Domestic violence offenses: The influence of victim-offender relationship on prosecutorial and judicial decision making

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BOSTON COLLEGE
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DOMESTIC VIOLENCE OFFENSES: THE INFLUENCE OF VICTIM-OFFENDER

RELATIONSHIP ON PROSECUTORIAL AND JUDICIAL DECISION MAKING

A dissertation
by

NATHALIE MODELL ORLOFF

Submitted in partial fulfillment
of the requirements for the degree of
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Dissertation Chair: Dr. O'Hare

Abstract

Domestic violence is a widespread social problem impacting an estimated 6.2 million women in the United States each year (Department of Justice, 2008). The purpose of this study was to determine the existence, prevalence, and degree of disparity in prosecution and sentencing based on domestic violence status, victim-offender characteristics, and victim-offender relationship. The study specifically looked at cases of assault and battery, which is the most prevalent type of offense in domestic violence (Buzawa, Buzawa, and Stark, 2012; Payne & Wermeling, 2009). This study utilized simple random sampling, involved an archival analysis of court records, and examined a ten-year period (2000-2010) at Salem District Court in Essex County, Massachusetts. This investigation found that the likelihood of a case not being prosecuted was affected by whether or not it was a domestic violence incident. Fifty-five percent of domestic violence cases resulted in dismissal, while only 45% of the non-domestic violence cases were dismissed. If prosecuted, 84% of domestic violence cases resulted in a suspended sentence, while only 21% of the non-domestic violence cases that were charged resulted in a suspended

sentence. The results also showed that the degree of social closeness between a victim and offender influences the likelihood that a case will be prosecuted. For instance, an offender who assaults a family member or an acquaintance is more likely to be prosecuted than one who assaults an intimate partner. In addition, among prosecuted cases, domestic violence offenses resulted in shorter sentences and less severe sanctions relative to other offenses. The most significant implication of this study is that domestic violence victims continue to receive unequal treatment by the criminal justice system. Policy makers and those in the advocacy field can utilize this information to improve the prosecutorial and judicial response to domestic violence and to better guide victims through the judicial process.

DEDICATION

I dedicate this dissertation to my wife and best friend, Dana.

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There are said to be mythical creatures, who appear , victorious, after completing

their doctoral coursework, enter a cave of solitude, and emerge some weeks later holding

aloft, behold, a complete, shimmering, perfect dissertation; The magical work of a

solitary and brilliant being. I am happy to say it was not so with me. My dissertation, and

my PhD journey was a community project, and I am grateful to have many people to

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CHAPTER 1: INTRODUCTION

Purpose

Compared to the research available on police response to domestic violence, there are still relatively few studies that describe what happens to domestic violence cases once they enter the judicial system. There is a need for continued research on what happens to domestic violence offenders post-arrest. The purpose of this study was to investigate the disparities in sentencing based on the victim-offender relationship, specifically in cases of assault and battery. There are important social policy and social justice reasons to explore the relationship between assault and battery case dispositions and the degree of victim-offender relationship (defined as a four category variable from intimate partner to stranger). Previous studies have investigated sentencing decisions for cases of domestic violence without focusing exclusively on cases of assault and battery, the most common offense in cases of intimate partner violence (United States Department of Justice [DOJ], 2008). The goal of this study was to add to the body of knowledge about both the predictors impacting the decision to prosecute a case—since research has shown that the dismissal rate of domestic violence cases is as high as 64% (Belknap, Graham, Hartman, Lipan, Allen & Sutherland, 2000; Hirshel & Hichinson, 2001)—and sentencing outcomes in cases of assault and battery. Neglecting to address such disparities could lead to the continuation of the tacit social acceptance of domestic violence, as well as unequal treatment under the law for victims of domestic violence.

Significance

Domestic violence is a widespread social problem impacting an estimated 6.2 million women in the United States each year (DOJ, 2008). Although the criminal justice

system has made significant progress since the women's movement of the 1970s and the passage of the Violence Against Women Act in 1994, there remain disparities in the legal outcomes of domestic violence cases when compared to crimes of equal severity committed by offenders who were strangers to their victims (Belknap, Graham, Hartman, & Lippen, 2010; Schneider, 2008). Policy makers and victim advocates have long considered the national implementation of pro-arrest policies as crucial to deterring future incidents of domestic violence by offenders (Buzawa & Austin, 1993; Maxwell, Garner & Fagan, 2001; Zeoli, Norris, & Brenner, 2011). Prior to the late 1980s, domestic violence was still viewed by the police and the courts as a private family matter that should be resolved without the interference of the criminal justice system (Buzawa, Buzawa & Stark, 2012; Javdam, Sadeh & Verona, 2011; Ptacek, 1999). The Violence Against Women Act (VAWA) of 1994 led to a nationwide systemic judicial effort to encourage victims of domestic violence to file restraining orders and to the criminalization of domestic violence (Buzawa, Hotaling & Klein, 1998). By 2009, all states and the District of Columbia had implemented mandatory or preferred arrest laws (pro-arrest policies) (Zeoli et. al., 2011). Pro-arrest policies refer to either mandating or encouraging arrests by police officers when responding to domestic violence calls (Buzawa et al., 2012).

Studies examining the impact of the nationwide implementation of pro-arrest laws for domestic violence have indicated that there has been a dramatic increase in arrests in domestic violence incidents and a 178% increase in domestic violence cases in the court system (Gover, MacDonald, & Alpert, 2003; Rajan, & McCloskey, 2007). Despite this increase in arrests, researchers have found that a high rate of non-homicide domestic

violence cases are dismissed nationwide (Buzawa & Buzawa, 2003; Henning & Feder, 2005; Martin, 1994; Mignon & Holmes, 1995), and assault and battery prosecutions rates are significantly higher when involving strangers rather than intimates (Martin,1994; Wooldredge, & Thistlethwaite, 2005; Worrall, Ross, & McCord, 2006).

Study Rationale

There are both social policy and social justice reasons to explore the relationship between assault and battery case dispositions and the degree of victim-offender relationship. From a social justice perspective, the preferred arrest laws of the 1990s were implemented to redress the unequal treatment of domestic violence victims by the police. These laws were touted by advocates and policy makers as the definitive change needed to level the playing field for victims of domestic violence. Some twenty-five years later, arrest rates have increased significantly. However, research has also shown that arrest by itself is not a deterrent and in some cases is even linked to a higher frequency of re-offending (Buzawa et al., 2012).

Domestic violence victims continue to see their cases dismissed and their perpetrators receive suspended sentences or significantly shorter sentences then would be expected for assault and battery. The message continues to be sent that these crimes and these victims are not as worthy of protection as others. In fact, some research indicates that prosecutors rely on the cyclic nature of these crimes and on the offenders' high likelihood to re-assault their victims in deciding how they are going to process their cases. Kingsnorth, MacIntosh, and Sutherland (2002) found that lenient plea bargains (i.e. straight probation for an intimate partner assault) were being used to take advantage of the great number of offenders who violate probation. Kingsnorth et al. (2002) argued that

it was much difficult, time consuming, and work intensive to seek incarceration for a domestic violence offense than to plea-bargain a case into probation. They posited that, in order to manage the high number of domestic violence cases in their caseload, prosecutors recommended probation, anticipating that many of these offenders would be incarcerated once they violated the terms of their probation.

From a social policy perspective, the widespread social problem of domestic violence led to the focus by policy makers on mandatory arrest policies as an intervention effort. While these changes signaled a significant shift in how society views domestic violence (as an increasingly public rather than private matter), disparities in how these cases progress through the criminal justice system continue. This indicates that while the mandatory arrest policies marked a shift toward public, formal sanctions against domestic violence, more needs to be done on a policy level. Specific, effective policies to deter further violence and punish offenders need to be implemented. Further research is necessary to assess which types of policy changes would bring about these results.

From a clinical social work perspective, the expectation that victims will be re-offended and that offenders will re-offend normalizes the crime of domestic violence and lends it tacit approval by the justice system. By showing significantly greater lenience toward this crime, the message is sent that it is not a crime of significance to society. Despite this apparent apathy by the justice system, domestic violence does present a measurable human and financial cost. In 70-80% of intimate partner homicides, the male batterer had physically abused the female victim prior to the murder (Campbell et al., 2003; Polk ,1994; William & Houghton, 2004). Witnessing domestic violence is also one

of the primary risk factors for the intergenerational transmission of violence (Edelson, 1999). Domestic violence victims are significantly more likely to suffer from medical problems—including depression—that result in direct costs of 4.4 billion for related health care and 1.3 billion in loss of productivity (Center for Disease Control, 2003).

Specific Aims

This study explored the relationship between victim-offender relationships and sentencing outcomes in cases of assault and battery. The specific aims of this study were:

- to examine the relationship between domestic violence cases versus non-domestic violence cases and the decision to prosecute;

- to examine the relationship between victim and offender characteristics and the decision to prosecute, and

- to examine the association between the type of victim-offender relationship and sentencing outcomes in cases of assault and battery.

Broad Research Questions

The broad questions were as follows:

- Do domestic violence offenders receive different treatment in the court system than non-domestic violence offenders?

- Should victims of domestic violence expect the same outcomes as victims of other types of assault and battery if pursuing court action?

- Does being in an intimate partner relationship with the victim protect the offender from more severe sanctions than stranger assaults?

CHAPTER 2: LITERATURE REVIEW

Analysis of the Literature

This section is a review of the literature as it relates to the primary variables in this investigation, which include the nature of the victim-offender relationship, the decision to prosecute, and prevalent sentencing dispositions in cases of domestic violence. In the course of this review limitations of the previous research are highlighted and implications for future research are discussed.

Victim-Offender Relationship

Researchers have analyzed the relationship between the victim and the offender as a mitigating factor in final sentencing decisions (Grant & Parkes, 1997; Hakkanen, Hagelstam, & Stanttila, 2003; Greening & King, 2006; Groves, Salfati, & Elliot, 2004; McCormick, Maric, Seto, & Barbaree, 1998; Simon, 1996; Spohn & Holleran, 2001; Ullman, Filipas, Townsend, & Starzynski, 2006; Felson & Pare, 2007). However, many did not specifically focus on domestic violence cases. One significant contributor to the conceptualization and operationalization of the degree of social "closeness" or intimacy and its association to court outcomes is Dawson (2004). Dawson (2004) conducted a content analysis of all homicides from 1974 to 1996 in a particular urban jurisdiction. Dawson posited that court outcomes were impacted by the degree of "closeness" or intimacy between victims and offenders. In conducting an analysis of 1003 cases, one of her central objectives was to examine the extent to which the degree of social closeness may affect the court's response to violent crime. The variables that were held constant in the analysis included factors pertaining to the case and extralegal factors such as victim and offender demographic characteristics.

Dawson (2004) classified the relationship between victim and offender at the time of the crime on a social scale of "closeness": intimate partner, family member, friend, acquaintance, and stranger. Dawson's scale was used as a proxy variable for the degree of intimacy. The assumption behind this scale was that intimate partners have more frequent contact with offenders than family members, and family members have greater contact with offenders than acquaintances and so on. Dawson's analysis found that the closer the victim-offender relationship was on the social scale (intimate partner versus stranger), the less severe the sentence (mean of 8.8 years for intimate partner homicide versus mean of 11.3 years for stranger homicide).

Dawson's (2004) study also investigated the association between the degree of victim-offender intimacy and three stages of the court process: charging decision, type of conviction, and sentencing decision. Relatively few studies have examined the sequential nature of the criminal justice system and how earlier decisions may impact sentencing outcomes (Frantzen, San Miguel, & Kwak, 2011; Olson & Stalans, 2001).

Decision to Prosecute

The charging decision is the step of the criminal justice process in which the prosecutor analyzes a case and decides if there is enough evidentiary support to file charges. This is the first step of many in which a case may be dismissed prior to a sentencing decision (Brocke, Goldenitze, Heinz, & Bilsky, 2004; Hartman & Belknap, 2003; Henning & Feder, 2005; Ostrom, 2003; Frantzen et al., 2011). The predictor variables in the decision to prosecute that were identified in the literature review were victim characteristics, offender characteristics and the nature of the incident. Table 1 provides a summary of research on the decision to prosecute (ns = non-significant; + = positive correlation; - = negative correlation).

