest statutes, mandatory arrest
legislation\(^{13}\) presupposes the notion that police discretion must be completely removed in
order to curb the problem of woman battering. Thus, mandating the police to treat domestic
abuse as a crime despite their own prejudices (Goolkasian 1986). Advocates of mandatory
arrest have cited several policy goals to support their position. Perhaps the greatest reported
advantage is that the policy will clearly communicate to offenders and others that society will
no longer tolerate nor trivialize the offender’s behavior (e.g., domestic violence is a
punishable crime to be adjudicated in criminal court) (Lerman 1981). Further, by arresting
the offender immediately (versus allowing for a “cooling off” period), the attitude that
domestic violence is not a serious problem is inherently challenged. Moreover, imposing
affirmative duties on police officers forces them to follow the mandate or risk liability for
failure to carry out their duty, effectively reducing police discretion. Last, the mandate
relieves the victim from having to make a decision as whether to prosecute or not (Wright
1985). Zorza (1994) suggests that the mandatory arrest policy will be an enormous success
if it simply teaches the sons of battered women that physical abuse is unacceptable behavior

\(^{13}\)Fifteen states currently mandate arrest for a domestic violence offense, and nineteen
require that police arrest when the batterer has violated a protective order (Zorza 1992).

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and the daughters of battered women that no man has the right to physically abuse them (pp. 979-980). Advocating a mandatory arrest policy supposes that the criminal justice system is best equipped to deal with domestic violence, however, all experts do not agree with this proposition.

Some feminist critics of the mandatory arrest policy, suggest that it does not empower the battered woman, but rather removes her decision-making power (Pence 1987). On an institutional level, moreover, it was suggested that mandatory arrest laws were flawed because they tried to eliminate police institutional discretion simply by a mandate. Thus, mandating policies for police agencies that normally rely on individual discretion can backfire, causing individuals to undermine the policy. For example, Ferraro (1989) found that after the Phoenix police department adopted a mandatory arrest policy, patrol officers made arrests in only 43 percent of the cases in which the officer had probable cause and the offender was present (see also Dobash and Dobash 1990 noting that arrests were made in less than 20 percent of domestic violence calls despite mandatory arrest laws). Moreover, the most dramatic example of police officer resistance to this mandate has been the increase of dual arrests or mutual combat (Asmus, Ritmeester and Pence 1991). In dual arrest cases, police arrest both parties in the incident if there was any evidence of physical resistance by both during the altercation (Asmus, Ritmeester and Pence 1991; Dobash and Dobash 1990). Even though agencies were adopting these pro-arrest policies (be it presumptive, preferred, or mandatory), it was unknown whether they were effecting any change towards domestic violence cases.
In an effort to determine if a pro-arrest policy is the most efficient and effective manner to handle domestic violence incidents, replications of the original Minneapolis experiment were funded by the National Institute of Justice and conducted in six jurisdictions in the United States—Milwaukee, Colorado Springs, Miami, Charlotte, Atlanta, and Omaha. These replications are collectively known as the Spouse Assault Replication Program (SARP). Unlike the initial report (where Sherman and Berk 1984 found arrest reduced recidivism by 50%), SARP has not uniformly found that arrest is an effective deterrent in spouse assault cases. In fact, the results are equivocal at best—findings range from arrest having no effect (see Dunford 1990; Sherman, Schmidt, Rogan, Smith, Gartin, Cohn, Collins, and Bacich 1991 where arrest had no effect on recidivism at 6 months), to having a deterrent effect (Berk, Campbell, Klap and Western 1992; Pate, Hamilton and Anan 1991; Sherman and Berk 1984; Sherman and colleagues’ 1992 experiment in Milwaukee found that arrest deters employed but not unemployed offenders), and even to having an escalation effect (Dunford 1990; Dunford, Huizinga, and Elliott 1990; Hirschel, Hutchison, Dean. Kelley, and Pesackis 1992; Pate and Hamilton 1992; Sherman, Smith, Schmidt, and Rogan 1992). After exhausting millions of government dollars, there is a great deal of ambiguity surrounding the question of how arrest impacts future woman battering.

Gartin (1995) notes another concern with the initial Minneapolis experiment and the SARP replications: that “officer effects” may have unduly influenced the experiment, acknowledging that “a few officers accounted for a disproportionate number of cases” (1984: 269). Specifically, “three of the original officers produced almost 28 percent of the cases” (Sherman and Berk 1984: 264), and even though Berk and Sherman assert that all of the
"officers were volunteers who had committed themselves to the study for over a year" (1985: 39), participation on the part of most officers was poor, at best.

Moreover, one of the pioneer advocates of the arrest policy has altered his perspective that "arrest works" and proposes a need to reevaluate whether pro-arrest policies should continue to be implemented in such a universal manner\textsuperscript{14} (Sherman 1992). As is often the case with public policy, however, even though empirical research has offered contrary results, the policies have remained unchanged. Researchers note a criticism of the Minneapolis experiment and SARP replications as "unjustly focusing only on the effectiveness of arrest and recidivism" (Belknap 1996: 268; see also Bowman 1992; Lerman 1981; Lerman 1992). Based upon the inconclusive recidivism results from these projects, researchers have suggested to reevaluate and possibly denounce the effectiveness of pro-arrest policies (Sherman 1992). This viewpoint dismisses potential benefits feasibly distinct from the effectiveness of arrest and recidivism. For example, Bowman (1992) cautions it is dangerous simply to ask, "does arrest work?" and instead suggest we must pose a more general question: "do arrest, prosecution and support services work?" Zorza (1992) suggests that the real implication of the SARP replications is that mandatory arrest coordinated with prosecution, conviction, punishment, and other community responses (including shelters, batterer treatment programs, and mental health professionals) will most effectively deter domestic violence. Unfortunately, not enough communities have invested

\textsuperscript{14}As of 1991, all but two states, Alabama and West Virginia, provide police officers with expanded powers of arrest for misdemeanor domestic offenses committed outside the officer's presence (Sherman 1992; Zorza 1992).
enough resources to adequately address this question. Other researchers, however, have suggested positive outcomes beyond arrest and recidivism rates.

A positive outcome from arresting the offender includes allowing the victim to initiate an “escape opportunity” for herself and her children (Belknap 1996:269). Moreover, battering expert, David Ford, with his fellow researchers, advocates for the mandatory arrest of abusers because it empowers the victim by offering her (or him) a sense of control over the situation (Ford 1991a; Ford and Regoli 1993; Ford, Reichard, Goldsmith, and Regoli 1996; Ford, Rompf, Faragher, and Weisenfluh 1995). Another benefit of the pro-arrest policies beyond recidivism, offered from an organizational standpoint, is that the mandatory policies have reduced law enforcement agencies’ liability by instructing police officers if certain factors are present, to arrest the primary aggressor, in order to decrease the likelihood of future victim tragedies (see 42 U.S.C. §1983 Thurman v. City of Torrington, 595 F. Supp 1521 1984 and Bartalone v. County of Berrien, 643 F. Supp. 574 1986 where courts held that officers violated the victim’s constitutional right to equal protection of the law by failing to act on her behalf). By taking domestic violence cases seriously and arresting offenders when legally warranted, the police can validate the victim’s right to be free from personal violence. Pastoor (1984:595) notes: “Arrest can kindle the battered woman’s perception that society values her and penalizes violence against her.” Given the likelihood that threats or additional violence will occur unless the offender is arrested, arrest of the offender can provide at least a temporary safe haven from harm for the victim and her children. Thus, while arrest is a tenable goal for handling woman batterers, it is not the only goal.
All of the benefits of new legislation may be lost, however, if departmental superiors do not convey to their officers that new attitudes and behavior are now expected. Researchers note that until the police chief makes it abundantly clear that the new law is in fact new policy, legislative changes may go under enforced (Ferraro 1989; Pastoor 1984). By incorporating new policy into departmental guidelines and training, a department instructs its officers to take legislation seriously. Training sessions help guide officers how to effectively apply an abstract concept and eliminate possible discriminatory attitudes (Pastoor 1984). Moreover, some states now require that their police departments develop guidelines for handling domestic violence cases and are very explicit as to their minimum content (Pastoor 1984).

In addition to a formal arrest, the manner in which law enforcement agencies handle domestic assaults can have significant effects on the victims. It is not uncommon for police to blame the victim or disparage her in some other way (Ferraro 1989; Ford 1983). This type of behavior reinforces the victim's low self-esteem and feelings of isolation and helplessness. Moreover, law enforcement's institutionalized insensitivity towards battered women not only had negative effects on those women who sought help or escaped, but possibly encouraged the batterers to continue their physical abuse (Martin 1976).

In sum, the existing research on the criminal justice system responses to domestic violence has concentrated almost exclusively on the police and their responses, and even then, the focus has consistently been on issues relating to arrest and batterer recidivism (Belknap 1996; see also Bowman 1992; Lerman 1992; Zorza 1992). While effective response by law enforcement officials is the "cornerstone of any program designed to reduce..."
wife beating,” it is only one piece of the system puzzle (Waits 1985: 307). Police nonresponse and nonarrest practices are formidable barriers to the criminal prosecution of woman battering cases, however, they are not the only obstacles to be overcome (McLeod 1983). Although it is relevant to understand the process of getting individuals into the system, it is also necessary to gather information to determine what happens after the arrest is initiated (e.g., charging, processing, conviction, sentencing). Police can only activate the legal process. In order to break the cycle of violence permanently, prosecutors and judges must use their power to cancel the batterers’ “hitting license” (Waits 1985: 320). All facets of the criminal justice system have the potential to empower victims by providing criminal sanctions as leverage to prevent further abuse. The remaining sections will detail how prosecutors, judges and public defenders approach woman battering issues.

Prosecutor Components

A battered woman (or any victim’s) initial contact with the criminal justice system is usually with the police. It is the prosecutor’s office, however, that is responsible for pursuing any further criminal action against the defendant (e.g., charging, processing, convicting and sentencing). It is well known that the police are the gate-keepers for the justice system. It is the prosecutors, however, who control the doors to the courthouse; without their opening of the doors and prosecuting a case—the case does not proceed. Regardless of whether a police officer or victim initiates the complaint, a prosecutor’s decision not to file is virtually immune to review. Moreover, with the prosecutor’s decision not to proceed, no further action can be taken on the case—there is no appeal process. As
Supreme Court Justice Jackson observed in 1940, "The prosecutor has more control over life, liberty, and reputation than any other person in America" (Davis 1969: 190).

Since the 1970s, the battered women's movement has successfully publicized the plight of domestic violence victims. Consequently, pro-arrest legislation was initiated to ensure safety to victims by limiting or eradicating police discretion. However, mandatory arrest policies alone fail to deter batterers due to the lack of action further along in the criminal justice system. While, increased arrests resulted in large numbers of batterers being referred to criminal court for the first time, prosecution of these cases seldom occurred (Syers and Edleson 1992: 491; see also Ford 1983 and Dutton 1987, these studies showed that woman batterers had an extremely small chance of being prosecuted by the courts). Even when police arrest under a mandatory law, generally courts will immediately release those arrested (Lerman 1992). When the police must arrest, the discretionary decision to drop cases simply is passed on to prosecutors. Finally, even in the select cases that go to trial, juries and judges do not convict often enough or punish severely enough to deter future acts (Lerman 1992).

Unfortunately, like the pre-1970s police officer, the prosecutor of the recent past has been characterized as generally apathetic toward acts of woman battering. Opposition by the police, prosecutors, and judiciary suggests that further necessary changes in the legal system are required to protect domestic abuse victims' rights (Sewell 1989: 1015).

According to the American Bar Association Standards for Prosecutors:

The prosecutor is both an administrator of justice and an advocate. The prosecutor must exercise sound discretion in the performance of his or her functions. The duty of the
prosecutor is to seek justice, not merely to convict. (American Bar Association Standards for Prosecutors, Standards 3-1.1 (b).

The failure of prosecutors to effectively address domestic violence issues may pose a greater harm for the victims than from the police, given that the prosecutors theoretically are the victims' "advocate." Thus, when persons formally and legally assigned to aid victims retain biased beliefs, it reinforces these social attitudes and contributes to the victim's sense of helplessness and lack of self-worth, thereby feasibly reducing the chances that she will seek future legal protection from the abuse (Sewell 1989).

In relation to domestic violence research, court personnel are studied far less frequently than law enforcement personnel. Yet prosecutors' and judges' actions can have profound effects on the actions in other parts of the system and on victim safety. Although both the police and judiciary make crucial independent choices concerning the treatment of these assaults, the prosecutorial decision to charge is pivotal. A prosecutor who consistently refuses to initiate a prosecution following an arrest will communicate two outcomes. First such "inaction" will suggest to police that these events are not to be treated as crimes and, accordingly, are not worth valuable time and effort (Goldstein 1960). Second, a prosecutor who never brings a batterer before a judge, or who does so only rarely, will insulate the judiciary from the fact of the frequency and severity of these assaults.

Court personnel represent the system's "front line" and can provide much needed legal assistance to the victim and defendant. Inherent in such power, however, is the ability to deny abuse victims rights guaranteed to them by state statute (Sewell 1989; U.S. Commission on Civil Rights 1982). A prosecutor's power to forgo or to proceed with
prosecution in domestic violence cases has been described as a power that involves “great latitude and little accountability” (Cahn 1992).

Regrettably for victims and their families, research has suggested that prosecutors, like police officers, often view the problem of wife beating as “primarily a civil and personal matter requiring neither arrest nor judicial response” (Dobash and Dobash 1979: 218; see also U.S. Commission on Civil Rights 1982 where prosecutors view domestic violence cases as family matters which overburden the judicial system, emphasis added). “A complex set of motivations and constraints underlie prosecutors’ reluctance to prosecute domestic violence cases” (Eaton and Hyman 1992: 481). For the most part, prosecutors fail to understand the harms and dynamics of woman battering. Prosecutors, similar to other “key actors” involved in the criminal justice system, represent the government in pressing charges against the abuser, have a vital role in communicating to abusers that society will punish them for their behavior. In reality, however, antidotal data suggest that prosecutors are reluctant O.T. rise to their charge. For example, Roy (1977) notes that “underlying the criminal justice system is the covert toleration of wife beating, as indicated in the policy and personal attitudes of the police, prosecutors, and judges” (p. 138). Moreover, Roy states the system’s tolerance of wife beating is supported by the action and knowledge that “inefficient prosecutors can render even the existing legal remedies inadequate” (p. 138). Thus, broad discretion exercised by prosecutors in selecting complaints for prosecution often translates into assigning domestic violence cases low priority ratings. The United States Commission on Civil Rights (1982) concluded that “the prosecutors created a self-fulfilling prophecy by refusing to prosecute abuse cases and then relying on these figures to reflect a low rate of
successful prosecutions” (p. 24). The legal tradition which permits the infrequent prosecution of cases of domestic assault is the much criticized, yet almost universally followed, concept of prosecutorial discretion to charge.

Professional Discretion

As part of the executive branch of government, prosecutors have, for the most part, the unfettered authority to determine how laws are to be implemented or administered. Hall (1975) suggests that the chance of charges being pursued as the victim expects depends on how officials interpret the crime’s seriousness, perceptions of the victim’s willingness to follow through, the victim’s demeanor, and how responsibly the paperwork is handled after the victim leaves the prosecutor’s office.

Prosecutorial discretion is the power of the prosecutor to enforce the laws selectively (Lezak and Leonard 1984). Discretion is generally recognized to possess both positive and negative features. Discretion has been criticized for its potential for abuse (Davis 1969; Vorenberg 1976) and praised for the unique and essential functions it serves in the administration of justice (Cox 1976; Miller 1969). Reasons most noteworthy for the continued usage of discretion include: overcriminalization in the criminal code, unrealistic notions of full prosecution, prosecutors’ desire to win a case, and the presumption of innocence.

Overcriminalization in the criminal code necessitates the use of discretion because legislatures too readily address perceived social ills by means of criminal sanctions, even when such sanctions provide ineffective solutions. Seemingly, noncriminal activity is dealt with through the criminal justice system where the problem cannot be addressed and is often
exacerbated (Lezak and Leonard 1984). The second reason for the use of discretion, includes that the full enforcement of the laws is an economic impossibility (LaFave 1970). No prosecutor has available sufficient resources to prosecute all of the offenses which come to his or her attention. Realistically, there are not enough enforcement agencies to investigate and prosecute every criminal act that occurs. Moreover, the estimated price tag for the construction of new prisons underscores the high cost of incarcerating offenders. The "get tough" rhetoric, while it may gain political and public acceptance, is difficult to effectively implement (Turner, Sundt, Applegate and Cullen 1995).

Cox (1976) suggests that the third reason for the use of discretion, simply put, is prosecutors’ desire to win their cases. A record of winning provides prosecutors with an easier route when plea bargaining cases. An additional result, Cox reports, is that a high conviction rate makes it less likely that trials will result. Last, a decision not to charge a suspect may serve to preserve the presumption of innocence (Cox 1976). Discretion then, offers an indispensable source of individualization in the administration of justice. Advocates for the use of professional discretion claim that this discretion is a necessity given the sheer number of criminal cases (Ellis 1984).

The discretionary process of the prosecutor is seemingly a necessary, and often times a beneficial aspect of court operations. However, when the discretionary process results in a pattern of under enforcement of certain crime types, as in the case of woman battering, it corrupts the course of justice (Mullarkey 1988). Moreover, researchers have suggested that statutory reform of domestic violence laws "would be unnecessary if legal officials understood wife beating and used their discretion wisely to stop it" (Waits 1985: 272). Until
the late 1970s, prosecutors commonly viewed battering cases as inappropriate for criminal prosecution (Dobash and Dobash 1979). Concerns with the use and abuse of prosecutorial discretion are well taken, given that “arbitrary enforcement of the law can destroy a community’s sense of well-being” (Neubauer 1996). In recent years, the prosecutor’s exercise of discretion has come under increased examination, with many commentators calling for “new limitations on this overly expansive, largely unreviewed power” (Lezak and Leonard 1984:247). Most notably, the exercise of prosecutorial discretion is not regulated to any large extent by formal systemic controls (Adams and Cutshall 1987).

More specifically, in exercising broad discretion at various decision points, the prosecutor is most influential in shaping the course of events for both the victim and defendant. For example, prosecutors can reject charges at the initial screening. This is the control point if a case is screened, but not filed, and there can be no further action in the case. Studies of the screening function indicate that only 25 percent of cases brought to the attention of 94 U.S. attorneys ended in formal prosecution (Frase 1980). Reasons for not filing at this stage include a lack of evidence, caseload concerns, the victim’s desire not to prosecute, and the defendant’s “good” reputation and lack of prior record, or because the prosecutor thinks a conviction is unlikely (Neubauer 1974). After the initial screening, the next step is arraignment. Arraignment is where the prosecutor formally notifies the defendant of the charges against him or her and typically where bail is set. Between charging and the trial, the prosecutor and defense attorney may plea bargain, allowing the defendant to plead guilty to a less serious charge.
In most criminal cases, the prosecutor considers various factors in deciding whether to bring formal charges against a suspect, including the seriousness of the crime (Forst and Brosi 1977; Frase 1980), the strength of the evidence and adequacy of witnesses (Forst and Brosi 1977), the suspect's background and characteristics, and the costs and benefits of obtaining a conviction (Miller 1969). In addition, there is evidence that the decision to prosecute is based upon characteristics of the victim and the victim-offender relationship (Lerman 1984; Parnas 1971). Although these factors have exerted an influence on criminal cases in general, it is not known what influences these or other factors play on the processing of domestic violence cases.

Rates of Non-Prosecution

As evidenced above, enormous resources have been spent determining what the most effective law enforcement method should utilize in responding to woman battering, most notably in the area of arrest policies, there has been silence regarding how best to prosecute and convict these cases (except the newer "no drop" policies).\(^\text{15}\) Although rates of nonprosecution vary, the rates for domestic assault are consistently above the 60 percent mark; specifically, 62 percent (Feeney, Dill and Weir 1983); 65 percent (McLeod 1983); 66 percent (Mignon and Holmes 1995); 79 percent (Martin 1994); 80 percent (Rauma 1984); and 81 percent (Quarm and Schwartz 1985). The policing experiments reported differential rates of prosecution. Although the Omaha experiment reported that 64 percent of the arrests

\(^{15}\)Prosecutors' offices which implement a no-drop policy severely limit the prosecutor's discretion to outright dismiss a case or suggest that a case seek mediation instead of criminal prosecution. Under this policy, all cases brought to the prosecutor's attention must be processed.
were substantiated (Sherman 1992), in Charlotte almost half of that (35%) were prosecuted. Sherman (1992) reported much lower rates of prosecution in Minneapolis (4%) and Milwaukee (8%).

Professional court personnel decline to try domestic abuse cases for a number of reasons. First, similar to police, prosecutors and judges, who often take a "law and order" approach to violence outside the family, take a "hands off" approach to violence within it (Waits 1985: 299). It appears, then, that these court official pay excessive deference to the concept of family privacy, regardless of the extent of violence involved. Reportedly, some court professionals have viewed wife beating as a victimless crime, based on the relationship between the abuser and the victim, thus suggesting that the public order is not affected (Buzawa and Buzawa 1990; Cahn 1992; Eaton and Hyman 1992). Clearly, the rate of criminal prosecutions and convictions drops when parties are related or previously involved. In a comparison of the prosecution of misdemeanor domestic violence cases versus simple assaults, Martin (1994) found that the “domestic violence prosecution rates are consistently shown to be lower than other assault rates despite the often serious nature of domestic assaults and the known identity of the perpetrator” (p. 214, emphasis added). Similar to other stranger assault cases, cooperation among the victims is not necessarily a guarantee. Unlike nondomestic violence assaults though, where prosecutors gather evidence other than victim testimony, prosecutors in woman battering cases too readily concede to the victim’s request not to prosecute and dismiss the case without further action (Pastoor 1984).
Victim Noncooperation

Prosecutors often decline domestic abuse cases because they believe that victims will not cooperate, thus, hindering the prosecution (Cannavale and Falcon 1976; Parnas 1967; Sigler, Crowley and Johnson 1990; see U.S. Commission for Civil Rights 1982 where prosecutors attribute low prosecution rates to uncooperative victims). Prosecutors often assume that victim noncooperation is the major obstacle to the successful prosecution of woman battering.

The issue of victim cooperation in domestic assault cases is quite complex. Unlike violence between strangers, domestic violence is "a component of a multidimensional personal relationship that contributes to the physical, psychological, and economic power and control that the assailant has over his victim" (Asmus, Ritmeester and Pence 1991:122). This power can be used, and often is used, to intimidate the victim (Burris and Jaffe 1993). Thus, unlike other victims of violent crimes, a woman battered by a current or former intimate partner encounters increased barriers to participation.16 Ellen Pence, Director of the Domestic Intervention Pilot Program in Duluth, Minnesota, suggests that in cases of domestic violence, the abuser, through coercion, promises or emotional ties, uses the victim to shield himself (or herself) from the legal system (Pence 1983). This behavior is evidenced

16In many instances, battered women face an increased risk of intimidation and reprisal (a domestic violence victim is more than twice as likely as other victims of violent crimes to be revictimized within 6 months after the assault that gave rise to the legal intervention (Hart 1993: 625). Furthermore, when she is assaulted, she is likely to be assaulted an average of 3 times, compared with once for other victims of violent crimes).
by the large number of battering victims who are escorted by their attackers when they come
into court to have the charges dropped against the defendant (Quarm and Schwartz 1985).

Prosecutorial decisions in these cases are often complicated by the common victim
behavior of changing her mind and asking that the charges against the offender be dismissed
(Ford 1991b; Ford and Regoli 1993; Rauma 1984). In an effort to understand the obstacles
to and correlates of victims' decision-making process, McLeod (1983) examined over 6,000
cases of domestic violence reported to law enforcement authorities during a 16-month period
in Detroit. McLeod (1983) found that the victims downplay the seriousness of the incident
and consequently fail to appear at the precinct to formally request a warrant. Research has
proffered that women who have been abused believe that the cycle of abuse is normal and
their fault, thus they often are reluctant to press charges against their abusers (Welch 1994).

Moreover, noting that victim cooperation is viewed as such a significant problem in
these cases, some prosecutors' offices have established a "cooling off" period, theoretically,
to allow the woman time to determine if she wants to proceed with the case. Interestingly,
this procedure is nonexistent in nondomestic violence cases (Ferraro and Boychuk 1992).
This prosecutorial policy, while attempting to avoid a noncompliant victim, results in placing
the brunt of the filing decision on the victim. An outcome of such a policy typically finds
a comparatively low number of charges filed and often results in inaction (Cahn and Lerman
1991). For example, one study of the reasons that prosecutors decided not to charge
domestic violence cases found that in 45 percent of the cases, the primary reason for the
failure to go forward was the victim's wishes (Schmidt and Steury 1989). That victims
frequently change their minds about pressing charges against the batterer, coupled with other
common prosecutorial perceptions about these crimes, influences many prosecutors to avoid prosecution of these cases (Cahn 1992).

Other studies, however, have found that even when a victim wishes to proceed with an arrest, her (or his) request is often denied. Buzawa and Austin (1993) found in their examination of whether victim preferences affect the arrest decision, that arrest usually does not occur even when the victim requested an arrest. In their interviews with the victims, the authors reported that while the "victim's preferred police action" was arrest 34 percent of the time, arrests were made in only 44 percent of these cases (Buzawa and Austin 1993: 616). Seemingly, even when the victim "cooperated" and requested an arrest, this was not met.

Ford and Regoli (1993) suggest that in many respects, victim nonparticipation is a self-fulfilling prophecy attributable to the actions of the prosecutors, judges and defense attorneys. Some prosecutors discourage victims tacitly by questioning the victim in a manner that conveys messages ranging from blame to disbelief. For example, Ford and Regoli (1993: 141) reported that woman are forced to answer screening questions such as "have you filed for divorce" or "are you still living with him?" Further, to test victims' resolve, a prosecutor might ask the battered women if they "really" want to prosecute (Ford and Regoli 1993: 130). Prosecutors also influence battered women's decisions to drop charges by urging reconciliation, or otherwise discouraging the pursuit of criminal relief (e.g., to seek counseling or mediation services) (Ford and Regoli 1993). This sends a message to the victim that the criminal justice system does not view the batterer's conduct as a crime and that she may be partly responsible for the incident. Some prosecutors actively outline the disadvantages of prosecution to the victim, further discouraging her: prosecution
will create more family stress, cost the family fines and court costs, possibly cause more strife in the relationship and anger the defendant to retaliate, and that the prosecution cannot guarantee the victim’s security nor the defendant’s conviction (Ford and Regoli 1993). A few prosecutors give victims distorted or incomplete legal information that dissuade them from seeking the state’s assistance (Eaton and Hyman 1992). Not surprisingly, when faced with a lack of interest from prosecuting attorneys, many victims become discouraged with the legal process and decide that the “costs of prosecution outweigh any potential benefits” (Ford and Regoli 1993: 130; see also Eaton and Hyman 1992).

Conversely, sympathetic prosecutors and judges often feel unable able to protect the victim because she is unwilling to press charges, out of love, fear or both. Thus, other means have been developed to effectuate victim complaints. While currently underutilized, an example of means to increase successful prosecution includes victim support projects (Cahn 1992). These projects consist of victim advocates who work closely with victims and prosecutors to ease a victim’s experience within the criminal justice system and hopefully encourage victim cooperation. In contrast to current policy, these advocates explain the legal process to the victim, provide counseling if necessary, accompany the victim to court, and not coincidentally, aid prosecutors in the process by increasing victim cooperation and improving the quality of victim testimony (Cahn 1992). Another means more widely used to effectuate victim complaints is the use of subpoenas.

Use of Subpoena Power

The issue of how best to deal with an uncooperative victim is not easily resolved. Some woman battering advocates suggest that prosecutors must take the choice of
prosecution away from the victim if they are serious about sending a clear message that domestic violence is criminally unacceptable. Methods to achieve this “forced cooperation,” however, are varied. Numerous prosecutors’ offices in the past decade have adopted policies to regularly use subpoena power to force battering victims to appear in court (Cahn and Lerman 1991). On one hand, subpoena power may prevent victims from becoming targets of retaliatory violence from their batterers because they were legally forced to participate in the court proceedings (Cahn and Lerman 1991). Many advocates for battered women argue, however, that the use of state power, such as subpoenas, has the unintended effect of punishing or “revictimizing” the victim for the actions of the abuser, by forcing the victim into a process over which she has no control (Asmus, Ritmeester and Pence 1991: Hanna 1996). Alternatively, other advocates argue that by dismissing cases simply because a victim requests it, prosecutors allow batterers to “extend their power and control into the courtroom” (Corsilles 1994: 881).

Davis, Russell and Kunreuther (1980) examined the attendance records and case dispositions of 295 victim/witnesses in Brooklyn Criminal Court. The victim/witnesses were interviewed twice, once upon entry of their cases into the court system and again after their cases was disposed. They reported that among cases involving a prior relationship between victim and defendant, 50 percent of the cases in which the victims were uncooperative were dismissed compared to 13 percent of cases in which victims did cooperate. In other words, it appears that 37 percent of cases involving an uncooperative victim were dismissed because the victim was uncooperative (Davis, Russell and Kunreuther 1980).
The “No Drop” Policy

When the prosecutor is reluctant to prosecute and the battering victim is reluctant to testify as a witness, the criminal case against the batterer is significantly impeded, and convictions are rare. Recently in an effort to increase convictions, some jurisdictions enacted “no-drop” prosecutorial policies. This policy can exist in the form of a statement, practice or protocol. This policy has met with some controversy. Essentially, these policies emphasize that the State and not the victim, is a party to the action. Thus, a no-drop policy denies the victim of domestic violence the option of freely withdrawing a complaint once formal charges have been filed (Cahn 1992). In turn, the policy limits the prosecutor’s discretion to drop a case because the victim is unwilling to cooperate. In many jurisdictions without a no-drop policy, prosecutors routinely drop domestic violence cases because the victim requests it, refuses to testify, recants, or fails to appear in court. In these situations, prosecutors dispose of approximately 50-80 percent of cases by dropping the charges (Ford and Regoli 1993). In contrast, where no-drop policies have been instituted, early reports reveal case attrition rates ranging from 10 to 34 percent (Asmus, Ritmeester and Pence 1991; Lerman 1981).

Generally, the controversy surrounding the no-drop policy revolves around both prosecutors’ and victims’ aversion to relinquishing control of the legal process. Prosecutors fear that scarce prosecutorial resources will be stretched beyond their limits and wasted in

As of 1994, 4 states have passed legislation encouraging the use of no-drop policies (Florida, Minnesota, Utah, and Wisconsin) (Corsilles 1994).
pursuit of unwinnable cases, due to victim nonparticipation. Victims' advocates, on the other hand, fear that no-drop policies will further victimize battered women and undercut efforts at victim empowerment. Like mandatory arrest, no-drop policies take away the battered woman's self-determination. In extreme cases, an uncooperative victim who refuses to testify may be jailed for contempt of court (see Riley 1983, where a battered woman who refused to testify against her abuser was jailed for contempt in Alaska). Moreover, some critics contend that no-drop policies may cause unwanted "side effects," such as increasing risks of retaliation and discouraging victim reporting (Welch 1994). In addition, critics note, these policies offer no protection from the possible retaliatory attacks by the batterer.

**Lack of Professional Reward**

Apart from the victim cooperation concern, an additional reason why prosecutors decline to prosecute domestic violence cases is because these cases lack "professional reward" (Langely and Levy 1977). Specifically there is the perception that there are no real winners in these cases. If the case is prosecuted successfully, then the family's main source of income may be incarcerated. If the woman's abuser is not convicted and jailed, he may quickly turn around and retaliate against the victim for supporting the prosecution in the first place. Hence, some prosecutors avoid prosecuting abuse cases by suggesting that "legal institutions are ill-equipped to deal with complex social and psychological problems like battering and should thus avoid them" (Waits 1985: 301). It has been suggested that the prosecutor's doubts and contempt of domestic abuse cases are more "akin to treatment of criminal defendants" than victims (U.S. Commission of Civil Rights 1982: 93).
When prosecutors decide to prosecute a domestic violence case, typically they require a higher standard of corroboration than in stranger violent assaults (Lerman 1981). In a comparison of court dispositions, Field and Field (1973) found that of all the assault cases involving strangers or unrelated people, 75 percent resulted in arrest and court adjudication, whereas only 16 percent of all cases involving assaults in the family ended in arrest and trial. Research suggests that domestic violence victims are less likely to seek punishment of their abusers than victims in stranger assaults, and are more likely to want protection from their abusers (Davis, Russell and Kunreuther 1980). This realization typically allows prosecutors “carte blanche” not to prosecute a domestic violence case as zealously (if at all) as other crimes against the person.

Generally, prosecutors only seek to prosecute those domestic cases when injuries are considered severe enough to warrant using prosecutorial resources. Eaton and Hyman (1992) suggests that visible injuries are a prerequisite for battered women to gain credibility: “If the injuries are not visible, often they are not considered credible” (p. 404). Moreover, the degree of injury has been reported to affect the charging decision (Schmidt and Steury 1989). For example, in one study, victims who suffered severe injuries (e.g., broken bones or internal injuries) were more likely to see the case result in a charge, while 56 percent of victims with bruises or blackened eyes did not result in a formal complaint (Schmidt and Steury 1989; in contrast see Martin 1994 where the more severe the injury was, the less likely the case was to be prosecuted). This visible injury and degree of injury “requirement” negatively impacts battered women by ignoring the harm caused by psychological abuse and
threats, and by overlooking the fact that many physical injuries are not readily visible (Eaton and Hyman 1992).

**Undercharging of Cases**

When prosecutors agree to prosecute a domestic violence case, they generally charge woman abusers with crimes substantially less serious than the victims' injuries warrant, by filing them as misdemeanors (Blodgett 1987; Corsilles 1994; Martin 1994; National Crime Victimization Survey 1982). “Nationwide, most incidents of domestic violence are not classified as felonies, no matter how severe” (Blodgett 1987: 68).

Prosecutors possess their own stereotypes of battered women. Consequently, prosecutors often rationalize their decisions not to prosecute by blaming the victim and assuming that battered women provoke the violence against them (Lerman 1992). Lenient treatment by the prosecutor communicates to the offender and the victim that the violent behavior is considered trivial (Cahn 1992). This is likely to reinforce the batterers’ perceptions that they have done nothing wrong, hence they avoid accountability, which likely encourages them to continue the abuse. Reform aimed at more vigorous prosecution of domestic violence cases can help offenders take responsibility for their hurtful behavior (Parnas 1971). Parnas, a pioneer in the study of the criminal justice system’s handling of cases of spouse assault, recommends “that the criminal justice system intervene in cases of the first minimal signs of trouble” (p. 755). His recommendation is particularly telling in light of the fact that his early research was spurred by a belief in the need to effectively divert cases away from the criminal justice system (see Parnas 1967; 1970; 1971).
Moreover lenient treatment by the prosecutor imposes additional barriers for victims seeking refuge from the abuse. Consistent prosecution can empower victims and help them realize that the violence is not their fault. Written guidelines can assist prosecutors with decisions about when and whom to charge in these cases. As with the police, prosecutors can be trained to understand the dynamics of domestic violence and the potential dangerousness of the offenders if not sanctioned. Eaton and Hyman (1992) report that: “For the most part, prosecutors fail to understand the harms and dynamics of woman battering” (p. 481-82). Some prosecutors believe, for example, that the violence is trivial and that victims are somehow to blame (Cahn 1992). Training can also alter prosecutorial stereotypes of battered women, enabling them to respond more sensitively to domestic violence cases. The judicial response to battering has been equally criticized as that of the prosecutors. Even if the police and prosecutorial nonintervention hurdles are surpassed, victims often face judges who do not take domestic violence seriously and are reluctant to impose appropriate penalties proportionate to the violence inflicted.

