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# Incomplete Sentences: Predictors of Failure to Complete Court-Mandated Domestic Violence Counseling

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**Incomplete Sentences:  
Predictors of  
Failure to Complete  
Court-Mandated Domestic  
Violence Counseling**

**Meredith Dedopoulos**

Criminal Justice Honors Thesis

*Spring 2011*

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## **I. INTRODUCTION**

Domestic violence is a serious social problem. According to some estimates, 31% of women will be the victim of physical or sexual violence at the hands of an intimate partner at some point in their lives (Hanson, 2002, p. 438). Proposed solutions to this problem have included changes to police and prosecution policies, as well as treatment options for abusers. Specifically, batterer intervention programs are designed to provide treatment to domestic violence offenders in order to reduce their recidivism and increase victim safety. These programs emerged as appealing solutions to court systems inundated with misdemeanor domestic violence offenses and pressure from women's advocates to deal with the problem of wife abuse in a serious manner. While much of the research on this topic has focused on evaluating whether programs reduce participant recidivism, the purpose of this paper is to investigate which factors predict drop-out from these programs. This information is important for prosecutors, who are responsible for recommending sentences, because of the administrative costs and increased workload triggered by noncompliance.

The present study is designed to contribute to the attrition literature and inform social policy by employing a unique research method to identify predictors of failure to complete a court-mandated batterer intervention program (BIP). First, I summarize the history of these programs and review the methodologies and findings of previous research. Next, I describe my study site, detail how the independent variables were measured, and state the research hypotheses. I present the statistical findings and make conclusions about which variables are significant predictors of program failure. Finally, I make policy recommendations for prosecutors based on my results and suggest areas for future research.

## **History of Batterer Intervention Programs**

In the early 1970s, the women's movement and the anti-rape movement in the United States spurred an offshoot known as the battered women's movement (Bennett & Williams, 2001). This faction demanded that wife abuse be recognized as a serious social problem and lobbied for legislation and policy changes designed to alleviate the plight of these victims. In 1977, eight friends of battered women's advocates developed the nation's first batterer intervention program in Boston, Massachusetts (Edleson & Tolman, 1992, p. 53). Though somewhat different from its counterpart today, this program offered group counseling to men who abused their wives (Hanson, 2002, p. 424). The program was voluntary and relied on a self-help, unstructured group setting to raise consciousness among participants about gendered issues of power (Feder & Wilson, 2005, p. 240; Hanson, 2002). Over the next five years, at least two hundred batterer programs developed independently across the country (Babcock & La Taillade, 2000, p. 37; Feder & Wilson, 2005, p. 240).

In 1984, a research study by Sherman and Berk declared that mandatory arrest policies for misdemeanor domestic violence offenses produced a decrease in the recidivism of those offenders. In that same year, the U.S. Attorney General published a report recommending that all police departments adopt pro-arrest policies; that is, arrest should be the standard response for misdemeanor domestic violence cases (U.S. Attorney General, 1984). This prompted the widespread adoption of pro-arrest and mandatory arrest policies in police departments across the country. The increase in the number of men arrested for misdemeanor domestic violence complaints flooded the courts with these cases (Feder & Wilson, 2005). Judges were reluctant to send first-time offenders to the already overcrowded jails but felt pressure from the influential

battered women's movement to deal with these offenders in a meaningful way (Gelles, 2001; Feder & Wilson, 2005). The growing number of batterer intervention programs became the preferred option for these misdemeanor domestic violence cases. In fact, the U.S. Attorney General's report had also asserted that court-mandated treatment for offenders was a promising method for ending the cycle of violence (U.S. Attorney General, 1984).

Today, at least 80% of batterer intervention program clients are court-mandated (Hanson, 2002). Nearly every state has adopted standards that dictate the structure and characteristics of programs, such as length, orientation, and staff educational requirements. Most programs employ the psycho-educational model, the cognitive-behavioral model, or a combination of the two.

### **Research Goals**

Research on batterer intervention programs began in the mid-1980s and focused primarily on evaluating program effectiveness in reducing offender recidivism. However, other studies examined which factors predicted whether offenders completed or dropped out of the program. This research on program attrition was justified by the need to improve program retention. If batterer intervention programs are effective, then research on the factors that predict attrition is important because it can inform strategies to reduce attrition and thus increase the number of offenders who receive this beneficial treatment.