Table 1

Summary of Studies Examining Predictors of the Decision to Prosecute Domestic Violence (DV) Cases*

Study	Sample & Year Data Collected	Case Decision	Victim Predictors	Offender Predictors	Incident Predictors
Rauma (1984)	199 males with a domestic violence incident involving female intimate partner (1978)	38% charged	Married to suspect (ns); under the influence(ns); race (ns)	Prior criminal charges (+); race (ns)	Victim injured (-); weapon used (ns); arrested for battery (ns)
Schmidt & Steury (1989)	409 males cited for misdemeanor assault of female intimate partner (1983-1984)	36% prosecuted	Intimate relationship at time of incident (ns); cohabiting (ns)	Unemployed (+); under influence (+); prior convictions (+); on probation (ns), prior battering of victim (ns)	Victim injured (+), weapon used (+); victim medical treatment (ns)
Martin (1994)	448 cases of intimate family violence (1988)	14% prosecuted	Alcohol or drug use (+)	Prior arrests(+); alcohol or drug use (+)	Seriousness of offense (+); victim injured (-)
Hirschel & Hitchinson (2001)	424 males misdemeanor assault of female intimate partner (1987-1989)	36% prosecuted	Race, age, married, employed, under the influence (all ns)	Race, age, employed, under influence, prior criminal record, prior arrests (all ns)	Victim injured (+); physical assault (ns); drinking as a cause (ns)

Table 1
(continued)

Study	Sample & Year Data Collected	Case Decision	Victim Predictors	Offender Predictors	Incident Predictors
Kingsnorth, Macintosh, Berdahl, Blades, & Rossi (2001)	383 males and 73 females arrested for misdemeanor or felony DV involving intimate partner (1995-1996)	72% prosecuted	Victim arrested (-);married &cohabitating(ns); race of couple (ns); intoxicated (ns)	Under the influence (+); prior DV arrest (ns); prior prison term (ns); race of couple (ns)	Hospital Tx for victim (+); severity of attack (ns); victim injury (ns)
Dinovitzer & Dawson (2007)	441 males and 33 females arrested for DV involving intimate partner (1997-1998)	83% prosecuted	Female (+); dating suspect (-); age (ns)	Female (-); age (ns); prior DV (ns); prior non-DV violence (ns); prior nonviolent crime (ns)	Minor victim injuries (ns); major victim injuries (ns); weapon used (ns); children present (ns)
Kingsnorth, MacIntosh, & Sutherland (2002)	1,427 males and females arrested for misdemeanor or felony DV involving intimate partner (1999)	82% charged 70% prosecuted	Married & non-cohabitating (-); victim arrested (-); race (ns)	Prior non-DV arrest (+); prior DV arrest (ns); gender (ns); substances (ns)	Severity of victim injury (+); corroborating witness (+)
Davis, Smith, & Taylor (2003)	692 males and 52 females arrested for DV involving intimate partner or blood relative (1994-1995)	% charged not provided	Intoxicated (-); married to suspect (ns)	Female (-); prior arrest for battery (+); prior felony convictions (ns); prior misdemeanor convictions (ns)	Weapon used (ns); victim injured (ns); active restraining order (ns); physical assault (ns)

Note. Relationships were coded as positive (+), negative (-), or statistically non-significant (ns) using $p<0.05$.

Two of the studies in Table 1 (Hirshel & Hitchinson, 2001; Schmidt & Steury, 1989) found that severe victim injury was positively correlated with a decision to prosecute. Schmidt and Steury identified that the most highly related factors to the decision to prosecute an offender were a failure to appear at the charging hearing and substance use at the time of arrest. Martin's findings indicated that the predictor related to the offender most positively correlated with prosecution was a prior history of arrest, assault or court involvement. The seriousness of the offense, prior history of abuse, alcohol and/or drug use on the part of victim or offender, was significantly correlated to the decision to prosecute a case (Martin, 1994).

Rauma (1984) found that certain victim characteristics (e.g., victim's substance abuse or injury to the offender) were more likely to decrease the likelihood that a case would be charged. In contrast to Hirschel and Hichinson (2001) and Schmidt and Steury (1989), both Rauma and Martin (1994) found that serious injury to the victim was negatively correlated with the decision to prosecute. Martin suggested that this might reflect "ambiguity about the role and status of victims in the proceedings" (1994, p.226). This may also reflect that historically, the courts viewed victims paternalistically and may have been unwilling to subject them to the court process. If the victim was no longer cohabitating with the offender the courts routinely considered her at less risk for future violence (Dawson, 2004).

Rauma's study found that while serious injury to the victim was negatively correlated with the decision to prosecute, it was positively correlated to the decision to "follow up" on a case (Rauma, 1984, p.323). Rauma defined "follow up" as gathering further evidence and information after an incident (this study was conducted prior to the

implementation of mandatory arrest laws) and that "follow up" often did result in the decision to prosecute (1984). In addition, during the time period of both the Martin (1994) and Rauma (1984) studies, the criminal justice system was hesitant to prosecute a husband due to perceived negative financial consequences to the wife. The consistencies between the studies were that a victim's and an offender's race or age did not appear to significantly influence the decision to prosecute in any of the studies.

The variability in studies reviewed in Table 1 may have been influenced by several factors. The time frame for the data collected ranged from the 1980s to the 1990's, and there have been many reforms (i.e. the mandatory arrest laws, the Violence Against Women Act) throughout that time period. Other variation may be caused by a lack of consistency in conceptualization and generalization of the construct "domestic violence."

Rauma (1984) was the first to examine the decision to charge in domestic violence cases and used a narrow definition of domestic violence as "wife assault" in heterosexual marriages. His sample was also collected from a family violence project in 1978, before the implementation of pro-arrest policies. Schmidt and Steury (1989) analyzed cases from a district attorney's office in Milwaukee County from 1983 to 1984. Although they broadened Rauma's definition from "wife assault" to a victim and perpetrator who were or had been in a sexual relationship, domestic violence was still conceptualized as occurring between a male offender and female victim.

Hirshel and Hichinson's (2001) data were from a research project on spousal assault that was being conducted in Charlotte, North Carolina in 1986. Their data were collected as part of a Spousal Abuse Replication Project that was attempting to replicate Sherman & Berk's (1984) findings on the negative correlation between higher arrest rates and recidivism

in domestic violence offences. They only examined data involving male offenders and their female intimate partners. Kingsnorth et al. (2002) and Davis et al. (2003) had larger sample sizes, but their data were from the mid to late 1990s, which may not be generalizable to the prosecutorial decision- making process a decade later

Prevalent Sentencing Dispositions in Domestic Violence Cases

Past research has also examined the sanctions most prevalent in domestic violence cases (Gilcrest & Blissett, 2002; Hartman & Belknap, 2003; Dinovitzer & Dawson, 2007; Ventura & Davis, 2005; Wooldredge, 2007). Gilcrest and Blissett (2002) conducted a study in which a sample of 67 judges each read six fictional vignettes on assault and battery cases and were then asked to offer sentencing recommendations, as well as provide their rationale for those sanctions. Fifty six percent of the judges were male and the mean age was 55. Eighty five percent of the judges had previously dealt with cases of domestic violence (with a mean of 4 cases in the year of the study). The researchers created a scale for severity of punishment to measure sanctions. This scale ranged from 1 to 3 (1 = fines, 2 = probation, and 3 = custody). Incarceration (custody) was more frequently suggested as a sanction for vignettes involving strangers (37%) when compared to those involving domestic violence (32%). In contrast, participants were more likely to recommend probation for domestic violence assaults (65%) as compared to stranger assaults (40%).

Hartman and Belknap (2003) surveyed judges on their understanding of the ideal sentence in cases of domestic violence based on vignettes similar to those utilized by Gilcrest and Blissett (2002). Similarly to Gilcrest and Blissett's findings, judges in this study identified probation to be the most appropriate sentence for domestic violence. However, if given the opportunity, judges reported that they would mandate the offender to a batterers'

intervention program versus straight probation. One strength of this study was the qualitative nature of the design, which allowed for an in-depth examination of judges' predispositions in making sentencing decisions. However, limitations of both studies were small sample sizes, utilizing hypothetical situations, participants potentially giving socially desirable responses, and a reliance on self-reporting without a quantitative analysis and or comparison of the participants' actual sentencing decisions.

Dinovitzer and Dawson (2007) found that Continued Without a Finding (CWOF) (typically in duration between six months and five years) were the most frequently imposed sentence for domestic violence cases. A CWOF, also referred to as a suspended sentence, used by prosecutors usually in accordance with a plea bargain. The court order stipulates that if the offender is *not* rearrested within a designated time period, the charges will be dismissed (Dinovitzer & Dawson, 2007). Merrall, Dhami & Bird, (2010) found that even though many states have sentencing guidelines, the actual sentencing decision is left to the judge's discretion. These can ranged from CWOFs, to batterers' treatment programs, to probation, and incarceration. However, incarceration is only sanctioned in 17% of domestic violence cases (Henning & Feder, 2003; Dinovitzer & Dawson, 2007; Gilcrest & Blisset, 2002).

If a case is not dismissed due to insufficient evidence and does proceed to trial, many prosecutors have extended their discretion into sentencing via lenient plea-bargaining for assault and battery cases of domestic violence. Five studies were identified that utilized a method of content analysis to investigate cases of domestic violence once they reached the sentencing phase. Table 2 provides a summary of sentencing dispositions (ns = non-significant; + = positive correlation; - = negative correlation).

Table 2

Summary of Research Studies Examining Predictors of Sentencing Decisions for Domestic Violence*

Study	Sample & Year Data Collected	Case Decision	Victim Predictors	Offender Predictors	Offence Predictors
Sentencing					
Belknap & Graham (2000)	2,284 males and 370 females arrested for misdemeanor DV involving current or former intimate partner (1997)	Guilty verdict (44%)	Active intimate relationship at time of incident (+)	Gender (ns); age (ns); race (ns); prior violent offense (ns)	Severity of charges (ns); kicked/hit victim (ns); weapon used (ns); strangled victim (ns)
Kingsnorth, Macintosh, Berdahl, Blades, & Rossi (2001)	383 males and 73 females arrested for misdemeanor or felony DV involving intimate partner (1995-1996	Sentence length	Married& cohabitating (ns); race of couple (ns); intoxicated (ns)	Prior DV arrest (+); prior prison term (+); under the influence (ns); race of couple (ns)	Victim injury (ns); hospital Tx for victim (ns); severity of attack (ns)
Belknap & Graham (2000)	2,284 males and 370 females arrested for misdemeanor DV involving current or former intimate partner (1997)	Sentence length	Active intimate relationship at time of incident (+)	Female (-); African American (-); prior violent offense (+); age (ns)	Severity of charges (ns); kicked/hit victim (ns); weapon used (ns); strangled victim (ns)

Table 2 (continued)

Study	Sample & Year Data Collected	Case Decision	Victim Predictors	Offender Predictors	Offence Predictors
Kingsnorth, MacIntosh, & Sutherland (2002)	1,427 males and females arrested for misdemeanor or felony DV involving intimate partner (1999)	Sentence length	Relationship (ns); race (ns)	Prior DV convictions (+); current DVprobation (-); gender (ns) ; non-DV prior arrests (ns)	Victim medical Tx (+); gun used (+)
Dawson (2004)	1,003 males and females arrested for homicide (1974-1996)	Sentence length	Female (+); race intimate or family (ns); race stranger (+); (age (ns)	Male (+); race (ns); prior arrests (+); multiple offenders (+)	Public killing (+); gun used (+)

Note. Relationships were coded as positive (+), negative (-), or statistically nonsignificant (ns) using $p < 0.05$.

Kingsnorth, et al. (2002) found that lenient plea bargains (i.e. straight probation for an intimate partner assault) were being used to take advantage of the great number of offenders who violated probation. Kingsnorth et al. argued that it was much more difficult, time consuming, and work intensive to seek incarceration for a domestic violence offense than to plea-bargain a case into probation. They posited that in order to manage the high number of domestic violence cases in their caseload, prosecutors recommended probation, anticipating that many of these offenders would be incarcerated once they violated the terms of their probation. Kingsnorth et al.'s (2000) results indicated that out of the 18.4% of the cases in

their sample that did not go to trial and led to the offender receiving probation, approximately 78% of those offenders violated that probation and end up incarcerated.

Limitations of Previous Research

One limitation of past research is a reliance on data that are based on self-reported beliefs and perceptions of court personnel, which may have led respondents to intentionally or unintentionally give socially desirable responses. Another limitation is that a majority of the studies that examine the predictor of victim-offender relationship have focused on sentencing dispositions in sexual assault, stalking, and homicide, not in assault and battery cases, which is the most prevalent crime between intimates. Additionally, there have been only a few quantitative studies examining the degree of intimacy in the relationship between the victim and offender and severity of sentencing. Most studies have used convenience sampling, while others have analyzed secondary data that are from the 1980s and early 1990s. Those that have utilized random sampling have typically been cross-sectional (Martin, 1994), rather than longitudinal studies.