**Judicial Intervention**

The judiciary is the final element of the criminal justice system. Despite changes by the police and prosecutors, the criminal justice system's lasting impact on domestic violence will depend largely on the attitude judges convey to the parties, and how the courts ultimately dispose of these matters. Given that the police and prosecutors have usually siphoned off battering cases for either dismissal, mediation or counseling, judicial attitudes are largely untested. Still, the little information available is not encouraging. Unfortunately
for the victims in intimate partner battering cases, practices evidenced by police and prosecutors have also been evidenced by judges. Although it has been reported that only 1 percent of abuse cases are presided over by judges, these court professionals (similar to police and prosecutors), have generally expressed that woman battering cases do not belong in a criminal court (Cahn and Lerman 1991; Schafran 1987; see U.S. Commission on Civil Rights 1982 where criminal court judges with jurisdiction to hear abuse cases transfer them to civil courts). The Minnesota Supreme Court Task Force for Gender Fairness in the Courts Final Report (1989) describes a six-jurisdiction study in which the Task Force found that none of the 224 domestic violence cases reviewed went to trial because all were disposed of by either a dismissal or guilty plea (1989).

Judges, like most other decision makers in political institutions, were thought to render decisions on the basis of their personal attitudes and values. There can be little doubt that what judges prefer to do (i.e., their substantive attitudes and values) influences their decision-making behavior. This has subsequently been reaffirmed in many methodologically sophisticated studies. Goldman and Jahnige (1971) report that judicial decisions are consistent because they flow from judges' attitudes, not because they flow from precedents, statutes and conditions. Moreover, Schafran (1987) notes that although state domestic violence legislation provides adequate statutory protections for the battered women, judicial enforcement is lax due to the stereotypes about the victims. Like the response of other court professionals, the judicial response also emphasized nonintervention by the courts into what was believed to be a "family matter." Judges often assumed that the woman provoked the violence and that she used the court system to resolve a private family dispute (Welch 1994).
Pro-arrest legislation and contemporary policies have limited effectiveness if judges and prosecutors do not treat these cases seriously. Moreover, corresponding to the police and prosecutors’ (in)actions, judges also frequently underestimate the serious nature of domestic violence. The New York City Task Force found, as a result of their inadequate understanding of domestic violence, that judges and other professionals in the court system (including police) often discredit or blame battered women (Eaton and Hyman 1992).

Reluctance to Penalize

Judicial reluctance to impose penalties commensurate with the intimate partner abuser’s crime detracts from the intent of the criminal penalties. Judges ordering protection orders often dilute their effectiveness by failing to provide meaningful enforcement against abusers who violate the orders (see U.S. Commission of Civil Rights 1982 where judges are often hesitant to order a separate sanction for violation of restraining or protective order). Some agents within the criminal system have expressed hesitancy to “invest resources” in efforts to deal with domestic violence (Sigler, Crowley and Johnson 1990: 445). Even though prosecutors and judges can utilize a wide range of dispositional alternatives, the most common disposition is a nominal fine (see U.S. Commission of Civil Rights 1982 where twenty to thirty dollar fines were imposed) regardless of severity of injuries. For example, Quarm and Schwartz (1985) report that of the cases originally filed, only 17 percent reached a final disposition. Of the cases where the batterer was found guilty, 64 percent did not spend even one day in jail and 27 percent were neither jailed nor placed on probation. Moreover, unlike other violent crimes against the person, repeat offenders of domestic
assault receive no harsher punishment than for their first conviction (U.S. Commission of Civil Rights 1982).

Judges reluctant to sentence batterers to jail often defer to the victim's wishes or overemphasize family unity, regardless of the level of violence. Frequently, judges rely on traditional views in these cases, "it is not uncommon for archaic notions of gender roles to inhibit successful intervention" (Archer 1989). Often times the judge will lecture the defendant, warning him that the next time the judge will "throw the book" at him (Parnas 1970). Similar to prosecutors, judges may attempt to talk victims out of pursuing charges. For example, a judge may suggest to a victim that a trial would cause more problems and that if she backs out, the judge will make the defendant promise to leave her alone. Further, if there are future incidents, she need only come back and tell the judge and she will be taken care of. Judges, however, often fail to inform the victim that there will be no official record of her current complaint and that the court will have no authority to do anything special on her behalf, should she return (Zorza 1992).

**Judicial Training**

Judges and other professionals in the court system are too often under-informed about the nature of domestic violence and the characteristics of victims and offenders. For example, because they do not comprehend the psychology of battering and its effects on victims/survivors, judges and other court professionals often ask, "Why doesn't she just leave?" (Eaton and Hyman 1992). Ford, Rompf, Faragher and Weisenfluh (1995) note that educating judges and other professionals about the prevalence and dynamics of woman abuse would be an important tool "in developing and implementing effective interventions to
address the problem” (p. 593). Crowley, Sigler and Johnson (1990) conducted a study of
criminal justice and social service agency personnel to determine the extent of criminal
justice professionals’ understanding of familial abuse. They found that judges were less
likely than other professionals to have received training in the area of spousal abuse and were
more likely than other professionals (except police) to view spouse abuse as grounds for
divorce rather than as a criminal offense (p. 588). Moreover, this research suggests that lack
of training for criminal justice professionals (e.g., judges, prosecutors, police) is of special
consideration because “in the absence of training in domestic violence issues, [the
professionals’] decisions will be based upon their personal notions of reasonableness and
common sense, which in domestic violence may be quite wrong” (Crowley, et al. 1990: 529).

In a study determining how much influence an individual judge has on the outcome
of a domestic violence case, Ford, Rompf, Faragher and Weisenfluh (1990) found that for
the 174 cases heard by judges in three civil courtrooms, there were significant differences
between the judges in final outcomes. Although the research is somewhat restricted due to
its limited sample size, it is interesting to note that there is wide variation in outcome factors
among only three judges. Seemingly, to be able to effectively train judges how to recognize
and understand woman battering may reduce the wide variation among specific decision
makers.

Although prosecution and nonprosecution rates have been reported in some studies,
few quantitative studies address judges’ and prosecutors’ perceptions and adjudications of
domestic violence cases. At this point, definitive answers to questions about prosecutorial
and judicial processing of woman battering decisions remain elusive (Ford and Regoli 1993; Schmidt and Steury 1989).

**Defense Attorneys’ Actions**

Relatively speaking, the majority of the already sparse court research on domestic violence delineates attitudes and behaviors of prosecutors and judges. Another significant court player involved in the system, however, is the defense attorney. In contrast to the prosecutor, who theoretically, is supposed to have a substantial interest in the victims, the defense attorney’s purpose is to represent the accused. McIntyre (1987) reports that, unlike prosecutors who are enjoined by ethics from prosecuting people whom evidence suggests are innocent, the defense attorney is “ethically required to zealously defend even the most guilty and abhorrent criminal defendant” (p. 71). It is the defense lawyers’ job to do everything possible that can be done for the defendant, even when that means getting a criminal off scot-free. Loopholes and technicalities are defense attorneys’ major weapons (Neubauer 1996). Moreover, a criminal defense lawyer is expected to put on a vigorous defense and to work toward acquittal for his or her clients even when the client is known to be guilty (Neubauer 1996).

A specific and significant category of defense attorney, who is employed by the government to represent indigent defendants in criminal cases, is the public defender. Public clients often constitute a large proportion of the local misdemeanor domestic violence cases (and other cases) in the courts, emphasizing the significance of the public defender. Blumberg (1967: 103) states that, “It is generally agreed that public defender systems, where
they exist, are not sufficiently independent of the prosecution...” In Blumberg’s (1980) view, public defenders feel more responsible to the court than to their clients, thereby often neglecting their defense duties. Further, Einstein and Jacob (1977) note because of their cooperative relationship with other members of the court system, public defenders “unscrupulously” plea bargain cases. However, Kray and Berman (1977) report, that one-third of the prosecutors they interviewed said they believed public defenders were better able to evaluate a case and make a reasonable bargaining proposal than were their private counterparts.

While information has been limited on public defenders and their attitudes toward domestic violence, some researchers suggest that similar to prosecutors’ attitudes and behaviors, that victim noncooperation is a self-fulfilling prophecy even from the defense attorneys’ view (Ford and Regoli 1993). This is achieved by “wearing” down the victim’s resolve to proceed, by asking for continuances, and forcing multiple trips to court. A more direct tactic utilized, is to ask the victim directly to drop the charges (Ford and Regoli 1993).

Ford and Regoli (1993) noting that sometimes the defense attorney bordered on obstruction of justice charges as victims were induced to ignore subpoenas or give false testimony at trial, described a case in which the defense attorneys engaged their client’s victim in negotiations to withdraw charges with assurances that the defendant would leave her alone. Moreover, Crenshaw (1994) reported that defense attorneys often inform women that if they did not appear in court, they would probably not be arrested. The victims often accepted the words of the lawyer presuming they had some greater control over their assailants’ behavior than either the victims or the other criminal justice system officials had.
Importance of Studying the Processing of Domestic Violence in the Courts

The widely publicized policing experiments on responses to intimate partner battering have paid little attention to court outcomes and processes. New policies have restrained police discretion because of previously demonstrated police unwillingness to arrest. Yet the court's discretion may be similarly problematic: “Changes in prosecutorial and judicial practices regarding woman battering have not paralleled changes in law enforcement practices” (Davis and Smith 1995). For example, police have been given extensive training on what to effectively do in a domestic situation. Prosecutorial and judicial policy have not been given such guidance.

The reluctance of prosecutors to file formal charges in woman abusing situations has been documented in research (Field and Field 1973; Vera Institute of Justice 1977), specifically, the preferred policy was nonintervention (Cahn and Lerman 1991). Similar to previous police research, Cahn (1992) notes that “traditionally prosecutor offices have been major impediments to an activist approach in handling domestic violence cases” (p. 161). Research suggests that prosecutors do not take such incidents as seriously as other crimes that “affect the public order,” and despite their legal training, they often misunderstand the legal options available for prosecution (Cahn 1992; Sigler, Crowley and Johnson 1990). Even those remote cases which were taken to court and successfully prosecuted, the penalties exercised tended to be minor: fines, suspended sentences and probation (Dobash and Dobash 1979; Quarm and Schwartz 1985; U.S. Commission of Civil Rights 1982).

Although the research on court personnel is much more limited than police research, the court research suggests that similar to the law enforcement pattern, prosecutors often fail
to pursue cases against batterers, and judges rarely convict those proportionately few batterers who get to the courts (Blodgett 1987; Hart 1993; see also Quarm and Schwartz 1985). Alternatively, commentators have delineated reasons why prosecuting woman abuse should be a priority; first, to prosecute in these cases in so far that prosecution is the formal expression of social norms (Cahn and Lerman 1991). Prosecuting the abuser sends a clear message that battering is unacceptable. Second, woman abusing cases should be prosecuted to uphold the dictates of the criminal justice system. If there is a breakdown in procedure at the prosecutorial stage, this suggests to the rest of the system that they do not have to follow occupational mandates. Thus, unless there is a prosecution (or attempts thereof) following arrest, law enforcement becomes a fiction, given that police will be discouraged from making arrests if there is no follow-through (Cahn and Lerman 1991; Dutton 1987; Ellis 1984).

Last and most importantly, research suggests that woman abuse is a particularly dangerous form of violent crime (Bachman and Saltzman 1995; National Crime Victimization 1982). As evidenced by the rates of nonprosecution of previous studies, judges and prosecutors often fail to take woman battering cases seriously. Research has not conclusively addressed the notion that those deciding the outcome of these cases are consistently acting upon the axiom, that woman battering is a serious act of violence. To date, the research on systemic responses to intimate partner battering have focused almost exclusively on the police. The little research on court officials’ attitudes and responses has been largely anecdotal in nature.
The proposed study is the first of its kind: intensive interviews and detailed surveys of judges, prosecutors, and public defenders regarding their attitudes about, experiences with, and behaviors regarding intimate partner battering. The goal of this research is to determine court professionals’ general awareness of domestic violence and their self-reported behaviors in processing these cases. This research is significant, given that a lack of awareness of the severity of the battering problem by court professionals can lead to a perpetuation of the cycle of violence.

Gaining knowledge of court professionals’ level of awareness of, attitudes toward, and self-reported behaviors in responding to domestic violence is important because attitudes conveyed by the professionals send a message to society as well as individual victims, offenders, children and other witnesses. Part of the message perceived by some victims is that the defendant would do more damage to the victim for testifying against him than the criminal justice system will do to him for committing the violence. Thus, victims often perceive it is better to suffer at the hands of the defendant than at the hands of the defendant and the criminal justice system.

Research Questions

This study part of a larger project funded by the National Institute of Justice, was designed to measure and compare the level of knowledge of, behaviors and attitudes toward domestic violence by various court professionals. This research is exploratory, designed to determine court professionals’ perceptions and attitudes on various topics of misdemeanor domestic violence cases. An assessment of these data on court professionals’ knowledge of, attitudes toward and self-reported behaviors regarding domestic violence, will hopefully
facilitate appropriate interventions to improve court processing services offered to victims and defendants of these crimes. A coordinated response from court professionals would send an unequivocal message to the batterers, the victim, and the community that domestic violence will no longer be tolerated. It is hoped that the knowledge obtained by this will provide information on how court professionals perceive domestic violence and will help develop strategies that could improve the processing of misdemeanor domestic assault cases.

Specifically, this research will address the following research questions:

**Research Questions:**

1. What roles do legal and extra legal factors play in decision-makers self-reported behaviors and attitudes?
2. How do decision-makers rate victim advocate and batterer treatment programs?
3. How do court professionals view the victim’s role in the court process?
4. To what degree do court professionals report victim-blaming attitudes and experiences?
CHAPTER 3
METHODOLOGICAL STRATEGY

A review of the literature reveals that the closer the relationship between the victim and the offender, the less likely the prosecutor is to bring formal charges (Dobash and Dobash 1990; Field and Field 1973; Martin 1976; Rauma 1984; Schmidt and Hochstedler 1989), and the less likely a conviction or prison sentence will result (Cannavale and Falcon 1976). The extant research, reviewed in the previous chapters, indicates that the police treat intimate assaults differently than stranger assaults. At this point, however, definitive answers to questions about court professionals' attitudes toward domestic violence remain elusive due to the paucity of researching these decision-makers. The time is appropriate for an intensive self-report and interview study employing a sample of court professionals to measure their level of knowledge about, attitudes toward and self-reported behaviors in the processing domestic violence cases. The current study does this by using intensive one-on-one interviewing and self-report survey questionnaires of judges, prosecutors, and public defenders working in a city in a large urban Midwestern area, Cincinnati, Ohio. This chapter is a presentation of the context of this project, the research design and procedures employed, the sample characteristics, the development of the measurement instruments, and a discussion of the statistical techniques and limitations of the study.
Context of Project

The research design for this project is the result of cooperation and collaboration between the various members of the Cincinnati Domestic Violence Coordinating Council (D.V.C.C.), which includes, law enforcement officials, city and county prosecutors, municipal judges, pretrial workers, women victim advocates (from Women Helping Women\(^{18}\) as well as the Y.W.C.A.), probation personnel, medical professionals, police officers, sheriffs and researchers. The D.V.C.C. was formed in October 1995 out of a desire to coordinate key criminal justice personnel to effectively address the system’s response to domestic violence issue in Cincinnati, Ohio. Some of the goals of this group included the improvement of prosecution and conviction of intimate partner batterers, as well as providing information for medical personnel on how to properly address domestic violence cases. The Council’s support of the current project allowed legitimacy for those individuals who may have been resistant to participate in the project (e.g., select public defenders and those judges and prosecutors who were not members of the D.V.C.C.) and was also likely influential in the study receiving federal funding from the National Institute of Justice (N.I.J.). The county was chosen partially for reasons of data availability, but also because one of the co-conveners of the D.V.C.C. expressed an interest to one of the project’s researchers that he wanted to determine why so many domestic violence cases were being dismissed in Municipal court. Research has suggested misdemeanor courts resemble an “assembly-line justice” where only a minority of cases adjudicated in these courts end in jail sentences (Feeley 1979; Ryan

\(^{18}\)A local victim advocate agency for survivors of rape, incest and abuse.
1980/1981), nevertheless, the sample county sought to determine why domestic violence cases processed through their court seemed to be more susceptible to dismissals than other cases in Municipal court.

The Ohio legal definition provides that no person “shall knowingly cause or attempt to cause physical harm to any relative, marital partner or 'person living as a spouse' who resides or has resided with the offender” (Ohio Rev. Code Ann. Sec. 2919.25).

Misdemeanor cases constitute the vast majority of cases processed within Cincinnati, and members of the D.V.C.C. believe that these cases include some serious cases of abuse (see Cole 1995 suggesting that 90 percent of criminal cases are heard in misdemeanor courts). According to the Ohio Revised Code, a domestic violence violation is a first degree misdemeanor, punishable by a jail term not to exceed six months and/or a fine not to exceed $1,000.

The Context of Domestic Violence Legislation within Project Area

In 1978, the Ohio legislature responded to the growing problem of domestic violence by enacting House Bill 835, a “permissive arrest statute” (Anderson 1982: 358). Since this initial legislation, Ohio has amended the domestic violence statute several times, although it has consistently designated domestic violence as a criminal offense separate from other assaults (Bracher 1996). Prior to the statute enactment, a victim could file a criminal charge for assault or menacing, or file for divorce and seek a restraining order. As Cristoff (1992) notes, these options were ineffective because “although the woman wanted protection, she did not necessarily want to end her marriage or have her spouse jailed, which might further threaten her safety” (p. 164). In response to the finding that the reforms were ineffective in
reducing the incidence of domestic violence, the Ohio legislature enacted a more stringent statute, a preferential arrest statute,\(^{19}\) which designates that arrest is “the preferred course of action.” Originally, the bill contained a mandatory arrest provision, however, during debate in the Senate, the provision was changed to a preferential arrest provision (Bracher 1996). This resulted from the strong policy belief that few limits should be placed on a police officer’s discretion, however, this statute does not preclude other counties from enacting more stringent policies (Bracher 1996).

In 1990, the project city, Cincinnati, Ohio, adopted a mandatory arrest policy for intimate partner abuse. The current policy requires immediate arrest of the batterer if there is probable cause to arrest. Specifically, the official policy states that “the formal arrest/court process is the most appropriate method of resolution,” thus restricting police discretion in the project city more than police under the auspices of the state statute (Bracher 1996). The City police procedure requires that two officers be dispatched immediately in response to a report of domestic violence. If the police officers cannot identify the “primary physical aggressor,” they are required to arrest both individuals (see section 12.412(B)(9)). Finally, as mandated, the police either must provide the victim with phone numbers to crisis intervention service agencies or must provide assistance in obtaining transportation to a shelter (see section 12.412(B)(17)(b), (19)). In addition, the respective police districts must provide Women Helping Women, a local victim advocate agency for survivors of rape, incest

\(^{19}\)Ohio Rev. Code Ann 2935.032
and abuse, with copies of all reported domestic violence offenses (see section 12.412(D)(1)(c), (2)(c)).

**Project Definition**

The project's definition of intimate partners could include anyone in an intimate (e.g., spouse, common-law spouse, lover, or boyfriend/girlfriend) or formerly intimate (e.g., ex-spouse, ex-boyfriend/exgirlfriend, or former lover) relationship, including same-sex couples. Having a child in common was also included in the project's definition of an intimate partner. Thus, the type of "domestic violence" the study addressed was intimate partner, not other familial, abusive relationships (e.g., parent-child abuse, elder abuse, sibling abuse, and so on).

**Research Design**

The research design for this project included the collection of data from court professionals through both intensive one-on-one, face-to-face interviews and surveys. An interview schedule was formulated to collect detailed written data from the judges, prosecutors, and public defenders to determine their perceptions of and experiences with the decision-making process. Although the majority of questions were asked of all professionals, additional questions were formulated based upon the initial group of interviews (the judges). Thus each subsequent group (the prosecutors and public defenders, respectively) had increasingly longer interview and survey formats.\(^{20}\) Moreover, questions

\(^{20}\)The judicial interview schedule was 7 pages long and asked 21 open-ended questions. While the prosecutor and public defender interview schedule was 11 pages long asked 40 open-ended questions. The judicial survey was 15 pages in length, while the prosecutor and public defender surveys were 23 pages in length.
had to be altered according to the targeted professional group and its respective charge within
the criminal justice system (e.g., judges’ opinions on sentencing patterns and public
defenders’ opinions on defense strategies). The judges’ interview schedule and survey were
submitted to the Human Subjects Committee at the University of Cincinnati for review. The
Human Subjects Committee informed us (the Project Director, Joanne Belknap, and Jennifer
Hartman) that since there did not seem to be any potential hazards or side effects to the
subjects, they approved both data collection instruments (the interview and the survey) and
noted that we did not have to submit the prosecutors’ nor public defenders’ surveys and
interviews for the Committee’s approval.

Professional Interviews

Prior to development of the interview schedule, numerous meetings were held with
a representative from each professional group who could offer feedback on the respective
measurement instruments to ensure comprehensiveness and clarity of the items being
addressed. For the most part, these individuals were either the primary attorney in his office
or someone of “senior” status. All of the “primary” attorneys who pilot tested the
instruments were male. Upon final construction of the interview, we asked the contacts to
read the interview and survey items to clarify any misleading or unclear questions. As a final
check to ensure whether any items needed to be altered before interviewing the rest of the
respective professionals, the representative from each group was the first of their professional
group to be interviewed and surveyed. The contacts from each respective court group,
moreover, provided a list of those participants within their office who process municipal city
domestic violence cases.
Participation by the court professionals in both the interviews and written survey, was strictly voluntary. In order to enhance participation we notified each individual in the population (judges, prosecutors and public defenders dealing with city misdemeanor, domestic violence cases in Cincinnati) with a personalized contact letter, explaining that the project had been funded by the National Institute of Justice (See Appendix A for a sample copy of the letters sent by the Project Director). Also, crucial to improving the response rates, the head of each office (also the person who pilot-tested the original drafts of the measurement instruments) made both formal and informal pleas to the others in their offices to participate in the study.

The personalized contact letter established that participation in the study was voluntary and would entail a one-on-one, face-to-face confidential interview, as well as the completion of an anonymous survey. The contact letter, the preamble to the interview, and the cover of the written survey all noted that the participants could withdraw participation at any time. At the same time, the contact letter and verbal preamble to the individual interviews highlighted that participation in the study was greatly desired. Each court professional received a follow-up phone call requesting their participation and setting a date for the interview.

An integral element of soliciting participation in our study was the repeated assurance of confidentiality in all contacts. Great care was taken to ensure that the participants were reminded that participation was voluntary and that they could withdraw participation at any time. Moreover, before the beginning of the actual interview, the court professionals were again reminded that participation was voluntary, that they could withdraw participation at
any time, and that upon agreement to participate, their comments would be kept anonymous. The respondents were assured that, upon completion of the study, all means of connecting any individual with particular responses would be eliminated.

The interviews were structured in that the interviewer had a set series of questions to ask. However, if the interviewee had additional information to disclose (or disclosed information out of order of the survey), the interviewer simply adapted the interview schedule to capture this information. To avoid problems of inter-rater reliability, the author conducted the interviews. The only exception to this was the head public defender who was interviewed by the Principal Investigator on this N.I.J. Grant, Dr. Joanne Belknap. Of the three groups we were interviewing, this group (the public defenders) was the least interested in domestic violence victimization and the least active on the D.V.C.C. Both the contact judge and the lead prosecutor of their respective professional groups were very active in the D.V.C.C., and thus needed no encouragement in either participation in the study, or getting others in their offices to participate. The public defender office, however, was completely different. They were not active in the D.V.C.C., and it became apparent once we conducted the interviews with the public defenders, that they had very low regard, as a whole, for the D.V.C.C. Therefore, when the head of the public defender's office, for the initial interview (the last of the three groups to be interviewed) requested that the Principal Investigator on the grant conduct the interview, we obliged this request. This was the sole interview not conducted and entered into the computer by the author of this dissertation. (The Principal Investigator, Dr. Joanne Belknap, entered this interview into the computer, in addition to conducting it).
The interview schedules were designed to tap the professionals’ overall perceptions about domestic violence cases, victim/witness participation and reluctance, their experiences with these cases, and what they report as potentially affecting their actions and the case dispositions. The professionals were also asked to assess and identify their functions, as well as those other “key” court personnel, and whether certain court policies would help, inhibit, or have no impact on the processing of these cases. In addition to tapping the concepts in the judicial interview schedule, the prosecutor and public defender interview schedules were designed to help identify what makes a “good” case, what factors (if any) about a victim, defendant or alleged event, influence their prosecution/defense, methods to encourage victim participation, and whether the court professionals perceive that they have the ability to stop or deter the abuse (See Appendix B for a copy of the public defender professional interview).

**Professional Surveys**

Survey research, one of the most common forms of research employed by researchers, was another technique employed in this study. The ultimate goal of survey research is to describe the characteristics of a population (Fraenkel and Wallen 1993). In the present study, the survey technique was employed by handing a survey to members of the sample upon completion of the one-on-one, face-to-face interview. Because respondents were asked to reveal potentially personal and sensitive information about themselves, the self-report survey method permitted measurement of a topic that may be sensitive to other means of data collection (e.g., extra-legal factors that influence their disposition or sentencing decision) (see Sudman and Bradburn (1974) who suggest that a self-report survey instrument is less threatening than either personal or telephone interviews for the collection...
of data about personal behavior and attitudes). Moreover, the self-report method is ideal for purposes of this study, since no official data sources yield information on court professionals' assessment of domestic violence. Even if such data had been available, this method appears to be the best approach to address the research questions of this study particularly when done in conjunction with face-to-face interviews.

The self-report approach has been criticized for both the under- and over-reporting of respondents, potentially biasing findings and distorting the nature and strength of relationships. However, comparison of self-reports of contact with police and courts with official police and court records have found high levels of agreement (Hindelang, Hirschi and Weiss 1981). The current study was expressly designed to explore court professionals' attitudes about and experiences with intimate partner domestic violence cases. This is the most appropriate means of acquiring such information.

The current study used a one-shot, cross-sectional survey design (Campbell and Stanley 1963). This design was used to determine knowledge of and attitudes toward domestic violence by court professionals. The design is appropriate for the due to its exploratory nature. Thus, the data were gathered at one point in time given that the goal was to establish relationships among the variables and not the examination of cause and effect. The research questions in this study attempt to determine descriptions of court professionals' attitudes and self-reported behaviors, and to determine whether if the court professionals' responses vary based on their professional office (judges, prosecutors or public defender).

The initial development of the surveys, similar to the development of the interview items, was based on an extensive review of existing literature. In this overview, the
The following documents were most influential on the final design: American Prosecutors Research Institute (1996), The Canada-Manitoba Spouse Abuse Tracking Project (1994), Erez and Belknap (1998), and Ford (1991). Prior to and during the development of the survey, numerous meetings were held with the agency contacts to ensure comprehensiveness of the measures being addressed. After the survey was completed, the contacts were again asked to read the survey to clarify possibly misleading or unclear questions/statements. The surveys offered both open-ended as well as closed-ended questions. Although the surveys asked each professional group a majority of the same questions, it was necessary to adapt particular questions according to the respondent's directive. For example, the judge's main directive is whether to convict, the prosecutor's is whether to prosecute, and the public defender's is how to best defend her or his client.

The surveys addressed such topics as evaluating the current arrest policy for domestic violence cases, issues related to bail and treatment mandates, and reasons why cases are dismissed. Moreover, scales were developed from Likert questions which ascertain decision-makers' assessments of concepts such as victim provocation, victim ability to leave, role of legal and extra-legal factors, treatment for batterers, deterrent factors, and policies relevant to the processing of domestic violence misdemeanor cases. Other items addressed in the survey included factors to be considered in the determination of whether an abuser should be sentenced and convicted, the influence of various factors on outcome decisions, criminal justice techniques most likely to be utilized in the courtroom, and the ranking of factors' effectiveness in stopping repeat woman battering (See Appendix C for a copy for a copy of the public defender survey).
Research Procedure

Upon completion of the interview, the respondent was handed a copy of the survey. An inherent concern in handing a participant an extensive survey momentarily after conducting an interview is the increased risk of a “Hawthorne Effect” and the respondent attempting to provide “socially desirable” responses on the survey in order to please the researcher (Babbie 1995:216). That is, after the respondent has met and potentially “bonded” with the researcher during an intensive interview, it is likely that a respondent will be more likely to want to “please” the researcher with the “right” answers. Despite this potential bias, this design was considered the most appropriate for this study, and the approach most likely to result in a higher response rate. Given the court professionals’ general reluctance and concerns about participating in a study and divulging potentially incriminating self-reported behavior and attitudes, this design was identified as the best approach. Thus, the data might be interpreted as the professionals’ over-emphasizing (or exaggerating) their decisions based on legal factors, and minimizing reports of their victim-blaming and so on. The “Hawthorne Effect” may be minimized, however, since some of the respondents, especially prosecutors and public defenders, took approximately four weeks after the initial interview to complete the survey, possibly decreasing the likelihood of more “socially desirable” than accurate responses being given. A majority of the judges were able to return completed surveys within 48 hours. (This suggests that the judges had more “free” time than their prosecutor and public defender colleagues).

Upon completion of the interview, after the empty survey was handed to the respondent, a date for when the survey could be picked up was established. On the
scheduled date the survey was to be completed, the researcher would call the respondent to
determine if she or he had indeed completed the survey. If the respondent was unable to
complete the survey by the scheduled time, a new date would be chosen and the researcher
would call again on the new date to determine if the survey was completed. The judges
seemed to be better able to predict when they could meet for an interview and when they
could complete the survey than the prosecutors or public defenders were. While the
prosecutors seemed willing to participate in the study, meetings for the interview as well as
when the survey was to be picked up continually had to be re-scheduled, mainly due to
prosecutors having to be in court unexpectedly. Generally, the public defenders were able
to keep their scheduled interview time, however, they were somewhat resistant to completing
the survey. Thus, the simple process of collecting the two types of data from the
professionals (the face-to-face interviews and the written surveys) pointed to vastly different
constraints on time between these three court professional groups (judges, prosecutors, and
public defenders).

Sample

The project population included all of the municipal judges, prosecutors and public
defenders in Cincinnati, Ohio in 1997. The total number of court professionals in this city
was 63 (14 municipal judges, 18 city prosecutors and 31 public defenders). All 63 of the
professionals were asked to participate in the study, first through a contact letter and then a
follow-up phone call. The interview participation rate was 100 percent for both the judges
and prosecutors. One public defender declined participation in the interview, thus the
participation rate for the public defenders was 96.8 percent, and the overall court
professionals' interview participation rate was 98.4 percent. It should be emphasized that this is an extremely high response rate, and it likely due to both the existence of the D.V.C.C. (And requests by its leaders to participate in the study), and the methods used to contact the sample.

The participation rate for the surveys was somewhat lower. All of the prosecutors completed the survey (100.0%), two of the 12 judges elected not to complete the survey, and slightly over three-quarters of the public defenders (77.4%) completed the survey (thus, an 85.7% response rate). The overall survey completion rate of the total court professionals sample, then, was 87.7 percent. The average interview was almost 2 hours in length (\( \bar{x} = 1.8 \) hours), with the judicial interviews averaging the longest time (\( \bar{x} = 2.1 \) hours), and the prosecutor and public defender interviews averaging about the same time (\( \bar{x} = 1.8 \) hours and \( \bar{x} = 1.7 \) hours, respectively).

The judges were the first of the three groups to be sampled. The judicial interviews began the second week in March 1997 and lasted until the second week in April 1997. The prosecutors’ interviews began the first week in June 1997, and were completed the first week in August 1997. The public defender interviews began the last week in September 1997 and ended the first week in November 1997. For the most part, the judges completed the survey within 48 hours, while the prosecutors and public defenders took an average of 2 weeks to complete the survey. (Some of the prosecutors and public defenders took up to four weeks to return the completed survey).
**Sample Characteristics**

Table 1 lists the sample’s characteristics. The mean age of the sample was almost 44 years of age (\(\bar{x}=43.8\) years old). This is different from the national average (Morgan and Alexander 1972) where the prosecutors are young and serving their first term of office, the prosecutors in this sample are more senior (\(\bar{x}=40.4\) years old). A little over one-quarter (28.6%) of the court professionals were women. Approximately three-fourths of the judges (71.4%) and public defenders (77.4%) and three-fifths of the prosecutors (61.1%) were male. As for the racial composition, over three-quarters of the sample were Caucasian (76.2%), just under one-fifth were African-American (20.6%), and less than 2 percent were Asian-American or Latino/Latina, each. Moreover, four-fifths (80.6%) of the sample reported currently being married, while less one-fifth were single (16.1%) and a small minority of the sample reported being divorced (3.3%).

The average length of the court professionals’ years in office was slightly less than 8 years (\(\bar{x}=7.8\) years). Interestingly, the judges had the least amount of time invested in their current position (\(\bar{x}=2.1\) years), while the public defenders had been in their respective office for the greatest amount of time (\(\bar{x}=9.4\) years). Obviously then, the judges in our sample were on average, more likely to have recently been assigned to the judicial bench. In contrast to other courts where the prosecutors gain some practical experience before going into practice for themselves (Albonetti 1987), in the current study, the prosecutors’ average time in office was over 8 years (\(\bar{x}=8.3\) years).
Data Analysis

The qualitative data from the surveys were carefully and systematically coded to examine the factors the professionals raised in how they viewed the processing and dynamics with intimate partner domestic assault cases. Where possible, the qualitative data were coded into quantitative data (e.g., from a list of reasons why something occurs). Further, qualitative data were used to support, "tease out," or even show the ranges and exceptional findings from the quantitative data provided by the surveys.

The analysis proceeded through a series of stages. The initial analysis for the survey data involved a series of univariate or descriptive statistics for the sample. Next, a series of bivariate analyses were conducted of all relevant variables. The bivariate analyses provided an overview of the relationships between court professionals and numerous variables of interest. Last, multivariate statistics were utilized to determine if there were any differences between the court professionals (e.g., the judges, prosecutors and public defenders). The multivariate model then, tested the relationship between each professional group regarding the various responses. To measure factors that influence the court professionals on misdemeanor intimate partner domestic violence cases, scales were created from questions/items asked in the survey. Given that it is difficult to measure a concept well with a single indicator, we combined several indicators into a composite measure. This technique

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Because effects were presented for numerous relationships, a multitude of comparisons were offered. Although this allows for ample opportunity to test for specific effects, it also increases the likelihood of finding statistical significance. With alpha equal to 5 percent, it is likely to find statistically significant results for 5 percent of the tests by chance alone.
generally provides a better overall representation of the concept, and the errors tend to cancel each other out, yielding a more reliable measure (e.g., avoiding the biases of either underestimation or overestimation inherent in any single item) (Babbie 1995).