Given the debate over the effectiveness of batterer intervention programs at reducing offender recidivism (see Feder & Wilson, 2005, for example), attrition research should not and cannot be justified solely as a means to increase program effectiveness. In a society of limited criminal justice resources, there is an expectation that prosecutors recommend appropriate

sentences for defendants. When a defendant is not in compliance with his sentence conditions – for example, he fails to attend a batterer intervention program – there are administrative procedures that are triggered to deal with the noncompliance. These procedures cost the court time and money and increase the workload of prosecutors. Given the burden that noncompliant defendants place on the criminal justice system, it would behoove prosecutors to use scientific data when determining which sentences are most appropriate for which defendants. Specifically, there is a need for reliable information concerning which defendants are most likely to complete a court-mandated batterer intervention program.

## **II. LITERATURE REVIEW**

Attrition research has been conducted since the 1980s, and over thirty of these studies have been published to date. Jewell and Wormith (2010) identify three different types of attrition that can be studied by researchers: post-referral, post-assessment, and in-program. Post-referral attrition occurs after the referral to the program but before any contact is made with the program. Post-assessment attrition refers to dropping out after an assessment or intake has been conducted with a program but before any sessions have been attended. Finally, in-program attrition occurs after at least one treatment session has been attended.

Nearly every published study on this topic has examined post-assessment or in-program attrition. One notable exception is the work by Gondolf and Foster (1991). These authors analyzed predictors of attrition among people who called to inquire about batterer intervention services at a specific program. In general, there have only been a handful of studies that analyze

post-referral attrition among court-mandated batterers. In all of the other studies, samples were drawn from program client populations. This leaves a considerable gap in the literature regarding the factors that predict attrition among court-mandated defendants.

In the existing attrition literature, there are three general categories of predictor variables: demographic, violence-related, and intrapersonal (Jewell & Wormith, 2010). Demographic predictors include age, race, marital status, education, income, and employment status. Violence-related variables include prior history of arrests or convictions, both in general and concerning domestic violence. Battering history is another violence-related variable, which may be measured using indicators of physical, sexual, and/or psychological abuse. Other variables in this category include history of childhood abuse victimization and being a childhood witness of family violence. Intrapersonal variables refer to characteristics such as substance use/abuse, psychopathology, motivation, anger, and depression.

Demographic variables are the most common independent variables studied in attrition research. In general, previous research has consistently found that offenders who drop out of batterer intervention programs are more likely to be younger, non-white, unmarried, and unemployed, and have less education and lower income, compared to program completers (Jewell & Wormith, 2010, p. 1088).

The findings concerning violence-related variables have been mixed and sometimes contradictory (see Jewell & Wormith, 2010, p. 1088-1089). In their meta-analysis of attrition studies, Jewell and Wormith (2010) concluded that completers were more likely to have no previous domestic violence history and no previous criminal history in general (p. 1104). They did not find significant effect sizes for childhood abuse victimization, witnessing family abuse as



a child, or severity of domestic violence committed. This was likely because few studies actually investigated these variables.

As for intrapersonal characteristics, many studies have found that alcohol/drug use is significantly associated with program attrition, a finding confirmed by the meta-analysis (Jewell & Wormith, 2010). Some studies have found a relationship between measures of anger and program drop-out (p. 1089). Analyses of psychopathology, depression, and motivation have either been non-significant or have not been studied enough to draw meaningful conclusions about their value as predictors.

Previous research in the area of batterer intervention program attrition has limited utility for prosecutors seeking guidance on predictors of completion/failure because nearly all of the studies have neglected to include post-referral attrition in their assessments. In other words, previous studies have only looked at the factors that predict drop-out among those who attended an intake or began a program. Therefore, it is unclear how the results of these studies would be different if their samples included those who were mandated by the court to complete treatment but never attended an intake.

### **III. RESEARCH METHODS**

The current study improves upon past research by examining post-referral attrition among court-mandated batterers. It is the first attrition study to use a sample of court-mandated defendants and thus its conclusions have important implications for prosecutors seeking guidance on which defendants are most likely to complete the batterer intervention program.

This research also measures court-related variables that may affect program completion, an issue that has been addressed by few (if any) previous studies.