Theoretical Framework

Available research indicates that domestic violence victims continue to receive unequal treatment in the criminal justice system and perpetrators of domestic violence continue to re-offend and re-assault their victims, despite the changes that have been made to arrest policies. It is therefore imperative that emphasis be placed on preventing future acts of domestic violence based upon effective deterrence and social consequences. Identifying and understanding theories that assist in preventing domestic violence is crucial to the potential reduction of intimate partner violence.

Feminist theory (Chesney-Lind, 2006; Xie, Heimer, & Lauritsen, 2012) and deterrence theory (Tittle and Logan, 1973; Zimring & Hawkins,1973) are two of the common lenses used to understand domestic violence. Feminist theory posits that domestic violence is not an isolated phenomenon, but a branch of the social and economic systems that support the male dominated, patriarchal social order. Implicit in this theoretical perspective is that women being subordinate in society is the reason for female battering (Gelles, 1997). While this theory offered a useful lens in the past, newer research indicates that changes in society that allow women to become financially, educationally, and socially dominant may actually put women at higher risk for intimate partner violence. This is posited to result from "backlash effect", when the improving status of women in society is perceived as a threat by men, which in turn increases the incidence of male on female intimate partner violence (Xie, Heimer, & Lauritsen, 2012).

Deterrence theory, principally applied to analyze social deviance and criminal activity (Tittle and Logan, 1973), has also been used to investigate domestic violence (Sherman et al., 1992). The conditional hypothesis of general deterrence theory is that there is a deterrent effect of utilizing both formal and informal sanctions in response to domestic violence incidents, and subsequent recidivism (Sherman et al, 1992). However, other researchers have posited that deterrence theory does not take into account the inherently interpersonal nature of family violence (Xie et al., 2012).

Applying Exchange/Social Control Theory to Domestic Violence

A key assumption of social exchange theory is that an individual's behavior is moderated by the perceived costs associated with their actions weighed against the perceived rewards. In other words, people choose to engage in a behavior if they believe that the

potential reward will be greater than the potential consequence. In the context of family violence, Gelles (1997) posits that "people will use violence toward family members when the costs of being violent do not outweigh the rewards" (p. 134). Specifically, Gelles isolates three propositions:

1. That individuals are more likely to use violence in the home when they expect the costs of being violent to be less than the rewards.

2. The absence of effective social controls (e.g., police intervention) over family and intimate relations decreases the costs of one family member being violent toward another.

3. Certain social and family structures reduce social control in family relations and, therefore, reduce the costs and increase the rewards of being violent (pp.134-135).

In illustrating the importance of social sanctions as a deterrent to family violence, Nye (1979) argued that societies that do not have cultural norms prohibiting violence in families have a higher frequency of such violence. Nye went on to argue that in societies that allow violence against some types of family members and not others, members of that society will be most likely not assault those members which society protects.

Research by Sherman (1992) adds support to the position that people make decisions about their violent behavior based on perceived costs and rewards. Sherman examined the results of six studies investigating the efficacy of mandatory arrest policies and found that the effects of these policies varied based on the characteristics of the batterer (Gelles, 1997). Specifically, Sherman documented that men who were married to their victim and who were employed were less likely to re-assault their victim after arrest. Conversely, men who were not employed and not married to their victim were more likely to re-assault their victim post

arrest, especially if they were arrested for "minor" (misdemeanor) assaults (1992). Sherman (1992) suggested that, for men with a "stake in conformity," the threat of legal sanctions and arrest along with actual legal sanctions would reduce the prevalence of domestic violence .

In other words, from an exchange/social control perspective it can be argued that a man who has more to lose (loss of marital status, loss of employment based on arrest history, or public acknowledgement of battering) would be less likely to continue to batter than one with less to lose.

Williams (1992) tested this theory by examining data from both the Second National Family Violence Survey and related follow-up studies (1986-87). He found that offenders who saw themselves as having "greater privacy" because they believed they were "isolated" from police response, who had "greater inequality" in their relationships (more power), and who considered the social cost of arrest to be "low" were more likely to be violent (pp. 623-624). This further supports the basic premise of the exchange/social control perspective that people will engage in a behavior if they believe the costs will not outweigh the rewards.

Gelles (1997) suggested that violence itself, revenge, and control were all potential rewards of battering. He posited that other potential rewards motivating men who batter was correcting perceived relational inequality and reinforcing their status (pp. 135-136). In terms of potential costs, Gelles identified being hit back, legal sanctions, and "loss of status." Other potential costs were loss of employment and ending of the relationship. Gelles speculated that ending the relationship may be perceived as too high a cost by the batterer because it would be interpreted as "loss of control," and in turn may increase the danger to the victim (1997, p.138). Wilson and Daly's (1993) research supported the hypothesis that the threat on the part of the victim of ending the relationship would increase the incidence and severity of

violence. Specifically, they documented that the first two months after a separation were the period of highest risk of homicide of the victim by the ex-partner, and that separation initiated by the victim increased risk overall.

In proposing exchange/social control theory, Gelles (1997) also argued that there was a need for a theory that accounted for the influence of social control and sanctions, while taking into account the dynamics of interpersonal relationships. The potential for family violence is viewed as normative in that it may occur in many types of families. In fact, exchange/social control theory explains that since domestic violence is still perceived as a private matter and courts continue to show a reluctance to intrude into the family system, batterers continue to use an intimate partner relationship as an outlet for their violent tendencies without concern for social and criminal sanctions (Buzawa et al., 2012; Gelles, 1997). Using the exchange/social control theory, it can be posited that a key factor in prevention and deterrence of domestic violence is making the perceived costs of battering more significant than the perceived rewards.

The present study utilized the exchange/social control theory framework. This framework fits with the investigation of the association between social factors and legal consequences in cases of assault and battery. This includes such variables as domestic violence status, type of victim-offender relationship (from intimate partner to stranger), rate of prosecution, and sentencing outcomes. A primary objective of this study was to examine the role of victim-offender relationship in sentencing outcomes.

Research Questions and Hypotheses

The current study utilized the following questions and hypotheses to help guide the study:

Overarching research question: What are the characteristics associated with sentencing dispositions (outcomes) and cases of assault and battery on a district court level?

Question 1: What is the relationship between domestic violence cases versus non-domestic violence cases and the decision to prosecute?

Question 2: What victim and offender characteristics influence the decision to prosecute in cases of domestic violence versus non-domestic violence?

Question 3: How does sanction severity for cases of assault and battery vary by demographics, offense characteristics, and type of victim-offender relationship?

Primary hypotheses

Hypothesis 1: Among assault and battery cases, domestic violence incidents will be significantly and negatively correlated to the decision to prosecute. As a result, domestic violence cases will be related to less prosecution.

Hypothesis 2: Among assault and battery cases the intimacy of the victim-offender relationship will be significantly and negatively related to the decision to prosecute.

Hypothesis 3: Among assault and battery cases that are prosecuted, there will be a significant difference in the type of sentence sanctioned for domestic violence versus non-domestic violence cases. Domestic violence cases will be related to a higher rate of suspended sentences (CWOFs) (the least severe sanction among 3 categories: CWOF, probation, and prison).

Hypothesis 4: Among assault and battery cases that are prosecuted, the type of victim-offender relationship will be significantly and negatively related to sanction severity. Such that, cases involving intimate partner assault will receive more lenient sanctions than cases involving strangers.

Exploratory hypotheses

Hypothesis 5: Among assault and battery cases, there will be a relationship between criminal history and the decision to prosecute a case.

Hypothesis 6: Among assault and battery cases, there will be an association between victim-offender characteristics (such as age and gender) and the decision to prosecute a case.

Hypothesis 7: Among assault and battery cases, there will be an association between victim-offender characteristics (age and gender) and outcome severity (type of sanction).

Hypothesis 8: Among assault and battery cases, once the decision is made to prosecute, legal factors (such as seriousness of the charge and criminal history) will be positively correlated with outcome severity (type of sanction).

CHAPTER 3: METHODS

Sample

Court records for a ten-year period (2000–10) for cases at Salem District Court in Essex County, Massachusetts were the starting sample for this study. According to their records, Salem District Court disposes of 12,000 cases per year. Of those 12,000 cases, on average one-third are civil cases, one-third are restraining order cases, and one-third are criminal cases. Essex County has a population of roughly 743,159 (Census, 2010), and the district court has jurisdiction over the following cities and towns: Beverly, Danvers, Manchester, Middleton and Salem. The racial profile of Essex County is predominately White (81.9%), with 16.5% of the population identifying as Hispanic or Latino and 3.8% as Black or African American (Census, 2010).

Records from district court were chosen for this content analysis specifically because the majority of assault and battery domestic violence cases are handled at the district court level. Further, district court records exclude cases of homicide, which tend to result in harsher sentences and could potentially skew the results. In order to replicate the proportion of the general population utilizing Salem District Court with the proportion of the sample, simple random sampling was utilized. For this investigation, we decided to examine 5,000 randomly selected docket numbers from a ten-year period (2000-1010). The decision to select 5000 cases was made because this was thought to generate a sufficient sample size. Once these 5,000 cases were reviewed, civil cases and non-assault-and-battery cases were disqualified, including restraining order applications. In order to retain consistent results, assault and battery was defined during sampling as any crime charged under the classification of Simple or Aggravated Assault in any degree. These crucial sampling steps

ensured that the remaining cases were assault and battery criminal cases, which were representative in size and ratio to the original population. This approach led to a sample of 427 cases of assault and battery.

Ultimately, after eliminating cases involving police officers, 414 cases were relevant to the present study. The age of offenders ranged from 17 to 75 with a mean of 33.28 (SD = 11.40), and the age of victims ranged from 11 to 85 with a mean of 31.98 (SD=12.72). The majority of victims (88.1%) and offenders (80.1%) were white, which is consistent with the demographics of Essex County.

Procedure

Reliability of Coding

As court records are not computerized at Salem District court it was important to establish the reliability of the data. Archival research needs to be conducted with great care in order to not take data out of their original context, which would impact the meaning of the information collected and in turn its level of consistency (Hagan, 1993). Hence, prior to beginning data collection, a checklist and codebook were designed to ensure that data were collected in the context they were found in the court record. Some sampling error may have resulted from the complex and disordered nature of the files, which at times made it difficult to code a particular variable.

To ensure the reliability of the coding, the dockets were reviewed and, if appropriate to the selection criteria, reviewed by two coders together (the principal investigator and an undergraduate research assistant). Both coders needed to agree on the valid value and category assigned to the variables. If there was no agreement, then the variable information was entered as missing. The data collected on the variables related to this study were entered

into SPSS on site by one coder, while the other read off the information that was categorized by the coding instrument. After each session of data collection, the file was saved and dated.

Measures

In order to examine sentencing, first there was a need to identify the differences in prosecutorial rate for domestic and non-domestic violence assault and battery cases. Prosecutorial rate refers to the number of cases prosecuted. This study examined variables related to prosecutorial decision making and sentencing disparities in cases of assault and battery. Specifically, we examined five factors: (1) domestic violence status (domestic violence versus non-domestic violence case); (2) rate of prosecution; (3) degree of relationship between victim and offender; (4) type of sentence, and (5) severity of sentencing.

Variables

One variable that required both conceptualization and operationalization was the variable "domestic" violence. The main purpose of this study was to see if offenders of domestic violence assault and battery are sentenced less severely than offenders who are strangers to their victims; therefore, the initial distinction was dichotomous in whether domestic status existed between victim and offender or not. Dinovitzer and Dawson (2007) suggested that the relationship between victim and offender was "domestic" if the violence was between two family members, but in an effort to maintain content validity and avoid measuring parent-child crime, the conceptual definition of domestic violence for this study was specified as assault and battery against a partner either currently or formerly in an intimate relationship with the offender. This information was available in the court docket or the police report documenting the domestic violence incident.

Victim-Offender Relationship

For the purposes of this study, the conceptual definition of the victim-offender relationship was a combination culled from the research. In part, this conceptual definition of the victim-offender relationship corresponded with that of Henning and Feder's (2005) and Dawson's (2004), where the relationship between victim and offender at the time of the crime was classified on a social scale of intimacy: intimate partner, family member, friend, acquaintance and stranger. In the present study, a four-category measure of victim-offender relationship was constructed to use as a proxy variable for degree of intimacy. The four categories utilized in this study were intimate partner, family member, acquaintance, and stranger. Intimate partner was defined as currently or formerly being engaged in a sexual relationship. The decision to construct a four category versus five-category measure was influenced by the fact that the court dockets did not contain enough information to differentiate between "acquaintances" and "friends."

The assumption behind the construction of this measure as a proxy for degree of intimacy was that intimate partners have more frequent contact than family members, and family members have greater contact than acquaintances and so on (Dawson, 2004) (see Figure 1). A "higher degree" of intimacy was hypothesized to correlate with more leniency towards the offender by the criminal justice system (Dawson, 2004).