The scales were created from the Likert questions asked on the professional surveys. The Likert procedure was chosen because of its ability to measure attitudes. The Likert scale utilized consisted of a simple summated scale of items containing a 7-point response category ranging from “strongly disagree” (1) to “strongly agree” (7). Reversal items in which the substance of the question is worded in a negative fashion relative to the orientation being measured was identified to avoid response set biases (Grimm and Wozniak 1990). To limit criticism on the relationship between a scaled measurement and the entity being measured, qualitative data from the interviews and surveys were utilized appropriately.

An orthogonal factor analysis with a varimax rotation was utilized to capitalize on the scaled factors. Orthogonal solutions are better suited than an oblique solution for this exploratory project because with orthogonal solutions it is assumed that the factors are independent of each other. Using orthogonal over oblique rotation imposes an additional constraint by not allowing the factors to be related, therefore the orthogonal solution is more restrictive than the oblique model. The orthogonal solution allows the variables to be distinct from each other when they become explanatory in the model.

22Response sets are patterns of consistent responses in which the respondent reads only the first few items and circles the remaining items in a similar pattern. Item analysis was employed by one researcher and found to observe no response sets, such as vertical patterns.
We employed Cronbach's alpha reliability measure to assess the reliability or performance of the scales. The internal consistency method upon which Cronbach's alpha is based produces an estimate ranging in value from 0.0 and 1.00 (Carmines and Zeller 1979). The statistic alpha is produced splitting the scale into two halves and generally yields a conservative estimate of the lower bound of reliability (Allen and Yen 1979). Measures of internal consistency using split-half measures will yield a high value only if two halves measure highly correlated traits (Allen and Yen 1979). If all the components of a test intercorrelate highly, the test will have a high reliability estimate, indicating internal agreement or consistency among the components of the test. The reliability for the domestic violence scales used in this study are reported in the next section. To preserve confidence in the findings, no scale was used which did not achieve a minimum reliability of 0.70. The Cronbach's reliability scores for these scales varied from 0.71 to 0.86, these are interpreted as being acceptable reliability scores.

For each scale, an overall mean and a mean by each professional group was calculated. Moreover, general linear models (GLM) were estimated to determine if there were differences among the professionals on particular scaled items. Two-way multivariate analysis of variance (MANOVA), using Wilk's criterion, were followed by univariate F tests to examine group differences on the dependent variables. The "main effects" model was used in order to decrease Type II errors. Manovas allow the simultaneous study of more than one related dependent variable while controlling for the correlations among them. The assumptions for the MANOVA are: (1) the observations on the dependent variables follow a multivariate normal distribution for each group; (2) the population covariance matrices for
the dependant variables in each group are equal; and (3) the observations are independent. Data from this research meet the assumptions for the MANOVA. The data analysis also allowed for determining whether any of the covariates (e.g., age and race), were significant.

**Measures**

The judicial survey instruments consisted of 10 different areas including: (1) overview of domestic violence issues (5 questions); (2) arrest policy (1 question); (3) bail concerns (4 questions); (4) victim involvement (1 question), (5) evidence utilized (12 Likert items); (6) processing of cases (9 Likert items); (7) disposition (5 questions 19 Likert items; (8) treatment mandates (3 questions); (9) recidivism (8 Likert items) and (10) demographic characteristics (7 questions). Because the judges were the first to be surveyed and sampled, some questions and items were changed (mostly additive) for the prosecutor and public defender surveys. For example, six questions were added for both the first and second areas (e.g., six questions were added for the overview of domestic violence issues and six questions were added about the arrest policy). While different from the judge survey, the third area, bail concerns, has one less question on the prosecutor and public defender survey. The fourth, fifth and sixth areas all have identical questions on all the surveys, however, the seventh area, disposition, has three more questions but the same Likert items as the judicial survey. One more item was added to the prosecutor and public defender surveys than the judicial surveys for the eight area, treatment mandates. The final two areas, recidivism and demographic characteristics have the same items/questions on all three of the surveys.

A series of additional Likert scale questions were utilized to develop scales from the judicial, prosecutor and public defender surveys. For the Likert items, participants were
asked to indicate on a 1 to 7 summated scale, whether they strongly disagree (1) or strongly agree (7) with the particular statement. The Likert scale items were divided into 3 areas: (1) System Scales (17 items); (2) Victim Scales (14 items); and (3) a Counseling/Advocacy Scale (3 items). The first area, the measure of System Scales comprises of five subscales related to factors associated with the processing of domestic violence cases within municipal court. The subscales include: (a) Criminal Justice Techniques, (b) The Role of Extra Legal Factors, (c) Confidence in Legal Factors, (d) Deterrent Factor, and (e) Temporary Orders. 

**Criminal Justice Techniques.** This seven-item summated scale reflects the extent to which the respondents reported there are certain policies/techniques that affect a domestic violence case in municipal court. Respondents were asked to estimate the chances that pro-arrest policies “take power away from domestic violence victims” or that these policies “have resulted in victims less likely to call the police” as suggested by previous research (Ford 1991). Moreover, this subscale addresses another issue debated in the research, whether “Prosecutors should not prosecute if the victim wants the case dismissed,” effectively giving the victim the “power” to not have case processed (Ford 1991). Finally, this subscale addressed the notion that there may be effective alternatives to the criminal processing of domestic violence defendants, specifically that “mediation between parties reduces woman battering” or that “diversion out of the system is a helpful approach to reducing domestic violence.” Higher scores on the Criminal Justice Techniques subscale reflects that

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23Sixteen items were found to not “hang together” in the factor analyses and therefore were excluded from additional analyses.
respondents reported certain policies/techniques positively affect the processing of criminal justice techniques (Cronbach's alpha 0.72).

**Role of Extra Legal Factors.** A three-item summated scale was included to determine if the respondents reported extra legal factors affect the processing of municipal domestic violence cases. Research has suggested that the decision to prosecute is often based upon characteristics of the victim and the victim-offender relationship (Lerman 1984; Parnas 1971), for example, whether the respondent views battering as more serious when the couple is divorced or "broken up." Other extra-legal factors, included asking the respondents to determine if "they pursue battering vases more seriously when the offense was drinking or drugging during the current incident." This subscale was coded so that higher scores represent stronger adherence to the role of extra legal factors (Cronbach's alpha 0.78).

**Confidence in Legal Factors.** In criminal cases various factors go in to deciding whether to bring formal charges against a suspect. A three-item summated scale reflects the respondents' "confidence in legal factors." This subscale taps how the strength of the evidence as reflected in "hospital records of injuries" and "police officer's testimony" influence the respondents processing of domestic violence cases. Higher scores reflect a greater confidence in legal factors (Cronbach's alpha 0.71).

**Deterrent Factor.** There have been numerous projects attempting to determine if arrest is an effective deterrent in spouse assault cases. Currently, however, there is a great deal of ambiguity surrounding the question of how arrest impacts future woman battering (Dunford 1990; Pate and Hamilton 1992; Sherman, Schmidt, Rogan, Smith, Gartin, Cohn, Collins and Bacich 1991; Sherman and Berk 1984). This two-item summated scale reflects whether
respondents report “criminal prosecution of batterers will reduce repeat violence” and more specifically that “arresting batterers has a deterrent effect.” Higher scores reflect that repeat woman batterers will be deterred from future abuse (Cronbach’s alpha 0.82).

Temporary Order. Under many contemporary state statutes, victims of domestic violence can file for temporary protection orders (TPOs) or temporary restraining orders (TROs) from their assaulter. These orders are designed to protect the victim from imminent danger by ordering support, awarding custody, or prohibiting contact with the victim and other family members by the offender (Lerman 1983). The higher the score on this subscale suggests that these temporary protective or restraining orders are “effective in providing safety to battered woman” (Cronbach’s alpha 0.86).

In addition to various aspects of the criminal justice system, another predominant factor in the processing of domestic violence municipal cases includes the victim. To adequately measure the respondents' attitudes towards multitude aspects of the victims’ behavior, four subscales were developed to create The Victim Scales. These subscales include: (a) Victim’s Ability to Leave, (b) Accountability, (c) the Processing the Reluctant Victims, and (d) Victim Safety.

Victim’s Ability to Leave. Research has suggested that judges and other professionals in the court system are too often under-informed about the nature of domestic violence and the characteristics of victims and offenders (Eaton and Hyman 1992; Ford, Rompf, Faragher and Weisenfluh 1995). An integral element to comprehending the psychology of battering and its effects on victims/survivors is to understand the dynamics or cyclical nature of abuse. This five-summated scale measures respondents understanding of the victim’s ability to
leave an abusive relationship. The scale comprises information from the respondents regarding their reported assessment that “it is hard for most battered women to leave abusive men” and whether “battered women who remain in an abusive relationship must not be suffering.” Higher scores reflect respondents belief that it is easy for victim’s to leave an abusive relationship (Cronbach’s alpha 0.79).

Accountability. Many batterers deny or avoid accepting responsibility for their actions, thus the element of accountability is one of the main goals addressed in any reputable batterer intervention program. This four-item summated subscale assesses whether “both parties are responsible for the abuse” or whether “victims are sometimes responsible for the violence committed against them.” Higher scores reflect respondents belief that the respondent endorses that victims are at least partially accountable for the violence against them (Cronbach’s alpha 0.72).

Processing the Reluctant Victims. Research has reported that some women who have been abused believe that the cycle of abuse is normal and their fault, and thus are often reluctant to press charges against their abusers (McLeod 1983; Welch 1994). To circumvent the victim having the onus of arrest on her, some jurisdictions have established arrest policies whereby the power to press charges is mandated, and thus taken out of the victim’s hands. However, even though an arrest is mandated, prosecutors often decline to prosecute these cases based upon the assumption that victims will not cooperate, and that victim cooperation is necessary for effective prosecution (Cannavale and Falcon 1976; Parnas 1967; Sigler, Crowley and Johnson 1990; U.S. Commission for Civil Rights 1982). This two-item summated scale measures the extent to which the court professionals report battered women should be
"subpoenaed or required to testify in trials" or that victims “who refuse to testify against their batterers should be held in contempt of court.” Higher scores reflect respondents belief that victims should be required to testify in these cases (Cronbach’s alpha 0.75).

**Victim Safety.** This three-item summated scale reflects the extent to which respondents believed that the victim’s safety was in jeopardy (e.g., "acquitted batterers later kill victims" and "bail commissioners should contact victims about batterer’s release"). Higher scores reflect a general belief that these victims’ safety is not an issue or concern (Cronbach’s alpha 0.76).

**Counseling/Advocacy.** The Treatment Scale was the final scale developed. The Counseling/Advocacy subscale was the sole concept developed. Making use of victim advocates has been said to both assist in case preparation and to reduce the victim’s anxiety during prosecution (Healey, Smith and O’Sullivan 1998). Moreover, counseling batterers’ and offering programs to inhibit the batterers violent behavior can effectively reduce the risk of future violent episodes. This three-item scale measures respondents’ attitudes toward the counseling/advocacy aspects of domestic violence cases. The scale comprises information assessing whether “counseling batterers reduces woman battering” and whether “victim advocates are important in successful case prosecution.” Higher scores reflect that respondents reported counseling/advocacy do have positive outcomes for woman battering cases (Cronbach’s alpha 0.73).

**Possible Historical Effects and Study Limitations**

There were two potential historical threats to internal validity during the course of this study. First, during the course of the project reference period, the Ohio Supreme Court
decided in a 5-2 vote that the disputing couple need not live together to be considered a domestic assault, thus broadening the definition of domestic violence. One of the prosecutors interviewed for the current project, argued the case before the Supreme Court.

Another possible historical effect was that about one week before we were to begin interviewing the judges, one of the municipal judges (also a co-convenor of the D.V.C.C.) offered an informal judicial “enrichment” session. The researchers requested that the judge wait until the interviews were completed so as to avoid any possible effects the session may have had on the judges’ behaviors. However, the request was denied. Notably, we were informed after the “enrichment” session that only 2 of a possible 14 judges participated. The lack of interest may be indicative of the judges’ disinterest in these cases, however, this is impossible to determine from the current study.

The fact that this research was conducted within one municipal jurisdiction in an urban area in the Midwest may lead to concern. Although Cincinnati may not be representative of other national, or even other Ohio jurisdictions, the lack of knowledge on the court-processing of intimate partner battering cases justifies this exploratory, intensive study conducted in this one, large, urban site. Future research may be able to offer more insight into the comparison of court professionals from different areas, regions, and states within the United States.

Conclusion

Although pioneering work in the late 1970s and early 1980s explicated the broader context of male violence against female intimates, men still use violence against women in alarming numbers without fear of reprisal (Bachman 1994; Belknap 1996; Dobash, Dobash,
Wilson and Daly 1992). It is estimated that millions of women continue to get battered each year, and it is likely that the attitudes about men’s “right” to control and abuse their intimate female partners is reflected in the responses of the court professionals within the criminal system. Law enforcement traditionally has treated domestic violence as a less serious crime than violence between strangers or persons unrelated to each other (see Zorza 1992). Only recently has the public become aware of the prevalence and severity of domestic abuse. In response, state legislatures have enacted statutory changes in arrest procedures and in prosecution policies. Research on domestic violence has emphasized the police and arrest role, perhaps to the exclusion of other factors. Invoking one part of the criminal system (e.g., arrest) without falling through with any penalties by the other parts of the system (e.g., conviction), does little toward curbing family violence. Ultimately, institutions such as the criminal court, must be more responsive to the needs of domestic violence victims, thus it is imperative to determine the attitudes or knowledge that judges, prosecutors and public defenders possess about the dynamics of abuse to effectively address the institutional biases.

Judges, prosecutors and public defenders are all in positions either to help protect an abuse victim or to thwart her attempts to end the violence. Based upon previous (primarily anecdotal) research, this proposed research systematically and empirically addressed court professionals’ self-reports on processing woman battering cases. Thus, the current study represents one of the first efforts to systematically and empirically assess court professionals’ processing of domestic violence cases. A coordinated response from court professionals would send an unequivocal message to the batterers, the victim, and the community that domestic violence will no longer be tolerated. To address these issues, this research uses in
depth interview and detailed survey data from 14 judges, 18 prosecutors, and 31 public defenders in Cincinnati, Ohio in 1997.
CHAPTER 4
RESULTS OF THE STUDY

This chapter presents findings from the closed-ended (quantitative) data from the professional surveys and open-ended (qualitative) data from both the professional surveys and interviews. Interviews and surveys were conducted on judges (14 interviews and 12 surveys, out of a total of 14 judges in the population), prosecutors (18 interviews and 18 surveys, out of a total of 18 prosecutors in the population), and public defenders (31 interviews and 24 surveys, out of a total of 31 public defenders in the population). Given that the judicial surveys and interviews were designed and conducted first (followed by prosecutor and public defender surveys and interviews, respectively), and the differences in the roles and functions of these three professional groups, there were some changes, mostly additions, to the subsequent measurement instruments (for the prosecutors and public defenders). Where applicable, quotes from the professionals' interviews augment the quantitative survey results. Table 1 provides a general description of this sample of professionals. Tables 2 through 23 provide detailed data on court professionals from analysis of the survey data. Due to the limited sample size (N=54), meaningful bivariate analyses were not always possible (see tables 13 through 23), thus significance levels are not reported in some of the tables. A number of tables, then, are responses to open-ended items which have been carefully analyzed. The tables predominately present, however, responses from
closed-ended items in the survey. Throughout the chapter the findings from the survey are “given life” with quotes from the extensive professional interviews.

**Sample Description**

Table 1 represents a description of the demographic characteristics of the professional sample. Slightly over one-quarter of the sample was female (28.6%), three-quarters were Caucasian (76.2%) and most were married (80.6%). About three-fourths of the judges (71.4%) and public defenders (77.4%) and three-fifths of the prosecutors (61.1%) were male. The predominant race for all the professional groups was white: almost nine-tenths (87.1%) of public defenders, almost three-fourths (71.4%) of the judges, and three-fifths (61.1%) of the prosecutors. Prosecutors had the best representation of African-Americans, almost two-fifths (38.9%), followed by over one-quarter (28.6%) of judges, with the most problematic representation of African-Americans among the public defenders, about one-in-twenty individuals (6.5%). Overall, the sample predominately was married (80.6%), while less than one-fifth were single (16.1%) and just under 4 percent were divorced (3.3%).

The mean age for the sample was almost 44 years old. Unlike the national average, where most of the prosecutors are young and serving their first term of office (Morgan and Alexander 1972), the prosecutors in this sample were more senior, with an average age of 40.4 years. Further, while the national turnover rate among assistant district attorneys is quite high, most serving an average of two to four years before entering private practice (Albonetti 1987), the assistant prosecuting attorneys in this sample had an average of over 8 years in office (see Rubin 1984 where many assistant attorneys seek these positions at the start of their career to gain trial experience prior to starting their own practices). Although
the years in office for the judges may seem low ($x = 3.7$), it must be noted that these are Municipal and not Common Plea judges. Thus, most have not been in office for an extensive period. It is interesting to note that the public defenders ($x = 9.4$ years) are the most likely to have been in office for the longest period of time. The average length of the professional interviews was just under two hours ($x = 1.8$) with the judges talking for the longest time ($x = 2.1$ hours), and the public defenders the least time ($x = 1.7$ hours).

**Assessment of Factors Relevant to the Decision to Prosecute or Convict Batterers**

Table 2 presents professionals' estimates of factors that should be considered in determining whether a batterer should be prosecuted or convicted (where “1” represents “low extent” and “5” represents “high extent”). The findings reported in Table 2 to this closed-ended question are listed from highest to lowest agreement, not the order they appeared on the survey. The factor rated as what should have the most weight in whether batterers should be prosecuted or convicted was the offense seriousness ($x = 4.6$). The professionals’ estimate of the next most common factors that should be considered were the severity of the current injury ($x = 4.5$), followed by the past record of the batterer ($x = 3.9$), the fact that the behavior had violated the law ($x = 3.7$), the batterer’s attitude ($x = 3.2$), the victim’s wishes of what to do with the batterer ($x = 3.1$), the likelihood of conviction ($x = 2.7$), the advice of the AMEND report ($x = 1.9$), and the opinion of the victim advocate ($x = 1.6$), respectively. Notably, the “legal” variables are rated the highest (e.g., offense seriousness, injury severity and past record of the batterer). Notably, the opinion of the victim advocate as well as the advice of the AMEND report were reported as having minimal influence in determining whether a batterer should be prosecuted or convicted.
A comparison of means points out some statistically significant differences between the professionals' reported responses. For example, judges (x=3.8) ranked consideration of the current event seriousness lower than prosecutors (x=4.9) and public defenders (x=4.7) ranked them (F=3.84, p<.05). The interviews helped specify some of the findings from the survey. For example, although numerous prosecutors defined offense seriousness as cases where “serious physical injury” occurred, specifically, “skin breakage, bruises, and stitches,” prosecutors also identified offense seriousness according to whether threats or specific phrases were used such as “if I can’t have you no one can.” It is interesting to note from the interviews that some of the professionals viewed threats, specifically certain direct phrases, as being very serious along with physical injury.

Interestingly, prosecutors (x=4.9) were more likely to rank the batterer’s past record as an important consideration in determining whether a batterer should be prosecuted than public defenders (x=3.9) or judges (x=2.1) were (F=17.49, p<.001). The prosecutors (x=4.1) also were far more likely to report that the batterer’s attitude should be considered than were the judges (x=2.8) or public defenders (x=2.7) (F=3.82, p<.05). Summarily, a prosecutor detailed in an interview factors that are influential:

Factors of a defendant that influence my decision-making include a defendant's appearance of honesty, defendant’s remorsefulness and their attitude. For example, are they belligerent? Also, the defendant’s prior record [is important]. (Prosecutor)

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*Due to the small sample and to guard against non-normality, a Levene’s test of homogeneity was conducted for this relationship. Because the variable “current offense seriousness” was found to be significant with the Levene’s test, it needs to be interpreted liberally.*
Another prosecutor offered insight into how to assess a batterer’s attitude:

More experienced prosecutors can assess by visual observation and relationship with their attorney, looking for signs of control-type freak, criminal record, nature of violence, offense, and how it was committed. All this gives information into the defendant’s mind. (Prosecutor)

Public defenders (x= 3.7) ranked the victim’s wishes more strongly than did prosecutors (x= 3.1) and judges (x= 2.1) as a factor influencing whether a batterer should be prosecuted (F=6.08, p≤.01). It is noteworthy that public defenders may be more inclined to listen to victims’ wishes since most of the victims they are in contact with are more likely to request the case be dismissed or for the defendant to be released with minor consequences (e.g., counseling).

The final variables that indicated a statistically significant difference among the groups for estimating factors that should be considered in determining whether a batterer should be prosecuted included the AMEND report and the victim advocate opinion. It is probably not a coincidence that these assessments both result from feminist, battering victim advocacy organizations. The local YWCA oversees the batterer treatment program AMEND, and Women Helping Women is an advocacy group for battering, rape, and stalking victims. Overwhelmingly, for both variables, the prosecutors reported they were far more likely than the other professionals to consider these reports or opinions from these two feminist, pro-victim agencies. An example follows:

Women Helping Women run interference—if the victim is at arraignment they will talk with [someone from the agency]. Women Helping Women can grease the wheels and have them give the victim a good idea about what is going on. I find them helpful. (Prosecutor)
The disdain and hostility the public defenders generally held for the feminist victim advocacy agencies were prevalent in the public defender interviews. For example, a “typical” response from a public defender interview follows:

Some of the guys here call Women Helping Women, ‘Bitches Helping Bitches.’ There’s a range of public defenders here, and a range of ways they vent their frustration. They don’t mean anything bad by it. You have to put a sense of humor in your work. They refer to Women Helping Women advocates as ‘bitches’ more than they refer to the victims as ‘bitches.’ They believe the advocates interfere with the court process, so their frustration is directed at the advocates. They are also angry that the advocates are not lawyers, yet they’re advising clients [victims]. (Public defender)

Despite the fact that prosecutors were statistically more likely to report using the feminist, victim advocacy input, even some of them were critical of this group. For example, while not as explicit, one prosecutor offered a parallel opinion that the victim advocate may not properly understand the court process:

Sometimes I think advocate groups paint a rosier picture than reality provides, and in an ultimate resolution are not too helpful to the victims. The advocates need to be up-front about what the court system can do for them, emphasize they are empowered to do the most for themselves, the court cannot do it all: They need to be more reality based. They paint pictures of a panacea. The victim advocate can assist but not lead them [victims] to change. They have a special function to play that I cannot give... [the victim advocate] needs to not project for them what the court can ultimately do for them. (Prosecutor)

The Prevalence of Methods in Court

Table 3 presents the professionals’ assessment of the prevalence of methods used within the courtroom. The findings to this closed-ended question are listed in order of reported frequency, not the order they appeared on the survey. The most commonly reported method (where “1” represents “very unlikely” and “10” represents “very likely”) was the
utilization of eyewitness testimony (μ = 7.4), followed by “excited utterances” at the scene (μ = 6.8), impeachment of the prosecuting witness (μ = 6.8), the use of photos to verify injuries (μ = 6.7), the use of a signed affidavit or complaint (μ = 6.0), police reports (μ = 5.9), Rule 2923 (μ = 5.7), medical records (μ = 4.5), 911 tapes (μ = 4.4), the AMEND reports (μ = 2.7), character testimony on behalf of the defendant (μ = 2.7), and use of victim advocate testimony (μ = 1.6), respectively. Although the differences reported between the professional groups was not significant, the overall professionals’ reported ranking of the “legal variables” is interesting to note. For example, the combined court professionals’ groups reported that the use of photos was the most likely method to be used, more so than the use of police reports, medical records or 911 tapes. Again, similar to Table 2, AMEND reports and victim advocate testimony were reported as being very unlikely methods to be used in court.

To determine if there were any statistical differences among the groups, one-way ANOVAs were conducted. There was only one significant relationship: The public defenders (μ = 7.8) were much more likely to report utilizing the impeachment of the prosecuting witness than judges (μ = 6.5) or prosecutors (μ = 5.6) were (F = 4.44, p ≤ .05). In the interviews, the public defenders reported supporting methods to discredit testimony for victims who testified against their batterers, however, it is interesting that the judges were also likely to support the impeachment of the prosecuting witness’s testimony (μ = 6.5).

23The case went to trial, testimony was taken, however, “reasonable minds” concluded that the state could not prove their case (e.g., the victim pled the 5th Amendment or the victim recanted testimony).
Necessary Evidence

As previously discussed, it can be difficult to obtain a conviction in domestic violence case. Table 4 details the specific levels or types of evidence professionals reported are needed to adequately pursue a domestic violence case. This open-ended question was only on the prosecutors’ and public defenders’ surveys. Given that only 18 prosecutors and 22 public defenders responded to this item, meaningful bivariate analyses were unable to be conducted, however, the findings are potentially helpful for future surveys on the court processing of domestic violence cases. The most common response, identified by one-quarter (25.0%) of these professionals, was that the case had to meet all the levels of evidence. Fifteen percent (15.0%) of the respondents noted that proof beyond a reasonable doubt was acceptable evidence to pursue a domestic violence case. Although not asked on the survey schedule, one judge explained the judicial function in these cases during an interview:

A judge’s function is to weed out the wheat from the chaff, to determine if all the elements have been met in the case and to fashion a sentence with what that the victim wants in mind. I always ask the victim what they want or what they would like to happen in this situation. (Judge)

Similarly, fifteen percent of the respondents (15.0%) identified the victim’s statements/testimony as necessary to pursue a domestic violence case. Because not all victims in these cases eagerly participate, one prosecutor noted a 4th Writ order could be requested. A 4th Writ is issued by the judge to have the police pick up the victim/prosecuting witness within a short time frame (usually 4 hours) for the express purpose of coming to court to testify in the case. Although the prosecutor noted it is a “pretty extreme measure to
lock up the victim to help them,” this prosecutor believed such a response is justifiable: “Without [victims] there, we don’t know why they’re not coming to court, or what is going on.” In contrast, one prosecutor was opposed to utilizing a 4th Writ: “You can lead a horse to water, however, you cannot make him drink. It is up to the individual.” This prosecutor suggested that even if a victim is forced to come to court, she may not testify.

Probable cause (12.5%) was the next (and fourth) most likely category of evidence reported by prosecutors and public defenders to be necessary to effectively pursue a domestic violence case. One-tenth of the prosecutors and public defenders reported that having a credible witness (10.0%) and fulfilling the presumption of evidence (10.0%) were what was needed to adequately pursue these cases. Having enough evidence to defeat Rule 29 (2.5%) was the least reported category of evidence given for these cases.

It is interesting to note how the professionals ranked the levels of evidence necessary to pursue domestic violence cases within categories (remembering that judges were not asked this question). Although one-third of the prosecutors identified that a victim’s statement/testimony (33.3%) was necessary, none of the public defenders identified this. Similarly, over one-quarter of prosecutors (27.8%) and no public defenders identified probable cause as necessary. On the other hand, almost one-fifth of public defenders (18.1%) and no prosecutors reported a presumption of innocence as necessary. One public defender offered a measure to determine if the victim/prosecuting witness was telling the truth:

Sometimes a prosecuting witness will have photos, or an emergency room report. However, as a defense attorney I know how long it takes (about 18-24 hours) for a bruise to form. Therefore, if in the police report a bruise shows
up 5 minutes later, maybe the victim was drunk and walked into the door. Initially you see a reddening of the area after the incident and not a bruise. (Public defender)

Estimates of Victims’ Actions and Behaviors in Court

Noting from previous findings the importance yet absence of the prosecuting witness/victim from participating in the court case, the professional survey included items to estimate victims’ actions and behaviors in court. Table 5 details the professionals’ estimates of various aspects of victims’ courtroom testimonies. The professionals reported that almost three-fifths of the time (56.2%), the victims were most likely to testify only if subpoenaed. The two next most frequently rated aspects of victim testimony were that the professionals reported the victims were present in almost half of the cases (46.9%), and were not present in almost half of the cases (44.8%). The professionals indicated that the victims testify against the defendant almost two-fifths (38.1%) of the time. In about one-third of the cases, professionals reported that the victims either changed their mind (31.8%) or undermined the prosecutor’s case (31.8%). One prosecutor indicated in the interview the frustration of noncooperative victims: “The squeaky wheel gets the grease—I can do something if I know the factors.” This quote suggests that if the victim does not cooperate, the professional may be unable to follow through with the prosecution. The respondents indicated that the victims testify for the defendant about one-fifth (20.2%) of the time. One public defender suggested that if a victim does not want to prosecute, she should not be forced to do so. Further this public defender noted:

Sometimes this [forcing the victim to testify] exacerbates the situation— and pits one against the other. We should listen to the victim and not take such a hard line. (Public defender)
The aspects of the victim testimony that professionals reported occurring least frequently, in fewer than one-fifth of the cases, were victims' refusal to testify (18.2%) and victims' being threatened by the defendants if they testify (17.1%). One prosecutor seemed to empathize with reluctant victims:

I understand the normal frustration and apparent unwillingness of the victim to not cooperate. The last thing I want is to end up in an adversarial position with the victim. However, I see these cases day in and day out. I feel the need to reinforce for the victims that they need to prosecute. One word about these cases—frustrating. (Prosecutor)

In an effort to determine if there were any statistically significant differences among the groups, one-way ANOVAs were conducted. The significant findings are that prosecutors reported three behaviors occurring at far higher rates than did the judges and public defenders: (1) victims are not present for the court case, (2) victims refuse to testify, and (3) victims are threatened by the defendants if they testify. Notably, while the prosecutors were most likely to report acknowledging that the victims are not present for the court case (55.5%) and also that they refused to testify (27.1%), they also reported more than the judges and public defenders that the victims had been threatened by the defendant if they did testify (32.5%). Quite possibly the victims are not testifying or refusing to come to court due to the threats by the defendant, however, this is difficult to establish from the current data. One judge indicated in the interview, that more victims would cooperate if the Municipal Court had a more formal structure:

I think that if municipal court had the same victim assessment that is available in common pleas [for felonies] that would be helpful. In municipal court we rely on the police officer to be encouraging to the victim [to have her testify]. I don't know how much Women Helping Women is there just to lean on versus true help. It would be more efficient if municipal court had
‘true arm of the court’ [formal court agency] to explain to the victim about what the court process entails. Then I think the victims would participate more. (Judge)

**Obstacles Leading to Conviction**

Table 6 presents the professionals’ assessment of obstacles leading to court convictions. The most commonly reported obstacle to this open-ended question was lack of evidence (usually no corroboration), identified by over half (53.7%) of the professionals. Two-fifths of the professionals (40.2%) identified uncooperative victims as an obstacle to conviction, and almost one-quarter reported both victim’s failure to appear (29.6%) and victim recanting/changing testimony (27.8%) as impediments leading to a conviction.

Although theoretically a case can be prosecuted whether or not a victim wishes to press charges, many prosecutors expect the cooperation of victims and witnesses to pursue these cases. Some direct quotes from the professionals’ interviews “flush out” these findings. For example, one judge stated:

> If the victim does not show up and/or recants, that compromises the state’s ability to prosecute. *It is almost better for the victim to not show up* than for her to recant her earlier testimony and/or actions. I believe that recantation may be a sign that the violence is very serious/significant... the victim is recanting out of fear. If the victim recants in court, she can then be held criminally liable for making a false filing. Typically in my room, if I find a false statement was made, I will hold her to time served that he did on false charges-- for example, if he did 2 days, so will she. (Judge) (Author’s emphasis added)

Another judge, however, reported being “somewhat reluctant to revictimize the victim,”

while yet another judge noted how frustrating these cases are:

> I struggle with the victim’s report...I had a case where the victim reported being kicked in the stomach 8 months into her pregnancy and she says she didn’t know who did it. That is really frustrating. (Judge)
Approximately one-fifth of the professionals identified both victim reluctance (22.3%) and decision-maker tactics (20.4%) as inhibiting conviction. Again, the interviews add richer detail to the survey findings. For example, one prosecutor noted:

If a victim is uncooperative with me, if she is a hostile witness, she is well on her way to a not guilty, so I try to resolve it other ways. [How?] I tell the victim that if the defendant is convicted I will want him to serve jail time therefore she will lighten up because she does not want him to go to jail—typically she will work with me. I can do things with sentencing, call it something else, just to get a conviction and some help. (Prosecutor)

A little over one-tenth of the decision-makers blamed current laws (13.0%) and the victim’s desire for dismissal (11.2%) as conviction obstacles. Moreover, one prosecutor reported that the legislature in creating and expanding the domestic violence statute has taken: “a broad axe as a solution to a problem that could have been resolved with a paring knife.” Similarly, another public defender indicated:

Ninety percent of the time, give or take, the domestic violence law is an enormous waste of the taxpayer’s money, time, resources....We are using an atomic bomb to swat a fly, if you will. The vast majority of these cases have a victim who doesn’t want to prosecute and when the government proceeds in prosecution, the participants believe they are intruding in people’s private lives. This is the vast majority of cases that I see. It is none of the government’s god damned business. (Public defender) (Author’s emphasis added)

Fewer than 10 percent of the professionals reported the victim and defendant reuniting (7.5%), the defendant’s innocence, (5.6%), the couple’s mutual combativeness, (3.8%), the U.S. Constitution (3.7%), the victims’ fear of the defendant (1.9%), and the punishment not fitting the crime (1.9%) as barriers to conviction.

Significance tests were unable to be conducted due to the small sample size. However, in “eyeballing” the three groups, overwhelmingly, judges were the most likely to
report lack of evidence (75.0%) as an obstacle leading to conviction. While the prosecutors were the least likely of the professionals to report lack of evidence as being an obstacle to conviction (50.0%), they, along with the public defenders (50.0%), were more likely (than judges) to report that an uncooperative victim is an obstacle to convictions. Surprisingly, only 1 judge (8.3%) reported an uncooperative victim as an obstacle to conviction. From the interviews, one judge admitted:

Very few [attorneys] if any, can make a case without a victim/witness, it is hard to get beyond a reasonable doubt without the prosecuting witness. Even with good police work, it is hard to do. (Judge)

One prosecutor offered insight into why the victim may not be cooperative:

The overwhelming reason is that the victims don’t think the court is either able or willing to protect them. The victims are not going to court [only] to get beaten up when he comes home. (Prosecutor)

While only one professional (a judge) reported victim fear as an obstacle to conviction, in the interview another judge admitted: “My biggest fear is that the victim is not showing up because she is afraid.” A prosecutor in another interview detailed how to determine if a victim is afraid:

I look to see how they approach their husband. Do they side step past experiences or tell me that they have been beaten before? Are they more concerned about what happened with the defendant than themselves? Are they ‘other-oriented?’ Do they suffer from a sense of fatalism? (Prosecutor)

Interestingly, prosecutors (22.3%) were less likely than public defenders (37.5%) and judges (33.4%) to report victim’s failure to appear as an obstacle to conviction. Over one-quarter (27.8%) of the prosecutors reported that decision-maker tactics were an obstacle to conviction, while one-sixth of both public defenders (16.6%) and judges (16.6%) identified
similar findings. One public defender noted how the sentencing history of each judge gives an idea of how a case may be treated in the courtroom:

We better know our judges, so that we can tailor our defense to circumstances and judges, especially with plea bargains. Judge X is more likely to plea bargain than most. When you have a mean judge, you want to try the case, when possible. When you have a nice judge, you want to plea the case when possible. Nicer judges give a lower bond. (Public defender)

Notably, the prosecutors did not report the victim wanting her case dismissed as an obstacle to conviction, however, one-fifth of the public defenders (20.8%) and 1 judge (8.3%) reported this. In an interview, a prosecutor explained:

Victims don’t want anything to happen to the defendants, they don’t want anyone to hurt them. I don’t feel sorry for them necessarily, but the victim does not fully understand what could happen to them if this incident is swept under the carpet. (Prosecutor)

When quantifying these qualitative data, there was some concern that some of the “obstacles to conviction” listed by the professionals were overlapping and could be combined to comprise a “victim behavior” variable. Those variables “falling into” the victim behavior category were victim uncooperative, failure to appear, victim recants/changes testimony, victim reluctance, and victim wants case dismissed. The variable “victim behavior” was coded “yes” if the respondent listed one or more of these variables. Coded this way, victim behavior was overwhelmingly the professionals’ most frequently reported obstacle to conviction. For example, all of the judges and prosecutors and over four-fifths

\[26\] Note that nine-tenths (91.6%) of the judges and 15/18 (83.3%) of the prosecutors, and almost three-quarters (70.8%) of the public defenders reported “victim behavior” as their first choice.
(83.3%) of the public defenders, reported aspects of "victim behavior" as obstacles to conviction.