In the following section, I describe the study site and how domestic violence cases are processed in that county. I also detail how the sample was collected and what selection criteria were employed in obtaining the sample.

### **Study Site Description**

Strafford County is located in the southeast corner of the state of New Hampshire. It is comprised of three cities and ten towns and had an estimated population of 123,589 in 2009 (U.S. Census Bureau, 2010). This location was chosen out of convenience; I had working relationships with the members of the Strafford County Attorney's Office because I had interned there in the summer of 2010.<sup>1</sup> I was able to get permission from the County Attorney to use the office's case files for my research.<sup>2</sup> Strafford County was also chosen because it is a rural location, thereby contributing to the attrition literature, which is mainly comprised of urban and suburban study sites.

In Strafford County, the County Attorney's Office is responsible for handling all misdemeanor domestic violence cases.<sup>3</sup> When a misdemeanor domestic violence arrest is made, the police department faxes the necessary information to the County Attorney's Office. If the defendant was held in jail after his arrest, he must be arraigned on the next business day. If the

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<sup>1</sup> Before my internship, I also knew the office employees through my father, a local defense attorney who is friendly with the staff.

<sup>2</sup> My research protocol was also approved by the Institutional Review Board.

<sup>3</sup> In New Hampshire, individual city and town police departments are responsible for prosecuting misdemeanors, while the county attorneys' offices prosecute felonies. In 1998, the Strafford County Attorney's Office took on the responsibility of prosecuting misdemeanor domestic violence cases through a new unit called the Domestic Violence Unit. The impetus for the unit's creation was a belief that regionalization of services was more efficient and better served victims of domestic violence. The funding of this unit was initially covered by a federal grant. By 2007, all thirteen jurisdictions had handed over the responsibility of domestic violence prosecution to the County Attorney's Office.

defendant was released after his arrest, his arraignment date is usually set for approximately three weeks later. The arraignment takes place in one of three district courts.<sup>4</sup>

At arraignment, defendants have the option of pleading guilty or not guilty. If they plead not guilty, defendants who did not bring an attorney with them are evaluated for their eligibility for court-appointed counsel. Defendants who are deemed eligible are assigned a lawyer from the public defender's office; if there is a conflict of interest, a contract attorney is assigned instead. A trial date is typically scheduled to occur two months after arraignment. In almost all cases, a disposition is negotiated and the case is resolved by a guilty plea.<sup>5</sup>

Whether the case is resolved through plea or conviction at trial, most sentencing outcomes include some amount of suspended jail time, conditioned upon two years of good behavior and the completion of a certain treatment. These treatment options include substance abuse counseling, parenting classes, individual psychological counseling or other mental health treatment, anger management, and domestic violence counseling. Based on the data used in the present study, approximately 20-25% of cases involved a sentence that included mandated domestic violence counseling. Domestic violence counseling is mandated in two forms: completion of a batterer intervention program or completion of a domestic violence evaluation and any recommended follow-up.<sup>6</sup> A domestic violence evaluation is designed to assess whether a defendant's behavior was situational or part of a pattern of domestic violence against the

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<sup>4</sup> At the time the subjects of this study were processed, there were three district courts operating: Dover, Rochester, and Durham. Dover District Court had jurisdiction over cases occurring in Dover, Somersworth, and Rollinsford, while Durham District Court oversaw cases originating in Durham, Madbury, and Lee. Rochester District Court handled cases from the remaining seven towns. In 2009, Durham District Court was closed, and all Durham, Madbury, and Lee cases were subsequently handled in Dover District Court.

<sup>5</sup> If the case is taken to trial, the outcome is decided by the district court judge through a bench trial. If the defendant is convicted, he has an automatic right to appeal the case to Superior Court, where he can have a jury trial.

<sup>6</sup> There are other forms of domestic violence counseling mandated by the courts in this county, but they are rare and are not of interest in this study, so they are not discussed. These forms include an anger management evaluation and a 16-week violence intervention program (group anger management counseling).

victim, and the evaluator makes recommendations for future treatment.<sup>7</sup> If the evaluation recommends that the defendant complete a batterer intervention program, then he must complete this program as part of his sentence conditions.