Intimate Partner → Family Member → Acquaintance → Stranger

Figure 1. Continuum of victim offender relationships. Arrows indicate that increasing social distance is hypothesized to correspond to decreasing severity in sentencing for defendants.

Criterion Variables

The dependent variables consisted of potential case dispositions that occur throughout the criminal justice process (see Figure 2). Once a decision is made to prosecute a case, the next step in the process is the charging decision. For the purposes of this study, the charging decision was conceptualized as the most serious crime with which the prosecutor charged the defendant. After a case is prosecuted, the next step is the sentencing phase. Sentencing is a complicated variable in that frequently sentences are not mutually exclusive: an offender can receive a fine and probation, or any other combination of sentences. For this reason, just as the charges filed were not mutually exclusive, neither were the sentences. Sentencing was defined conceptually as the sanction imposed at the final stage of the criminal justice process at the district court level. This sanction could include a fine enumerated with a dollar amount or a sanction in terms of length of incarceration. Initially, the data collection instrument operationalized sanctions in accordance with how many months (or dollars) were ordered. However, fines were not routinely noted in the court dockets, so the principal investigator decided to stop collecting data on fines. The sanctions that were noted in the archival content analysis were suspended sentences (referred to previously as continuations without a finding [CWOFs]), probation, and incarceration. Consistent with exchange/social control theory, sanction severity was measured as a dichotomous variable of a suspended sentence (CWOF) (0,1).

The information provided in Table 3 illustrates the variables and the coding that were utilized in the collection of this data set.
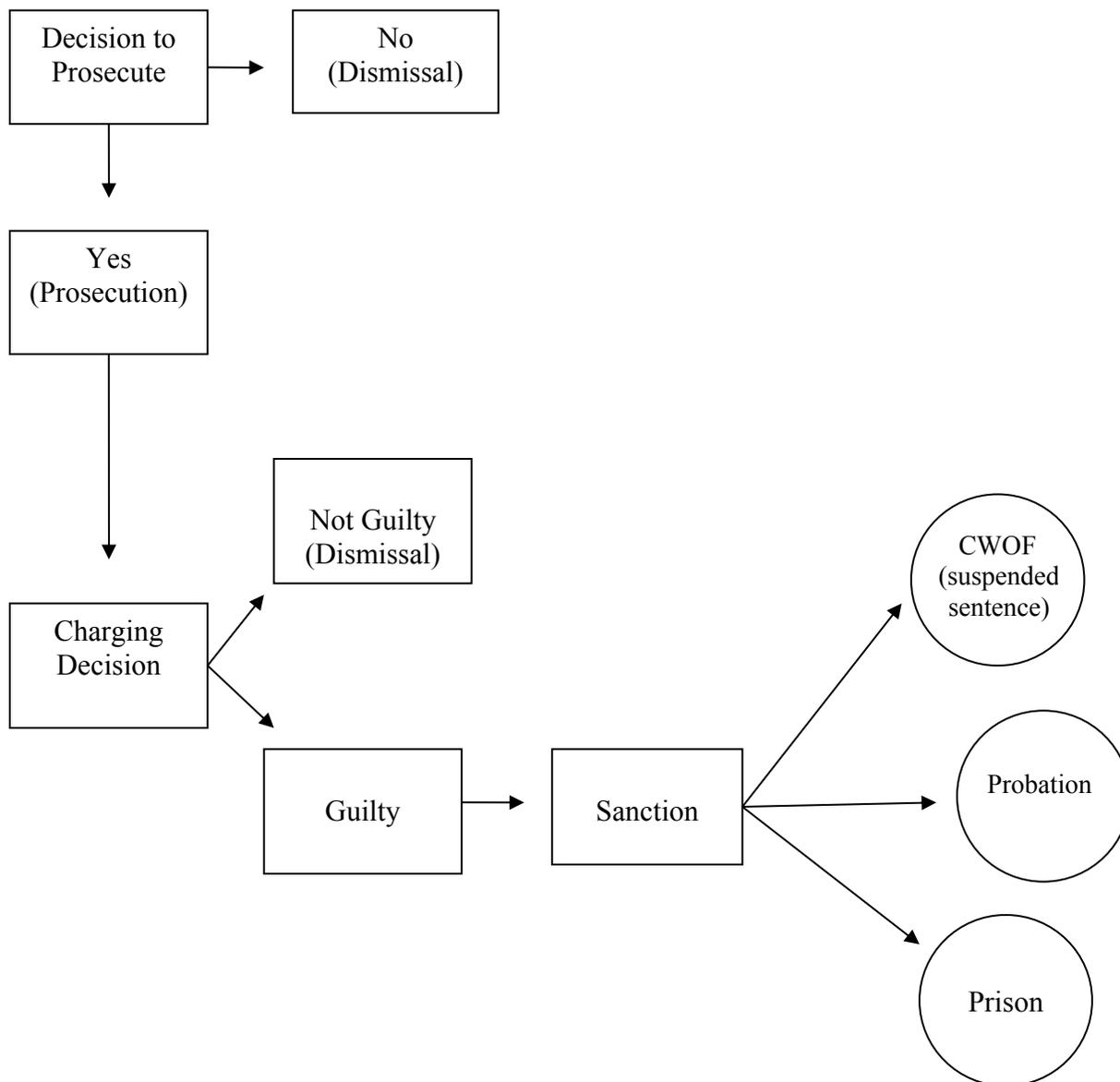
Figure 2. Flow chart of court dispositions at two stages: Decision to prosecute and sentencing.

Table 3

Variable Names and Coding

Variable label	Variable name	Coding instructions
Docket number	DocketNum	Docket Number (e.g., 0036CR1234) assigned to District Court Case broken down by: • First two digits: last two digits of the year filed (e.g., 09) • Second two digits: court code (e.g., 36) • CR (Criminal) • Four digit number sequentially assigned as filed (e.g., 1234)
Domestic violence incident	DVStatus	1 = DV 0 = Non-DV
Victim-offender relationship	VicOffRel	1 = Intimate Partner 2 = Family member 3 = Acquaintance 4 = Stranger
Offender's proclaimed sex	OffenderSex	0 = Male 1 = Female
Offender's age	OffenderAge	Scale variable in years
Offender's proclaimed race	OffenderRace	1 = White 2 = Black 3 = Hispanic 4 = Other
Does the offender speak English?	OffenderEng	1 = Yes 0 = No
Was the offender classified as indigent? (qualified for state-supported legal aid)	LegalAid	1 = Yes 0 = No
Number of previous convictions	NumPrevCon	Scale variable

Table 3 (continued)

Variable Names and Coding

Variable label	Variable name	Coding instructions
Victim's age	VicAge	Scale variable in years
Victim's proclaimed race	VicRace	1 = White 2 = Black 3 = Hispanic 4 =Other
Original Crime for which the offender was arrested as stated by the police report or warrant	Crime	1 = Stalking 2 = Restraining Order Violation 3 = Assault and Battery 4 = Sexual Assault - Adult 5 = Sexual Assault - Juvenile 6 = Assault with a Dangerous Weapon 7 = Attempted Murder 8 = Murder (if applicable)
Decision to Prosecute	DecPros	1 = Yes 0 = No
Most serious offense charged	ChargesFiled	1 = Stalking 2 = Restraining Order Violation 3 = Assault and Battery 4 = Sexual Assault – Adult 5 = Sexual Assault – Juvenile 6 = Assault with a Dangerous Weapon 7 = Attempted Murder 8 = Murder (if applicable)
Type of Sentence/Sanction Imposed	Sentence	1 = Suspended Sentence (CWOF) 2 = Probation 3 = Prison
Number of Months Sentenced to Probation	SentProbation	Scale variable in months
Number of months sentenced to prison	SentPrison	Scale variable in months
Number of months sentenced suspended	Suspended	Scale variable in months

Coding for Primary Variables of Interest

The following is the coding plan for the primary variables of interest:

- <u>Decision to Prosecute</u>: This is a dichotomous categorical variable noting if the case was prosecuted (0 = no, 1 = yes).

- <u>Age</u>: This variable was utilized as an interval level single continuous variable in logistic regression and as a four category variable in bivariate analysis (with the following categories: (1) Under 21, (2) 21-35, (3) 36-49, and (4) 50 and older.

- <u>Race</u>: Single item categorical variable with four categories including: (1) White, not of Hispanic origin, (2) Black/African American, (3) Hispanic/Latino, and (4) Other race. Since the majority of the sample was Caucasian, this variable was also dichotomized in logistic regression as Race (1=white, 0=all other races).

- <u>Gender</u>: Single item categorical variable with two categories including: (0) male, (1) female.

- <u>Legal Aid</u>: This is a dichotomous categorical proxy variable for socioeconomic status noting whether the offender was considered "indigent" (0 = no, 1 = yes). Indigence is a term utilized by the district court system to indicate an individual who qualifies for state supported legal aid based on criteria established by the State of Massachusetts.

- <u>Crime Arrested</u>: This is an interval level single continuous variable measuring the severity of the crime for which the offender was arrested.

- <u>Total Months Sentenced</u>: This is a continuous level variable. This variable was only used in preliminary analysis. The reasoning for this decision was based on an examination of the descriptive statistics. In assessing normality, there appeared to be a positive skew (a lean towards shorter sentences), as well as somewhat high kurtosis

(clustering towards the lower end). However, the assumptions of normality were not violated. Several strategies (log10, pairwise deletion) were implemented to adjust for skewness , but the results continued to produce slightly skewed distributions, which is consistent with the sentencing pattern for this study sample. Overall, most of the cases were not sentenced. Thus, there was not a great deal of variability when looking at the variables without zero as a disposition. Descriptive statistics on cases that were sentenced indicated that the majority of those sentenced to probation received one year, while many who were sentenced to prison received 12 months or 2-to-3 months. Those who received a suspended sentence clustered at 6 or 12 months (with the longest sentence being 36 months).

Case Selection

This study dealt with violent crimes against victims. As such, only those cases that (1) had a victim or victims and (2) were of a violent nature were considered relevant to the statistical analysis. In addition, initially cases involving victims younger than 14 years of age were considered for elimination in order to exclude potential cases of parent/child violence. However, none of the cases with victims under 17 involved parent/child violence. The data were analyzed using SPSS (version 21) statistical software. Once the study data were cleaned and ready for analysis, the following statistical procedures were implemented in order to evaluate and examine the identified study questions and hypotheses.

Analysis of Aims and Hypotheses

Most of the variables were measured at the nominal level. Univariate statistics were used to determine the distribution of case variables. Bivariate statistics were used to determine relationships between nominal case variables. Frequencies were analyzed for the victim and offender characteristics, such as race and age. Characteristics of the crime of assault and battery included the relationship between the victim and offender, the charging decision, and sentencing dispositions. In order to determine preliminary relationships among the variables, a series of chi squares, t-tests and ANOVAs were conducted. Tests of normality were conducted in order to make sure the variables met the necessary statistical assumptions.

Binary Logistic regression was implemented to assess the probability of an event (decision to prosecute) occurring as a result of the independent variables. This was an appropriate statistical test due to the categorical nature of the dependent variable (decision to prosecute) and many of the independent variables (e.g., domestic violence status). This statistical test allowed for the determination of the percent of variance in the dependent variable explained by the predictor variable. Furthermore, it allowed for the determination of the probability of a certain event occurring, capturing the degree to which domestic violence status impacted the decision to prosecute. Logistic regression also allowed for the appropriate exploration of victim-offender relationship and sentencing. The study hypotheses and statistical strategies utilized in the analysis process can be found in Table 4.

Table 4

Study Hypotheses and Statistical Strategies

Hypotheses	Test
H1: Among assault and battery cases, domestic violence incidents will be significantly and negatively correlated with the decision to prosecute. As a result, domestic violence cases will be related to less prosecution.	Chi-square tests and logistic regression
H2: Among assault and battery cases, the intimacy of the victim-offender relationship will be significantly and negatively related to the decision to prosecute.	Chi-square tests and logistic regression
H3: Among assault and battery cases that are prosecuted, there will be a significant difference in the type of sentence sanctioned for domestic violence versus non-domestic violence cases. Domestic violence cases will be related to a higher rate of suspended sentences (CWOFs) (the least severe sanction among 3 categories: CWOF, Probation, and Prison).	Chi-square test, independent samples t-tests, and logistic regression
H4: Among assault and battery cases that are prosecuted, the intimacy of the victim-offender relationship will be significantly and negatively related to sanction severity. As a result, cases involving intimate partner assault will receive more lenient sanctions than cases involving strangers.	One-Way ANOVA, simple regression analysis, logistic regression
H5: Among assault and battery cases, there will be a relationship between criminal history and the decision to prosecute a case.	Chi-square tests and Logistic Chi-square tests and logistic regression
H6: Among assault and battery cases, there will be an association between victim-offender characteristics (such as age and gender) and the decision to prosecute a case.	Chi-square tests and logistic regression

Table 4 (continued)

Study Hypotheses and Statistical strategies

H7: Among assault and battery cases, there will be an
association between victim-offender characteristics   Logistic regression
(age and gender) and outcome severity (type of
sanction).