**Professionals’ Estimates of Factors Affecting Case Outcomes**

Table 7 presents the professionals’ estimates of factors that affect case outcome decisions using a 1 to 10 scale, where “1” represents “very minor” or “little affect” and “10” represents a “very major” or “large affect.” The findings to this closed-ended question are listed in order of importance, not the order they appeared on the survey. The factor reported as the most powerful in affecting the outcome decision was the legal sufficiency of evidence ($\bar{x} = 8.7$). The professionals’ estimate of the next most common factor to be considered was if the victim suffered severe injury ($\bar{x} = 8.4$), followed by if a weapon was involved in the incident ($\bar{x} = 7.9$). Special circumstances surrounding the incident also were likely to affect outcome. These circumstances included whether the offense occurred when the victim had a temporary restraining order (TRO) or temporary protective order (TPO) out on the defendant ($\bar{x} = 7.5$) and whether persons other than the couple’s children witnessed the abuse ($\bar{x} = 7.2$). If the victim testified *against* the defendant ($\bar{x} = 7.0$), the professionals reported that this was more likely to affect the outcome decision than if the victim did *not* testify against the defendant ($\bar{x} = 6.6$). However, it is worth noting that the gap between these variables is very slight. These variables were followed by whether the professionals perceived the defendant as being belligerent to them ($\bar{x} = 6.5$).

The professionals reported that static factors, such as the defendant’s prior criminal record ($\bar{x} = 6.3$), or the couple had a previous history of domestic violence abuse ($\bar{x} = 6.1$) would next most strongly affect the outcome decision. The next most powerfully reported
reasons to affect the outcome decision included, in order of reported impact, were if the
defendant had *verbally threatened* the victim with serious bodily harm (\(\bar{x}=6.0\)), followed by
if the victim suffered only minor injury (\(\bar{x}=5.7\)), if the defendant was found to be under the
influence of drugs or alcohol during the assault (\(\bar{x}=5.7\)), if the couple’s children witnessed
the abuse (\(\bar{x}=5.7\)), if the defendant showed remorse for causing the incident (\(\bar{x}=5.6\)), if the
defendant was belligerent to the arresting officer (\(\bar{x}=5.3\)), or if the *victim* was under the
influence of drugs or alcohol during the assault (\(\bar{x}=5.3\)). One prosecutor detailed how
difficult these types of cases can become when substance abuse plays a part:

> Alcohol and substance abuse have a large part in the variables—it is easy
when the defendant is an alcohol or drug addict but when the *victim* is, they
don’t have much credibility. It is hard to get past that on a domestic violence
case, because the victim may have been the aggressor. I understand that he
beats her, and this time even though she got hit, it is a hard [case to prove] if
she was on drugs or drunk. (Prosecutor)

Whoever was found to be responsible for provoking the incident (\(\bar{x}=5.3\)) was next most
likely to influence the final decision, followed by if the victim and defendant were currently
romantically involved (\(\bar{x}=5.0\)) and if the victim still cohabitates with the defendant (\(\bar{x}=4.9\)).
The next most strongly ranked factor in terms of importance that affected the outcome
decision was if the *victim* was belligerent to the professional (\(\bar{x}=4.9\)), followed by if there
was violence and property damage (\(\bar{x}=4.2\)), if the victim signed the arrest report (\(\bar{x}=3.9\)),
or if the victim and children needed the defendant’s income (\(\bar{x}=3.9\)). The professionals
reported that these would potentially have a more marginal affect on the outcome decision
than those factors listed thus far. While other research has reported that victims stay with
abusers, in part, because of financial dependance, the professionals in this sample report this

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to be a factor with the outcome decision. One prosecutor in the interview reported: “Most of the time, they are not lovers... it is a dollars and cents issue.” In contrast, however, a judge reported in an interview:

The victims have got a lot of risk and outside interest that may affect them. They are living in an apartment with nowhere else to go. They need income; there are debts to be paid. If the defendant is in jail, he is not getting a paycheck and the family cannot the pay bills. (Judge)

Generally, the professionals reported the outcome decision was influenced only minimally if the defendant alleged that the victim provoked him (\( \bar{x} = 3.8 \)), followed by the AMEND report (\( \bar{x} = 3.5 \)), whether the offense occurred when the parties were separated or divorced (\( \bar{x} = 3.3 \)), and whether the defendant was employed (\( \bar{x} = 2.9 \)), respectively.

To determine whether there were any significant differences among the groups, one-way ANOVA analyses were conducted. The significant relationships can be organized into three categories: (1) facts about the case, (2) victim and defendant attitudes, and (3) static or historical variables.

First, regarding “facts about the case,” the judges (\( \bar{x} = 9.8 \)) and prosecutors (\( \bar{x} = 9.6 \)) ranked the legal sufficiency of evidence more strongly than public defenders (\( \bar{x} = 7.5 \)) as a factor influencing the outcome decision (\( F=9.20, p<.001 \)). Whether the defendant verbally threatened the victim with serious bodily harm was another “fact about the case” that had a significant affect on the outcome decisions. Again, the judges (\( \bar{x} = 7.1 \)) were more likely to rank the defendant verbally threatened the victim with serious bodily harm as an important factor in determining what would affect the outcome decision than were prosecutors (\( \bar{x} = 6.4 \)) or public defenders (\( \bar{x} = 5.4 \)) (\( F=3.72, p<.05 \)). The final significant relationship regarding
"facts about the case" was that prosecutors ($\bar{x}=8.2$) ranked persons other than the party's children witnessed abuse (presumably an independent witness) more strongly as a factor that affects the outcome decision than public defenders did ($\bar{x}=6.7$) ($F=2.72, p\leq .05$).\(^{27}\)

Three "victim" variables were found to affect the outcome decision: Two variables addressed the issue of the victim's testimony (e.g., whether the victim testified against the defendant or whether the victim did not testify against the defendant) while the last "victim" variable addressed the victim's attitude toward the professional. The prosecutors ($\bar{x}=8.5$) were far more likely to rank the victim testified against the defendant as a major influence in estimating what factors affect the outcome decision than were judges ($\bar{x}=7.2$) and public defenders ($\bar{x}=6.0$) ($F=4.25, p\leq .05$). Further, the prosecutors ($\bar{x}=7.9$) ranked the victim did not testify against the defendant more strongly than did the public defenders ($\bar{x}=6.5$) and judges, respectively ($\bar{x}=5.0$) ($F=4.22, p\leq .05$). A prosecutor offered input in the interview as to the victims' involvement:

"I think the reason victims do not become involved in these cases, is because of the attachment involvement with the defendant." (Prosecutor)

Notably, the prosecutors ($\bar{x}=5.9$) and public defenders ($\bar{x}=5.1$) ranked victim was belligerent to you far more strongly as a factor that affects the outcome decision than the judges ($\bar{x}=2.9$) did ($F=4.77, p\leq .05$). In the same vein, the prosecutors ($\bar{x}=7.8$) ranked the defendant was belligerent to you more strongly than did the public defenders ($\bar{x}=6.6$) and judges ($\bar{x}=4.1$) ($F=7.05, p\leq .01$). One prosecutor indicated in the interview:

\[^{27}\]An ANOVA was unable to be conducted on this variable because the item was not included on the judge's survey so a t-test for independent sample was utilized.
The biggest factor influencing outcome is probably the attitude of the victim and defendant. As long as the victim is not hostile to us, we will do the most to console them through it [the court process]. I will tell them [the victims] to take the stand to tell him [the defendant] not to do it anymore— that this time I [the victim] mean it. But if the victim comes at us like a tiger, whether they say ‘these mother fucking cops’ [should not have arrested the defendant] and go after us right out of chute then... However, if they [the victims] are reasonable, we will try to understand their problems and hope they will draw a line—keep an open mind [and follow through with the charges].  

(Prosecutor)

Another factor that was found to have significant differences among the professionals in affecting the outcome decision was the defendant’s remorse for causing the incident. Public defenders ($\bar{x}=6.3$) ranked this item slightly higher than the prosecutors ($\bar{x}= 6.1$), but much higher than the judges ($\bar{x}= 3.6$) ($F=4.10$, $p<.05$). In contrast to the findings presented here, a judge in the interview stated:

A defendant’s appearance of honesty, remorsefulness, the defendant’s attitude—are they belligerent?— and the defendant’s prior record are factors of a defendant that influence my decision-making. (Judge)

The final category of factors that reportedly affected the outcome decision was the static or historical variables. Prosecutors ($\bar{x}= 7.9$) were most likely to rank the defendant’s prior record as a factor that affects the outcome decision in domestic violence cases followed by public defenders ($\bar{x}= 6.3$), and judges ($\bar{x}= 4.0$), respectively ($F=5.50$, $p<.01$). Similarly, prosecutors ($\bar{x}= 7.4$) ranked the couple’s history of domestic violence more strongly than did the public defenders ($\bar{x}= 5.9$) or judges ($\bar{x}= 4.5$), respectively ($F=3.46$, $p<.05$). In the interview, one public defender responded how difficult these cases are to understand:

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28Due to the small sample and to guard against non-normality, a Levene’s test of homogeneity was conducted for all the relationships. All the variables were found to not be significant with the Levene’s test.

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I consider the history of involvement with courts you know, the number of times they file domestic violence reports. It is a 2-edged sword, either could mean the offender is a habitual violent abuser. I will look and see what the person was charged with and if there are other things to corroborate the notion. On the other hand, the victim could be a court process abuser. By this I mean she files domestic violence cases just because she wants him out of the house. (Public defender)

Severity of Domestic Violence Sanctions

Table 8 presents professionals’ assessments of the severity of available sanctions in domestic violence cases. Over three-quarters of the sample reported that the most severe sanction in domestic violence cases was jail (77.5%). The next most severe sanction in a domestic violence case, reported by about one-in-seven professionals, was a no contact order, also referred to as a temporary restraining order (TPO) (14.6%). The following sanctions all were less than 10 percent of the response group, maximum sentence\(^2\) (7.3%), probation (7.3%), castration (2.4%), high bond (2.4%), fine (2.4%), and counseling (2.4%).

Although one-fifth of the public defenders reported a “no contact” order (20.8%) as the most severe sanction, less than 6 percent of the prosecutors (5.9%) reported the same. The stark difference in opinion could be due to the prosecutors being aware of how often the TPOs are violated and not believing they are an effective sanction. For example, prosecutors reported that while the TPO “stay away” order can legally keep the parties separated, it cannot keep them apart “de facto,” and thus frequently fails to stop the physical abuse. One prosecutor’s insight is helpful:

\(^2\)The maximum sentence for a misdemeanor domestic violence crime is 6 months in jail and a $1,000 fine.
A TPO is only as good as the person who will follow the court's orders. Individuals with priors will not listen to paper, saying 'no judge will tell me what I can do.' This scares me. Judges who ask 'what more can I do?' put too much emphasis on a TPO. This is scary. (Prosecutor)

It is not too surprising that only public defenders suggested probation as a severe sanction (12.5%), while no prosecutors reported this as a severe option for these cases. Alternatively, it is interesting that only a public defender suggested castration (4.2%) as the most severe sanction. Surprisingly, a prosecutor, the only professional to do so, reported that fines (5.9%) are the most severe sanction in domestic violence cases. These findings need to be interpreted conservatively because so few respondents reported these as options.

**Judges' Criteria to Impose Jail**

Table 9 presents findings from what judges report as needing in order to impose jail time (versus probation).30 Given the sparse number of responses to this open-ended question, (only 12 responses), meaningful bivariate (chi-square) analyses were unable to be conducted. These findings are potentially useful, however, for future surveys on court professionals. The foremost factor, reported by almost three-quarters of the time, was whether the defendant had a prior record (70.0%). Almost one-third of the cases, the judges reported that if injuries (30.0%) were present, they would be more inclined to impose jail time. The final reasons reported, to impact judges' likelihood of imposing jail time (versus probation) included: if there was a request for jail time (20.0%), if children were involved in the

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30The question, “What do judges need to impose jail time (versus probation)?” was asked only of judges. Thus, public defenders and prosecutors did not answer this question.
incident (10.0%), if substance abuse was involved in the current incident (10.0%), and if there was a denial of responsibility by the batterer (10.0%), respectively.

**Benefits and Drawbacks of Treatment Programs**

Table 10 presents the professionals' assessments of the benefits and drawbacks of treatment programs for batterers. Local agencies within the sample county offer court-ordered programs for men and women who batter. The local Y.W.C.A. offers three stages of a program called "AMEND," for men who batter. The Y.W.C.A. along with a local victim advocacy agency, Women Helping Women, offers a program for women who batter, "Women Who Resort to Violence." Private Mediation Services and counseling from local pastoral/synagogue services include other available treatment services.

The reported benefits of the treatment programs will be presented first and the drawbacks of the programs, second. One-fifth of the sample reported, awareness (19.6%), education (19.6%), and counseling (19.6%) were the principal benefits of the treatment programs. Less than 20 percent of the sample reported they either "Don't know" or "cannot say" (15.2%) what the benefits of the treatment programs were. The least reported beneficial aspects of the programs (reported by less than 10 percent of the professionals), were that the programs effectively addresses anger management (8.7%), the programs teaches the defendant to take responsibility for the act (4.3%), programs serves as a measure to keep the defendant out of jail (4.3%), the programs generate money for the program directors (4.3%), the programs address substantive issues (4.3%), the programs effect attitude change (2.2%), and programs address underlying issues (2.2%).

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The overwhelming drawback of the treatment programs reported by over two-fifths of the court professionals was that the treatment programs were cost prohibitive (44.4%). Over one-quarter of the respondents reported that the programs were simply not effective (28.9%). The least reported drawbacks of the treatment programs (reported by less than 10 percent of the sample), were that the programs were too short (8.9%), or alternatively that the programs were too long (8.9%), the treatment programs were not implemented in a consistent manner and that the benefits of the programs vary for each defendant (6.7%), the programs do not offer enough individual attention for the batterer (2.2%), and the programs are not coercive enough towards the batterer (2.2%).

Due to the limited sample size, meaningful bivariate (chi-square) analyses could not be conducted. It is interesting, however, to “eyeball” the differences and similarities, among the group of professionals. The judges and public defenders consistently rated specific benefits of the treatment programs higher than the prosecutors did, with the exception of “don’t know/cannot say,” “address substantive issues” and “attitude change.” Further, over one-quarter of the prosecutors (28.6%) reported they did not know nor could say what the benefits of the treatment programs were.

Although the prosecutors seemed less inclined than the other groups to report treatment program benefits, it was the judges who were more likely to report drawbacks of the treatment programs. Approximately half of the judges reported that the treatment programs were cost prohibitive (45.4%) and not effective in addressing the relevant issues (45.5%). Moreover, almost one-fifth of the judges indicated that the programs were too short (18.2%), which may have affected the likelihood of the programs adequately
addressing the substantive issues. While almost three-fifths of the public defenders (57.9%) described the treatment programs as cost prohibitive, they were the most likely of the professionals to report that the programs were too long (10.5%).

**Effectiveness of Dispositions in Stopping Repeat Woman Battering**

Table 11 is an overview of the professionals’ assessments of the most effective dispositions in deterring woman battering recidivism. The findings to this closed-ended question are listed in order of ranking in terms of effectiveness, not the order provided on the survey. The number “1” represents “very ineffective” and the number “10” represents “very effective.” There are three overall findings regarding the reported frequencies and rankings in this table. First, the professionals do not view any of the dispositions as very effective; the highest mean ranking is 3.6 out of a possible 10.0. Second, the professionals are fairly consistent in reporting disposition (in)effectiveness. Third, the professionals indicated overall, that counseling or special conditions were more effective than simply incarceration (jail or prison) in stopping repeat woman batterers. For example, the disposition that the professionals ranked most highly in terms of effectiveness was probation with counseling (x=3.6). The professionals’ next most highly rated disposition was probation with AMEND (x=3.5). It is not surprising that the two most highly ranked dispositions are almost identical, given that AMEND is a batterers’ counseling program. Electronic monitoring (x=3.5), jail or prison time (x=3.4), and suspended jail time and conditions (x=3.4), were in somewhat of a “dead heat” ranking at the “top” of the “list.” Probation (x=3.1) and pretrial diversion with counseling (x=2.9), were ranked next and, fines (x=1.8) was the lowest ranked disposition in terms of its deterrent value.

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A comparison of means points out some statistically significant differences between professional groups. For example, public defenders ($\bar{x}=3.1$) ranked suspended jail time and conditions lower than did judges ($\bar{x}=3.9$) and prosecutors ($\bar{x}=3.4$) ($F=3.45, p<.05$). Moreover, public defenders ranked probation with AMEND lower than did judges ($\bar{x}=4.2$) and prosecutors ($\bar{x}=3.5$) ($F=3.84, p<.05$). It is useful at this point to re-examine some of the findings reported earlier in this chapter in light of the current findings. For example, as noted in Table 2, the public defenders and judges also ranked the AMEND report and victim advocate opinion as factors that should be least considered in determining whether a batterer should be prosecuted or convicted. The reader might remember that in Table 3 the public defenders and prosecutors reported a less frequent use of AMEND reports than did the judges, and none of the court professionals reported the use of victim advocate testimony in court to be very likely. It is interesting to compare the results of Table 11, estimates of effective dispositions in stopping repeat woman battering with the results of Table 12, which presents methods to increase the future safety of victims.

**Methods to Increase Future Safety of Victims**

Given the high rate of batterer recidivism (Dunford 1990; Dunford, Huizinga and Elliott 1990; Hirschel, Hutchison, Dean, Kelley and Pesackis 1992; Sherman, Schmidt, Rogan, Smith, Gartin, Cohn, Collins and Bacich 1991) most cases that get to court are probably “repeat offender” cases, this suggests that victim safety is an important issue. Table 12 presents items from the survey included to address victims’ future safety. Notably, the most commonly reported means to ensure the victims’ future safety was reported almost exclusively by public defenders: “It isn’t my job to figure out” or “I don’t care”(25.0%).
While one-fourth of the total sample (determined almost exclusively by public defenders) reported “not-my-job/don’t care” regarding victim’s future safety, almost one-fifth of the professionals listed each of the following in answering the open-ended question regarding the best means to increase victim’s future safety: (1) convicting the batterer (18.8%); (2) treatment/counseling for the batterer (18.8%), and (3) serious counseling for the batterer to get him to take responsibility (18.8%). One in eight of the professionals listed the following as means to increase the victim’s future safety: jail batterers (12.5%), prosecute all cases (12.5%), terminate the relationship (12.5%) and temporary protection orders (TPOs) (12.5%). Fewer than ten percent (n= 4) listed enlisting batterers to stop the offending (8.3%), probation (6.3%), and addressing the underlying problem (4.2%).

Due to the limited sample size, meaningful bivariate (chi-square) analyses were unable to be conducted for the items reported in Table 12, to determine differences between the court professional groups (judges, prosecutors and public defenders). It is useful, however, to “eyeball” the differences, among the groups. First, more than half of the public defenders (57.8%) reported “it isn’t their job to figure out” methods to increase the future safety of the victims. Alternatively, one-third of the judges responding to this item reported holding the batterer to some level of accountability (33.3% n=4) as a method to increase the victims’ future safety. Furthermore, three-fourths of the judges (75.0%) reported that treatment or counseling are a methods to increase victims’ safety, and they were the only professionals to report this method. Similarly, half of the judges exclusively reported using jail (50.0%) as a means to increase victims safety and they were the only professionals to report this method, as well. The prosecutors were the most likely, however, to report that
convicting the batterer (41.2%) and prosecuting all cases (35.3%) would increase victims’ future safety. About one-fifth of the public defenders (21.2%) and over one-tenth of the prosecutors (11.8%) reported terminating or ending the relationship as a method to increase victims’ safety. Interestingly, the public defenders were the most likely to indicate that the batterers were the ones who needed to stop their own abusive behavior (15.8%) as a means to ensure victims future safety.

**Responses to General “Yes/No” Survey Items**

Table 13 is a presentation of the general “yes” or “no” items on the professional surveys. It is noted within the text and in Table 13 which tables (items) are a result of these “skip” patterns in the general questions. We provide this detailed level of data because the research on court professionals’ experiences with and ideas about the processing of intimate partner domestic violence is exploratory at this point. It is our hope that this “hair splitting” in the small sample data will be useful in designing survey items in future research on this topic.

Table 13 presents the findings from the more general “yes/no” questions on the professional surveys. The item with the most agreement regarded a question about bail conditions. Almost half of all the professionals (98.1%) reported that judges typically attach bail conditions. Approximately two-thirds of the sample reported they would like to see changes made to the arrest policy (68.5%), that particular types of domestic violence cases would be better served by social services or civil alternatives they identified (64.8%), and that judges set bail similarly in non-domestic violence and domestic violence assault cases (62.9%). About half of the sample identified that the case would proceed more successfully
if victims met with prosecutors, or defendants met with public defenders, prior to the day of
the trial (53.7%). Half of the sample believed that there are effective social service and civil
community alternatives to criminal prosecution in intimate partner domestic violence cases
(50.0%).

Less than half of the sample (44.4%) reported that evidentiary requirements may
hinder the effectiveness of the criminal justice system in domestic violence cases. About
one-third of the professionals (35.2%) identified that they assessed the defendant’s
dangerousness in deciding how to proceed with the case. Less than one-third (29.6%)
reported that the proportion of cases plea bargained changed with the implementation of the
preferred arrest policy. One-quarter (24.1%) of the professionals agreed with the statement
that the handling of domestic violence cases is affected by the availability of resources.

Although the sample size was too small to conduct meaningful bivariate (chi-square)
analysis, it is useful to “eyeball” the data regarding differences among the professionals. For
example, while over half of both the prosecutors (55.6%) and public defenders (54.1%)
believed that evidentiary requirements hindered the effectiveness of the criminal justice
system, only 1 of the 12 (8.3%) judges agreed with this. On the other hand, judges (58.3%)
and public defenders (58.3%) were almost twice as likely as prosecutors (33.3%) to report
that there are effective social service alternatives to criminal prosecution. Public defenders
(70.8%) were the most likely to report that judges set bail for domestic assaults comparably
with non-intimate partner assaults, followed by prosecutors (61.1%), then judges (50.0%).
Similarly, public defenders (95.8%) were by far the most likely to report that they would like
to see changes made to the arrest policy, followed by judges (58.3%) and prosecutors
Finally, prosecutors (94.4%) were more than 10 times as likely as public defenders (8.3%) to report that they assess the defendant’s dangerousness in deciding how to handle the case, and prosecutors (50.0%) were three times as likely as public defenders (16.6%) to report that they handle domestic violence cases based on the availability of resources. This latter finding is hardly surprising given information from the public defender and prosecutor interviews regarding the significantly smaller number of prosecutors (compared with public defenders), and therefore the significantly less time per client available to prosecutors (relative to public defenders).

Tables 14 through 23 are the results of the open-ended questions that followed the closed-ended items presented in Table 13. Although the response rate to these open-ended items was quite low, we are reporting these responses to help begin to provide some of the reasons behind court professionals’ reported behaviors, attitudes and experiences.

**Evidentiary Requirements that Hinder Effectiveness**

Table 14 presents a more detailed assessment of the reasons supporting the first question in Table 13; professionals’ assessments of evidentiary requirements that hinder court effectiveness. Given that only 1 judge, 10 prosecutors, and 13 public defenders claimed that there were such hindrances in this open-ended question, meaningful bivariate (chi-square) analyses were unable to be conducted. Of those 24 professionals who agreed that some evidentiary requirements hinder the effectiveness of the court processing of domestic violence, the most frequently reported evidentiary requirement hindrance was the hearsay exception/excited utterances in this category. One-third (33.3%) of the professionals

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reported exception to the hearsay rule\textsuperscript{31} (also commonly known as “excited utterances”). From the interviews, however, one prosecutor reported using the hearsay exception successfully, given that prosecutors “do not know at the time the victim walks in the court whether we will have the victim’s cooperation.” Another prosecutor explained that “if cops have done their job...if cops get excited utterances or a statement, we can prosecute the case without the victim.” However, this same respondent stated “[Domestic violence] cases are often not done correctly. Maybe because of the volatility of the situation.” Generally, most crimes occur before the police arrive at the scene. However, police officers must be able to reconstruct the crime on the basis of physical evidence and witness reports. Notably, prosecutors depend on the police to provide both the suspects and the evidence needed to convict the abusers in court.

Following the hearsay exception, the next most frequently reported factor to circumvent evidentiary effectiveness, reported by one-quarter of the respondents (25.0%), was lack of evidence. This was followed by proof beyond a reasonable doubt, reported by one-fifth of the sample (20.8%). A prosecutor noted in the interview:

About 90 percent [of professionals] cannot make the case without her [the victim’s] testimony. Without firm, unequivocal testimony from the victim; the reality is is that we need proof beyond a reasonable doubt. Nine-one-one tapes help, though. (Prosecutor)

\textsuperscript{31}This rule, an exception to the general rule against hearsay, serves to admit into evidence any statements made by the victim while she was “under the stress or excitement caused” by the domestic violence. This rule is not limited to mere impeachment purposes, but can be used to proffer substantive evidence.
The fifth amendment (12.5%), hearsay rule (4.2%), and proof of domestic violence violation (4.2%) were the least commonly reported evidentiary requirement factors that hinder court effectiveness. In one interview, a prosecutor noted how hard it is to prove a domestic violence relationship without the prosecuting witness’s cooperation simply in establishing whether the relationship qualifies as “domestic”:

There is a problem with the statute and that is proving cohabitation. It is very difficult to determine if they had a relationship if the woman is not present and the man says they don’t have a relationship. (Prosecutor)

Being unable to establish the relationship or “prove cohabitation” without the victim present and the defendant claiming no such relationship, which is the crux of a domestic violence case, was reported by numerous prosecutors in the interviews. Noteworthy, the prosecutors reported that the victim and defendant often understand that if they are not married (or common law), nor have any children in common, that the relationship will be difficult, at best, to establish, and therefore the case will have to be dismissed or recharged as an assault (which prosecutors admitted in the interviews rarely occurred).

Suggestions on How Additional Resources Should be Used

During the interviews a common criticism was the lack of resources. Specifically, the court professionals stated that if more resources were made available, the case outcome would be different (presumably fewer dismissals). Table 15 presents detailed findings from the more general “yes/no” questions on the professional surveys regarding available resources (see the second question/item on Table 13). Again, although the numbers are small (9 prosecutors and 4 public defenders) to this open-ended item, these findings are potentially useful for future surveys on court professionals’ processing of domestic violence cases.

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The most commonly noted resource, identified by almost two-fifths (38.5%) of the respondents, was to have more time to prepare a case. The need to maintain contact with the victim was reported by almost one-third of these respondents (30.8%). Approximately one-fifth of the professionals reported the need to hire more staff (such as investigators and attorneys) (23.1%), and one prosecutor noted that, "it is so busy now we could have two prosecutors per room." More counseling was identified by 15 percent of the sample (15.4%) as needed to develop better office procedures. Fewer than 10 percent of the professionals reported a separate domestic violence court (7.7%), creating better victim notification letters (7.7%), utilizing better cameras (7.7%), and more time for making more phone calls to victims (7.7%) as features needed to improve office procedures.

The amount of time to prepare a case or meet with victims was a frequent topic of conversation in the interviews. This is hardly surprising given the structural make-up of the prosecutors' and public defenders' offices. Specifically, there are 18 prosecutors for the domestic violence victims and 31 public defenders for these batterers. This alone, institutionalizes a pro-defendant/anti-victim approach. It is interesting that over two-fifths of the prosecutors reported they need more time to prepare these cases (44.4%), while only one-fourth of the public defenders responded this need (25.0%). Likewise, over two-fifths of the prosecutors reported that more time is needed to spend maintaining contact with the victim (44.4%), whereas none of the public defenders reported a need to spend more time maintaining contact with defendants as a resource issue. The discrepancy with which how much time is spent on each case is evidenced by the following professionals’ comments during the interviews. One prosecutor reported:
Ideally, I would be meeting with the victim a couple of hours, or even days before the case is called. Then the second time would be at the trial. As a practical matter we get between 2 and 20 minutes right before the case is called. I would really like to see the prosecutors get more time. [How would more time affect case outcome?] I think there are a minority of cases where I don’t have the complete picture. (Prosecutor)

Another prosecutor echoed a similar sentiment:

At trial we fly by the seat of our pants. Case preparation only occurs if demand for discovery or it’s set for jury trial. I will see if the victim is present and whether there is a want to prosecute. If not, when I get a break from the court happenings, I will ask them what is going on (ask what is the current relationship status, now and what is anticipated in the future, whether or not kids were involved) and see if the defendant will take a plea- it really is a time factor. (Prosecutor)

One judge acknowledged what the prosecutors seemed to be suggesting (e.g., that they do not have enough time with the victim):

I don’t know to what extent prosecutors contact victims- I think this could be improved... this would help with victim involvement. Often times there is no involvement until the court appearance, if someone could contact the victims before, to discuss whether they need a continuance or to discuss with them the possible options. I imagine it is a practical issue of time, money and staffing as to why this doesn’t happen. (Judge)

Alternatively, one public defender reported spending “as much as is required” on a particular case. This public defender reported:

For the typical case, it’s about five to six hours. We sometimes minimize the impact of a trial. But in cases with real issues you have 5 to 6 hours or more. The majority, it’s probably a half hour in arraignment room and one hour in the court room. So most cases are 2 to 3 hours. For court or jury cases they’re six or more hours with the defendant. (Public defender)

These responses signify a remarkable difference between prosecutors and public defenders concerning their time allotments for victims and defendants, respectively.
These comments are a likely reflection of how a public defender's docket varies from a prosecutor's docket. As a practical matter, the public defenders were able to return the survey to the researcher on this project in a shorter time frame than the prosecutors, again suggesting that the prosecutors have less available time. That being said, it is perplexing that three-quarters of the public defenders request the hiring of more personnel (75.0%) while none of the prosecutors reported this. The public defender office administrator indicated that most of the public defenders have private practices (or at least handle other legal matters) outside of the 35 hours they are required to work for the county (Telephone conversation with John Dowlin, Office Administrator to the Public Defenders, May 21, 1998).

Another difference noted by the researcher during data collection was the physical structure of the offices. Seemingly, the public defender's office was more equipped to meet defendants and/or victims than the prosecutor's office. That is, in the public defender's office there was space for clients to sit and wait until an attorney could meet with them. In the 3 to 4 month period that the researcher spent in each office respectively, she noted more victims in the public defender's office than in the prosecutor's office. A plausible explanation for this could be that the prosecutors preferred meeting the victim in the courtroom (where the prosecutors spend most of their time). However, as is often the situation in these cases, if a victim does not show up for the case, or is reluctant to come to court (for whatever reason, including threats from the defendant), the prosecutor will have to take other measures to contact her, such as calling her and/or meeting her in another forum outside of the courthouse (e.g., the prosecutor's personal office). Many public defenders
reported in the interviews that while they do not speak directly to the victims they may act as a surrogate prosecutor:

If the prosecutor is busy or overwhelmed they will ask me to talk with the victim to see if they want to go forward with the case or dismiss it. (Public defender)

Over one-fifth of the prosecutors (22.2%) and none of the public defenders (0.0%) reported more counseling for the parties as a needed resource. During an interview, one prosecutor noted that victim involvement could be encouraged if the courts were more invested in treatment and monitoring of batterers:

[It would help] if the court would be more devoted to treatment, counseling, and monitoring. I think the AMEND program choices are not efficient. I would like there to be more encouragement from the court. Currently, if the offense is more severe, the offender just gets more time within AMEND, not necessarily more treatment. A lot with this offense is a way of life and cannot just stop with a 14 week program. [The defendant] needs a program to be able to handle frustration and avoid another domestic violence. Smokers couldn’t quit in a 14 week program. Neither can these offenders. [The defendant] needs people involved on a daily basis—a lot of the individuals have alcohol problems they need lots of help. (Prosecutor) (Author’s emphasis added).

Although only one of the prosecutors requested to have a separate domestic violence court (7.7%) on the survey, numerous professionals made comments in the interviews that having a domestic violence court might allow them to be better equipped to deal with these cases. One prosecutor suggested that the current criminal justice system is not capable of solving the problems associated with these cases:

Family court or civil court would be better to deal with the victims, counsel them because they [the victims] are half the problem. (Prosecutor)
Another prosecutor noted that “victim involvement would be encouraged if we could provide a nonthreatening dispute resolution forum.” Currently the sample county, has a specialized court for drug offenses (Johnson and Latessa 1997). The drug court’s primary objective is to pair drug treatment with intensive court supervision to reduce recidivism. One prosecutor seemed to suggest that a “specialized court” may be advantageous for domestic disputes:

> We need a system similar to diversion (currently domestic violence is not applicable for diversion). We need a system where particular attention can be specific, closer follow-ups—this would be more helpful for families—more individual attention to the problem. Domestic violence court with treatment modalities, treatment programs...we have AMEND but my idea would be to make it a court program versus a private agency. The only problem with a domestic violence court is with one judge you would be stuck with one view. (Prosecutor)

One public defender seemed to succinctly capture these findings:

> Domestic violence is emotionally draining. We are dealing with raw edge of people’s lives. The court’s Band-Aid cannot heal the wound. (Public defender)

About one-tenth of the prosecutors suggested that providing better notification letters to victims (11.1%) as a means to improve upon current office procedures. [See Appendix D for a copy of the victim notification letter]. Theoretically, a form notification letter is sent from the prosecutor to the victim to inform the victim who is processing her or his case, and as a means for the victim to contact the prosecutor if she or he would like to offer any input into the case. Comments made in the interviews indicated that the current letter is ineffective in gaining the victim’s participation. While one prosecutor suggested that one problem with the letter is that if the victims are “noneducated people,” they may not know what to do with the letter, another prosecutor suggested the problem is more general:
A lot [of the victims] don’t know they can call the prosecutor—they do not see them as an advocate. I don’t think a vast majority of Americans have a clue as to how the criminal justice system works. (Prosecutor)

A different prosecutor theorized the lack of response from the notification letter could be because only “1 out of 7 [victims] get the letter” because the victim does not give the correct mailing address in the police report. When asked if the victims were purposefully giving incorrect addresses or as a result of the chaotic nature of the incident, the prosecutor speculated that: “it is done on purpose because the victims do not want the criminal justice system to be involved in the matter.” Another prosecutor noted:

If a victim calls up I will talk to them [sic]. While I do send out the victim notification letters to each victim, they rarely respond to them—I don’t think they are a great idea, anyhow. (Prosecutor) (Author’s added emphasis)

Whether the victims were not responding to the letter because they do not understand what to do with the letter or because they do not want the criminal justice system involved in what they consider to be a “private” matter, it seems evident that relying on the form letter as a means to notify victims about the case is not proving to be an efficient process. I would also add that some victims might be in hiding from the batterers who don’t want their whereabouts known.