H8: Among assault and battery cases, once the   Logistic regression
decision is made to prosecute, legal factors (such as
seriousness of the charge and criminal history) will be
positively correlated with outcome severity (type of
sanction).

CHAPTER 4: FINDINGS

This chapter provides information on the: (1) characterization of the study sample, (2) results and interpretations of correlation analysis identifying significant bivariate relationships between study variables, and (3) results and interpretations associated with logistic regression.

Demographic

A majority of the offenders (82%) in this sample were male and the majority of victims were female (74%). Only 9% of the sample was non-English speaking. Fifty-two percent of the offenders qualified for state supported legal aid. Eighty-seven percent of the offenders had no criminal history. A majority of the cases involved domestic violence (73%). Only 20% of the offenders and 12% of the victims were non-White, which is consistent with the demographics of Essex County, Massachusetts. Descriptive characteristics of the sample (n=414) including frequencies for categorical variables, along with statistics for the continuous variables (means, standard deviations and skewness) can be found in Table 5.

Table 5

Descriptive Statistics for Study Sample (n=414)

Variables	*N* (%)	M (SD)	Skewness
Offender characteristics			
Male	339 (81.9)		
Female	75 (18.1)		
Age		32.8 (11.40)	.668
Race			
White	330 (80.1)		
Black	26 (6.3)		
Hispanic	43 (11.2)		
Other	10 (2.4)		
English speaking			

Table 5 continued

Yes	378 (91.3)		
No	36 (8.7)		
Legal aid			
Yes	216 (52.2)		
No	198 (47.8)		
Crime arrested		8.41 (6.19)	.732
Crime charged		8.14 (6.19)	.805
Criminal history			
Yes	52 (12.6)		
No	362 (87.4)		
Victim characteristics			
Male	105 (26.3)		
Female	294 (73.7)		
Age		31.98 (12.71)	.872
Race			
White	340 (88.1)		
Black	11 (2.8)		
Hispanic	34 (8.8)		
Other	1 (.3)		
Domestic violence case			
Yes	300 (72.5)		
No	114 (27.5)		
Victim-Offender relationship		1.56 (1.03)	1.42
Sanction type			
CWOF	86 (43.8)		
Probation	55 (28.4)		
Prison	54 (27.8)		
Total months sentenced		14.05 (10.51)	1.79
Total months CWOF		6.66 (8.55)	1.27
Total months probation		4.99 (9.37)	2.33
Total months prison		3.14 (7.22)	3.06

The descriptive characteristics for offenders and victims in the sample, categorized by whether the case was a domestic violence incident, are presented in Table 6. As indicated by Table 6, the majority of both domestic violence (82%) and non-domestic violence (82%) cases of assault and battery involved male offenders. In cases of domestic violence, the

majority of the victims (84%) were female, while the majority of victims (62%) in non-domestic violence cases were male.

The majority of victims and offenders in both domestic violence and non-domestic violence cases were White. The second largest classification of race involved Hispanic victims and offenders. Specifically, 11% of the offenders committing domestic violence were Hispanic, while 9% of non-domestic violence cases involved Hispanic offenders. Similarly, 8% of victims of domestic violence were Hispanic, while 11% of the victims in non-domestic violence cases were classified as Hispanic.

The majority of offenders in both domestic violence (90%) and non-domestic violence cases (96%) were identified as having English speaking ability. Approximately half of offenders qualified for state supported legal aid (in 47% of domestic violence cases and 52% of non-domestic violence cases).

Table 6

Characteristics of Cases within the Sample by Type of Incident

Variables	Domestic Violence N (%)		Non-Domestic Violence N (%)		*p*-value
Offender Characteristics:					
Gender:					*p* = .921
Male	246	82.0%	93	82.0%	
Female	54	18.0%	21	18.0%	
Race:					*p* = .841
White	240	81.0%	90	80.0%	
Black	18	6.0%	8	8.0%	
Hispanic	35	11.0%	11	9.0%	
Other Race/Mixed Race	1	2.0%	4	3.0%	
English Speaking:					*p* = .055
Yes	269	90.0%	109	96.0%	

Table 6 continued

No	31	10.0%	5	4.0%
Legal Aid				*p* = .325
Yes	139	47.0%	59	52.0%
No	161	53.0%	55	48.0%
Victim Characteristics:				
Gender:				*p* = .000
Male	45	16.0%	60	62.0%
Female	250	84.0%	44	38.0%
Race:				*p* = .285
White	255	89.0%	85	84.0%
Black	6	2.0%	5	5.0%
Hispanic	23	8.0%	11	11.0%
Other Race/Mixed Race	1	1.0%	0	0.0%

Note: Frequencies were run using pairwise deletion as recommended by Abu-Bader, S.H. (2010)

Data Analysis

The next section provides a description of the statistical analyses and results associated with the study hypotheses.

Decision to Prosecute

Bivariate Analysis

Prior to implementing logistic regression, a series of chi-square tests were utilized in order to identify any relationships between the decision to prosecute and the independent variables, including victim and offender's age, race and gender, offender's English speaking ability, income (as measured by qualifying for legal aid), criminal history, and type of victim-offender relationship. The results of the chi-square tests indicated a significant relationship between both domestic violence case and criminal history, and the decision to prosecute. Specifically, a chi-square test for independence (with Yates continuity correction) showed a significant association between the decision to prosecute and domestic violence

status, X^2 (1, *n*=414) = 8.248, *p* = .004, phi = -.147, supporting the study's first hypothesis

that domestic violence cases would be more likely to be dismissed than non-domestic

violence cases. Table 7 describes the number and proportion of cases in the sample that were

prosecuted and dismissed across the type of case (domestic violence and non-domestic

violence). Two hundred and nine cases were dismissed, while 205 cases were prosecuted.

Descriptive statistics indicated that 61.4% (70 out of 114) of non-domestic violence cases

were prosecuted, while only 45.0% (135 out of 300) domestic violence cases were

prosecuted.

Table 7

Decision to Prosecute by Domestic Violence Case

Decision to prosecute	Non-domestic violence case	Domestic violence case
Dismiss (%)	44 (38.6%)	70 (61.4%)
Prosecute (%)	165 (55%)	135 (45%)

Note: *N* = 414, X^2 Sig., *p* = .004

A chi-square test for independence supported the second hypothesis that there would

be a significant association between the decision to prosecute and type of victim-offender

relationship, X^2 (3, *n* = 414) = 15.830, *p* = .001, phi =.196. Table 8 describes the number and

proportion of cases in the sample that were prosecuted and dismissed across the type of

victim-offender relationship (intimate partner, family member, acquaintance, and stranger).

Two hundred and ninety four cases involved intimate partners (71%), 34 cases (8.2%)

involved family members, 44 cases (10.6%) involved acquaintances, while 42 cases (10.1%)

involved victim and offenders who were strangers. Descriptive statistics indicated that 69%

(29 out of 42) of stranger assaults were prosecuted, while only 45% (131 out of 294) of

intimate partner assaults were prosecuted.   Forty-four percent of cases with victim and offenders who were family members were prosecuted, while 68.2% of cases involving acquaintances were prosecuted.

As predicted, the rate of prosecution did increase based on the type of victim-offender relationship, with strangers being most likely to be prosecuted. In addition, based on the column percentages in Table 8, the acquaintance and stranger categories show the largest differences: 36.4% on the acquaintance row (68.2-31.8) and 38% on the stranger row (69-31), while the intimate partner category shows the smallest difference (10.8%). Hence, in examining the relationship between victim-offender and the decision to prosecute, the acquaintance and stranger categories seem to be the major contributors to the significant chi-square test.

Table 8

Decision to Prosecute by Victim and Offender Relationship

		Decision to Prosecute	
		Dismiss	Prosecute
Relationship between Victim and Offender	Intimate partner	163 (55.4%)	19 (55.9%)
	Family	131 (44.6%)	15 (44.1%)
	Acquaintance	14 (31.8%)	30 (68.2%)
	Stranger	13 (31%)	29 (69%)

Note: X^2 = p=.001

A chi-square test for independence (with Yates continuity correction) supported the exploratory hypothesis (H5) that there would be a significant association between the

decision to prosecute and past criminal history, X^2 (1, $n = 414$) = 6.738, $p = .009$, phi =.135.

Descriptive statistics indicated that 47% (170 out of 362) of offenders without a criminal

history were prosecuted, while 67% (35 out of 52) of offenders with a criminal history were

prosecuted. The frequencies are illustrated in Table 9.

Table 9

Decision to Prosecute by Criminal History

		Decision to Prosecute	
		Dismiss	Prosecute
Criminal History	No	192 (91.9%)	17 (8.1%)
	Yes	170 (82.9%)	35 (17.1%)

Note: X^2 *P*=.009

The other exploratory hypothesis (H6) related to the decision to prosecute was not

supported. Chi-square tests for independence found no significant association between the

decision to prosecute and an offender's English speaking ability, an offender's income, and

victim/offender's race, age and gender. However, the offender's age did approach

significance, X^2 (3, $n= 414$) = 7.513, $p = .057$, Cramer's V =.135.

Logistic regression

Prior to utilizing binary logistic regression analysis in the present study, the

assumption of multicollinearity was evaluated by running VIF and tolerance statistics, and

the resulting values did not indicate a problem. In addition, the levels of measurement were

coded appropriately for the dependent variable (0,1), and all categorical independent

variables were recoded into dummy variables. Abu-Bader (2010) recommends using the following statistics to assess the accuracy of the regression model and its ability to estimate the probability of occurrence of a specific event: omnibus tests of model coefficients, likelihood-ratio test (-2*LL*), Cox and Snell *R* square, Nagelkerke *R* square, Hosmer and Lemeshow test, and Wald test (p.131). All of these tests were used to assess the reliability of each logistic regression model.

The first binary logistic regression model was run to examine the probability that a case would be prosecuted knowing victim and offender demographics - age, race and gender; offender's ability to speak English, offender qualifying for legal aid, legal characteristics- offender's criminal history, charging decision (on a scale of severity); and the type of case (domestic violence versus non-domestic violence). Analysis was performed on the decision to prosecute as an outcome with 375 cases. Thirty-nine cases were deleted from the analysis by SPSS (listwise deletion) due to missing information. The results of the likelihood ratio logistic regression revealed that the full model was statistically significant, X^2 (11, n = 375) = 33.21, p = .0001, indicating that the model with these set of predictors is better than the null model. In other words, these predictors, as a set, can reliably distinguish between cases that are prosecuted and those that are not prosecuted. This model had a very good fit (-2log likelihood = 488.624, Hosmer and Lemeshow, X^2 (df=8) = 2.09, *p* =.978). The *pseudo R* square statistics showed that this set of variables explained between 5% (Cox and Snell *R* square) and 6.7% (Nagelkerke *R* square) of the variance in the decision to prosecute a case. Prediction success was also examined. Statistics indicated that this model correctly classified 66.7% of the "dismiss" cases and 59.1% of the "prosecute" cases. Overall, this model had a

success rate of 63%; an improvement from the constant-only model which correctly classified 50.4% of cases.

Table 10 shows regression coefficients, odds ratios and 95% confidence intervals for the odds ratios for each of the 11 predictors. According to the Wald criterion, domestic violence (Wald (1) = 9.64, p = .002), English speaking ability (Wald (1) = 5.35, p = .021), and criminal history (Wald (1) = 5.82, p = .016) reliably predicted the decision to prosecute a case. As illustrated in Table 10 , the odds ratio statistic for domestic violence (.399) indicates that a case of domestic violence is almost two and a half times (1/.399 = 2.51) more likely to be dismissed than a non-domestic violence case. The odds ratio for offender's English speaking ability (2.56) suggests that a defendant who speaks English is .39 times (1/2.56) more likely to be prosecuted than a non-English speaking defendant. An offender with a criminal history is .44 times (1/2.28) more likely to be prosecuted, when allowing for the other factors.

Table 10

Multiple Logistic Regression Analysis of Decision to Prosecute on Demographic and Legal Variables (n=375)

	B	S.E.	Odds Ratio	95% C.I. Lower	Upper
Domestic violence case	-.919	.296	.399	.223	.713
Female offender	-.160	.312	.852	.463	1.569
Offender's age	-.023	.012	.978	.954	1.002
English Speaking ability	.938	.406	2.555	1.154	5.657
Qualifies for legal aid	-.417	.224	.659	.425	1.023
Female victim	.225	.305	1.253	.688	2.279

	β	SE			
Victim's age	-.002	.011	.998	.977	1.020
Seriousness of crime	-.002	.019	.998	.962	1.035
Race of offender	.341	.360	1.407	.694	2.851
Race of victim	-.667	.433	.513	.220	1.198
Offender's criminal history	.824	.341	2.279	1.167	4.451
Constant	1.850	.724	6.358		

Note: Dependent variable: decision to prosecute (1=prosecute, 0=dismiss), CI confidence interval, *β* logistic regression coefficient, SE standard error, Criminal history is defined as having a previous violent conviction (1=yes, 0=no), seriousness of crime is defined as the severity of the crime for which offender was arrested on a scale set by the district court (from least to most severe), English speaking ability (1=yes, 0=no), *P<0.05

Decision to Prosecute and Offender's Age, Domestic Violence and Criminal History

Abu-Bader (2010) advises that when running logistic regression analysis, it is best to include only factors that are most likely to increase the probability of an event occurring. The results of the chi-square tests (utilized in the bivariate analysis) informed the decision to run the next model estimating the impact of three factors (offender's age, domestic violence case, and criminal history) on the likelihood that a case would be prosecuted. The specific question asked was as follows: W*hat is the probability that a case will be prosecuted knowing the offender's age, type of case (domestic violence versus non-domestic violence), and offender's criminal history.?*

The results of the likelihood ratio logistic regression revealed that the full model was statistically significant, X^2 $(3, n = 414) = 21.20, p < .001$, indicating that the model was able to distinguish between cases that were prosecuted and not prosecuted. This model had a very good fit (-2log likelihood = 552.69, Hosmer and Lemeshow, X^2 (df=8) = 3.56, *p* =.894). The results also indicated that the model as a whole explained between 5% (Cox and Snell *R*

square) and 6.7% (Nagelkerke *R* square) of the variance in the decision to prosecute a case.

The model correctly classified 71% of the "dismiss" cases and 48% of the "prosecute" cases.

Overall, this model had a success rate of 60%.

As shown in Table 11, all three factors emerged as significant predictors of the

decision to prosecute a case. The strongest predictor of prosecution was domestic violence,

(Wald (1) =7.40, p=.007). Specifically, domestic violence cases are less likely to be

prosecuted than non-domestic violence cases.

Table 11

Multiple Logistic Regression Analysis of Decision to Prosecute on Domestic Violence Case,
Offender's Age And Offender's Criminal History (n=414)

	B	S.E.	Odds Ratio	95% C.I.	
				Lower	Upper
Domestic violence case	-.622**	.229	.537	.343	.840
Age of Offender	-.021*	.009	.980	.963	.997
Offender's criminal history	.811*	.319	2.250	1.205	4.202
Constant	1.020**	.355	2.773		

Note: Dependent variable: decision to prosecute (1=prosecute, 0=dismiss) CI confidence interval, *β* logistic regression coefficient, SE standard error, Criminal history is defined as having a previous violent conviction (1=yes, 0=no) *P<0.05, **P<0.01

As shown in Table 11, the odds ratio statistic for domestic violence (.537) indicates

that a case of domestic violence is almost two times (1/.537 = 1.86) more likely to be

dismissed than a non-domestic violence case. The odds ratio for offender's age (.980) suggests that for each one year increase in age, a defendant is 1.02 times less likely to be prosecuted, having allowed for the type of case (domestic violence versus non-domestic violence) and criminal history in the model. An offender with a criminal history is .44 times (1/2.25) more likely to be prosecuted, when allowing for the other factors.

Decision to Prosecute and Victim-Offender Relationship

Logistic regression

What is the probability that a case will be prosecuted knowing the offender's age, criminal history and type of victim-offender relationship? The results of the likelihood ratio logistic regression revealed that the full model was statistically significant, X^2 (5, $n = 414$) = 25.30, $p =.000$. This model has a good fit (-2log likelihood = 548.59, Hosmer and Lemeshow, X^2 (df = 8) = 4.31, $p =.829$). The results also indicated that the model as a whole explained between 5.9% (Cox and Snell R square) and 6.9% (Nagelkerke R square) of the variance in the decision to prosecute a case, and correctly classified 79% of the "dismiss" cases and 39% of the "prosecute" cases. Overall, this model has a success rate of 59%.

Criminal history (*Wald* (1) = 5.35, $p = .021$) and victim-offender relationship (*Wald* (3) = 11.11, $p = .011$) both made a unique statistically significant contribution to the model. The results indicate that for an offender with a criminal history, the log odds of a case being prosecuted (versus dismissed) increases by .748, when controlling for the other factors.   The results also indicate that victim-offender relationship is a significant predictor of the probability of a case being prosecuted, as shown by the categories of family member (*Wald* (1) = 7.11, $p = .008$) and acquaintance (*Wald* (1) = 5.26, $p = .022$). Being assaulted by a family member as opposed to an intimate partner increases the log odds of prosecution by

.929, and being assaulted by an acquaintance versus an intimate partner increases the log

odds of prosecution by .831. As shown in Table 12, the results of this analysis supported the

second hypothesis that the intimacy of the victim-offender relationship will be significantly

and negatively related to the decision to prosecute a case. The findings also supported the

fifth hypothesis that among assault and battery cases, there will be a significant association

between past criminal history and the decision to prosecute a case.

Table 12

Multiple Logistic Regression Analysis of Decision to Prosecute on Offender's Age, Offender's Criminal History, And Victim Offender Relationship (n=414)

				95% C.I.	
	B	S.E.	Odds Ratio	Lower	Upper
Age of offender	-.018*	.009	.983	.965	1.000
Offender's criminal history	.748*	.323	2.114	1.121	3.984
Victim-Offender Relationship					
Intimate partner	.113	.372	1.120	.541	2.320
Family member	.929**	.348	2.533	1.279	5.015
Acquaintance	.831*	.362	2.295	1.128	4.669
Stranger (reference)					
Constant	.289	.330	1.335		

Note: Dependent variable: decision to prosecute (1=prosecute, 0=dismiss),CI confidence interval, β logistic regression coefficient, SE standard error, Criminal history is defined as having a previous violent conviction (1=yes, 0=no),*P<0.05, **P<0.01

Type of Sanction

Bivariate analysis

The third hypothesis that, if prosecuted, domestic violence offenders would receive a

more lenient type of sanction than non-domestic violence offenders was supported by the

findings. A chi-square test for independence indicated a significant association between the

type of sentence and a domestic violence case, X^2 (3, $n =194$) $= 25.74$, $p= .001$, phi $= 0.367$.

Table 13 illustrates the frequency of the type of sentence (suspended, probation or prison)

received in prosecuted domestic violence cases versus non-domestic violence cases. Eighty

five cases received the most lenient type of sanction – a CWOF or suspended sentence. Out

of those 85 cases, 83.5% (71) were used in cases of domestic violence, while only 16.5%

(14) of the CWOFS were sanctioned for cases of non-domestic violence. The next sanction –

in order of severity – probation was used for 55 cases. Of those 55 cases, 56.4% involved

domestic violence (31) and 43.6% were non-domestic violence cases (24). The most severe

sanction – prison – was sentenced in 54 of the cases. Only 44.4% of the cases receiving a

prison sentence involved domestic violence.

Table 13

Frequency of Sanction Type by Domestic Violence Case

		Non-domestic violence	Domestic violence
	CWOF (Suspended sentence)	14 (16.5%)	24(43.6%)
Sanction Type	Probation	71(83.5%)	31(56.4%)
	Prison	30(55.6%)	24 (44.4%)

Note: X^2 sig.$=.0001$

Independent Samples t-tests and Mann-Whitney test

Several t-tests were run to examine the potential association between the duration of a type of sentence (as measured in months) and domestic violence status. Prior to the data analysis, several descriptive statistics and graphs were generated in order to evaluate the test's assumptions. The statistics for total months sentenced to Prison and Probation were highly skewed, while there was no indication of a violation of multicollinearity for CWOF (Suspended Sentence) and Total Months Sentenced overall. The appropriate tests were used based on the assumption of multicollinearity.

An independent samples t-test did not indicate a significant difference in the duration of a suspended sentence (CWOF) caused by domestic violence status (t=1.55 (241) = .122). There was also no significant difference found between domestic violence and non-domestic violence cases for total months sentenced overall (t=-1.12 (103) = .264). The results of the Mann-Whitney tests that were run on total months sentenced to probation and prison. The findings of these tests were also not significant.

One-way ANOVA

A one-way ANOVA was utilized to test differences in total months sentenced by the type of relationship between victim and offender. A significant difference in total months sentenced between intimate partners, family members, acquaintances, and strangers was found, F (3,410) = 5.11, p = .002. These findings supported the fourth hypothesis. A Games-Howell post hoc test found the mean of total months sentenced for intimate partners versus strangers to have a mean difference of -5.91 (p = .040), as compared to the other types of

relationships. In other words, strangers receive longer sentences than intimate partners. A

means graph illustrating these findings is shown in Graph 1.

Graph 1: Mean of total months sentenced by victim-offender relationship.
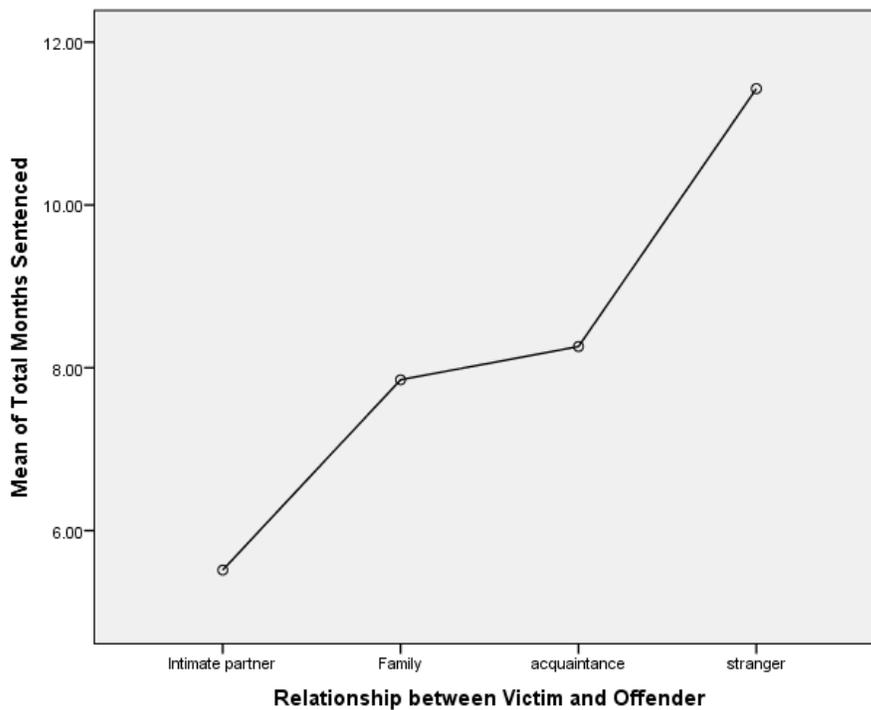
Simple regression analysis

The purpose of the one-way ANOVA was to examine the differences between

categories of victim-offender relationship (intimate partner, family member, acquaintance,

and stranger) with regards to total months sentenced. Next, simple regression analysis was

conducted to estimate a linear equation that predicts total months sentenced based on the

intimacy of the relationship between victim and offender - measured as a continuous

variable. Prior to the data analysis, several descriptive statistics and graphs were generated

in order to evaluate the test's assumptions. In addition, an examination of the histogram of

the residuals indicated that the errors were normally distributed. The results of the data

analysis indicated that the degree of victim-offender relationship is a significant predictor of

total months sentenced. The two variables were significantly positively correlated ($r = .154$, p

$=.002$). The model summary is illustrated in Table 14.

Table 14

Model Summary for Simple Linear Regression Analysis

Model		R	Adjusted R Square	Std. Error of the Estimate	R Square Change	F Change	df1	df2	Sig. F Change	Durbin-Watson
	R	Square								
1	.154ª	.024	.021	9.52111	.024	9.436	1	390	.002	1.363

Notes: Dependent variable: total months sentenced a. Predictor: relationship between victim
and offender

The regression equation for this model is as follows:

Predicted total months sentenced $= 2.337 + 1.835$ (degree of relationship). Thus, for every 1-

unit increase in the social distance between the victim and offender (from closest to most

distant), we can predict that total months sentenced will increase 1.835 units or months. The

coefficients and significance tests can be found in Table 15. The overall shared variance

between these two variables was small (2.4%).