**Assessing Defendants’ Dangerousness**

Table 16 presents the findings from the more general “yes/no” questions on the professional surveys regarding the role of the defendants’ perceived dangerousness in processing the case (see the third item/question on Table 13). Given that only 17 prosecutors and 2 public defenders reported how they assess defendants’ dangerousness on this open-ended question (this question was not on the judicial survey), meaningful bivariate (chi-
square) analyses were unable to be conducted. Of those 19 professionals who reported how they assess defendants' dangerousness, approximately three-fifths of the respondents suggested that the defendant's prior record (57.9%) was the most common factor used to determine how dangerous a defendant is. Over one-quarter of the professionals reported using the severity of injury (26.3%) and defendant's demeanor (26.3%) to assess the batterers' dangerousness, while one-fifth reported utilizing a pattern of abuse (21.1%) to assess the defendants' dangerousness. One-tenth of the respondents identified the victim's opinion (10.5%), evidence (for example photos and medical records) (10.5%), whether drugs were involved in current incident (10.5%), and the victim's fear (10.5%), as factors in determining the defendants' dangerousness.

Considering their job charges, it is not surprising that prosecutors reported many more factors to ascertain defendants' dangerousness than public defenders did (e.g., that the prosecutor is both an administrator of justice and an advocate [American Bar Association Standards for Prosecutors, Standards 3-1.1 (b)]. It is interesting though, that all the public defenders in this sample identified the defendant's demeanor (lack of remorse) (100.0%) and available evidence (50.0%) as factors in assessing dangerousness, whereas the prosecutors reported those same factors as 17.6 percent and 5.9 percent, respectively. One prosecutor noted that:

I think offenders are 'pissed mad'... be gratified now--therefore they hit. The women in these cases are objects for the men 'that bitch,' when they are done, they discard them-raw. (Prosecutor)
Similarly, a public defender responded about his client's demeanor: Most say, "I wouldn’t hurt the bitch, I love the bitch." Another public defender offered insight into why they consider available evidence to be a factor:

If there is physical harm to the victim; if cut, blood, gash, severe bruises to the face—this will effect my case. Testimony I can always discredit but I can’t discredit physical harm to the victim; cut, blood, gash, severe bruises to the face... If the victim has that, then there probably will not be a plea. (Public defender)

Overwhelmingly, the prosecutors reported the prior record (64.7%) to be the most common factor they used to determine dangerousness. Numerous prosecutors and judges stated during the interviews, that if the defendant had prior domestic violence dismissals, they would not dismiss the case for counseling. This is noteworthy given that legally a prior domestic violence dismissal should not bear upon one’s current record. However, the professionals hypothesized a dismissal in a domestic violence case may be due to victim’s fear of retaliation, and not because of lack of evidence (or that the event did not occur).

Just over one-tenth of the prosecutors reported that the victim’s fear (11.8%) is used to assess defendants’ dangerousness. One prosecutor admitted to assessing the ‘fear factor’ by watching “their [the defendants’ and victims’] body language.” One public defender suggested that there are cases were the relationship is so abusive, that a neighbor, not the victim will call the police, because the woman is so frightened.

**Professionals’ Assessments of Pro-Arrest Policies**

The county in which this project was undertaken enacted its own mandatory arrest policy in 1991, years before the state law policy which is considered a “preferred” (as opposed to “mandatory”) arrest law was enacted. Essentially this policy states while an
arrest is not mandated in every situation, if a police officer responds to a domestic violence call and does not arrest someone, he or she needs to write a report as to why no one was arrested. Table 17 is a detailed version from the more general “yes/no” questions on the professional surveys regarding pro-arrest policies, (see the fourth question/item on Table 13). Invariably, although the numbers are small, these findings are potentially useful for future surveys on court professionals’ processing of domestic violence cases.

Table 17 is divided into two parts, the top part includes detailed responses from professionals who would like the current arrest policy to be changed, while the bottom part of Table 17 includes responses from professionals who would not like the arrest policy changed. Over three-fifths of the sample (68.5%) reported that the policy should be changed, while one-third (31.2%) of the total sample indicated the current policy should not be changed. Discussing the top portion first, the most common reason given for why the policy should be changed, reported by over half of the respondents, was that mandatory arrest is not always necessary (54.0%). The next most common response (45.9%) reported by over two-fifths of this sample, (as to why the pro-arrest policy should be changed) was to allow the police officer more discretion. The final reasons to change the current arrest policy, reported by less than 10 percent of the sample, included not arresting both parties (5.4%), offering additional training (5.4%), and observing victims’ wishes (2.7%) (presumably those victims who do not wish for the batterer to be arrested).

Meaningful bivariate (chi-square) analyses were unable to be conducted due to the small sample size, however, it is interesting to note the incidence with which the professionals reported disliking the arrest policy. Noting that the arrest policy in the sample
City is "preferred" and not mandated, over half of the public defenders (56.5%) and
prosecutors (57.1%) and two-fifths of the judges (42.8%) were likely to report that
mandatory arrest is not always necessary. A public defender indicated in the interview that:

Seventy-five percent of these cases never should have been brought to court.
The way the system is set up, any domestic violence call equals an arrest.
(Public defender)

Moreover another public defender suggested that the current policy is too excessive:

Domestic violence cases are always the most dangerous calls, and the way
ours is administered has hampered the police's ability to decide what they
need to do. There is a need for more informal mediation choices. Due to the
mandatory arrest policy, this places the officer in court more—it is unfortunate
that they are not able to do as they originally did. Social policy—patterned on
Minnesota state law—overreacted based on past indiscretions no longer using
common sense—extremely bullshit. (Public defender)

Another public defender offered a different view about mandatory arrest not always being
necessary:

I think the mandatory arrest policy will deter victims from calling the police.
It defeats what you're trying to do. It doesn't prevent it [domestic violence],
it irritates the problem. (Public defender)

Moreover, another public defender indicated in the interviews, that mandatory arrest is not
the answer:

The court welcomes victims bringing these charges, and victims should know
that. But from a system's perspective it's a mess. The courts say 'victim,
we'll protect you,' but what really happens is the system speaks with forked
tongue. They tell them 'Ms. Victim, we'll help you,' then all they do is
separate them from their partner. Mandatory arrest policies may be
counterproductive. I don't know. That's the subject of a whole study. (Public
defender)

The other most common response was to allow law enforcement more discretion.

Overwhelmingly, the public defenders (56.5%) reported in over half of the cases, discretion
is needed in these cases. In over one-quarter of the cases the prosecutors (28.5%) and judges
(28.5%) reported that more discretion is necessary. One public defender indicated in the
interview that experienced officers know how to use proper judgement:

Police officers once had discretion. Trust seasoned police officers to make that decision. Police officer discretion has been denied, I think, because of the OJ Simpson trial. It had an effect. I think the police officer did a good job in deciding what was a true domestic violence - although it is hard to determine who will be violent and who won’t be. (Public defender)

In the interview, a prosecutor detailed how the preferred arrest policy should allow the police more discretion:

'Should be what they can’t do right now, for ‘police’ not to arrest [when they don’t think it’s appropriate]. There are technical violations and real violations—everybody gets into arguments and everybody makes threats. The police need latitude—I have confidence in them. The police officers are in the best position to stop the abuse if given latitude for them to do that. (Prosecutor)

Another prosecutor offered a similar sentiment:

We need to face the fact that police officers are forced to arrest. However, with community policing, I don’t think it makes sense to mandate that an arrest be made. The police have to drag the defendant in, cases not truly sold as a crime are being forced into the system— they are expensive. It used to be we gave direction to the street police officer to look at the situation and assess its dangerousness. Now, however, with the mandated arrest, I think it is ridiculous that the police officers are able to carry a badge and a firearm, but are not given the discretion to say whether a crime was committed and to know what to do about it. (Prosecutor)

The professionals who reported that no, the current arrest policy should not be changed, reported three reasons why they supported the current policy. The most common reason, reported by over one-fifth of the professionals who supported the policy, was that it separates the victim and abuser (23.5%), while just over one-tenth of those who reported they
supported the policy revealed the policy should not be changed because it helps remove negative police stigma (11.7%). The final reason given to not alter the policy was because it takes responsibility away from the victim (5.9%). Interestingly in an interview, one public defender reported that with the current policy, law enforcement are doing a more thorough job:

At first police were not great on gathering evidence. But with the new policy, police officers treat case like a murder—indeedependent of victim’s testimony. They get statements, take pictures, observing of possible location, while they don’t treat quite like a murder, they are more diligent now. (Public defender) (Author’s emphasis added).

How Cases Plea Bargained Have Changed

Table 18 offers detailed findings from the more general “yes/no” questions on the professional survey regarding how the pro-arrest policy has impacted plea-bargaining (see the fifth item on Table 13). Although the numbers are small for this open-ended question (8 prosecutors and 8 public defenders), these findings are potentially useful for future surveys on court professionals. Table 18 represents how cases plea bargained have been changed since the preferred (pro) arrest policy initiative. One prosecutor in the interviews reported that (laughing): “Judges like plea bargains to get them out of there... they have tee times, you know?” Overwhelmingly, the most commonly reported reason of how cases plea bargained have changed since the policy initiative, was the creation of more borderline cases (46.7%). The following reasons, reported in less than one-tenth of the cases, included less tolerance of domestic violence cases (6.7%), heightened awareness of domestic violence
increased use of “C” section\textsuperscript{2} (6.7%), political depth (6.7%), and increased trials but decreased pleas (6.7%). One judge suggested during an interview that the policy initiative had a heightened awareness about domestic violence cases:

Anymore, judges are looking at domestic violence seriously... Awareness—society is more aware of and against domestic violence. Society used think of domestic violence as playful, versus today people recognize physical and psychological damage—seen as violent now versus before with Desi and Lucy show (thought it was slap stick comedy). (Judge)

**Comparable Bail to Non-Intimate Assault Cases**

Table 19 presents findings comparing whether bail\textsuperscript{3} in domestic violence cases is set, comparably to other assault cases in which the defendant and victim are not related (or in an intimate relationship). Given that only 6 judges, 11 prosecutors, and 17 public defenders responded to this item, meaningful bivariate (chi-square) analyses were unable to be conducted. Of the 34 professionals who responded to this open-ended question, more than two-fifths of the respondents indicated domestic violence bonds are actually set *higher* than bonds for other assault cases (44.1%). Almost one-quarter of the professionals reported that political pressure (23.5%) creates a situation in which comparable bails are set. Less than one-fifth of the professionals (17.6%) indicated that the relationship of the couple must be considered. The next most common response was that domestic violence cases are more dangerous cases (14.7%) than other assaults. Less than one-tenth of the respondents reported

\textsuperscript{2}Threat of force, cause belief of imminent physical harm. Usually charged as a M4.

\textsuperscript{3}The major considerations taken into account in determining the amount of bail are the defendant’s assets and liabilities, his family ties, and any other information relevant or the question of whether he is likely to flee the court’s jurisdiction prior to trial (American Bar Association Project on Standards for Criminal Justice, 1968)
that assault cases are not arrested (5.9%), nor are bonds higher for domestic violence cases because it creates a risky situation for the victim (2.9%).

Although meaningful bivariate (chi-square) analyses were unable to be conducted, it is interesting to note the frequency with which the professionals reported whether comparable bail is set in non-intimate assault cases. For example, approximately half of the judges (50.0%) and public defenders (52.9%) reported that domestic violence bonds were higher than non-intimate assault cases, whereas approximately one-quarter of the prosecutors (27.3%) reported this occurrence. One public defender reported in the interviews:

Because of societal emphasis on domestic violence, if there are injuries or repeat record, they set too high bonds and no chance to rehabilitate or mend the offender. (Public defender)

Another public defender offered a parallel sentiment:

High bonds present a problem with domestic violence cases. Even in cases where the offender signs a TPO and has another place to stay— for people who live in Cincinnati. Judge X set several high bonds this morning in arraignment that I thought were too high. I don’t know why they are too high—punitive in part because of the nature of the offense, previous domestic violence convictions, and previous domestic violence dismissals. [What do you consider to be a high bond?] I think $2,500 was too high for a guy this morning- usually I think $5,000 is too high. (Public defender)

Almost half of the public defenders (47.1%), reported and they were the only professionals to do so, that the high bonds are due to the political pressure. When asked if judges set higher bonds in domestic violence cases, one public defender reported:

Yes, because they are over-sensitized on domestic violence and there are pressure groups, yeah. They’re elected officials and they attend more to the public opinion. (Public defender)
Another public defender reported that: “I have had judges admit to me that because they
don’t want their name in the paper, they take a stronger stance.” Avoiding “bad press” was
the main reason the public defenders reported that judges set higher bonds, while some
public defenders suggested that the judges have their own agenda:

I think too many [judges] are trying to be crusaders or respond to what they
think certain groups want to hear- looking forward to November if you know
what I mean [implying election time]. They should abide by responsibility,
interpret facts of law. Not set any political agenda, not do what some
pressure group think they should. (Public defender)

Moreover, one prosecutor reported that some judges do an effective job while others do not.

When asked what differentiated one from another the prosecutor responded it is based upon:

Political affiliation, personal views, whether they are tired of this shit and/or
want to play golf. The judges are very sophisticated and shrewd. You won’t
release my name, right? (Prosecutor)

Half of the judges (50.0%) and almost one-third of the prosecutors (27.3%) reported
that the relationship must be considered when making bail decisions. Although no public
defender reported to consider the relationship in the survey, one public defender indicated
this was necessary in the interview:

Domestic violence is always worse, domestic violence is so emotionally
involved, intimate, kids, have lives together- would go emotionally bankrupt,
there are always others issues [economic] than just domestic violence.
Therefore their reaction is so much more profound. (Public defender)

**Conditions Attached in Domestic Violence Cases**

Table 20 presents the findings from the more general “yes/no” questions on the
professional survey, (see the seventh item on Table 13) regarding professionals’ examples
of attached bail conditions. Again, although the numbers are small (12 judges, 18
prosecutors, and 23 public defenders) to this open-ended question, these findings are potentially useful for future surveys on court professionals. Specifically, Table 20 presents court professionals' reports of what conditions are attached in domestic violence cases. Approximately half of the respondents identified that a temporary restraining order (TPO) (54.7%) is attached in domestic violence cases. The next most commonly attached condition, reported in over two-fifths of the cases, was utilizing an electronic monitoring or juris monitor unit (41.5%). The final conditions reported by the professionals included visitation issues (1.9%) and no alcohol (1.9%).

Three-quarters of the judges reported that they attach a TPO condition in domestic violence cases (75.0%). One judge identified during an interview, that not only did she/he issue TPOs, but was “pretty strict about enforcing them.” This same judge, however, admitted to “never ordering a violation to be filled out against someone.” It is disconcerting that the judge had never ordered a TPO violation since the effect of the TPO depends upon the enforceability of the order. However, the judge reported that if a TPO “had been violated even unintentionally, I will go to a more severe order, such as home confinement or electronic monitoring.” Despite this particular judge’s report, research suggests: “Judges don’t usually do anything the first time a man violates an order of protection” (Hart 1993; see also McCann 1985). Two-thirds (65.2%) of the public defenders reported having a TPO attached in these cases, while over one-quarter (27.8%) of the prosecutors reported this. Approximately half of the judges (50.0%) and public defenders (47.8%) reported having an electronic monitoring unit or juris monitor unit attached in these cases, whereas about one-third of the prosecutors (27.8%) reported the utilization of these units.
The Examples of Effecting of Meeting with Victim/Defendant Prior to Trial

Table 21 addresses the issue of professionals’ assessments regarding whether the case outcome would differ if they meet previously with victims/defendants prior to trial. As noted above in Table 15, the professionals (particularly prosecutors) suggested they would like more time to prepare a case or maintain contact with the victim. Given that only 12 prosecutors and 17 public defenders claimed that the outcome would differ, meaningful bivariate (chi-square) analyses were unable to be conducted. Of the 29 professionals who agreed that outcomes would differ if they had meet with the victim/defendant prior to trial, three-fifths of the prosecutors and public defenders responded that it would not help (or help only marginally) to meet with victim/defendant prior to trial (58.6%), while fewer than one-fifth reported that meeting beforehand would increase guilty outcomes (17.2%). One-tenth of the prosecutors and public defenders reported they did not know if the outcome would differ (10.3%), whereas approximately 7 percent identified that there would be an increase in pleas (6.9%). Notably, only one professional, a prosecutor, suggested that meeting prior to trial would increase victim cooperation (3.4%).

Slightly less than three-quarters of the public defenders reported that meeting with the victim/defendant prior to trial would not affect case outcome (70.6%), while two-fifths of the prosecutors identified a similar sentiment (41.7%). Corresponding to this finding, two-fifths of the prosecutors reported that meeting with the victim prior to trial would increase guilty outcomes (41.7%), while no public defenders reported that this would affect the case outcome. Alternatively, just over one-tenth of the public defenders (11.8%)
suggested that meeting with the victim/defendant prior to trial would increase the amount of pleas, while no prosecutors reported this.

**Community Alternatives to Criminal Prosecution**

Table 22 provides detailed findings from the more general “yes/no” questions on the professional survey regarding the professionals’ identifications of effective alternatives to criminal prosecution available within the community (see the ninth item on Table 13). Again, although the numbers are small to this open-ended question, these findings are potentially useful for future surveys on court professionals. The most prevalent alternative to criminal prosecution, reported by almost three-quarters of the professionals, was the AMEND program (74.1%), a program created to address battering issues in a community setting. The next most common response, reported by over one-fifth of the respondents, was the utilization of a counseling program (22.2%). The remaining alternatives to criminal prosecution represented less than 10 percent of the responses: divorce/separation (7.4%), private complaint services (7.4%), a “women who resort to violence” program (7.4%), substance abuse/treatment (7.4%), mental health facilities (3.7%) and marriage (3.7%). One public defender noted that parties need to know that they have alternatives “like divorce.” Another public defender reported in the interview, “Unless there is a track record of abuse, then I advise them to divorce.” Suggesting that divorce is an “alternative” ignores the large majority of victims who were never married and/or who those who solely define their relationship as having a “child in common.” For these abuse victims and other victims who believe marriage is sacred and to be maintained at all costs, seemingly divorce is not a viable
alternative. Further, divorcing or leaving a batterer has been known to present a precarious situation for the victim (Mahoney 1991).

As imprudent as marriage seems as a practical alternative to criminal prosecution for domestic dispute cases, numerous decision-makers jokingly recited the case where a common pleas judge (in the sample county) sentenced a batterer and his pregnant victim to matrimony in an attempt to end their quarreling. (Due to this incident as well as similar other incidents, this judge is no longer on the bench).

Due to the small sample size, meaningful bivariate analyses were unable to be conducted for the data in Table 22. It is interesting, however, to “eyeball” the differences within categories. For example, all of the public defenders (100.0%), over three-fifths of the prosecutors (66.6) and over half the judges (57.1%) reported that AMEND or counseling is a sufficient alternative to criminal prosecution. In the interview, one public defender offered a rationale as to why public defenders may be the least likely to support the AMEND program as an alternative:

I think sending someone to AMEND for the first offense is a step. But if the family has a serious family problem, more issues need to be addressed in family counseling as well. I have a feeling that this program is mainly a massive cash cow where people that I represent can’t really afford the services so they don’t get the opportunity to attend the program. (Public Defender)

Two-thirds of the prosecutors (66.7%) indicated that counseling would be an effective alternative to criminal prosecution within the community, while approximately one-quarter of the judges (28.6%) and none of the public defenders reported this.

**Cases Better Served Using Social Services/Civil Alternatives**
Table 23 presents specific findings from the court professionals' identification of the types of cases better served using social services/civil alternatives identified in Table 22. Although the numbers are small (7 judges, 9 prosecutors, and 19 public defenders) to this open-ended question, these findings are potentially useful for future surveys on court professionals.

The most frequently reported type of case better served using social services reported by one-quarter of the professionals, was first time offenses or cases where there were only minor injuries (28.6%). The next most common response, reported by one-quarter of the court professionals was threats or verbal abuse cases (25.7%). Cases where the defendant and victim are either siblings or parents (14.3%) was the subsequent most reported type of case better served using social services. If the current incident occurred while the parties were still in a continuing relationship (11.4%), just over ten percent of the respondents reported they would rather have these types of cases use means other than criminal prosecution. Also reported over 10 percent of the time, cases where there is no real violence (11.4%), the professionals indicated social services would be more beneficial than prosecution through the criminal system. The following responses were identified by the professionals less than 10 percent of the time: one-time problems (5.7%), corporal punishment (5.7%), arguments initiated over finances (5.7%), all, just not emphasize women's issues (5.7%), women just wants man out of the house (2.9%), and arguments over children's visitations (2.9%).

Again, although the sample size was not large enough to conduct meaningful bivariate (chi-square) analyses, it may be interesting to “eyeball” the differences within
categories. Two-fifths of the public defenders (42.1%) reported that first time occurrences or those events with only minor injuries were better served using civil and not criminal services. Whereas both the judges (14.3%) and the prosecutors (11.1%) were much less likely to report using this type of case as an alternative to criminal proceedings. Prosecutors did, however, report in over one-third of the time, cases which involved threats or verbal abuse (33.3%) would be better served using social services, the public defenders reported this in only one-quarter of the cases (26.3%) but the judges (14.3%) were less likely to report this type of case as being better served through social services. From the interviews there were varying opinions from the judges on whether a threat was to be considered serious or not. For example, one judge reported that: “If it was just a threat it is less serious,” while another judge took a different approach:

The more specific a threat the more dangerous I consider it for example, if he says ‘I will kill you’ I take it more serious—when it seems he has specifics about how he will kill her for example, ‘I am gonna kill you with Uncle Bob’s rifle, come into the bedroom and shoot you between the eyes.’ (Judge)

Interestingly, the public defenders (5.3%) were the least likely to report that if the case involved a sibling and/or parent they would recommend using social services, whereas the judges almost one-third of the time (28.6%), and prosecutors almost one-quarter of the time (22.2%), reported most likely to utilize social services for cases involving domestic assaults. Although only one public defender (5.3%) reported that in cases where “the woman just wants the man out of the house” would be better served through social services, this was a recurring theme in the interviews. Numerous professionals (judges, prosecutors, and public defenders) suggested that the only reason the victim called the police was so she could have
some “free” time to herself. Specifically, one public defender referred to this as a “weekend divorce.” A weekend divorce was defined as:

When the woman gets her boyfriend or husband arrested for domestic violence so that she can be with her new boyfriend for the weekend. (Public defender)

More specifically, another public defender reported that weekend divorces are used as a “convenient divorce that allows them to have a weekend off without the husband around. By Monday they want their case dismissed.” The concept of a “weekend divorce” seemed to verify for the professionals that these types of cases were not serious enough to warrant criminal prosecution.

Likert Scale Findings on Court Professionals’ Attitudes

This section, the last section on findings from the current study, is a presentation and discussion of the Likert scale items on the professionals’ surveys. It is likely that criminal justice decision-makers’ attitudes and perceptions are both shaped by and shape their experiences and behavior. The purpose of this section, then, is to determine (1) court professionals’ overall attitudes as measured by Likert scale items; (2) whether factor analysis can group various Likert items into subscales; (3) whether (and how) the court workers Likert scale responses are related to their professional group identity (judges, prosecutors or public defenders); and finally (4) whether court workers Likert scale items are related to their rage and age. To date, little systematic research exists on how court professionals view
domestic violence, and variations between the three groups of professionals is virtually non-existent.

**Scale Development**

The author and the Project Director, Dr. Joanne Belknap, developed a number of Likert items and drew on a few existing items, to try to measure the attitudes of court professionals’ regarding victims, offenders and their own, and other court professionals’ behavior. The Likert procedure was chosen because of its ability to measure attitudes. As Babbie (1995: 184) states: “Likert scaling is a measurement technique based on the use of standardized responses categories (for, ‘strongly agree,’ ‘agree,’ ‘disagree,’ and ‘strongly disagree’) for several questionnaire items.” The Likert scale utilized consisted of a simple summated scale of items containing a 7-point response category ranging from “strongly disagree” (1) to “strongly agree” (7). In order to determine and control for what Babbie (1995) and Grimm and Wozniak (1990) refer to as a “response-set,” 12 of the 35 items were reverse “worded.” The means presented in the subscales for these 12 reverse “worded” items, however, are not reversed, thus “1” still represents “strongly disagree and “7” represents “strongly agree.”

In addition to its strength in measuring attitudes, another desirable feature of Likert scale items is that the “Likert-format items may be used appropriately in the construction of either indexes or scales” (Babbie 1995: 184). Factor analysis is the appropriate method to generate scales or subscales. Moreover, Hagan (1989: 225) states: “When a number of

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134 For a more detailed explanation, please refer back to footnote number 21 in the Methods Chapter.
variables have something in common, vary together, or are highly related to the same underlying dimension, then a factor or subscale has been identified.” To determine if any of the Likert items exhibited common features and could be grouped together to measure a specific concept, an orthogonal factor analysis with a varimax rotation was utilized. Orthogonal solutions with varimax rotation are better suited than oblique solutions for this exploratory project, because with orthogonal solutions it is assumed that the factors are independent of each other. Specifically, Greenberg (1979: 136) states: “Varimax rotation redistributes the variance in such a way as to simplify the complexity of each factor rather than each variable.”

In the initial orthogonal solution, a total of ten factors emerged from the Likert items, creating the existing “subscales” presented herein. The use of the term “subscale” is used as a descriptive term for labeling the items making up the System, Victim, or Treatment/Counseling scales. From the initial orthogonal solution, 19 Likert items, were left out of the models, thus we logically deduced if any of these nineteen items could be included within the 10 subscales without adversely affecting the Cronbach’s alpha reliability score. Three out of the nineteen Likert items were analytically determined not only to meet the constraint of not adversely affecting the Cronbach score, but also to “fit” within an existing subscale. The initial item, “Diversion out of the system is a helpful approach to reducing domestic violence,” was included within the Criminal Justice Techniques subscale. The item, “Victim representative should be allowed to speak on behalf of the victims,” was also included in the Criminal Justice Techniques subscale. The last item analytically included in an existing subscale, was “It is acceptable for defense attorneys to raise victim provocation
questions in the hearings," which was added to the Accountability subscale. Other than these three items, then, the orthogonal factor analysis "developed" the subscales.

In summary, then, the factor analysis resulted in 10 subscales, which we classified as follows: Criminal Justice Techniques, the role of extra-legal factors, confidence in legal factors, the effectiveness of temporary orders, victim's ability to leave, accountability, procedures to address victim reluctance, victim safety, and counseling and advocacy for victims and offenders. In order to further organize these ten subscales, they were grouped into three general scales, System Scales, Victim Scales, and Treatment/Counseling Scale (see Table 24 for a clearer description of the scales and subscales).

For each subscale, an overall multiple analysis of variance (MANOVA) and an individual item mean of variance analysis (ANOVA) by each professional group was calculated. The multivariate general linear models were estimated to determine if there were differences between the professionals on particular scaled items. Two-way multivariate analysis of variance (MANOVA), using Wilk's criterion, were followed by univariate F tests to examine group differences on the dependent variables (the Likert items). The "main effects" model was used in order to decrease Type II errors. The assumptions for the multivariate analysis of variance were met: (1) the observations on the dependent variable followed a multivariate normal distribution for each group, (2) the population covariance matrices for the dependant variables in each group were equal, and (3) the observations were independent.
Assessing Mean Level Differences across Court Professionals

Table 24 displays the results of the overall and comparison data between the court professional groups on mean levels of agreement with Likert Scale Items. Table 24 reports important differences on measures related to the overall models within the System Scales, Victim Scales and the Treatment/Counseling Scale. Because this exploratory research is interested in determining whether there are statistically significant differences between court professional by role (i.e., judge, prosecutor, or public defender), this section will only report those subscales where the multiple analysis of variance (MANOVA) exhibited statistically significant differences between groups. When the MANOVAs reported a model (subscale) as significant, the one-way analysis of variance (ANOVA) for each item within the scale was explored in more detail. Under the System scale, only one subscale, the Criminal Justice Techniques subscale, reported statistically significant differences between the groups of professionals. Interestingly, the multiple analysis of variance did not find statistically significant differences between the court professionals regarding (a) the Role of Extra Legal Factors (b) Confidence in Legal Factors, (c) the Deterrent Factor, or (d) the Temporary Orders subscales. Under the Victim Scales, however, all four of the subscales exhibited a statistically significant difference (Victim’s Ability to Leave, Accountability, the Processing of Reluctant Victims and Victim Safety) as did the Treatment/Counseling Scale (Counseling/Advocacy).

Criminal Justice Techniques. Overall, “Criminal Justice Techniques Subscale,” under the System Scale s, was highly significant (F=5.65, p<.001). There was a statistically significant difference between the court professionals for four out of seven items in this subscales.
Research has suggested that the issue of victim cooperation is a primary factor in the processing of domestic violence cases. Historically, the policy was that if the victims did not want to prosecute, the case would be dismissed. With more recent awareness of the volatile and repetitive abusive behavior found in domestic violence, however, some offices are creating policies where the victim does not have a say in whether the case should be dismissed (usually referred to as “no-drop” policies). The first item in Criminal Justice Techniques subscale addresses this issue. Specifically, the prosecutors (\(\bar{x} = 6.16\)) and judges (\(\bar{x} = 5.33\)) were more likely to agree that, prosecutors should not prosecute if the victim wants the case dismissed, than were the public defenders (\(\bar{x} = 3.25\)) (\(F = 12.62, p < .001\)).

In contrast to policies from the 1970s, contemporary policies are more likely to treat domestic violence as a criminal offense and less likely to divert these cases away from the criminal justice system. Presumably the current policies are based upon past reservations that the mediation and diversion approach failed to hold the offender accountable for his (or her) actions (Lerman 1984). The second statistically significant item in the Criminal Justice Techniques subscales was that the judges (\(\bar{x} = 5.00\)) and the prosecutors (\(\bar{x} = 4.22\)) were more likely to endorse mediation between the parties reduces woman battering than were the public defenders (\(\bar{x} = 3.52\)) (\(F = 3.89, p \leq .05\)). Similar to this finding, an item where the professionals reported a general consensus (thus there was not a statistically significant difference between the professional groups), was that diversion out of the criminal system is a helpful approach to reducing domestic violence. Interestingly, the judges were the most likely to agree that diversion (and mediation) may help reduce domestic violence (\(\bar{x} = 5.25\)) with the prosecutors (\(\bar{x} = 4.77\)) and public defenders (\(\bar{x} = 4.00\)) also agreeing with this.
statement but to a somewhat lesser extent. Seemingly, the judges, followed by the prosecutors, were most likely to report use of means other than criminal proceedings as effective in reducing domestic violence.

The next statistically significant difference between the professional groups within the Criminal Justice Techniques subscale was that victim representatives should be allowed to speak on behalf of the victims. The public defenders (M=2.45) were the least likely to agree that victim representatives should be utilized, followed by the prosecutors (M=4.66), and the judges were most likely to agree (M=5.66)(F=15.46, p<.001). The pro-arrest policy has unnecessarily “clogged” the courtroom docket was the final statistically significant item reported in the Criminal Justice Techniques subscale. The judges were the most likely to agree (M=6.00) followed by the prosecutors (M=4.38) and the public defenders (M=2.20), that the current pro-arrest policy has impeded the handling of courtroom dockets (F= 23.33, p≤.001).

Notably, while not reporting a statistically significant difference between the court professional groups, overall the professionals reported limited support for the belief that pro-arrest policies (1) take power away from domestic violence victims (M=4.46), and (2) the pro-arrest policies have resulted in victims being less likely to call the police (M=4.50). The court professionals overall, report that victims are less likely to call the police under a pro-arrest policy, presumably because the victim only wants the defendant to be taken away somewhere to “cool off” from the immediate situation, but not to be officially arrested. Thus, under the pro-arrest policy where the victims know an arrest is mandated, according to the court professionals, the victim will not call the police for assistance to avoid having the
defendant arrested. Perceived this way, the pro-arrest policy may be backfiring, possibly placing victims in more vulnerable and dangerous situations.

The court professionals, however, were not consistent in their belief that victim “know” the pro-arrest policy. The court professionals were asked in the interviews if they felt the victims knew about the pro-arrest policy (e.g., that an arrest is mandated). One of the public defenders reported that the “ghetto grapevine is quite effective in getting the word out,” suggesting that the victim’s knew if they called the police, someone would get arrested. However, another public defender responded that the victims were not aware of this policy: The victims simply want the argument to stop and have the police help them to get the person to calm down. But the process triggers an arrest and gets the defendant into the system. I don’t think most people comprehend the domestic violence policy. The defendant winds up getting caught in the red tape of the system. (Public defender)

Notably, there were no significant differences between the court professional groups regarding the remaining System Scales: the Role of Extra Legal Factors, Confidence in Legal Factors, the Deterrent Factor, and Temporary Orders. It is interesting that the Criminal Justice Techniques exhibit significant different responses between judges, prosecutors, and public defenders, and the remaining System Subscales do not.

Now turning to items measuring aspects about battering victims, it is useful to remember that now each subscale will be addressed individually. The issue of victims’ actions in domestic assault cases is quite complex. Research has reported that judges and other court professionals ask, “Why doesn’t the victim just leave the abusive relationship?” (Eaton and Hyman 1992; Ford, Rompf, Faragher and Weisenfluh 1995). However, unlike
violence between strangers, domestic violence by its very nature incorporates factors that contribute to the physical, psychological, and economic power and control that the defendant has over the victim (Asmus, Ritmeester and Pence 1991; Burris and Jaffe 1993).

Regarding the subscales classified under “Victim Subscales” it is noteworthy that all of the subscales (Victim's Ability to Leave, Accountability, Processing Reluctant Victims, and Victim Safety) were significant. Indeed, under all of these significant 5 subscales, only one individual Likert item was not related to professional identity (an item in Victim's Ability to Leave, stating that battered women could leave if they really wanted to).

**Victim’s Ability to Leave.** Overall, the Multiple Analysis of Variance (MANOVA) reported the subscale Victim’s Ability to Leave to be highly significant (F=4.91, p<.001). There was a statistically significant difference between the court professional groups for all of the items. Notably, though, the professionals reported overall means below 4.0 for all of the items. The first item where there was a statistically significant difference between the court professional groups was the item, it is hard for most battered women to leave abusive men (x̄=3.00) (F=6.27, p≤.01). Although the public defenders (x̄=3.79) were more likely to agree that it is difficult for victims to leave an abusive situation than the prosecutors (x̄=2.52) and the judges (x̄=2.08) were, overall, the respondents were not likely to agree with this statement.

In the interviews, one judge reported:

> At one point the victim loved the defendant and if he is now coming to court and professing his remorse that it will never happen again, the victim is hard-pressed to accept that and may choose not to leave this time. (Judge)

Even though there was a statistically significant difference between the reporting groups (i.e., judges, prosecutors and public defenders), overall they were not likely to agree

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that victims usually leave their abusive partner many times before leaving for good ($\bar{x}=2.90$) ($F=6.28, p<.01$). Specifically, the public defenders ($\bar{x}=3.39$) and prosecutors ($\bar{x}=3.00$) were more likely than the judges ($\bar{x}=1.72$) to report that victims leave their abusive partner many times before leaving for good. Alternative to the previous item where the question asked about the victim leaving an abusive partner, the next significant Likert item was battered women might stay with her husband because she feels dependent upon him ($F=3.13, p<.01$). In this case, the public defenders ($\bar{x}=3.08$) were more likely than the prosecutors ($\bar{x}=1.64$) or judges ($\bar{x}=1.58$), to report that battered women might stay in an abusive situation because they feel dependent upon the abuser. It should be noted, however, that the overall mean ($\bar{x}=2.28$) does indicate disagreement with this statement. Moreover, the overall mean ($\bar{x}=2.16$) of the final item in the subscale to be statistically significant, battered women who remain in an abusive relationship must not be suffering, suggests that the respondents do not agree with this statement ($F=12.12, p<.001$). In comparing the groups, the public defenders ($\bar{x}=3.00$) were the most likely to agree that battered women who stay in an abusive relationship must not be suffering, followed by the prosecutors ($\bar{x}=1.55$) and finally the judges ($\bar{x}=1.41$). While there was not a statistically significant difference between the court professional groups, the public defenders ($\bar{x}=3.66$) and prosecutors ($\bar{x}=3.38$), then the judges ($\bar{x}=2.33$), were more likely to agree with the belief that battered women could simply leave abusive husbands if they really wanted to.

Accountability. Overall, the subscale Accountability was highly significant ($F=7.78, p<.001$). Moreover, all of the items in the subscale were also statistically significant. However, all but one item reported an overall mean of less than 3, suggesting disagreement.
with the particular items. This subscale addresses whether the court professionals hold the
defendant or the defendant and the victim accountable for the abusive situation. The court
professionals reported overall agreement (\( \bar{x} = 5.51 \)), that it is acceptable for defense attorneys
to raise victim provocation questions in hearings (\( F = 22.99, p \leq .001 \)). Specifically, the public
defenders (\( \bar{x} = 6.58 \)) were more likely to report agreement with this item than were the judges
(\( \bar{x} = 5.66 \)) and the prosecutors (\( \bar{x} = 4.00 \)). The public defenders (\( \bar{x} = 3.20 \)) were more likely to
report that victims are sometimes responsible for violence committed against them than were
the prosecutors (\( \bar{x} = 2.16 \)) and judges (\( \bar{x} = 2.00 \)), however, the overall mean suggests that the
respondents did not agree with this item (\( \bar{x} = 2.59 \)) (\( F = 3.75, p \leq .05 \)). The next item to present
a statistically significant relationship, reported that both parties are responsible for the abuse
(\( F = 9.65, p \leq .01 \)). A comparison of the means found that the public defenders (\( \bar{x} = 3.48 \)) were
more likely than the prosecutors (\( \bar{x} = 2.05 \)) or the judges (\( \bar{x} = 1.25 \)) to indicate that both the
victim and defendant are responsible for the abusive situation. However, the overall mean
suggests that the professionals largely disagree with this item (\( \bar{x} = 2.50 \)). The final item of
the Accountability subscale, family violence should be considered a criminal activity, was
statistically significant. However, the overall mean again suggests that the respondents did
not agree with the item (\( \bar{x} = 2.25 \)) (\( F = 7.19, p \leq .01 \)). The public defenders (\( \bar{x} = 3.04 \)) were more
likely than the prosecutors (\( \bar{x} = 1.83 \)) or judges (\( \bar{x} = 1.33 \)) to agree that family violence should
be considered a criminal activity.

**Processing Reluctant Victims.** Existing research notes that some women who have been
abused believe that the cycle of abuse is normal and their fault, or that the batterer will stop
the abuse. Thus they often are reluctant to cooperate in a criminal case against their abusers

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(Welch 1994). Recently established policies to effectuate victim cooperation include the use of subpoenas or, in extreme cases, holding the victim in contempt of court for nonparticipation. The Processing Reluctant Victims subscale indicates that court professionals believe that battering victims should be required to testify in these cases. A multiple analysis of variance (MANOVA) reported that the subscale, the Processing Reluctant Victims was statistically significant ($F=4.13$, $p<.01$).

The first of two items to address the issue of reluctant victims included battered women should be subpoenaed or required to testify in trials ($F=8.25$, $p<.01$). The prosecutors ($\bar{x}=5.16$) were the most likely to require victim participation in domestic violence trials. While the judges ($\bar{x}=4.33$) also reported being likely to require victim cooperation, the public defenders ($\bar{x}=2.79$) were the least likely to report battered women should be subpoenaed or required to testify in domestic violence trials. The next item in the Reluctant Victim subscale indicates that those battered women who refuse to testify against batterers should be held in contempt of court ($F=3.71$, $p<.05$). The prosecutors ($\bar{x}=3.11$) were more likely than the judges ($\bar{x}=2.16$) or public defenders ($\bar{x}=1.79$) were to agree that noncompliant victims should be held in contempt of court. The overall mean, however, suggests that the respondents generally disagree with this item ($\bar{x}=2.31$).

**Victim Safety.** A MANOVA reported that the Victim Safety subscale was highly significant ($F=14.50$, $p<.001$). The public defenders were much more likely to report that prosecutors often exaggerate the violence against battered women ($\bar{x}=6.58$), than were the judges ($\bar{x}=5.66$) or prosecutors ($\bar{x}=4.00$) ($F=22.99$, $p<.001$). Moreover, the public defenders ($\bar{x}=5.56$) were likely to report that they worry about acquitted batterers later killing victims.
while the prosecutors ($\bar{x}=2.66$), followed by the judges, tended to disagree with this item ($\bar{x}=3.50$) ($F=23.45$, $p<.001$). Similar to the previous item, the public defenders ($\bar{x}=4.58$) were the most likely to report that **bail commissioners should contact victims about batterer's release** ($F=9.18$, $p<.01$). The prosecutors ($\bar{x}=2.66$) and judges ($\bar{x}=2.25$) reported much lower agreement with the statement that bail commissioners contacting the victims before the batterers release.

**Counseling/Advocacy.** The final subscale to be reported is the Counseling/Advocacy subscale. Making use of victim advocates has been reported to both assist in case preparation and to reduce the victim's anxiety during prosecution (Healey, Smith and O’Sullivan 1998). Higher scores in this subscale reflect that respondents reported beliefs that counseling or victim advocacy have positive outcomes for woman battering cases. A MANOVA reported the scale to be highly significant ($F=4.84$, $p<.001$).

The judges ($\bar{x}=5.33$) and public defenders ($\bar{x}=5.08$) reported being more likely to suggest that **counseling batterers reduces woman battering** than the prosecutors did ($\bar{x}=3.83$) ($F=3.89$, $p<.05$). Moreover, the judges ($\bar{x}=5.25$) were much more likely to agree that **victim advocates are important in successful case prosecution**, than were the prosecutors ($\bar{x}=3.61$) or the public defenders ($\bar{x}=2.70$) were ($F=8.37$, $p<.01$). The final item to be significant in the Counseling/Advocacy subscale was whether the respondents were **confident that the AMEND program helps batterers stop the abusive behavior** ($F=6.46$, $p<.01$). The judges ($\bar{x}=4.66$) were more likely than the public defenders ($\bar{x}=2.95$) and prosecutors ($\bar{x}=2.61$) to have confidence that the AMEND program can help the batterers stop the battering.
Notably, the judges were more likely to support counseling or advocacy than did the other court professionals.

**Multivariate Analysis of Covariance**

The purpose of this exploratory research is to develop measures, therefore multivariate analysis of covariance (MANCOVA) in contrast to general factorial were conducted to determine whether there were any extraneous effects (Hair, Anderson, Tatham and Black 1987). Because the sample size is limited and to avoid superficial inflation of the statistical tests, only two extraneous effects (or covariants) will be considered, age and race. MANCOVAs were conducted for each subscale developed, however, none of the multivariate tests were found to exhibit an interaction effect upon the dependent variable. The following chapter will discuss responses to the research questions, offer policy implications suggested by the findings, and discuss possible means for future research.
CHAPTER 5
DISCUSSION

The purpose of this exploratory study was to address court professionals' attitudes about and responses to woman battering cases. To do this, interviews and self-report survey data of court professionals, regarding their level of knowledge and attitudes toward domestic violence were designed, conducted, and analyzed. Specifically, 14 judges, 18 prosecutors, and 31 public defenders in a large urban court (in Cincinnati, OH) took part in this study. Although this study used a sample of only one court and, thus, cannot necessarily be generalized to other populations or regions, the results serve as a starting point for better understanding the perceptions, attitudes, and behaviors held by municipal court professionals regarding intimate partner battering. Moreover, the results of the study may prompt and aid researchers to investigate providing educational services to assist court professionals in making decisions related to intimate partner abuse. The first part of this chapter is an assessment of how the findings answered the research questions outlined in Chapter 2. The second section of this chapter is a presentation of the policy implications suggested by the findings. The final section of this chapter is a discussion of the direction for future research on the court processing of intimate battering partner cases.
Research Questions Addressed

First Research Question.

The first research question asked, "What roles do legal and extra legal factors play in decision-makers self-reported behaviors and attitudes?" Variables within tables 2, 7, and 24 addressed this question. Legal factors where there was a statistically significant difference between the court professional groups included current offense seriousness, prior record of the defendant, legal sufficiency of evidence, and whether the victim was threatened with bodily harm. Notably, the judges were the least likely of the three groups to report that legal variables such as, current offense seriousness and defendant's prior record would influence case outcome, except however, when there was a "legal sufficiency of evidence" present, the judges and prosecutors reported this influencing case outcome. While all the professionals reported that the victim being threatened with bodily harm as an influencing factor in case outcome, the judges were more likely than the prosecutors and public defenders to report this.

Extra legal factors where there was a statistically significant relationship between the professional groups included the victim’s and defendant’s attitudes, the victim’s wishes, and the couple’s history of domestic violence. The prosecutors were most likely to report that the batterer’s attitude, particularly, if the defendant was belligerent towards them, would affect either case outcome or the decision to prosecute or convict a batterer. Moreover, the prosecutors and public defenders were most likely to report that a defendant’s remorse would affect case outcome. Regarding the victim’s attitude, the prosecutors again, were the most likely of the court professionals to report that a belligerent victim would influence case
outcome. Alternatively, the judges were the least likely of the professional groups to be influenced by the batterer’s or victim’s attitude. Similarly, while the judges were the least likely, the public defenders and prosecutors reported that victim’s wishes were likely to be a factor in determining whether a batterer should be prosecuted or convicted. The prosecutors, followed by the public defenders and judges, reported that the couple’s history of domestic violence influenced case outcome. When assessing multivariate analysis of variance, neither subscale, The Role of Extra Legal Factors or Confidence in Legal Factors was statistically significant. Seemingly, from the findings reported herein, the judges were the least likely, with the prosecutors being the most likely, to report legal and extra legal factors as influencing the case outcome.

Second Research Question.

The second research question asked, “How do decision-makers rate victim advocate and batterer treatment programs?” Variables within tables 2, 3, 10, 11, and 24 examine this question. Overall, the respondents reported that the AMEND report and the opinion of the victim advocate had minimal influence in determining whether a batterer should be prosecuted or convicted or that the AMEND report or victim advocate testimony was even used in court. Moreover, in listing the primary benefits of the treatment programs, less than one-fifth of the professionals reported awareness, education and counseling as beneficial aspects of the treatment programs. Decisively, the public defenders reported the largest drawback of the treatment programs, including that they were cost prohibitive, while the judges and prosecutors highest reported drawback included that the programs were not effective.
The lack of confidence the respondents have in the treatment programs is further evidenced by the estimates of ineffectiveness of the programs in reducing woman battering. For example, although the judges reported probation with counseling or probation with AMEND as higher than the other respondents, the judges still ranked the dispositions as being ineffective. Within the Counseling/advocacy subscale, however, the judges were more likely than the other professionals to report that the AMEND program stops batterers, counseling reduces woman battering and victim advocacy is important in successful case prosecution. In contrast, the prosecutors consistently were the least likely of the respondents to agree with the subscale measures.

**Third Research Question.**

The third research question asked, "How do court professionals view the victim's role in the court process?" Factors within tables 5, 7, and 24 examine this question. Overall, the prosecutors more than the other respondents place a heavy emphasis on the victim's behavior as affecting case outcome. The prosecutors were the most likely to report that the victims are not present in the courtroom, however, if they are present in the courtroom, they refuse to testify. Notably, though, the prosecutors were far more likely (over twice as much as the judges and close to four times more than the public defenders) to report that the victim had been threatened if they testify. Further, the prosecutors were most likely of the three groups to report that (a) if the victim testify against the defendant or (b) if the victim did not testify against the defendant, would affect case outcome. From these findings it appears, the prosecutors purport the victim's behavior, whatever it may be, will affect case outcome. Interestingly, the judges (following the prosecutors), reported that if the victim testified
against the defendant this will affect the outcome of the case, presumably toward conviction. In contrast to the prosecutors, however, the judges were the least likely of the three groups to report that case outcome would not be affected if the victim did not testify against the defendant.

Within Processing the Reluctant Victim subscale, the prosecutors consistently rated victim behavior as more important than the other court professionals reported. Specifically, the prosecutors were in favor of subpoenaing or requiring victims to testify in trials. Although the prosecutors were more likely than the others to advocate for holding the victims in contempt of court if they refuse to testify, all of the respondents disagreed with this practice. Overwhelmingly, the prosecutors viewed the victims (whether they participate in the court process or not) as a central element to the prosecution of intimate partner battering cases.

Fourth Research Question.

The fourth research question asked, “To what degree do court professionals report victim-blaming attitudes and experiences?” Variables within tables 3, 6, and 24 examine this question. While the sample size was too small to conduct bivariate analyses, it is interesting to note that of the fourteen reported obstacles leading to conviction in this open-ended question, five of them refer to “victim behavior” as obstacles leading to conviction (e.g., victim uncooperative, victim recants, victim reluctance to prosecute, victim fail to appear and victim wants case dismissed). Overall, the public defenders were more likely to report these victim behaviors as presenting obstacles to conviction. Further, the public defenders were more likely than the judges and prosecutors to report that impeachment of the prosecuting
witness' testimony is utilized in court. While not necessarily a "blaming" technique, discrediting the victim seems to be a shrewd tactic at the victim's expense.

Viewing the Victim's Ability to Leave subscale and the Accountability subscale, it appears the court professionals did not report "victim blaming" attitudes. The public defenders, however, were more likely than the other respondents to report that battered women who remain in abusive relationships must not be suffering and that battered women could simply leave abusive husbands if they really wanted to. Further, while the public defenders were more likely to report that victims are sometimes responsible for violence committed against them and that both parties are responsible for the abuse, they still did not agree with the statement.

Policy Implications

This section addresses the policy implications from this research study and highlights four themes derived from the text. Specifically the themes include: (1) the need for professional training on processing of domestic violence cases; (2) the development of measures to pursue cases without victim participation; (3) the possibility of creating a more formalized structure between the victim advocacy agency and the court; and (4) the creation of more resources, specifically more prosecutor positions.

Court Professional Training

The results presented herein suggest that members of the sample population may benefit from more education and awareness about the dynamics of domestic violence. Preventative programs and services should be provided to decision-makers to educate them about the nature of an abusive relationship and the necessary methods to process these cases.
Variation in court responses may be reflective of implementation problems or of uncertainty about the role of the criminal justice system in domestic violence cases. Police, due to state law in Ohio, have standards regarding required domestic violence training. No such Ohio state policies exist regarding domestic violence training for judges, prosecutors and public defenders.

Existing research has reported that it is not the disposition itself that generally counts, but whether or not the victims believe that the court's action stopped the physical abuse and/or the defendant received the appropriate punishment or treatment (Smith 1988). No other social institution like the criminal legal system has the clout to protect victims and to force batterers to face the consequences of their offense (Waits 1985). Ideally, the successful prosecution of a battered women requires both an effective legal system and a committed complainant. In the absence of a participating victim, however, the system needs to make other means available for prosecution of the case. If the processing of these cases relies entirely on victim participation, which often times is absent, the batterers will continue to circumvent the law.

Court professionals need to understand the power differential between the abuser and the victim to make responsible referrals and effectively process intimate battering cases. For example, while the abused woman wants the abuse to stop, and to that extent she may cooperate with the state, but she may not want to see the batterer punished for his behavior. Often, she will resist "contributing" to increasing the likelihood of his criminal record, jail, fines, and other punitive results. There are many reasons why a battered woman would resist criminal sanctions; she may have financial considerations that make jail a hardship, fear that
the defendant will lose his job, feel responsible for the abuse, or suspect that the defendant will retaliate (see Ferraro and Johnson 1983).

**Processing of Cases Without Victim Cooperation**

Traditionally, the victim’s willingness to cooperate has been viewed as central to the likelihood of obtaining a conviction. Within the current sample, 80 percent of the decision-makers reported “victim behavior” as being an obstacle to conviction, presumably because the victim was “not cooperating” with the criminal process. However, knowing that some victims are reluctant to prosecute their abusive batterers, measures should be undertaken to utilize evidence other than relying entirely on victim testimony. Dismissing a case simply because the victim did not appear, overlooks other available methods, such as the use of police testimony, photographs taken at the scene (e.g., of the woman’s physical condition and condition of the place), interviews with witnesses other than the victim, copies of all medical records and of the 911 tape. Prosecutors achieve better results when they deal with victims in a sensitive manner and use specific techniques for introducing evidence when the victim is not present. For example, Gwinn and O’Dell reported that although 911 tapes were not allowed in the first few cases, judges eventually began admitting them and “the true emotion of the crime started to be felt in the courtrooms in San Diego as never before” (p. 1507). Further, Gwinn and O’Dell report that as judges become conditioned to trying cases without the victim and admitting certain types of evidence under the newly acquired exceptions to the hearsay rules, cases became much easier to prove. Today, Gwinn and O’Dell report that although almost 60 percent of their cases involve victims who are uncooperative or absent, conviction rates are close to 90 percent.
Domestic violence cases are sometimes akin to other cases in which victims may believe that they have more to lose than to gain by testifying (Hanna 1996). For example, organized crime, gang and drug-related offenses, and rape crimes often will involve witnesses who face intimidation or perceive that they will be in danger if they testify (Asmus, Ritmeester, and Pence 1991; Hanna 1996). Yet, rather than allow these crimes to go unprotected, some prosecutors have developed realistic strategies to respond to witness reluctance. Similarly, prosecutors should develop strategies for domestic violence cases that in addition to addressing the victim's concerns, do not allow the victim's level of cooperation to be the sole or primary factor in deciding whether to prosecute. Seemingly, one of the most important ways to curb domestic violence is to ensure that abusers understand that society will not tolerate their behavior and that they will be punished.

Legislative changes in current policies toward drunk driving illustrate how criminating domestic violence could improve public education, deterrence, and assailant control (Steinman 1991). The possibility of swift criminal sanctions, coupled with other societal responses—such as the activism of the organization Mothers Against Drunk Driving (MADD)—educated the public about the dangers of drunk driving. Once criminal sanctions became a perceived threat, there was a greater likelihood that dangerous people would either stop driving drunk or be caught and sanctioned. Aggressive prosecution of domestic violence cases can have a similar effect. To be effective, however, reluctant or uncooperative victims should not “get off easier” than batterers whose victims are more willing to participate in the legal process. Specifically, Steinman (1991: 1523) states: “Incarceration is the best way to control assailants, express societal disapproval and mandate intensive
Inconsistent treatment diminishes the strong message that the state is trying to send and gives batterers even more incentive to intimidate their partner into not cooperating with the criminal process.

Creating Victim Support Projects

The court professionals in this sample, overwhelmingly reported disdain and even distrust of the current victim advocates. Feasibly, this distrust arises from the court professionals resenting the victim advocates “doing their job.” The establishment of victim support projects may decrease this resentment. Much like other victims of violent crimes, battered women enter the criminal justice system unaware of the burdens of the process. Like other victims, battered women are unprepared for the number of court appearances, continuances, and the amount of protection the defendant receives for his constitutional rights. Victim support projects consist of victim advocates who work closely with victims and prosecutors to ease a victim’s experience within the criminal justice system and hopefully encourage victim cooperation (Corsilles 1994). The role of victim support projects should be provided to monitor victim safety and to assist victims with the criminal justice system process from the time of the initial assault through trial and/or probation (Healey, Smith and O’Sullivan 1998). These advocates explain the legal process to the victim, provide counseling if necessary, accompany the victim to court, and not coincidentally, aid prosecutors in the process by increasing victim cooperation and improving the quality of victim testimony. Moreover, a victim support project will help the victim get in touch with agencies that will assist on the road to recovery.
When victim advocates counsel and support the victims on other facets of their lives, victims often become more amenable to testifying (Asmus, Ritmeester and Pence 1991; Gwinn and O’Dell). Corsilles (1994: 878) reported, “when victims receive support from victim advocates and are relived of the responsibility to press complaints forward, more victims end up cooperating with the state.”

**Need for Additional Prosecutors**

The decision to publically prosecute a case involves a calculated allocation of court resources. Typically, prosecutors use their discretion to determine which kinds of private trouble will receive public attention and therefore require expenditures of precious court resources, essentially, “maximizing the ratio of convictions to manpower invested” (Corsilles 1994: 857). One court professional, a prosecutor, in this sample reported that “if more resources were made available, the case outcome would be different” (presumably fewer dismissals). Specifically, the prosecutors reported that their domestic violence caseload is so heavy, that they need two prosecutors, instead of one per courtroom. This is significant: A prosecutor unable to handle his or her caseload could significantly affect case outcome in a negative manner for the victims. Given the limited time, a prosecutor spends less time preparing cases, and less time maintaining contact with victims. In turn, this likely increases the risk of the victim continuing in an abusive situation and leading to a further perpetuation of the cycle of violence. Seemingly, having more prosecutors handle cases, would allow for a more efficient means to case processing, and avoid the current institutionalized “anti-victim” stance, where there are almost twice as many public defenders (n=31) available for batterers as there are prosecutors (n=18) available for victims.
Future Research Implications

It is hoped that this study, a pioneering, systematic, empirical study on the court processing of intimate partner battering cases, can not only be used to help direct policy, but to motivate and guide subsequent research on this largely ignored topic. Research of this type, on the court responses to intimate partner battering, need to be conducted and replicated in more jurisdictions, to allow for regional differences. Also, this research is necessary in rural courts, unlike the urban focus of the current study.

Research has suggested that the seriousness of a crime and its evidentiary strength influence the prosecutors' ability to process particular cases (Blumberg 1967; Neubauer 1974). Thus, in addition to research on other jurisdictional types (e.g. rural areas), future research should delineate if there are attitudinal differences in the court processing of misdemeanor and felony cases. Although the vast majority of domestic violence cases are filed as misdemeanors (even when circumstances warrant felony charges), it would be interesting to empirically determine if those court professionals who process felony intimate partner battering cases are similar in their attitudes and practices as those court professionals who process misdemeanor cases.

Another step to understanding how court professionals process domestic violence cases would be to collect outcome (e.g., sentencing) data in combination with attitudinal data on individual cases processed by the court professionals. Converging attitudinal and official outcome data would provide a more comprehensive understanding into the court professionals' decision-making in intimate partner battering cases. Specifically, collecting multiple types of data will provide information regarding not only how the professionals “think” they process these cases, but
more accurately capture how they actually process these cases. Utilizing these methods would ensure a more complete picture of how and why the courts process intimate partner battering cases, and what factors (independent variables) are related to the case outcome (the dependent variable).

This study points to the importance of strong, coordinated systems for conducting research on domestic violence. But this coordination is also necessary for practical purposes: the combined impact of arrest, incarceration and adjudication may send a stronger message to the batterer about the seriousness of his (or her) behavior. It is hoped that the detailed information and data reported in this dissertation will help guide other researchers' efforts to investigate the court responses to and processing of intimate partner battering cases, as well as help practitioners to process these cases more fairly and successfully.
Table 1. Description of Professional Sample (N=63)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judges</th>
<th>Prosecutors</th>
<th>Public Defenders</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
</tr>
<tr>
<td>Sex</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>45</td>
<td>71.4</td>
<td>10</td>
<td>71.4</td>
</tr>
<tr>
<td>Female</td>
<td>18</td>
<td>28.6</td>
<td>4</td>
<td>28.6</td>
</tr>
<tr>
<td>Race</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>African-American</td>
<td>13</td>
<td>20.6</td>
<td>4</td>
<td>28.6</td>
</tr>
<tr>
<td>Asian</td>
<td>1</td>
<td>1.6</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Caucasian</td>
<td>48</td>
<td>76.2</td>
<td>10</td>
<td>71.4</td>
</tr>
<tr>
<td>Hispanic</td>
<td>1</td>
<td>1.6</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Marital Status</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single</td>
<td>10</td>
<td>16.1</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Married</td>
<td>50</td>
<td>80.6</td>
<td>13</td>
<td>92.9</td>
</tr>
<tr>
<td>Divorced</td>
<td>2</td>
<td>3.3</td>
<td>1</td>
<td>7.1</td>
</tr>
<tr>
<td>Age$^b$ ($\bar{x}$)</td>
<td>43.8</td>
<td>46.2</td>
<td>40.4</td>
<td>44.7</td>
</tr>
<tr>
<td>Years in Office$^c$ ($\bar{x}$)</td>
<td>7.8</td>
<td>3.7</td>
<td>8.3</td>
<td>9.4</td>
</tr>
<tr>
<td>Interview Length (in hours)$^d$ ($\bar{x}$)</td>
<td>1.8</td>
<td>2.1</td>
<td>1.8</td>
<td>1.7</td>
</tr>
</tbody>
</table>

$^a$ The participation rate was 100% for both the judges and prosecutors. One public defender declined participation, thus the participation rate for the public defenders was 96.8%. The overall participation rate was 98.4%.

$^b$ Range is 25-65 years old.

$^c$ Range is 2 months to 24 years.

$^d$ Range was 45 minutes to 3.5 hours.
Table 2. Professionals’ Estimates of Factors that Should be Considered in Determining Whether a Batter Should be Prosecuted or Convicted (1=low extent; 5= high extent) (df=2)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
<th>F Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=51</td>
<td>n=11</td>
<td>n=16</td>
<td>n=24</td>
<td></td>
</tr>
<tr>
<td>Current offense seriousness</td>
<td>4.6</td>
<td>3.8</td>
<td>4.9</td>
<td>4.7</td>
<td>3.84*</td>
</tr>
<tr>
<td>Severity of injury</td>
<td>4.5</td>
<td>4.1</td>
<td>4.9</td>
<td>4.5</td>
<td>2.68</td>
</tr>
<tr>
<td>Past record of batterer</td>
<td>3.9</td>
<td>2.1</td>
<td>4.9</td>
<td>3.9</td>
<td>17.49***</td>
</tr>
<tr>
<td>Fact that the behavior violated the law</td>
<td>3.7</td>
<td>4.6</td>
<td>3.5</td>
<td>3.4</td>
<td>3.92*</td>
</tr>
<tr>
<td>The batterer's attitude</td>
<td>3.2</td>
<td>2.8</td>
<td>4.1</td>
<td>2.7</td>
<td>2.82*</td>
</tr>
<tr>
<td>Victim's wishes</td>
<td>3.1</td>
<td>2.1</td>
<td>3.1</td>
<td>3.7</td>
<td>6.08**</td>
</tr>
<tr>
<td>Likelihood of conviction</td>
<td>2.7</td>
<td>1.0</td>
<td>2.8</td>
<td>2.8</td>
<td>2.79</td>
</tr>
<tr>
<td>AMEND report</td>
<td>1.9</td>
<td>1.2</td>
<td>2.9</td>
<td>1.6</td>
<td>9.78***</td>
</tr>
<tr>
<td>Victim advocate opinion</td>
<td>1.6</td>
<td>1.2</td>
<td>2.3</td>
<td>1.3</td>
<td>11.80***</td>
</tr>
</tbody>
</table>

1 Amend is the program for batterers run through the local YWCA.

*p < .05
**p < .01
***p < .001
Table 3. Degree Various Methods are Used in Court (1=very unlikely; 10=very likely) (df=2)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
<th>F Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=54</td>
<td>n=12</td>
<td>n=18</td>
<td>n=24</td>
<td></td>
</tr>
<tr>
<td>Eyewitness testimony</td>
<td>7.4</td>
<td>7.8</td>
<td>7.3</td>
<td>7.1</td>
<td>0.29</td>
</tr>
<tr>
<td>“Excited utterances” at the scene¹</td>
<td>6.8</td>
<td>7.8</td>
<td>6.7</td>
<td>6.3</td>
<td>1.71</td>
</tr>
<tr>
<td>Impeachment of the prosecuting witness</td>
<td>6.8</td>
<td>6.5</td>
<td>5.6</td>
<td>7.8</td>
<td>4.44*</td>
</tr>
<tr>
<td>Use of photos of injuries</td>
<td>6.7</td>
<td>6.6</td>
<td>6.7</td>
<td>6.6</td>
<td>0.02</td>
</tr>
<tr>
<td>Use of signed affidavit/complaint</td>
<td>6.0</td>
<td>6.0</td>
<td>6.4</td>
<td>5.7</td>
<td>0.33</td>
</tr>
<tr>
<td>Police reports</td>
<td>5.9</td>
<td>5.6</td>
<td>6.6</td>
<td>5.7</td>
<td>0.63</td>
</tr>
<tr>
<td>Rule 29²</td>
<td>5.7</td>
<td>5.6</td>
<td>5.1</td>
<td>6.2</td>
<td>0.69</td>
</tr>
<tr>
<td>Use of medical records</td>
<td>4.5</td>
<td>3.4</td>
<td>5.4</td>
<td>4.3</td>
<td>2.87</td>
</tr>
<tr>
<td>Use of 911 tapes</td>
<td>4.4</td>
<td>4.6</td>
<td>4.6</td>
<td>4.1</td>
<td>0.32</td>
</tr>
<tr>
<td>AMEND report</td>
<td>2.7</td>
<td>3.9</td>
<td>2.2</td>
<td>2.3</td>
<td>3.00</td>
</tr>
<tr>
<td>Character testimony on behalf of</td>
<td>2.7</td>
<td>3.5</td>
<td>2.4</td>
<td>2.5</td>
<td>1.40</td>
</tr>
<tr>
<td>defendant</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Use of victim advocate testimony</td>
<td>1.6</td>
<td>1.3</td>
<td>1.6</td>
<td>1.8</td>
<td>0.62</td>
</tr>
</tbody>
</table>

¹ This rule, an exception to the general rule against hearsay, serves to admit into evidence any statements made by the victim while she was “under the stress or excitement caused” by the domestic violence. This rule is not limited to mere impeachment purposes, but can be used to proffer substantive evidence.

² The case went to trial, testimony was taken, however, “reasonable minds” concluded that the state could not prove their case (e.g., victim pleads the 5th Amendment or victim recanted their testimony).

*p ≤ .05

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Table 4. Level/Types of Evidence Needed to Adequately Pursue a Domestic Violence Case

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total N=40</th>
<th>Prosecutor n=18</th>
<th>Public Defender n=22</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>(n)</td>
<td>%</td>
</tr>
<tr>
<td>Meets all elements (evidence)</td>
<td>25.0</td>
<td>10</td>
<td>22.2</td>
</tr>
<tr>
<td>Proof beyond reasonable doubt</td>
<td>15.0</td>
<td>6</td>
<td>16.7</td>
</tr>
<tr>
<td>Victim's statements/testimony</td>
<td>15.0</td>
<td>6</td>
<td>33.3</td>
</tr>
<tr>
<td>Probable cause</td>
<td>12.5</td>
<td>5</td>
<td>27.8</td>
</tr>
<tr>
<td>Credible witness</td>
<td>10.0</td>
<td>4</td>
<td>5.6</td>
</tr>
<tr>
<td>Presumption of innocence</td>
<td>10.0</td>
<td>4</td>
<td>0.0</td>
</tr>
<tr>
<td>Enough to defeat Rule 29</td>
<td>2.5</td>
<td>1</td>
<td>5.6</td>
</tr>
</tbody>
</table>

1 This table represents the written responses to the question: “What level of evidence do you feel you need in order for you to adequately pursue a defense in a domestic violence case?” This item was only on the prosecutors’ and public defenders’ surveys, not on the judges’ surveys. Participants may have reported more than one response.