Table 15

Coefficients Table for Simple Linear Regression Analysis

Model		Unstandardized Coefficients		Standardized Coefficients			95.0% Confidence Interval for B	
		B	Std. Error	Beta	t	Sig.	Lower Bound	Upper Bound
1	(Constant)	2.337	1.435		1.629	.104	-.484	5.158

| Relationship between Victim and Offender | 1.835 | .597 | .154 | 3.072 | .002 | .661 | 3.010 |

Note. Dependent variable: total months sentenced

The simple regression analysis estimated a model based on only one factor (victim-offender relationship). As evidenced by the small number of shared variance explained by the model, an outcome is more commonly a result of many factors. However, the use of total months sentenced as a continuous level variable is not sufficient for more in depth analysis due to the large number of cases that do not receive sanctions and a positive skew to fewer months if a case is sanctioned. Thus, binary logistic regression was utilized to further examine sentencing disparities.

Logistic regression

Once preliminary analyses were conducted, binary logistic regression was utilized in order to further examine both primary (H4) and exploratory questions (H7, H8) related to sentencing. In the first model, all demographic variables and legal variables were included. The first type of sentence examined was the most lenient - *Continued Without a Finding (CWOF).* The question posed was - *What is the probability that an offender will receive a suspended sentence (CWOF) knowing the type of case (domestic violence versus non-domestic violence),victim and offender's age, gender and race, offender's criminal history, ability to speak English, crime of arrest (on a scale of severity) and charging decision (on a scale of severity)?*

The results of the likelihood ratio logistic regression revealed that the full model was statistically significant, X^2 (14, $n = 172$) = 38.48, $p = .0001$, indicating that the model was

able to distinguish between cases that received suspended sentences and those that did not. This model had a good fit (-2log likelihood = 199.38, Hosmer and Lemeshow, X^2 (df=8) = 5.20, p =.737). The results also indicated that the model as a whole explained between 20% (Cox and Snell R square) and 27% (Nagelkerke R square) of the variance in receiving a suspended sentence. The full model correctly classified 77% of the "yes =suspended sentences" and 63% of the "no" cases. Overall, this model had a success rate of 69%; an improvement from the constant-only model which correctly classified 53% of cases.

As shown in Table 16, domestic violence case (*Wald* (1) = 7.28, p = .007) and female offender (*Wald* (1) = 9.09, p = .003) made unique statistically significant contributions to the model. The odds ratio statistic of 5.54 indicates that an offender who is female is .18 times more likely to receive a suspended sentence than an offender who is male. The results also indicated that a case of domestic violence is a significant predictor of the probability of an offender receiving a suspended sentence. As shown in Table 16, the odds ratio statistic of 3.58 indicates that a case of domestic violence is .28 times more likely to receive a suspended sentence (CWOF) than a non-domestic violence case.

Table 16

Multiple Logistic Regression Analysis of Receiving a Suspended Sentence (CWOF) on Demographic and Legal Factors (n=414)

	B	S.E.	Odds Ratio	95% C.I.for EXP(B)	
				Lower	Upper
Age of offender	-.007	.021	.993	.953	1.034
Female offender	1.718**	.545	5.542	1.914	16.219

	β	SE		p	CI
Race of offender					
White	-2.217	1.436	.109	.007	1.817
Black	.372	.850	1.451	.274	7.684
Hispanic	.364	1.082	1.440	.173	11.998
English speaking	-.765	.555	.465	.157	1.381
Qualifies for legal aid	-.188	.371	.828	.400	1.714
Offender's criminal history	-.564	.499	.569	.214	1.513
Female victim	.858	.520	2.357	.850	6.536
Age of victim	.005	.018	1.005	.970	1.041
Race of victim					
White	1.511	1.577	4.529	.206	99.711
Black	-.422	.851	.656	.124	3.478
Hispanic	-20.982	40192.970	.000	.000	.
Crime of arrest	.042	.076	1.043	.899	1.209
Charging decision	-.050	.078	.951	.816	1.108
Domestic violence status	1.276**	.486	3.583	1.383	9.283
Constant	-1.483	.901	.227		

Note: Dependent variable: decision to prosecute (1=prosecute, 0=dismiss),CI confidence interval, *β* logistic regression coefficient, SE standard error, Criminal history is defined as having a previous violent conviction (1=yes, 0=no), charging decision is defined as the severity of the crime for which offender was prosecuted on a scale set by the district court (from least to most severe), English speaking ability (1=yes, 0=no), **p<0.001

CWOF: Nature of victim-offender relationship, offender's gender and legal factors

The next logistic regression model was run on variables that were identified in the

literature review as being potential predictors of a case receiving a more lenient sentence

(Belknap & Graham, 2000; Dawson, 2004; Kingsnorth et al., 2001; Kingsnorth et al., 2002).

The question posed was - *What is the probability that a case will receive a suspended*

sentence (CWOF) knowing criminal history, crime of arrest, crime prosecuted, offender's

gender and type of victim-offender relationship?

The results of the likelihood ratio logistic regression revealed that an offender's gender and type of victim-offender relationship made statistically unique contributions, X^2 (7, n = 192) = 34.68, p = .0001, indicating that the model was able to distinguish between cases that received a suspended sentence and those that did not. This model had a good fit (-2log likelihood = 228.96, Hosmer and Lemeshow, X^2 (df = 7) = 6.48, p = .486). The results also indicated that the model as a whole explained between 16.5% (Cox and Snell R square) and 22.1% (Nagelkerke R square) of the variance in receiving a suspended sentence, and correctly classified 61.7% of the not suspended cases and 74.1% of the suspended cases. Overall, this model had a success rate of 67%.

As shown in Table 17, the log odds statistic of 3.35 indicates that a female offender is .29 times more likely to receive a suspended sentence, when accounting for all other factors. Victim-offender relationship made a unique statistically significant contribution to the model (*Wald* (3) = 18.64, p = .0001), and so did intimate partner (*Wald* (1) = 6.65, p = .010), family member (*Wald* (1) = 9.94, p = .002), and acquaintance (*Wald* (1) = 7.53, p = .006). In other words, the results indicate that being assaulted by an intimate partner versus a stranger increase the log odds of receiving a suspended sentence by 1.842, while being assaulted by an intimate versus an acquaintance increase the log odds of a suspended sentence by 1.55. The results also indicate that being assaulted by an intimate partner versus a family member increase the log odds of a suspended sentence by 1.69, when controlling for other factors in the model.

Table 17

Multiple Logistic Regression Analysis of Receiving a Suspended Sentence (CWOF) on Offender's Age,

Offender's Criminal History, and Victim Offender Relationship (n=414)

	B	S.E.	Odds Ratio	95% C.I.	
				Lower	Upper
Female offender	1.209*	.476	3.349	1.317	8.515
Offender's criminal history	-.407	.453	.665	.274	1.616
Crime of arrest	-.010	.059	.990	.881	1.112
Charging decision	-.005	.062	.995	.881	1.124
Victim offender relationship					
Intimate partner	-1.842*	.714	.159	.039	.643
Family member	-1.693**	.537	.184	.064	.527
Acquaintance	-1.558**	.568	.211	.069	.641
Stranger (reference)					
Constant	.330	.280	1.391		

Note: Dependent variable: decision to prosecute (1=prosecute, 0=dismiss)
CI confidence interval, *β* logistic regression coefficient, SE standard error
Criminal history is defined as having a previous violent conviction (1=yes, 0=no), Charging decision is defined as the severity of the crime for which offender was prosecuted on a scale set by the district court (from least to most severe), English speaking ability (1=yes, 0=no), *p<0.05, **p<0.01

Sanction of prison

The next logistic regression model was guided by Abu-Bader, who advises that when

running logistic regression analysis, it is best to include factors that are most likely to

increase the probability of an event occurring. In examining the most severe type of

sanction, prison, both the results of bivariate analysis and the literature, informed the decision to run the next model estimating the impact of three factors (offender's gender, criminal history and type of victim-offender relationship) on the likelihood that a case would receive a sentence of incarceration.

Descriptive statistics indicated that out of the 194 cases that received any type of sanction, 44% (85) received a CWOF or a suspended sentence, 28% (55) received probation, and 28% (54) were sentenced to prison. A chi-square test for independence indicated a significant association between a sanction of prison and past criminal history, X^2 (1, $n = 194$) $= 8.84$, $p = .004$, phi $=.209$. Frequencies indicated that out of the 54 cases sentenced to prison, only 30% (16 out of 54) had a past criminal history.

Descriptive statistics indicated that out of the 54 cases receiving a prison sentence, 43% (23) involved intimate partners, 6% (3) involved family members, 24% (13) involved acquaintances, and 28% (15) involved strangers. Descriptive statistics also indicated that out of the 140 cases that received another sanction (CWOF or Probation), 71% (99) involved a relationship with an intimate partner, 8% (11) involved a family member, 13% (18) involved an acquaintance, and 9% (12) involved strangers. A chi-square test for independence indicated a significant association between receiving a prison sentence and type of victim-offender relationship, X^2 (3, $n = 194$) $= 18.58$, $p = .0001$, Cramer's V $=.310$. Although a chi-square of independence (with a Yates Continuity Correction), did not indicate a significant association between offender's gender and prison, X^2 (1, $n = 194$) $= 1.60$, $p = .207$, phi $=-.107$, offender's gender was included in this model due to previous significant findings in this study, as well as from past literature (Belknap & Graham, 2000; Dawson, 2004).

The question posed was - *What is the probability that a case will receive a prison sentence knowing offender's gender, criminal history and the type of victim-offender relationship)?* The results of the likelihood ratio logistic regression revealed that the full model was statistically significant, X^2 (5, *n* = 194) = 23.61, *p* =.0001, indicating that the model was able to distinguish between cases that received prison sentences and those that did not. The model had a good fit (-2log likelihood = 205.850, Hosmer and Lemeshow, X^2 (df = 5) = .844, *p* = .974). The results also indicated that the model as a whole explained between 11.5% (Cox and Snell *R* square) and 16.5% (Nagelkerke *R* square) of the variance in receiving a "prison sentence", and correctly classified 18.5% of the prison sentences and 95.7% of the" not prison" sentences. Overall, this model had a success rate of 74%.

As shown in Table 18, only victim-offender relationship (*Wald* (3) = 14.30, *p* = .003) made a unique statistically significant contribution to the model.   Specifically, family member (*Wald* (1) = 7.23, *p* = .007), and acquaintance (*Wald* (1) = 10.64, *p* = .001) were statistically significant; however, intimate partner was not statistically significant (*Wald* (1) = .249, *p* = .618).   The strongest predictor of receiving a prison sentence was assaulting an acquaintance, recording an odds ratio of 4.53. This indicated that the log odds of a prison sentence for an offender who assaults an acquaintance (versus an intimate partner) increases by 1.51. In addition, as illustrated in Table 18, for an offender who assaults a family member (versus an intimate partner), the log odds of receiving a sanction of prison increases by 1.21, when controlling for other factors in the model.

Table 18

Multiple Logistic Regression Analysis of Receiving a Sanction of Prison on Offender's Gender, Offender's Criminal History, and Victim Offender Relationship (n=414)

	B	S.E.	Odds Ratio	95% C.I.for Lower	Upper
Female offender	-.712	.554	.491	.166	1.453
Offender's criminal history	.802	.428	2.230	.964	5.158
Victim offender relationship					
Intimate partner	.350	.702	1.419	.359	5.612
Family member	1.206**	.449	3.340	1.387	8.046
Acquaintance	1.511***	.463	4.529	1.827	11.227
Stranger (reference)					
Constant	-1.521***	.256	.219		

Note: Dependent variable: decision to prosecute (1=prosecute, 0=dismiss)
CI confidence interval, *β* logistic regression coefficient, SE standard error
Criminal history is defined as having a previous violent conviction (1=yes, 0=no)
*p<0.05, **P<0.01, ***P<0.001

CHAPTER 5: DISCUSSION

This study sought to examine the relationship between demographic variables, legal characteristics, type of victim-offender relationship, and court dispositions of domestic violence versus non-domestic violence cases. The purpose of this study was to determine the existence, prevalence, and probability of any disparity in prosecution and sentencing in cases of assault and battery. The decision to prosecute and sentencing outcome (both in type and length) were individually evaluated for statistically significant discrepancies between domestic violence offenders and non-domestic violence offenders, as well as based on the degree of victim-offender relationship. Cases in a district court were chosen because most jurisdictions classify domestic violence as a misdemeanor and misdemeanors are handled by district courts (Buzawa et al., 2012; Payne & Wermeling, 2009). Results from this study can be utilized for social policy recommendations and victim advocacy. The following discussion section highlights and addresses study findings as they relate to the research questions and hypotheses. A framework of exchange/social control theory was utilized to discuss the findings and challenge the continuing judicial inadequacy in handling domestic violence cases.