2 The case went to trial, testimony was taken, however, “reasonable minds” concluded that the state could not prove their case (e.g., victim pleads the 5th Amendment or victim recanted their testimony).
Table 5. Professionals' Estimates of the Percent of Cases Regarding Aspects of Victims Courtroom Testimony (df=2)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
<th>F Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=50</td>
<td>n=11</td>
<td>n=17</td>
<td>n=22</td>
<td></td>
</tr>
<tr>
<td>Testify only if subpoenaed</td>
<td>56.2</td>
<td>57.0</td>
<td>57.2</td>
<td>55.0</td>
<td>0.02</td>
</tr>
<tr>
<td>Are present for plea</td>
<td>46.9</td>
<td>46.0</td>
<td>48.8</td>
<td>45.7</td>
<td>0.04</td>
</tr>
<tr>
<td>Are not present</td>
<td>44.8</td>
<td>42.3</td>
<td>55.5</td>
<td>38.7</td>
<td>3.23*</td>
</tr>
<tr>
<td>Testify against the defendant</td>
<td>38.1</td>
<td>30.0</td>
<td>36.5</td>
<td>43.9</td>
<td>1.15</td>
</tr>
<tr>
<td>Change their mind</td>
<td>31.8</td>
<td>21.4</td>
<td>30.6</td>
<td>38.1</td>
<td>2.03</td>
</tr>
<tr>
<td>Undermine the prosecutor's case</td>
<td>31.8</td>
<td>26.5</td>
<td>37.9</td>
<td>29.7</td>
<td>0.89</td>
</tr>
<tr>
<td>Testify for the defendant</td>
<td>20.2</td>
<td>16.1</td>
<td>14.9</td>
<td>26.7</td>
<td>1.40</td>
</tr>
<tr>
<td>Refuse to testify</td>
<td>18.2</td>
<td>10.1</td>
<td>27.1</td>
<td>15.8</td>
<td>3.48*</td>
</tr>
<tr>
<td>Been threatened by defendant if they testify</td>
<td>17.1</td>
<td>15.0</td>
<td>32.5</td>
<td>8.9</td>
<td>7.56**</td>
</tr>
</tbody>
</table>

*p < .05

**p < .01
<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=54</td>
<td>n=12</td>
<td>n=18</td>
<td>n=24</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>(n)</td>
<td>%</td>
<td>(n)</td>
</tr>
<tr>
<td>Lack of evidence (no corroboration)</td>
<td>53.7</td>
<td>29</td>
<td>75.0</td>
<td>9</td>
</tr>
<tr>
<td>Victim uncooperative</td>
<td>40.2</td>
<td>22</td>
<td>8.3</td>
<td>1</td>
</tr>
<tr>
<td>Failure to appear</td>
<td>29.6</td>
<td>16</td>
<td>33.4</td>
<td>3</td>
</tr>
<tr>
<td>Victim recants/changes testimony</td>
<td>27.8</td>
<td>15</td>
<td>28.8</td>
<td>4</td>
</tr>
<tr>
<td>Victim reluctance</td>
<td>22.3</td>
<td>12</td>
<td>50.0</td>
<td>6</td>
</tr>
<tr>
<td>Decision-maker tactics</td>
<td>20.4</td>
<td>11</td>
<td>16.6</td>
<td>2</td>
</tr>
<tr>
<td>Current laws</td>
<td>13.0</td>
<td>7</td>
<td>0.0</td>
<td>0</td>
</tr>
<tr>
<td>Victim want case dismissed</td>
<td>11.2</td>
<td>6</td>
<td>8.3</td>
<td>1</td>
</tr>
<tr>
<td>Victim/defendant back together</td>
<td>7.5</td>
<td>4</td>
<td>16.6</td>
<td>2</td>
</tr>
<tr>
<td>Defendant not guilty</td>
<td>5.6</td>
<td>3</td>
<td>8.3</td>
<td>1</td>
</tr>
<tr>
<td>Mutual combat</td>
<td>3.8</td>
<td>2</td>
<td>0.0</td>
<td>0</td>
</tr>
<tr>
<td>U.S. Constitution</td>
<td>3.7</td>
<td>2</td>
<td>0.0</td>
<td>0</td>
</tr>
<tr>
<td>Victim afraid</td>
<td>1.9</td>
<td>1</td>
<td>8.3</td>
<td>1</td>
</tr>
<tr>
<td>Punishment not fit the crime</td>
<td>1.9</td>
<td>1</td>
<td>0.0</td>
<td>0</td>
</tr>
</tbody>
</table>

1 When the variables (victim uncooperative; failure to appear; victim recants/changes testimony; victim reluctance; victim wants case dismissed) were combined into one variable, "Victim behavior" the respondent is coded as "yes" if s/he reported any (even one) as an obstacle, then 92.6% of the total, 100.0% of the judges, 100.0% of the prosecutors, 83.3% of the public defenders, noted "victim behavior" as an obstacle to conviction. Note that 11/12 (91.6%) of the judges and 15/18 (83.3%) of the prosecutors, and 17/24 (70.8%) of the public defenders reported "victim behavior" as their first choice.

2 Tactics include professionals continuing the case in hopes of the prosecuting witness/victim not appearing and threatening prosecuting witness/victim that if they don't appear they will be arrested.
<table>
<thead>
<tr>
<th>Variable</th>
<th>Total N=53</th>
<th>Judge n=12</th>
<th>Prosecutor n=17</th>
<th>Public Defender n=24</th>
<th>F Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal sufficiency of evidence</td>
<td>8.7</td>
<td>9.8</td>
<td>9.6</td>
<td>7.5</td>
<td>9.20***</td>
</tr>
<tr>
<td>Victim suffered severe injury</td>
<td>8.4</td>
<td>7.6</td>
<td>8.8</td>
<td>8.6</td>
<td>2.71</td>
</tr>
<tr>
<td>Whether a weapon was involved</td>
<td>7.9</td>
<td>7.1</td>
<td>8.3</td>
<td>8.1</td>
<td>1.17</td>
</tr>
<tr>
<td>Offense occurred when the victim had TPO/ TRO out on defendant</td>
<td>7.5</td>
<td>8.3</td>
<td>7.6</td>
<td>7.1</td>
<td>0.87</td>
</tr>
<tr>
<td>Persons other than children witnessed abuse</td>
<td>7.2</td>
<td>--</td>
<td>8.2</td>
<td>6.7</td>
<td>2.72*</td>
</tr>
<tr>
<td>Victim testified against the defendant</td>
<td>7.0</td>
<td>7.2</td>
<td>8.5</td>
<td>6.0</td>
<td>4.25*</td>
</tr>
<tr>
<td>Victim did not testify against the defendant</td>
<td>6.6</td>
<td>5.0</td>
<td>7.9</td>
<td>6.5</td>
<td>4.22*</td>
</tr>
<tr>
<td>Defendant was belligerent to you</td>
<td>6.5</td>
<td>4.1</td>
<td>7.8</td>
<td>6.6</td>
<td>7.05**</td>
</tr>
<tr>
<td>Defendant's prior record</td>
<td>6.3</td>
<td>4.0</td>
<td>7.9</td>
<td>6.3</td>
<td>5.50**</td>
</tr>
<tr>
<td>Couple’s history of domestic violence</td>
<td>6.1</td>
<td>4.5</td>
<td>7.4</td>
<td>5.9</td>
<td>3.46*</td>
</tr>
<tr>
<td>Defendant verbally threatened the victim with serious bodily harm</td>
<td>6.0</td>
<td>7.1</td>
<td>6.4</td>
<td>5.4</td>
<td>3.72*</td>
</tr>
<tr>
<td>Victim suffered minor injury</td>
<td>5.7</td>
<td>4.9</td>
<td>6.4</td>
<td>5.7</td>
<td>1.52</td>
</tr>
<tr>
<td>Defendant on drugs/alcohol during assault</td>
<td>5.7</td>
<td>5.9</td>
<td>6.1</td>
<td>5.4</td>
<td>0.42</td>
</tr>
<tr>
<td>Couple’s children witnessed abuse</td>
<td>5.7</td>
<td>6.2</td>
<td>6.1</td>
<td>5.3</td>
<td>0.64</td>
</tr>
<tr>
<td>Defendant’s remorse for causing incident</td>
<td>5.6</td>
<td>3.6</td>
<td>6.1</td>
<td>6.3</td>
<td>4.10*</td>
</tr>
<tr>
<td>Defendant was belligerent to arresting officer</td>
<td>5.3</td>
<td>4.4</td>
<td>6.1</td>
<td>5.1</td>
<td>1.70</td>
</tr>
<tr>
<td>Victim was on drugs/alcohol</td>
<td>5.3</td>
<td>4.5</td>
<td>5.7</td>
<td>5.4</td>
<td>0.92</td>
</tr>
<tr>
<td>Who provoked the incident</td>
<td>5.3</td>
<td>4.8</td>
<td>5.2</td>
<td>5.7</td>
<td>0.78</td>
</tr>
<tr>
<td>Victim/defendant still romantically involved</td>
<td>5.0</td>
<td>4.3</td>
<td>5.9</td>
<td>4.8</td>
<td>1.33</td>
</tr>
<tr>
<td>Victim still cohabitates with defendant</td>
<td>4.9</td>
<td>4.5</td>
<td>5.1</td>
<td>5.0</td>
<td>0.21</td>
</tr>
<tr>
<td>Victim was belligerent to you</td>
<td>4.9</td>
<td>2.9</td>
<td>5.9</td>
<td>5.1</td>
<td>4.77*</td>
</tr>
<tr>
<td>There was violence and property damage</td>
<td>4.2</td>
<td>4.7</td>
<td>4.3</td>
<td>3.9</td>
<td>0.49</td>
</tr>
<tr>
<td>Victim signed the arrest report</td>
<td>3.9</td>
<td>2.8</td>
<td>4.5</td>
<td>3.9</td>
<td>1.28</td>
</tr>
<tr>
<td>Victim and children need defendant’s income</td>
<td>3.9</td>
<td>2.9</td>
<td>4.3</td>
<td>4.1</td>
<td>0.86</td>
</tr>
<tr>
<td>Defendant alleges victim provoked him</td>
<td>3.8</td>
<td>2.8</td>
<td>4.1</td>
<td>4.0</td>
<td>1.81</td>
</tr>
<tr>
<td>AMEND report</td>
<td>3.5</td>
<td>3.3</td>
<td>4.3</td>
<td>3.0</td>
<td>0.98</td>
</tr>
<tr>
<td>Offense occurred when couple was separated/ divorced</td>
<td>3.3</td>
<td>3.1</td>
<td>2.9</td>
<td>3.6</td>
<td>0.44</td>
</tr>
<tr>
<td>Whether defendant was employed</td>
<td>2.9</td>
<td>1.8</td>
<td>2.9</td>
<td>3.4</td>
<td>2.73</td>
</tr>
</tbody>
</table>

1 This item was not included on the judges’ questionnaire, therefore a t-test for 2 samples was conducted.

*p<.05  **p<.01  ***p<.001

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Table 8. Professionals’ Assessments of the Most Severe Sanction in Domestic Violence Cases

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total N=41</th>
<th>Prosecutor n=17</th>
<th>Public Defender n=24</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>Jail</td>
<td>77.5 31</td>
<td>82.4 14</td>
<td>70.8 17</td>
</tr>
<tr>
<td>No contact/ TPO</td>
<td>14.6 6</td>
<td>5.9 1</td>
<td>20.8 5</td>
</tr>
<tr>
<td>Maximum sentence²</td>
<td>7.3 3</td>
<td>5.9 1</td>
<td>8.3 2</td>
</tr>
<tr>
<td>Probation</td>
<td>7.3 3</td>
<td>0.0 0</td>
<td>12.5 3</td>
</tr>
<tr>
<td>Castration</td>
<td>2.4 1</td>
<td>0.0 0</td>
<td>4.2 1</td>
</tr>
<tr>
<td>High bond</td>
<td>2.4 1</td>
<td>0.0 0</td>
<td>4.2 1</td>
</tr>
<tr>
<td>Fine</td>
<td>2.4 1</td>
<td>5.9 1</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Counseling</td>
<td>2.4 1</td>
<td>0.0 0</td>
<td>4.2 1</td>
</tr>
</tbody>
</table>

¹ This table represents the written responses to the question: “In your opinion, what do you view as the most severe sanction in a domestic violence case?” This item was only on the prosecutors’ and public defenders’ surveys, not on the judges’ surveys. Prosecutors provided one answer, while five public defenders recorded two or more responses.

² The maximum sentence for domestic violence crime is 6 months in jail and a $1,000 fine.
<table>
<thead>
<tr>
<th>Variable</th>
<th>%</th>
<th>(n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior record</td>
<td>70.0</td>
<td>7</td>
</tr>
<tr>
<td>Injuries</td>
<td>30.0</td>
<td>3</td>
</tr>
<tr>
<td>Request of jail time</td>
<td>20.0</td>
<td>2</td>
</tr>
<tr>
<td>Children involved</td>
<td>10.0</td>
<td>1</td>
</tr>
<tr>
<td>Substance abuse</td>
<td>10.0</td>
<td>1</td>
</tr>
<tr>
<td>Denial of responsibility</td>
<td>10.0</td>
<td>1</td>
</tr>
</tbody>
</table>

1 This question was only asked of the judges, thus there are no prosecutors or public defenders in this table. Judges may have reported more than one response.
Table 10. Benefits and Drawbacks of Treatment Programs

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=46</td>
<td>n=12</td>
<td>n=14</td>
<td>n=20</td>
</tr>
<tr>
<td>Benefits of Treatment Programs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Awareness</td>
<td>19.6</td>
<td>9</td>
<td>25.0</td>
<td>7.1</td>
</tr>
<tr>
<td>Education</td>
<td>19.6</td>
<td>9</td>
<td>33.3</td>
<td>14.3</td>
</tr>
<tr>
<td>Counseling</td>
<td>19.6</td>
<td>9</td>
<td>16.7</td>
<td>14.3</td>
</tr>
<tr>
<td>Don't Know/Cannot say</td>
<td>15.2</td>
<td>7</td>
<td>8.3</td>
<td>28.6</td>
</tr>
<tr>
<td>Anger Management</td>
<td>8.7</td>
<td>4</td>
<td>8.3</td>
<td>7.1</td>
</tr>
<tr>
<td>Responsibility</td>
<td>4.3</td>
<td>2</td>
<td>0.0</td>
<td>7.1</td>
</tr>
<tr>
<td>Keeping defendant out of jail</td>
<td>4.3</td>
<td>2</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Money for program directors</td>
<td>4.3</td>
<td>2</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Address substantive issues</td>
<td>4.3</td>
<td>2</td>
<td>0.0</td>
<td>14.3</td>
</tr>
<tr>
<td>Attitude change</td>
<td>2.2</td>
<td>1</td>
<td>0.0</td>
<td>7.1</td>
</tr>
<tr>
<td>Address underlying issues</td>
<td>2.2</td>
<td>1</td>
<td>8.3</td>
<td>0.0</td>
</tr>
<tr>
<td>Drawbacks of Treatment Programs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>N=45</td>
<td>n=11</td>
<td>n=15</td>
<td>n=19</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>(n)</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Cost prohibitive</td>
<td>44.4</td>
<td>20</td>
<td>45.4</td>
<td>26.7</td>
</tr>
<tr>
<td>Not effective</td>
<td>28.9</td>
<td>13</td>
<td>45.5</td>
<td>33.3</td>
</tr>
<tr>
<td>Don't know</td>
<td>15.6</td>
<td>7</td>
<td>0.0</td>
<td>33.3</td>
</tr>
<tr>
<td>Too short</td>
<td>8.9</td>
<td>4</td>
<td>18.2</td>
<td>13.3</td>
</tr>
<tr>
<td>Too long</td>
<td>8.9</td>
<td>4</td>
<td>9.1</td>
<td>6.7</td>
</tr>
<tr>
<td>Benefits vary for each defendant</td>
<td>6.7</td>
<td>3</td>
<td>9.1</td>
<td>6.7</td>
</tr>
<tr>
<td>Not enough individual attention</td>
<td>2.2</td>
<td>1</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Not coercive enough</td>
<td>2.2</td>
<td>1</td>
<td>0.0</td>
<td>6.7</td>
</tr>
</tbody>
</table>

1 This table represents the written responses to the questions: "What are the benefits/drawbacks of treatment programs?" Participants may have reported more than one response.

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Table 11. Professionals' Estimates of Effectiveness of Dispositions in Stopping Repeat Woman Battering (1= very ineffective; 10= very effective) (df=2)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total x</th>
<th>Judge x</th>
<th>Prosecutor x</th>
<th>Public Defender x</th>
<th>F Prob.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=50</td>
<td>n=12</td>
<td>n=15</td>
<td>n=23</td>
<td></td>
</tr>
<tr>
<td>Probation with counseling</td>
<td>3.6</td>
<td>3.8</td>
<td>3.7</td>
<td>3.5</td>
<td>0.36</td>
</tr>
<tr>
<td>Probation with AMEND</td>
<td>3.5</td>
<td>4.2</td>
<td>3.5</td>
<td>3.1</td>
<td>3.84*</td>
</tr>
<tr>
<td>Electronic monitoring</td>
<td>3.5</td>
<td>3.9</td>
<td>3.4</td>
<td>3.3</td>
<td>0.95</td>
</tr>
<tr>
<td>Jail or prison time</td>
<td>3.4</td>
<td>3.9</td>
<td>3.6</td>
<td>2.9</td>
<td>3.17</td>
</tr>
<tr>
<td>Suspended jail time and conditions</td>
<td>3.4</td>
<td>3.9</td>
<td>3.4</td>
<td>3.1</td>
<td>3.45*</td>
</tr>
<tr>
<td>Probation</td>
<td>3.1</td>
<td>3.1</td>
<td>3.3</td>
<td>3.0</td>
<td>0.27</td>
</tr>
<tr>
<td>Pretrial diversion and counseling</td>
<td>2.9</td>
<td>2.6</td>
<td>2.7</td>
<td>3.4</td>
<td>2.54</td>
</tr>
<tr>
<td>Fine</td>
<td>1.8</td>
<td>2.0</td>
<td>1.8</td>
<td>1.7</td>
<td>0.48</td>
</tr>
</tbody>
</table>

*p< .05
Table 12. Methods to Increase Future Safety of Victims

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=48</td>
<td>n=12</td>
<td>n=17</td>
<td>n=19</td>
</tr>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>Isn’t my job to figure out/ I don’t care</td>
<td>25.0</td>
<td>12</td>
<td>0.0</td>
<td>5.9</td>
</tr>
<tr>
<td>Conviction</td>
<td>18.8</td>
<td>9</td>
<td>16.7</td>
<td>41.2</td>
</tr>
<tr>
<td>Treatment/counseling</td>
<td>18.8</td>
<td>9</td>
<td>75.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Treat seriously/batterer accountability</td>
<td>18.8</td>
<td>9</td>
<td>33.3</td>
<td>29.4</td>
</tr>
<tr>
<td>Jail</td>
<td>12.5</td>
<td>6</td>
<td>50.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Prosecute all cases</td>
<td>12.5</td>
<td>6</td>
<td>0.0</td>
<td>35.3</td>
</tr>
<tr>
<td>Terminate/End relationship</td>
<td>12.5</td>
<td>6</td>
<td>0.0</td>
<td>11.8</td>
</tr>
<tr>
<td>TPO</td>
<td>12.5</td>
<td>6</td>
<td>33.3</td>
<td>5.9</td>
</tr>
<tr>
<td>Enlist batterers to stop</td>
<td>8.3</td>
<td>4</td>
<td>0.0</td>
<td>5.9</td>
</tr>
<tr>
<td>Probation</td>
<td>6.3</td>
<td>3</td>
<td>16.7</td>
<td>5.9</td>
</tr>
<tr>
<td>Address underlying problem</td>
<td>4.2</td>
<td>2</td>
<td>0.0</td>
<td>5.9</td>
</tr>
<tr>
<td>Probable cause</td>
<td>2.1</td>
<td>1</td>
<td>0.0</td>
<td>5.9</td>
</tr>
</tbody>
</table>

1 Reported responses are only from those individuals who answered the question: “In your opinion, what are the best decisions or actions you can take to increase the future safety of domestic violence victims?” Respondents may have reported more than one response.
<table>
<thead>
<tr>
<th>Question/Item</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there evidentiary requirements that hinder the effectiveness of the criminal justice system in domestic violence cases? (See Table 14 for more detail).</td>
<td>44.4%</td>
<td>24</td>
<td>8.3%</td>
<td>10</td>
</tr>
<tr>
<td>Is the handling of domestic violence cases affected by the availability of resources? (See Table 15 for more detail).</td>
<td>24.1%</td>
<td>13</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Do you assess the defendant's dangerousness in deciding whether and/or how you will defend a case? (See Table 16 for more detail).</td>
<td>35.2%</td>
<td>19</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Would you like to see changes made to the arrest policy? (See Table 17 for more detail).</td>
<td>68.5%</td>
<td>37</td>
<td>58.3%</td>
<td>7</td>
</tr>
<tr>
<td>Has the proportion of cases plea bargained changed since the preferred policy was implemented? (See Table 18 for more detail).</td>
<td>29.6%</td>
<td>16</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>In reference to the pre-trial release of the domestic violence offender, do you think judges tend to set bail comparable to assault cases in which the victim and defendant are not related or in an intimate relationship? (See Table 19 for more detail).</td>
<td>62.9%</td>
<td>34</td>
<td>50.0%</td>
<td>6</td>
</tr>
<tr>
<td>Do judges typically attach bail conditions in domestic violence cases? (See Table 20 for more detail).</td>
<td>98.1%</td>
<td>53</td>
<td>100.0%</td>
<td>12</td>
</tr>
<tr>
<td>Putting all time restraints aside, do you think it would be helpful to the successful defense of the case to have met with the victim (for prosecutor) or the defendant (for public defender) to discuss the case prior to the day of trial? (See Table 21 for more detail).</td>
<td>53.7%</td>
<td>29</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Do you believe that there are effective social service and civil alternatives to criminal prosecution of domestic violence cases available within the community? (See Table 22 for more detail).</td>
<td>50.0%</td>
<td>27</td>
<td>58.3%</td>
<td>7</td>
</tr>
<tr>
<td>Do you believe that there are particular types of domestic violence cases that would be better served through any of these social service or civil alternatives [identified by the participants in the previous question]? (See Table 23 for more detail).</td>
<td>64.8%</td>
<td>35</td>
<td>58.3%</td>
<td>7</td>
</tr>
</tbody>
</table>

1 The responses represent the percent who answered affirmatively to each question/item, excluding missing data. Most questions/items were asked of all three groups (judges, prosecutor, public defender), the ones asked solely of prosecutor's and public defender's are indicated by the blanks in the judge column. Chi-squares were not conducted due to the small cell size.
Table 14. Professionals’ Assessments of Evidentiary Requirements that Hinder Effectiveness

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=24</td>
<td>n=1</td>
<td>n=10</td>
<td>n=13</td>
</tr>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>Hearsay exception/excited utterance</td>
<td>33.3 8</td>
<td>0.0 0</td>
<td>0.0 0</td>
<td>61.5 8</td>
</tr>
<tr>
<td>Lack of evidence</td>
<td>25.0 6</td>
<td>0.0 0</td>
<td>40.0 4</td>
<td>15.4 2</td>
</tr>
<tr>
<td>Proof beyond reasonable doubt</td>
<td>20.8 5</td>
<td>0.0 0</td>
<td>20.0 2</td>
<td>23.1 3</td>
</tr>
<tr>
<td>Fifth amendment</td>
<td>12.5 3</td>
<td>100.0 1</td>
<td>10.0 1</td>
<td>7.7 1</td>
</tr>
<tr>
<td>Hearsay rule</td>
<td>4.2 1</td>
<td>100.0 1</td>
<td>0.0 0</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Proof of domestic violence violation</td>
<td>4.2 1</td>
<td>0.0 0</td>
<td>10.0 1</td>
<td>0.0 0</td>
</tr>
</tbody>
</table>

1 This table represents the written responses to the question: “Are there evidentiary requirements that hinder the effectiveness of the criminal justice system in domestic violence cases?” Participants may have reported more than one response.
Table 15. Professionals’ Assessments of How Office Procedures Should be Altered if More Resources were Made Available¹

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total N=13</th>
<th>Prosecutor n=9</th>
<th>Public Defender n=4</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>More time to prepare a case (pre-trial)</td>
<td>38.5 5</td>
<td>44.4 4</td>
<td>25.0 1</td>
</tr>
<tr>
<td>Maintaining contact with victim</td>
<td>30.8 4</td>
<td>44.4 4</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Hire more staff (investigators/attorneys)</td>
<td>23.1 3</td>
<td>0.0 0</td>
<td>75.0 3</td>
</tr>
<tr>
<td>More counseling</td>
<td>15.4 2</td>
<td>22.2 2</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Have separate domestic violence court</td>
<td>7.7 1</td>
<td>11.1 1</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Better victim notification letters</td>
<td>7.7 1</td>
<td>11.1 1</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Better cameras</td>
<td>7.7 1</td>
<td>11.1 1</td>
<td>0.0 0</td>
</tr>
<tr>
<td>More phone calls</td>
<td>7.7 1</td>
<td>11.1 1</td>
<td>0.0 0</td>
</tr>
</tbody>
</table>

¹ This table represents the written responses to the question: “Is the handling of domestic violence cases affected by the availability of resources?” This item was only on the prosecutors’ and public defenders’ surveys, not on the judges’ surveys. Participants may have reported more than one response.
Table 16. Factors Used to Assess Defendants’ Dangerousness ¹

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=19</td>
<td>n=17</td>
<td>n=2</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>(n)</td>
<td>%</td>
</tr>
<tr>
<td>Prior record</td>
<td>57.9</td>
<td>11</td>
<td>64.7</td>
</tr>
<tr>
<td>Severity of injury</td>
<td>26.3</td>
<td>5</td>
<td>29.4</td>
</tr>
<tr>
<td>Defendant’s demeanor (lack of remorse)</td>
<td>26.3</td>
<td>5</td>
<td>17.6</td>
</tr>
<tr>
<td>Pattern of abuse</td>
<td>21.1</td>
<td>4</td>
<td>23.5</td>
</tr>
<tr>
<td>Victim’s opinion</td>
<td>10.5</td>
<td>2</td>
<td>11.8</td>
</tr>
<tr>
<td>Evidence (photos, medical records)</td>
<td>10.5</td>
<td>2</td>
<td>5.9</td>
</tr>
<tr>
<td>Drugs involved in current incident</td>
<td>10.5</td>
<td>2</td>
<td>11.8</td>
</tr>
<tr>
<td>Victim’s fear</td>
<td>10.5</td>
<td>2</td>
<td>11.8</td>
</tr>
</tbody>
</table>

¹ This table represents the written responses to the question: “Do you assess the defendant’s dangerousness in deciding whether and/or how you will defend a case?” This item was only on the prosecutors’ and public defenders’ surveys, not on the judges’ surveys. Participants may have reported more than one response.
<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>Yes, policy should be changed</td>
<td>N=37</td>
<td>n=7</td>
<td>n=7</td>
<td>n=23</td>
</tr>
<tr>
<td>Mandatory arrest not always necessary</td>
<td>54.0</td>
<td>20</td>
<td>42.8 3</td>
<td>57.1 4</td>
</tr>
<tr>
<td>Allow police officer more discretion</td>
<td>45.9</td>
<td>17</td>
<td>28.5 2</td>
<td>28.5 2</td>
</tr>
<tr>
<td>Not arrest both parties</td>
<td>5.4</td>
<td>2</td>
<td>0.0 0</td>
<td>28.5 2</td>
</tr>
<tr>
<td>Offer additional training</td>
<td>5.4</td>
<td>2</td>
<td>0.0 0</td>
<td>14.3 1</td>
</tr>
<tr>
<td>Observe victim’s wishes</td>
<td>2.7</td>
<td>1</td>
<td>0.0 0</td>
<td>0.0 0</td>
</tr>
<tr>
<td>No, policy should not be changed</td>
<td>N=17</td>
<td>n=6</td>
<td>n=10</td>
<td>n=1</td>
</tr>
<tr>
<td>Separates victim and abuser</td>
<td>23.5</td>
<td>4</td>
<td>0.0 0</td>
<td>40.0 4</td>
</tr>
<tr>
<td>Helps remove negative police stigma</td>
<td>11.7</td>
<td>2</td>
<td>0.0 0</td>
<td>10.0 1</td>
</tr>
<tr>
<td>Responsibility taken away from victim</td>
<td>5.9</td>
<td>1</td>
<td>0.0 0</td>
<td>10.0 1</td>
</tr>
</tbody>
</table>

The judges’ survey provides “yes”, “no” and explanations for “yes” space to write. The prosecutors’ and public defenders’ survey was the same except it also provided a question and space on if, “no”, then “why?” Some respondents would answer the “yes” or “no,” but not provide any explanations for the yes/no. Participants may have reported more than one response.
Table 18. How Cases Plea Bargained Have Changed Since the Pro- (Preferred) Arrest Initiative

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total N=16</th>
<th>Prosecutor n=8</th>
<th>Public Defender n=8</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>More borderline cases</td>
<td>46.7 7</td>
<td>14.3 1</td>
<td>75.0 6</td>
</tr>
<tr>
<td>Less tolerance</td>
<td>6.7 1</td>
<td>14.3 1</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Heightened awareness of domestic violence</td>
<td>6.7 1</td>
<td>14.3 1</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Increased use of “C” section</td>
<td>6.7 1</td>
<td>14.3 1</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Political depth</td>
<td>6.7 1</td>
<td>0.0 0</td>
<td>12.5 1</td>
</tr>
<tr>
<td>Increased trials, decreased pleas</td>
<td>6.7 1</td>
<td>0.0 0</td>
<td>12.5 1</td>
</tr>
</tbody>
</table>

1 This table represents the written responses to the question: “Has the proportion of cases plea bargained changed since the preferred policy was implemented? If there has been a change in plea bargaining, what do you think accounts for it?” This question was asked only of prosecutors’ and public defenders’ not judges. Respondents may have reported more than one response.

2 Threat of force, cause belief of imminent physical harm. Usually charged as a M4.
Table 19. Comparable Bail to Non-Intimate Assault Cases

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td>DV bonds higher than assault cases</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>44.1</td>
<td>50.0</td>
<td>27.3</td>
<td>52.9</td>
</tr>
<tr>
<td></td>
<td>15</td>
<td>3</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td>Political pressure (press)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>23.5</td>
<td>0.0</td>
<td>0.0</td>
<td>47.1</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>0</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>Relationship must be considered</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>17.6</td>
<td>50.0</td>
<td>27.3</td>
<td>0.0</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>3</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>More dangerous cases</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>14.7</td>
<td>0.0</td>
<td>0.0</td>
<td>29.4</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Assault cases not arrested</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.9</td>
<td>0.0</td>
<td>18.2</td>
<td>0.0</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Not set higher, because risky for victim</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.9</td>
<td>0.0</td>
<td>9.1</td>
<td>0.0</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

1 This table represents the written responses to the question: "In your opinion, in reference to the pre-trial release of the domestic violence offender, do you think judges tend to set bail comparable to assault cases in which the victim and defendant are not related or in an intimate relationship?" Participants may have reported more than one response.
Table 20. Conditions Attached in Domestic Violence Cases

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total N=53</th>
<th>Judge n=12</th>
<th>Prosecutor n=18</th>
<th>Public Defender n=23</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>TPO/Stay away order</td>
<td>54.7 53</td>
<td>100.0 12</td>
<td>100.0 18</td>
<td>100.0 23</td>
</tr>
<tr>
<td>Electronic monitoring/Juris</td>
<td>41.5 22</td>
<td>50.0 6</td>
<td>27.8 5</td>
<td>47.8 11</td>
</tr>
<tr>
<td>monitor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Visitation issues</td>
<td>1.9 1</td>
<td>8.3 1</td>
<td>0.0 0</td>
<td>0.0 0</td>
</tr>
<tr>
<td>No alcohol</td>
<td>1.9 1</td>
<td>8.3 1</td>
<td>0.0 0</td>
<td>0.0 0</td>
</tr>
</tbody>
</table>

1 This table represents the written responses to the question: “Do judges typically attach bail conditions in domestic violence cases? If yes, please list an example of conditions.” Participants may have reported more than one response.
Table 21. Would Outcome Differ, If You Met with Victim/Defendant Prior to Trial?  