In the total sample, 53% of the 414 cases were not prosecuted. However, the likelihood of a case not being prosecuted was significantly affected by whether it was a domestic violence incident. Fifty-five percent of domestic violence cases resulted in dismissal, while only 39% of the non-domestic violence cases were dismissed. In other words, domestic violence cases were almost twice as likely to be dismissed, which supported the study's first hypothesis.

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The second hypothesis, that among assault and battery cases the type of victim-offender relationship would be significantly and negatively related to the decision to prosecute was also supported by the findings. Specifically, the degree of social closeness between a victim and offender does influence the likelihood that a case will be prosecuted, such that an offender who assaults a family member or an acquaintance is more likely to be prosecuted than one who assaults an intimate partner. In other words, being assaulted by a family member versus an intimate partner increases the probability of facing prosecution by .929, (almost a 1 to 1 ratio), while being assaulted by an acquaintance versus an intimate partner increases the probability of prosecution by .831.

Once the decision was made to prosecute a case, the analysis indicated that the probability of a domestic violence offender receiving a suspended sentence, also referred to as a CWOF, was higher than for other cases of assault and battery. In this study, 56% of domestic violence cases received a suspended sentence, while only 21% of the non-domestic violence cases that were charged received a suspended sentence, lending support for the third hypothesis. CWOFs are typically used by prosecutors in accordance with a plea bargain (Schmidt & Hochstetler Stevry , 1989; Olson & Stalans , 2001) . The court order for a CWOF stipulates that if the offender is *not* rearrested within a designated time period, the charges will be dismissed (Dinovitzer & Dawson, 2007). This finding is consistent with past studies. Dinovitzer and Dawson (2007) found that a CWOF (typically between six months and five years in duration) was the most frequently imposed sentence for domestic violence cases.

Further, among prosecuted cases, a domestic violence offense was significantly and negatively related to the duration of time sentenced as measured in total months sentenced

overall. Specifically, there was a significant difference in the length of a sentence for domestic violence cases (mean = 5.61 months) versus non-domestic violence cases (mean = 9.20 months). There was also support in the results for the hypothesis that the degree of victim-offender relationship would be negatively related to sanction severity. Findings illustrated that being assaulted by an intimate partner versus a stranger increased the probability of receiving the most lenient sentence (a CWOF or suspended sentence) by almost two times (1.842). With regards to the most severe sanction (prison), results indicated that for an offender who assaults a family member (versus an intimate partner), the probability of receiving a sanction of prison increases by 1.21, while the log odds for an offender who assaults an acquaintance (versus an intimate partner) increased by 1.51.

The results for the exploratory hypotheses were mixed. Criminal history did increase the probability of a case being prosecuted and had a significant positive correlation with the type of sanction imposed on the offender. This finding stood in contrast to other studies (Wooldredge, 2007), which have found that courts routinely did not consider criminal history in sentencing domestic violence offenders. However, caution is warranted with regards to the finding about sanction type, as it was only significant on a bivariate level. Similarly to past studies (Dinovitzer & Dawson, 2007; Davis, Smith, & Taylor, 2003), a female offender was more likely to receive a suspended sentence than a male offender. An offender's age decreased the likelihood of prosecution, but was not significant in the sentencing stage of the court process, after accounting for criminal history and the type of victim-offender relationship. There were no significant findings related to seriousness of the charge (charging decision), crime for which the offender was arrested, or any of the other extra-legal variables, which is also consistent with past studies.

Exchange/social control Theory would posit that it is important to view violence as potentially normative and a possibility that could occur in many types of families, and for that reason it is necessary to address and curtail domestic violence on a societal level. Williams (1992) found that batterers who believed themselves to be "isolated" from police response and saw the social cost of arrest as "low" were most likely to be violent toward their partner. The results of this study suggest that individuals who are violent toward their intimate partners can expect relatively low costs from social sanctions, as compared to the normative cost for other cases of assault and battery.

By applying an exchange/social control theory lens, it can be argued that individuals will act on their impulses if they perceive the rewards as outweighing the costs. More specifically, in cases of domestic violence batterers are likely to be violent if they expect the costs to be lesser then the rewards and there is an absence of social control that protects the offender. The findings of this study did show that in cases of domestic violence, the offender is less likely to be prosecuted, and if sanctioned, is likely to have a less significant sanction than cases not classified as domestic violence. In addition, the results indicated that an increased level of intimacy between offender and victim decreased both the likelihood and severity of sanction.

Again, exchange/social control theory suggests that an individual's behavior is dictated by his or her perception of potential cost and reward for that behavior. The findings of this study are important in the respect that they clearly demonstrate that both the batterer and the victim can expect that the cost of domestic violence in terms of legal sanctions will be substantially lower than the cost of other types of assault. This implies a tacit societal support for this behavior. A batterer who is motivated by the rewards of domestic violence

would have to be deterred by costs that were perceived to be higher. The low likelihood of

prosecution and the high probability of lenient sanctions for domestic violence cases found

by this study would support the perception that the costs of violence are lower than the

potential rewards (violence itself, revenge, control, correcting perceived relational inequality

and reinforcing status [Gelles, 1997, pp. 135-136]).

In addition, exchange/social control theory argues that the privacy (both as it is

perceived by the offender and as it is treated by the justice system) that is inherent to family

life does appear to protect the offender (Gelles, 1997; Williams, 1992). Specifically, this

observation is supported by the fact that sanctions against those who have assaulted intimates

are both less frequent and less severe than charges against those who assault family members

or acquaintances. The assumption behind the construction of the measure (victim-offender

relationship) as a proxy for degree of intimacy was that intimate partners have a greater

frequency of contact than family members, acquaintances and so on (Dawson, 2004). It could

be suggested that an additional factor is that between intimates there is a greater frequency of

contact in private, which allows for opportunities to be violent while protected by real and

perceived privacy. Utilizing this lens, it can be argued that the key factor in domestic

violence prevention is for there to be both perceived and actual social control that makes the

cost of the sanction for battering higher than the perceived reward.

Study Strengths and Limitations

When reviewing and interpreting the results, the strengths and limitations of this

study should be considered. There are several strengths to be highlighted. First, this study

explored areas of domestic violence research that have not yet been adequately studied.

Second, the investigation focused on the most prevalent type of domestic violence (assault

and battery). This study operationalized charging decisions and investigated the degree of victim-offender relationship as a predictor of the type of sanction received once a case was prosecuted. Previously, sentencing disparities have primarily been investigated in cases of "serious" crimes (murder and sexual assault). These types of cases are the ones that make it to superior courts, and are not as representative as the cases seen every day at the district court level, which appear to harbor the greatest discrepancy between sentence severity and length for domestic and non-domestic violence. The first question this study posed was, "How much of a discrepancy, in charging decision and sentencing, do we see with the most prevalent of all domestic violence crimes?" This study was designed to build on previous research by going further than examining either aggregate data or records from specialized domestic violence (as opposed to traditional) courts. Unlike most past studies, we differentiated both dichotomously and on a multivariate level for the dependent variable. Further, this study utilized simple random sampling, which has been used by very few studies, and examined a ten-year period, which is rare in an archival analysis of court records, especially when the records are not computerized and involve a time-consuming process of data collection.

Lastly, great care was taken to ensure that the results would be valid, reliable, and could be generalized to the population of this particular urban district court. In order to ensure the validity of the study's purpose, the literature review focused on a hypothesis generating approach. This broad literature review with an emphasis on inductive reasoning ensured the researchers' scope was sufficiently broad so that the specificity of the study's methodology could be drawn from summarizing the research. In terms of the methodology, measures were taken to protect against threats to validity. Specifically, a random sampling

generating tool that produced docket numbers was utilized. Because this tool was created for this analysis, tests of the tool's reliability were also performed.

Limitations

Although there are strengths embedded in this study, it is also important to address the limitations. One of the limitations of this study is that it focused on a specific district court as a case study. Therefore, it may not be representative of other courts, especially in larger urban areas. Another limitation is that no specific data were available on the socioeconomic status of individuals, apart from eligibility for legal aid (considered indigence.) Although this was used as a proxy measure for socioeconomic status, eligibility for legal aid or indigence as defined by the Massachusetts court system is quite broad (125% below Federal poverty guidelines), and dockets did not contain more specific income-related information.

This investigation began with 5,000 randomly generated docket numbers; however, the resulting sample size was small (n = 414). To help improve the external validity of this research, future studies could attempt a similar design in different courts that have a more racially diverse and larger population. In addition, in spite of the precautions taken to avoid issues with validity and reliability, there are multiple weaknesses inherent in an archival research design. Archival research needs to be conducted with great care in order to keep data in their original context, in order to preserve the meaning of the information collected and in turn its level of consistency (Hagan, 1993). Attempts to mitigate this limitation included designing a checklist and codebook prior to beginning data collection, to ensure that data were collected in the context found in the court record; however, there still may have been errors. Specifically, errors may have resulted from the complexity of the files and that

they were often not kept in any particular order, making it difficult at times to code a particular variable. Lastly, Exchange/social control theory addressed the implications of an insufficient criminal justice response to domestic violence offenses and its impact on the offender and victim, but this theory cannot be directly applied to the cognitions behind prosecutorial and judicial decision making process. This is an important aspect of the criminal justice system that deserves further attention (Albonetti, 1991).

Implications for Policy, Practice and Research

Despite these limitations, these findings have important violence prevention implications for policy, research, and judicial interventions. There is much to be done from a social policy, public health, criminal justice and victim advocacy level. Nationally, most domestic violence cases are considered misdemeanors (i.e. not "serious" crimes), which in turn leads to low bail amounts and a lack of monitoring of offenders if a decision is made to prosecute and the case is awaiting trial. Domestic violence cases tend to be processed quite quickly through the judiciary and this does a disservice to the victims of domestic violence. Research has indicated that domestic violence offenders are most likely to repeat an assault on their victim within the first month after the initial offense (Klein & Tobin, 2008). This likelihood of recidivism, coupled with the leniency with which domestic violence arrests are treated, leads to a great risk to the victim. Findings from past studies as well as this study suggest that the criminal justice system does not adequately support the prosecution of domestic violence cases. This needs to change so that victims of domestic violence receive equal protection under the law. Exchange/social control theory provides the lens with which social workers should advocate for improvements in laws and policies that govern the treatment of domestic violence cases in the court system.

A blueprint for such change is already in existence. Recognizing the impact that mandatory arrest policies for domestic violence had on judicial caseloads, in 1994, the National Council of Juvenile and Family Court Judges published a "Model State Code on Domestic Violence and Family Violence" (Buzawa et. al., 2012). This publication argued for the need to re-analyze past judicial approaches to domestic violence and even suggested a "model code" for processing domestic violence cases with early intervention, mandatory arrest for restraining order violations, and specific guidelines for prosecutors. A recent study investigated how domestic violence cases were being processed by the judicial system after this "model code" was published (Buzawa et. al, 2012). These researchers found that in most jurisdictions prosecutors still had considerable leeway in deciding to drop abuse cases "without a finding" or without the offender "admitting criminality," which is the routine practice for other cases of assault and battery. They posited that "informal bargaining" leading to such "deals" for cases of domestic violence had become common practice (almost a "de facto" sentence) utilized by many prosecutors.

Across jurisdictions, domestic violence cases continue to be dismissed at a high rate, attributed by some (Buzawa et al., 2012; Kingsnorth et al., 2002) to the goal of caseload efficiency. If a court operates from such a model of efficiency, the resulting negative impact on the processing of cases of domestic violence is substantial. In fact, the message that is sent to the general public is that domestic violence cases are not worthy of the court's time or resources.

Kingsnorth et al. (2002) argued that it was much more difficult, time consuming, and work intensive to seek incarceration for a domestic violence offense than to plea bargain a case into probation. They suggested that in order to manage the high number of domestic

violence cases in their caseload, prosecutors recommended probation, anticipating that many of these offenders would be incarcerated once they violated the terms of their probation. It is clear that much remains to be done to address the manner in which domestic violence cases are handled by the judicial system. The gains made from the implementation of "mandatory arrest" policies can be supported and bolstered by turning attention to how decisions are made to prosecute domestic violence cases and the types of sanctions imposed. How can we expect mandatory arrests policies to act as a significant deterrent in preventing domestic violence, when domestic violence offenders and victims can expect a high rate of dismissals and lenient sanctions from the courts?

Additional research is needed to determine whether the findings of this investigation can be generalized to other district courts. There is great need for this study to be replicated in other courts of various sizes and those with demographics that are more diverse. Most of the previous research conducted on decisions to prosecute and sentencing has focused on specialized domestic violence courts, which hear domestic violence cases separately from the general court and typically only have one sitting judge (Henning & Feder, 2005). This may lead to problems in generalizing past findings, since nationally most jurisdictions do not have specialized courts for domestic violence cases.

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