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=29</td>
<td>a=12</td>
<td>a=17</td>
</tr>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>Not help or only marginally</td>
<td>58.6 17</td>
<td>41.7 5</td>
<td>70.6 12</td>
</tr>
<tr>
<td>Increase guilty outcomes</td>
<td>17.2 5</td>
<td>41.7 5</td>
<td>0.0 0</td>
</tr>
<tr>
<td>Don’t know</td>
<td>10.3 3</td>
<td>0.0 0</td>
<td>17.6 3</td>
</tr>
<tr>
<td>Plea more</td>
<td>6.9 2</td>
<td>0.0 0</td>
<td>11.8 2</td>
</tr>
<tr>
<td>Increased victim cooperation</td>
<td>3.4 1</td>
<td>8.3 1</td>
<td>0.0 0</td>
</tr>
</tbody>
</table>

1 This table represents the written responses to the question: “Putting all time restraints aside, do you think it would be helpful to the successful defense of the case to have met with the victim (for prosecutor)/ defendant (for public defender) to discuss the case prior to the day of trial?” This item was only on the prosecutors’ and public defenders’ surveys, not on the judges’ surveys. Participants may have reported more than one response.
Table 22. Professionals' Identifications of Effective Alternatives to Criminal Prosecution Available Within the Community

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total N=27</th>
<th>Judge n=7</th>
<th>Prosecutor n=6</th>
<th>Public Defender n=14</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>Amend</td>
<td>74.1 (20</td>
<td>57.1 (4</td>
<td>33.3 (2)</td>
<td>100.0 (14)</td>
</tr>
<tr>
<td>Counseling</td>
<td>22.2 (6)</td>
<td>28.6 (2)</td>
<td>66.7 (4)</td>
<td>0.0 (0)</td>
</tr>
<tr>
<td>Divorce/separation</td>
<td>7.4 (2)</td>
<td>0.0 (0)</td>
<td>0.0 (0)</td>
<td>14.3 (2)</td>
</tr>
<tr>
<td>Private complaint</td>
<td>7.4 (2)</td>
<td>14.3 (1)</td>
<td>16.7 (1)</td>
<td>0.0 (0)</td>
</tr>
<tr>
<td>Women who resort to violence</td>
<td>7.4 (2)</td>
<td>14.3 (1)</td>
<td>16.7 (1)</td>
<td>0.0 (0)</td>
</tr>
<tr>
<td>Substance abuse/treatment</td>
<td>7.4 (2)</td>
<td>14.3 (1)</td>
<td>16.7 (1)</td>
<td>0.0 (0)</td>
</tr>
<tr>
<td>Mental Health Facilities</td>
<td>3.7 (1)</td>
<td>14.3 (1)</td>
<td>0.0 (0)</td>
<td>0.0 (0)</td>
</tr>
<tr>
<td>Marriage</td>
<td>3.7 (1)</td>
<td>0.0 (0)</td>
<td>16.7 (1)</td>
<td>0.0 (0)</td>
</tr>
</tbody>
</table>

1 This table represents the written responses to the question: “Do you believe that there are effective social service and civil alternatives to criminal prosecution of domestic violence cases available within the community? If yes, please list the services/alternatives available.” Participants may have reported more than one response.
Table 23. Professionals’ Identification of the Types of Cases Better Served Using Social Services/Civil Alternatives\(^1\)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Judge</th>
<th>Prosecutor</th>
<th>Public Defender</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N=35</td>
<td>n=7</td>
<td>n=9</td>
<td>n=19</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>First time/minor injuries</td>
<td>28.6</td>
<td>10</td>
<td>14.3</td>
<td>11.1</td>
</tr>
<tr>
<td>Threats, verbal abuse</td>
<td>25.7</td>
<td>9</td>
<td>14.3</td>
<td>33.3</td>
</tr>
<tr>
<td>Sibling, parent/child cases</td>
<td>14.4</td>
<td>5</td>
<td>28.6</td>
<td>22.2</td>
</tr>
<tr>
<td>Continuing relationship</td>
<td>11.4</td>
<td>4</td>
<td>14.3</td>
<td>0.0</td>
</tr>
<tr>
<td>Yes, if there’s no real violence</td>
<td>11.4</td>
<td>4</td>
<td>28.6</td>
<td>22.2</td>
</tr>
<tr>
<td>One-time problem (e.g., family death)</td>
<td>5.7</td>
<td>2</td>
<td>0.0</td>
<td>11.1</td>
</tr>
<tr>
<td>Corporal punishment</td>
<td>5.7</td>
<td>2</td>
<td>14.3</td>
<td>0.0</td>
</tr>
<tr>
<td>Arguments initiated over finances</td>
<td>5.7</td>
<td>2</td>
<td>0.0</td>
<td>11.1</td>
</tr>
<tr>
<td>All, just not emphasize women’s issues</td>
<td>5.7</td>
<td>2</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Woman just wants man out of house</td>
<td>2.9</td>
<td>1</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Arguments over children’s visitations</td>
<td>2.9</td>
<td>1</td>
<td>0.0</td>
<td>0.0</td>
</tr>
</tbody>
</table>

\(^1\) This table represents the written responses to the question: “In your opinion, are there any particular types of domestic violence cases that would be better served through any of these social service or civil alternatives? [identified by the participants in the previous question]. If yes, please list the types of cases.” Participants may have reported more than one response.
Table 24. GLM of Court Officials' Self-Reported Processing of Battering Cases in Response to Likert Scale Items (N=54) a,b

<table>
<thead>
<tr>
<th>Scale Concept</th>
<th>Wilks' Lambda</th>
<th>F</th>
<th>df</th>
<th>Overall Mean</th>
<th>Judge Mean</th>
<th>Pros. Mean</th>
<th>PD Mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. System Subscales</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Criminal Justice Techniques (a=.72)</strong></td>
<td></td>
<td>0.26</td>
<td>5.65***</td>
<td>14</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutors should not prosecute if the victim wants the case dismissed b</td>
<td>12.62***</td>
<td>4.68</td>
<td>5.33</td>
<td>6.16</td>
<td>3.25</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Diversion out of the system is a helpful approach to reducing domestic violence b</td>
<td>1.81</td>
<td>4.54</td>
<td>5.25</td>
<td>4.77</td>
<td>4.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro-arrest policy has resulted in victims less likely to call police b</td>
<td>1.33</td>
<td>4.50</td>
<td>5.00</td>
<td>4.52</td>
<td>4.25</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro-arrest policies take power away from domestic violence victims b</td>
<td>2.99</td>
<td>4.46</td>
<td>5.00</td>
<td>5.11</td>
<td>3.69</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mediation between parties reduces woman battering b</td>
<td>3.89*</td>
<td>4.09</td>
<td>5.00</td>
<td>4.22</td>
<td>3.52</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Victim representatives should be allowed to speak on behalf of the victims</td>
<td>15.46***</td>
<td>3.90</td>
<td>5.66</td>
<td>4.66</td>
<td>2.45</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pro-arrest policy has unnecessarily &quot;clogged&quot; courtrooms docket b</td>
<td>23.33***</td>
<td>3.77</td>
<td>6.00</td>
<td>4.38</td>
<td>2.20</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Role of Extra Legal Factors (a=.78)</strong></td>
<td></td>
<td>0.80</td>
<td>1.91</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pursue battering case more seriously when offender was drinking/drugging</td>
<td>2.87</td>
<td>3.05</td>
<td>4.00</td>
<td>3.11</td>
<td>2.54</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Battering more serious when the couple has broken up</td>
<td>0.43</td>
<td>2.50</td>
<td>2.66</td>
<td>2.72</td>
<td>2.25</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Battering more serious when the couple is divorced</td>
<td>.12</td>
<td>2.14</td>
<td>2.00</td>
<td>2.11</td>
<td>2.25</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Confidence in Legal Factors (a=.71)</strong></td>
<td></td>
<td>0.53</td>
<td>5.99</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police officer's testimony influences decisions</td>
<td>3.86*</td>
<td>4.77</td>
<td>6.00</td>
<td>4.38</td>
<td>4.48</td>
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<tr>
<td>Hospital records of injuries influence decisions</td>
<td>2.66</td>
<td>4.22</td>
<td>5.08</td>
<td>3.44</td>
<td>4.37</td>
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<td>When unsure of what to do in these cases, I acquit or dismiss the charges</td>
<td>19.70***</td>
<td>2.29</td>
<td>4.66</td>
<td>1.277</td>
<td>1.87</td>
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<td><strong>Deterrent Factor (a=.82)</strong></td>
<td></td>
<td>0.83</td>
<td>2.38</td>
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<tr>
<td>Arresting batterers has a deterrent effect</td>
<td>3.23*</td>
<td>4.53</td>
<td>5.75</td>
<td>4.33</td>
<td>4.08</td>
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<tr>
<td>Criminal prosecution of batterers will reduce repeat violence</td>
<td>3.77*</td>
<td>4.48</td>
<td>5.50</td>
<td>4.66</td>
<td>3.83</td>
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<td><strong>Temporary Orders (a=.86)</strong></td>
<td></td>
<td>0.85</td>
<td>2.12</td>
<td>4</td>
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<tr>
<td>TPOs are effective in providing safety to battered women</td>
<td>-1.37*</td>
<td>4.07</td>
<td>5.16</td>
<td>3.66</td>
<td>3.83</td>
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<td>TROs are effective in providing safety to battered women</td>
<td>2.19</td>
<td>3.81</td>
<td>4.58</td>
<td>3.44</td>
<td>3.70</td>
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<td>Scale concept</td>
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<td>df</td>
<td>Overall Mean</td>
<td>Judge Mean</td>
<td>Pros. Mean</td>
<td>PD Mean</td>
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<tr>
<td><strong>II. Victim Subscales</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Victim's Ability to Leave (α=.79)</td>
<td>0.41</td>
<td>4.91***</td>
<td>10</td>
<td>2.33</td>
<td>3.38</td>
<td>3.66</td>
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<tr>
<td>Battered women could simply leave abusive husbands if really wanted to</td>
<td>2.40</td>
<td>3.27</td>
<td></td>
<td>2.33</td>
<td>3.38</td>
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<tr>
<td>It is hard for most battered women to leave abusive men b</td>
<td>6.27**</td>
<td>3.00</td>
<td></td>
<td>2.08</td>
<td>2.52</td>
<td>3.79</td>
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<tr>
<td>Victims usually leave abusive partner many times before leaving for good b</td>
<td>6.28**</td>
<td>2.90</td>
<td></td>
<td>1.72</td>
<td>3.00</td>
<td>3.39</td>
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<td>Battered woman might stay with husband because she feels dependent b</td>
<td>3.13**</td>
<td>2.28</td>
<td></td>
<td>1.58</td>
<td>1.64</td>
<td>3.08</td>
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<tr>
<td>Battered woman who remain in abusive relationship must not be suffering</td>
<td>12.12***</td>
<td>2.16</td>
<td></td>
<td>1.41</td>
<td>1.55</td>
<td>3.00</td>
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<tr>
<td>Accountability (α=.72)</td>
<td>0.36</td>
<td>7.78***</td>
<td>8</td>
<td>5.66</td>
<td>4.00</td>
<td>6.58</td>
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<tr>
<td>It's acceptable for defense attorneys to raise victim provocation questions hearings22</td>
<td>22.99***</td>
<td>5.51</td>
<td></td>
<td>5.66</td>
<td>4.00</td>
<td>6.58</td>
<td></td>
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<tr>
<td>Victims are sometimes responsible for violence committed against them</td>
<td>3.75*</td>
<td>2.59</td>
<td></td>
<td>2.00</td>
<td>2.16</td>
<td>3.20</td>
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</tr>
<tr>
<td>Both parties are responsible for the abuse</td>
<td>9.65**</td>
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<td></td>
<td>1.25</td>
<td>2.05</td>
<td>3.48</td>
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<tr>
<td>Family violence should be considered a criminal activity b</td>
<td>7.19**</td>
<td>2.25</td>
<td></td>
<td>1.33</td>
<td>1.83</td>
<td>3.04</td>
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<td>Processing Reluctant Victims (α=.75)</td>
<td>0.73</td>
<td>4.13**</td>
<td>4</td>
<td>4.33</td>
<td>5.16</td>
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<tr>
<td>Battered women should be subpoenaed or required to testify in trials</td>
<td>8.25**</td>
<td>3.92</td>
<td></td>
<td>4.33</td>
<td>5.16</td>
<td>2.79</td>
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<td>Battered women who refuse to testify against batterers should be held in contempt</td>
<td>3.71*</td>
<td>2.31</td>
<td></td>
<td>2.16</td>
<td>3.11</td>
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<td>Victim Safety (α=.76)</td>
<td>0.27</td>
<td>14.50***</td>
<td>6</td>
<td>5.66</td>
<td>4.00</td>
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<tr>
<td>Prosecutors often exaggerate the violence against battered women</td>
<td>22.99***</td>
<td>5.51</td>
<td></td>
<td>5.66</td>
<td>4.00</td>
<td>6.58</td>
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<tr>
<td>Worry about acquitted batterers later killing victims b</td>
<td>23.45***</td>
<td>4.11</td>
<td></td>
<td>3.50</td>
<td>2.66</td>
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<tr>
<td>Bail commissioners should contact victims about batterer's release b</td>
<td>9.18**</td>
<td>3.42</td>
<td></td>
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<td><strong>III. Treatment/Counseling Subscale</strong></td>
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<td>Counseling/Advocacy (α=.73)</td>
<td>0.59</td>
<td>4.84***</td>
<td>6</td>
<td>5.33</td>
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<td>Counseling batterers reduces woman battering</td>
<td>3.89*</td>
<td>4.72</td>
<td></td>
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<td>3.83</td>
<td>5.08</td>
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<tr>
<td>Victim advocates are important in successful case prosecution</td>
<td>8.37**</td>
<td>3.57</td>
<td></td>
<td>5.25</td>
<td>3.61</td>
<td>2.70</td>
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<tr>
<td>Confident that AMEND program helps batterers stop</td>
<td>6.46**</td>
<td>3.22</td>
<td></td>
<td>4.66</td>
<td>2.61</td>
<td>2.95</td>
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</tr>
</tbody>
</table>

a The Likert scale items were 7 points, with 1 representing "strongly disagree" and 7 representing "strongly agree."

b This item was "reverse coded" to be consistent with the direction of the scale, but only for the composite measures. The means presented for each individual item are with the scales not reversed, thus 1 still represents "strongly disagree" and 7 "strongly agree."

*p ≤ .05; **p ≤ .01; ***p ≤ .001
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APPENDIX A

COVER LETTERS
August 28, 1997

Dear Public Defender ________:

In September 1996 the National Institute of Justice (N.I.J.) funded a project on the court processing of domestic violence that is currently being carried out by the University of Cincinnati. The title of the project is "Factors Related to Court Dispositions in Misdemeanor Domestic Violence Cases in a Large Urban Area." To date, we have interviewed and surveyed all of the Cincinnati municipal domestic violent court judges and city prosecutors. Another aspect of this study is that public defenders who process misdemeanor domestic violence cases be interviewed and surveyed. As you may know, to date most of the information on the criminal justice system processing of domestic violence involves the police. Relatively little is known about court officials' attitudes and experiences in processing domestic violence. Thus, your participation in this study will help to fill the void in this arena.

Participation in this study is voluntary, but we hope that you are willing to take part in this ground-breaking research. All the data we collect will be kept confidential and anonymous. When we write up the findings, they will be written in such a way that no individual public defender's responses could be identified. We hope that you are willing to participate in this important federally funded study.

Your participation would include a one-on-one interview with a member of the research team and a completion of survey. We estimate that the interview will take approximately one hour and the questionnaire, approximately 20-25 minutes. You can withdraw from the study at any time if you change your mind about participating. We cannot overestimate, however, the importance of your participation. To date, research on public defender's attitudes about and experiences with domestic violence are nonexistent.

Most of the interviews will be carried out by Jennifer Hartman. She will be calling you some time in the next few weeks to determine if you are willing to take part in this study, and if so, to arrange a convenient time for her to meet with you. Thank you in advance for your time, and please feel free to call me if you have any questions (556-5833). Also, if you are interested in our final study results, please let us know and we will be happy to mail them to you.

Sincerely,

Joanne Belknap, Ph.D.
Project Director
Dear Public Defender _____:

The National Institute of Justice has funded members of the Domestic Violence Coordinating Council and researchers at the University of Cincinnati to carry out a study on the court processing of domestic violence cases (defined as abusive relationships between intimate partners). To date, most of the information on the criminal justice system processing of domestic violence has focused on police attitudes and responses. Thus, the impetus behind the design of this study was to broaden the scope of the criminal justice system.

We hope that you will take a few moments to complete this survey. None of the questions are intended as "trick" questions. We are simply attempting to measure your attitudes and experiences. If any of the questions are unclear, you can notify Joanne Belknap, Ph.D. (at 513-556-5833) or write your comments next to the question.

All answers to this survey will be kept confidential and anonymous. They will not be reported in any way that someone would be able to identify which study participant's answers were being presented. Participation in this study is voluntary. We hope however, that you will take the time to do this in order to broaden understanding of the court processing of domestic violence cases. Please feel free to write more on the backs of pages if you don't have enough room.

Thank you,

Joanne Belknap, Ph.D.
Principal Investigator
APPENDIX B

PUBLIC DEFENDER INTERVIEW INSTRUMENT
PUBLIC DEFENDER INTERVIEW

Introduction: NIJ has funded researchers at UC to carry out a study on the court processing of city misdemeanor domestic violence cases (defined as abusive relationships between intimate partners). To date, most of the information on the CJS processing of domestic violence has focused on police attitudes and responses. All answers to this interview will be kept confidential and anonymous. Participation in this study is voluntary. We hope however, that you will take the time to do this in order to broaden understanding of the court processing of domestic violence cases.

1. What is your overall impression of domestic violence cases?
   a. Are there internal policies that are unique to DV cases which affect case decision making?

2. What is your overall impression of victims?
   a. How often and when do you contact victims?
   b. What questions do you ask victims or what kinds of information do you give them (what do you anticipate from talking to them?)
   c. Under what circumstances, of any, do you ask the victim to drop the case?

3. What is your overall impression of offenders?
   a. How often and at what stage, do you ask for defendants’ input into their case? (How often meet with?)
   b. Generally, how satisfied are the defendants with case outcome?
   c. In your opinion, how many people do you think have honestly been unfairly charged? (e.g., ideal about who is a “true” victim/“true” defendant?)

4. What is your overall impression of the children of the victim (and offender) in these cases?

5. What, in your opinion, is a Judge’s function in domestic violence cases?
   a. Is this different than in any other type of case?
   b. Does your knowledge of the judge’s philosophy and/or sentencing/conviction record influence how you would defend a case? If so, how does this influence it?

6. What, in your opinion, is a public defender’s function in domestic violence cases?
   a. Is this different than in any other type of case?
   b. Do public defenders receive any special training in processing DV cases?
   c. Ideally how much time should be spent with the defendant in preparation for the case?

7. What, in your opinion, is a prosecutor’s function in domestic violence cases?
   a. Is this different than in any other type of case?
   b. What do you think influences the prosecution’s decision to plea bargain? (Do some bargain more than others?)
8. What, in your opinion, is a police officer’s function in domestic violence cases? 
   a. Is this different than in any other type of case?

9. What factors about a victim influence your processing in these cases?

10. What factors about a defendant influence your decision-making in these cases? 
    a. Does it vary for repeat offenders? If yes, how?

11. What factors about the alleged offense influence your decision-making in these cases? 
    a. Are you able to anticipate case outcome based on which judge or prosecutor you deal with? (e.g., how much does personality play a factor?)

12. Do you feel that you are in a position to be able to stop the abuse? 
    a. What helps you make an impact in stopping the abuse?

13. What is your overall impression of the victim advocates (e.g., WHW?)

14. What are the most common methods the court uses in separating the offending and victimized parties in domestic violence cases?

15. How does the court determine who is the “true” victim in cross complaint cases or whether it is a mutually combative relationship?

16. In your opinion, what are the primary reasons victims request that their case be dismissed? 
    a. Do you have any particular dialogue to get the victim’s to dismiss a case? (What works best?)

17. Do you think a no-drop policy would decrease case dismissals?

18. Do you believe that the criminal justice system is “user friendly” for the defendant? 
    a. What are common methods you use to make domestic violence defendants feel supported?

19. Do you think the race or ethnicity of either the victim or defendant plays a role in court processing in domestic violence cases in Cincinnati’s Municipal court?

20. Do you think the class or economic status of either the victim or defendant plays a role in court processing in domestic violence cases in Cincinnati’s Municipal court?

VIGNETTE: It is a typical day in misdemeanor domestic violence court. A battered woman, the man charged with battering her, the prosecutor, and the defense attorney walk into the courtroom and take their places. They are followed shortly thereafter by a police officer who responded
to the scene of the call.

Ideally...
1. How do you ideally want to be seen by the defendant?
2. How do you ideally want to be seen by the victim?
3. How do you ideally want to be seen by the judge?
4. How do you ideally want to be seen by the prosecutor?
5. How do you ideally want to be seen by the police officer?

Actually...
6. How do you think you are actually seen by the defendant?
7. How do you think you are actually seen by the victim?
8. How do you think you are actually seen by the judge?
9. How do you think you are actually seen by the prosecutor?
10. How do you think you are actually seen by the police officer?
11. Describe the most recent domestic violence case you had where most of these key figures were present (the victim, defendant, police officer...)
12. Describe the outcome of this case.
13. How do you think the defendant saw you?
14. How do you think the victim saw you?
15. How do you think the judge saw you?
16. How do you think the prosecutor saw you?
17. How do you think the police officer saw you?

This interview is over. Do you have any questions or comments for me?
APPENDIX C

PUBLIC DEFENDER SURVEY INSTRUMENT
I. Open-Ended Questions
A. DOMESTIC VIOLENCE OVERVIEW

1. What do you think are the three most imposing obstacles leading to a conviction for prosecutors and judges in domestic violence cases?

2. Are there procedural requirements that hinder the effectiveness of the criminal justice system in domestic violence cases?
   If yes, what are they?

3. Are there evidentiary requirements that hinder the effectiveness of the criminal justice system in domestic violence cases?
   If yes, what are they?

4. In your determination of how to defend domestic violence cases, does it matter to you who initiated the case (e.g., victim or police)? (1) Yes (2) No
   If yes, how does it affect your case?

5. What level of evidence do you feel you need in order for you to adequately pursue a defense in a domestic violence case?

6. In order (from the most to least important), please list the factors that predict or assist a “successful defense” in a domestic violence case.

7. As compared to other nondomestic assault cases do you find it easier to defend these cases?
   (1) Yes (2) No
   Why or why not?

8. Is the handling of domestic violence cases affected by the availability of resources?
   (1) Yes (2) No
   If yes, how should office procedures be altered if more resources were made available?

9. In your opinion, what do you view as the most severe sanction in a domestic violence case?

10. Do you assess the defendant’s dangerousness in deciding whether and/or how you will defend a case? (1) Yes (2) No
    If yes, how is dangerousness assessed?
11. How much investigation goes into preparing a case? (e.g., talking with victim, other witnesses, etc)

B. ARREST POLICY

1. Would you like to see any changes made to the city’s current arrest policy? (1) Yes (2) No

   If yes, what changes would you like to see?

   In no, what do you like about this policy?

2. Has the proportion of cases plea bargained changed since the preferred policy was implemented? (1) Yes (2) No

   If there has been a change in plea bargaining, what do you think accounts for it?

3. What aspects in a case do you look for that might help your client get an acquittal or “better deal”?

4. How often do you attempt to reduce the charges in domestic violence cases? ______

   Of those cases that you attempt to reduce the charges, approximately how often is this achieved? ______

5. Do you think there is more or less negotiation in domestic violence cases than for other crimes against the person? (please circle)

   1 2 3 4 5 6 7

   Less negotiation

   More negotiation

6. Do you attempt to talk with the prosecutor’s before court? (1) Yes (2) No

7. Do you prepare your case differently for repeat domestic violence offenders? (1) Yes (2) No

   If yes, in what manner.

C. BAIL

1. In your experience, is a “cash only” bail ever set in domestic violence cases? (1) Yes (2) No

   If yes, how often ______
2. In your opinion, in reference to the pre-trial release of the domestic violence offender, do you think judges tend to set bail comparable to assault cases in which the victim and defendant are not related or in an intimate relationship? (1) Yes (2) No
   If no, why not?

3. Do judges typically attach bail conditions in domestic violence cases? (1) Yes (2) No
   If yes, please list an example of conditions.

D. VICTIM

1. Please estimate, to the best of your knowledge, the percentage of cases that victims:
   ______% testify against the defendant
   ______% testify for the defendant
   ______% testify only if subpoenaed
   ______% refuse to testify
   ______% are not present at trial
   ______% are present for plea
   ______% change their story
   ______% undermine the prosecutor’s case
   ______% have been threatened by defendant if they testify

2. Please rate to what degree, in your experiences, the following evidence is likely to be presented in the course of defending a domestic violence case (with 1 being very unlikely and 10 being very likely).

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<tr>
<th>Evidence</th>
<th>Very Unlikely</th>
<th>Very Likely</th>
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<tr>
<td>Character testimony on behalf of defendant</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
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<tr>
<td>Eyewitness testimony</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
<td></td>
</tr>
<tr>
<td>&quot;Excited utterances&quot; at scene</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
<td></td>
</tr>
<tr>
<td>Use of 911 tapes</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
<td></td>
</tr>
<tr>
<td>Use of photos of injuries</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
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<tr>
<td>Use of medical records</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
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<td>Police reports</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
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<tr>
<td>Use of signed affidavit/complaint</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
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<td>AMEND reports</td>
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<td>Use of victim advocate testimony</td>
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<td>1 2 3 4 5 6 7 8 9 10</td>
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<tr>
<td>Other</td>
<td>1 2 3 4 5 6 7 8 9 10</td>
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</table>
3. Based upon the above methods, in your opinion, which are most likely to result in defendants being convicted? (Please rank from most to least impact).

4. Putting all time restraints aside, do you think it would be helpful to the successful defense of the case to have met with the defendant to discuss the case prior to the day of trial?
   (1) Yes  (2) No

   If yes, how much would it decrease the likelihood of a guilty verdict in cases that go to trial?

5. Please estimate the time on average you spend with the defendant?
   _____% discussing the possible outcomes of the case
   _____% preparing the individual to testify

E. DISPOSITION

1. Please state the three most frequent reasons you think domestic violence cases are dismissed:

2. What percent of cases do you think the prosecution pursues if the victim wants the case dismissed but they have evidence that a crime was committed? _____%

3. Do you believe that there are effective social service and civil alternatives to criminal prosecution of domestic violence cases available within the community? (1) Yes  (2) No

   If yes, please list the services/alternatives available:

4. In your opinion, are there any particular types of domestic violence cases that would be better served through any of these social service or civil alternatives? (1) Yes  (2) No

   If yes, please list the types of cases:

5. What situations do you request an E.M.U. (electronic monitoring unit) for a victim/defendant?

6. Approximately what percentage of cases do you request an E.M.U.?
   _____% for victims
   _____% for defendants

F. TREATMENT MANDATES

1. What treatment programs for batterers are currently available?

2. For each treatment program listed, what is the most significant benefit of the treatment programs offered?
3. For each treatment program listed, what is the most significant **drawback** of the treatment programs offered?

4. How do you decide which treatment program to request for which offender?

5. In your opinion, what are the best decisions or actions you can take to increase the future safety of domestic violence victims?

II. Closed-Ended Questions

A. In your opinion, to what extent should any of the following be considered in determining whether an abuser should be prosecuted (with 1 being low extent and 5 being high extent).

<table>
<thead>
<tr>
<th>Low extent/very ineffective</th>
<th>High extent/very effective</th>
</tr>
</thead>
<tbody>
<tr>
<td>current offense seriousness</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>past record of batterer</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>the batterer's attitude</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>likelihood of conviction</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>victim's wishes</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>victim advocate opinion</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>the fact that the behavior violated the law</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>severity of injury</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>AMEND report</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>other</td>
<td>1 2 3 4 5 d/k</td>
</tr>
</tbody>
</table>

B. In your experience, what is the **effectiveness** of the following dispositions in stopping repeat woman battering (with 1 being very ineffective and 5 being very effective)?

<table>
<thead>
<tr>
<th>Low extent/very ineffective</th>
<th>High extent/very effective</th>
</tr>
</thead>
<tbody>
<tr>
<td>pretrial diversion and counseling</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>fine</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>suspended jail time and conditions (e.g., no contact)</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>probation</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>probation with counseling</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>probation with AMEND</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>electronic monitoring</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>jail or prison time</td>
<td>1 2 3 4 5 d/k</td>
</tr>
<tr>
<td>other</td>
<td>1 2 3 4 5 d/k</td>
</tr>
</tbody>
</table>
C. In your opinion, please rate to what degree the following factors affect the outcome decision (e.g., conviction or sentencing) in a domestic violence case (with 1 being least important and 10 being most important).

<table>
<thead>
<tr>
<th>Least Important</th>
<th>Most Important</th>
</tr>
</thead>
<tbody>
<tr>
<td>Least Important</td>
<td>Most Important</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Factor</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victim suffered minor injury</td>
<td>1</td>
</tr>
<tr>
<td>Victim suffered severe injury</td>
<td>2</td>
</tr>
<tr>
<td>Defendant's prior record</td>
<td>3</td>
</tr>
<tr>
<td>Who provoked the incident</td>
<td>4</td>
</tr>
<tr>
<td>Legal sufficiency of evidence</td>
<td>5</td>
</tr>
<tr>
<td>Whether a weapon was involved</td>
<td>6</td>
</tr>
<tr>
<td>Victim &amp; defendant still romantically involved</td>
<td>7</td>
</tr>
<tr>
<td>Couple's history of domestic violence</td>
<td>8</td>
</tr>
<tr>
<td>Whether defendant is/was employed</td>
<td>9</td>
</tr>
<tr>
<td>Whether defendant allege victim provoked him</td>
<td>10</td>
</tr>
<tr>
<td>Defendant was on drug/alcohol during assault</td>
<td>1</td>
</tr>
<tr>
<td>Victim was on drug/alcohol during the assault</td>
<td>2</td>
</tr>
<tr>
<td>Victim still cohabitates with defendant</td>
<td>3</td>
</tr>
<tr>
<td>Whether victim/children need def.'s income</td>
<td>4</td>
</tr>
<tr>
<td>Victim signed the arrest</td>
<td>5</td>
</tr>
<tr>
<td>Victim testified against the defendant</td>
<td>6</td>
</tr>
<tr>
<td>Victim did not testify against the defendant</td>
<td>7</td>
</tr>
<tr>
<td>Alleged offense occurred when the victim and defendant were separated/divorced</td>
<td>8</td>
</tr>
<tr>
<td>Offense occurred when the victim had a TPO or TRO out on the defendant</td>
<td>9</td>
</tr>
<tr>
<td>Defendant verbally threatened the victim with serious bodily harm</td>
<td>10</td>
</tr>
<tr>
<td>In addition to violence, was property damage</td>
<td>1</td>
</tr>
<tr>
<td>Victim's (or def.'s) children witnessed abuse</td>
<td>2</td>
</tr>
</tbody>
</table>
D. LIKERT SCALE QUESTIONS

The following are questions to assess your attitudes. There are no right or wrong answers. All of the statements are describing cases of domestic violence in intimate couples. Please circle the appropriate number that most describes how you perceive the situation, with “1” equalling strongly disagree and “7” equally strongly agree. For example:

1 (2) 3 4 5 6 7
strongly disagree strongly agree

1. All other things equal, I perceive battering as more serious when the couple has broken up or separated.

2. I have less tolerance for offenders when I see the same victim in court/my office more than once.

3. All other things equal, I pursue a battering case more seriously when the victim has been drinking or using drugs.

4. Prosecution is less likely to prosecute when the victim provoked the battering incident.

5. It is hard for most battered women to leave abusive men.

6. Hospital records of injuries influence my decision of how to handle the case.

7. I feel prosecutors should not prosecute if the victim wants the case dismissed.

8. I have less tolerance for victims when I see the same victim in court more than once.

9. A battered woman might stay with her husband/partner because she feels dependent on him.

10. A police officer's testimony backing up the victim's testimony, influences how I handle the case.

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11. Most people don't understand how hard it is for public defenders to deal with domestic violence cases.

12. All other things equal, I pursue a case more seriously when the offender has been drinking or using drugs.

13. Battered women should be subpoenaed and required to testify in the trials against their batterers, even if they don't want to.

14. I have a great deal of confidence that the AMEND program helps batterers stop battering.

15. All other things equal, I perceive battering as more serious when the couple is divorced.

16. Victim advocates from Women Helping Women and the Y.W.C.A. play an important role in the successful prosecution of a case.

17. I don't understand why some victims won't testify against their abusers.

18. Pre-sentence Investigation reports influence the Judge's sentencing decisions.

19. I am confident of my ability to defend defendant's in domestic violence cases.

20. A woman in an abusive situation might blame herself for the violence in the relationship.

21. It is acceptable for public defenders to raise questions of victim provocation in the court hearings.

22. A battered woman who uses a pending prosecution to get the batterer to stop, and then dismiss charges, is wasting the court's time.

23. Public defenders do a good job representing batterers.

24. Sometimes I worry when a domestic violence defendant is acquitted, that this is going to be one of those cases where the defendant comes back and kills the victim.

25. I usually believe a battered woman's account of the violence against her.

26. Fear of the batterer keeps many victims from testifying against their abusers.

27. When I am not sure what to do in domestic violence cases, I request that the charges be dismissed.

28. In my opinion, just because a man batters his wife, does not mean he should not have shared custody or visitation rights.

29. As a rule, the police have been well trained to testify in domestic violence cases.

30. A battered woman who chooses to remain in an abusive relationship must not be suffering too badly.
31. It is acceptable for public defenders to ask for dismissal when they know the victim will not show up?

32. Judges can be effective in encouraging battered women to testify against their abusers.

33. Defense attorneys do a good job representing batterers.

34. Battered women who refuse to testify against their batterers should be held in contempt of court.

35. Judges often minimize the violence against battered women.

36. In some cases, victims are responsible for the violence committed against them.

37. Temporary protection orders (TPOs) are effective in providing safety to battered women.

38. Prosecutors often exaggerate the violence against battered women.

39. Victims should be prosecuted for recanting their testimony.

40. A battered woman could stay with her husband and probably avoid further battering by cooperating with the police and the courts who are trying to protect her.

41. Temporary restraining orders (TROs) are effective in providing safety to battered women.

42. Diversion out of the criminal justice system is a useful approach in reducing woman battering.

43. Criminal prosecution of batterers by the courts are useful in preventing repeat violence.

44. Battered women often exaggerate the violence against them.

45. The preferred (pro-) arrest policy has resulted in an increase in violence in the home.

46. Mediation between the parties (through the police or courts) is a useful approach to reduce woman battering.

47. In any violent relationship, both parties are responsible for the abuse.

48. Prosecutors do a good job in representing victims.

49. Pro-arrest policies take power away from domestic violence victims.

50. Public defenders often exaggerate the violence against battered women.

51. The imposition of a fixed "holding period" (e.g., 12 hours) for people charged with battering is a good idea.
52. Bail commissioners should be required to contact victims during the defendant's bail interviews in order to permit the victim to develop pretrial release plans.

53. Most battered women could simply leave their abusive husbands/partners if they really wanted to.

54. The preferred (pro-) arrest policy has resulted in victims being less likely to call the police.

55. Having a specialized domestic violence police unit would improve the prosecution in domestic violence cases.

56. The setting of bail should take into account the defendant's degree of dangerousness.

57. Family violence should be considered a criminal activity.

58. Victim representatives should be allowed to speak on behalf of victims (such as during the defendant's sentencing phase).

59. Arresting batterers has a deterrent effect on them.

60. Counseling for the defendant is a useful approach to reduce woman battering.

61. The pro-arrest policy has unnecessarily "clogged" the courtroom docket.

62. A domestic violence court would improve the success of prosecution in domestic violence cases.

63. The average battered woman leaves an abusive partner many times before finally leaving for good.

64. Criminal court dispositions remedies are more useful to battered women than civil court dispositions.

65. Prosecutors can be effective in encouraging battered women to testify against their abusers.

66. It is an acceptable use of the judicial system for battered woman to use the threat of prosecution as a power resource to pressure mates into compliance.

67. Victims' security is in jeopardy when they prosecute.

68. Victims often minimize the violence against themselves.

69. Having a specialized domestic violence prosecutor's unit would improve the success of prosecution in domestic violence cases.

70. Victims should be penalized for their reluctance to participate in prosecution.

71. Bench warrants should be issued to pressure victims into appearing in court.

72. For the most part, the judges are knowledgeable about the dynamics of domestic violence.
73. A defendant's being on probation gives the victim more power in the relationship.

74. Most battered women who called the police on their batterers, understood that an arrest was mandated.

75. Public defenders often minimize the violence against battered women.

76. Feelings of powerlessness in their relationship affect battered women’s decision to prosecute.

77. Sentencing patterns for domestic violence offenders in your jurisdiction are too severe.

78. In determining whether to proceed with a charge of domestic violence, do you think your office exercises its discretion not to proceed:

   1  2  3  4  5  6  7

   Less often than in other crimes against the person

   More often than in other crimes against the person

79. Exposure of batterers to the criminal justice process will increase (rather than deter) future violence.

80. In domestic violence cases, judges generally set bail “just right.”

III. Background Characteristics of Study Participant
We request this information in order to determine whether responses are related to various demographic characteristics in the data analysis, not to identify individual identities.

1. What is your age? ______
2. What is your sex/gender? ______

3. What is your race/ethnicity? ______
4. What is your marital status? ______

5. What year did you graduate from law school? ______
6. How long have you been a public defender in this court? ______ years
7. How long were you a public defender in another court? ______ years

8. If you could take part in designing educational training programs for public defender’s on domestic violence, what topics would you most like to see addressed?

9. Please feel free to add any additional information below.
APPENDIX D

VICTIM NOTIFICATION LETTER
City of Cincinnati

This case is set for Arraignment, Pre-Trial, Trial, Report, Sentencing (circle one), on ___________, at __________ in courtroom __________ of the Hamilton County Courthouse, or Criminal Justice Center.

Criminal cases in Hamilton County proceed in the following order:

**Arraignment** - Bond is set. The defendant enters a plea of Guilty or Not Guilty, or No Contest. You do not have to appear unless you want to.

**Pre-Trial** - If a Not Guilty plea is entered, the trial judge determines if the defendant has a lawyer and tells the defendant what the charge is. Bond may also be reviewed at this time. You do not have to appear unless you want to.

**Trial** - The judge or a jury determines guilt or innocence. Before the trial starts, Motions to Dismiss or Suppress may be filed by the defendant. Even though a trial date and time are set, it may still be continued if one side requests it, or the Defendant requests a lawyer. **Your attendance is mandatory at this hearing.**

**Sentencing** - If the defendant is found guilty, you or your representative are entitled to speak at the sentencing. Any issues of restitution or fears should be mentioned at that time. If you can not be present, you may contact us to find out what the sentence was.

(Please be aware that at any of the above stages it is possible for the defendant to obtain a continuance, or change his mind and plead guilty.)

You will be notified by Subpoena whenever the case is set for trial or continued for trial. We will try to consult you prior to a continuance. **You must notify us of a new address or phone number.** However, you or your representative may be present at any of the hearings.

If you are threatened, you should contact your police district immediately.

After conviction and sentencing, you or your representative are entitled to be notified of a hearing on a Motion To Mitigate or Motion To Reduce sentence, the filing of an Appeal and the hearing date of the Appeal if you request it. Please refer to this letter if you call.

Your contact person in our office is __________________________.