For a BIP-mandated case, the defendant is almost always given a suspended jail sentence.<sup>8</sup> The suspended time typically ranges from a low of 15 days to a high of 365 days in jail.<sup>9</sup> The jail sentence is suspended on the condition that the defendant remains of good behavior for two years (i.e. he is not rearrested) and that he completes the 36-week batterer intervention program.<sup>10</sup> The standard sentencing agreement or order states that the defendant must enroll in the program within 60 days (if in jail, that is 60 days from release), and complete the program within 10 months.<sup>11</sup> Other conditions may be part of the sentence as well, such as probation, parenting classes, restitution, or substance abuse counseling.

The prosecutor, not the court, is responsible for monitoring whether the defendant is complying with the conditions of his sentence. If the defendant is not in compliance, the prosecutor must file a motion to impose the defendant's suspended sentence with the court. A hearing is set on the motion, at which the prosecutor describes the defendant's noncompliance and asks the judge to impose the suspended sentence. The judge must decide whether the defendant should be given another chance or more time to comply with the conditions of his sentence. If the judge is considering imposing any suspended jail time, the hearing is adjourned

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<sup>7</sup> If the evaluator determines that the behavior is part of an overall pattern of domestic violence, then she will recommend that the defendant complete the batterer intervention program. If the behavior is not part of a pattern, then the evaluator may recommend other treatment options, such as individual counseling.

<sup>8</sup> In two of the cases in this study, the defendants were given suspended fines instead of suspended jail time.

<sup>9</sup> A misdemeanor is punishable by up to one year in jail. Defendants who are convicted of multiple charges are typically given concurrent sentences. However, in a few cases, the charges are sentenced consecutive to each other or consecutive to other charges (e.g. probation violation, pending felony charges), meaning a defendant could theoretically be given a suspended sentence of more than 365 days.

<sup>10</sup> New Hampshire's state standards require that all batterer intervention programs be at least 36 weeks in length (Batterers Intervention Subcommittee, 2002, p. 40).

<sup>11</sup> Occasionally, the sentence conditions will specify a longer amount of time to enroll (e.g. within 90 days) or a longer amount of time to complete the program (e.g. within 12 months).

and rescheduled so that the defendant can obtain a lawyer. Based on my review of case files for this study and on conversations with DV prosecutors, judges rarely impose suspended jail time when a defendant has failed to complete the batterer intervention program. Instead, judges tend to give the defendant time to re-enroll in the program, often delivering a stern warning that this is the defendant's last chance. Suspended jail time is most commonly imposed when the defendant has already been sentenced to jail as part of a new case; thus imposing the suspended time is just a formality that allows the BIP-mandated case to be closed.

For BIP-mandated defendants, the prosecutor monitors compliance by consulting information from the batterer intervention program providers in the area. There are three BIP providers in Strafford County, whose contact information is on a referral list that the court provides to BIP-mandated defendants at their sentencing.<sup>12</sup> Every month, each provider sends a list of new enrollees, currently enrolled clients, terminated clients, and program graduates to the County Attorney's Office. Two of the providers usually send letters concerning individual clients to document when a client graduates from the program. One of these providers also sends a letter to notify the County Attorney's Office that a client has been terminated from the program for non-attendance. If a defendant enrolls in a batterer intervention program outside of Strafford County, then he must arrange for that program to send a letter to the County Attorney's Office as proof of his enrollment. The defendant must also arrange for a letter to be sent documenting his completion of the program, if and when that occurs.

Since most defendants enroll in one of the three local batterer intervention programs (if they enroll at all), prosecutors use the monthly provider lists to check whether those who were

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<sup>12</sup> The programs will be referred to as Program A, Program B, and Program C. There was also a fourth program in the area that was operational during the time period of interest, but that provider did not send notification lists and only one of the subjects in my study enrolled in that program. Accordingly, the fourth program is not discussed in this paper.

supposed to enroll actually did.<sup>13</sup> Again, the onus is on the individual prosecutor to monitor compliance (i.e. notice that the defendant failed to enroll within the required number of days, or that the defendant was terminated from a program). If the defendant is not in compliance, the prosecutor must notify the court by filing a motion to impose.

One of the jurisdictions in Strafford County made it easier for prosecutors to monitor defendant compliance at the time of this study.<sup>14</sup> In Dover District Court, a review hearing was automatically scheduled for approximately 90 days after the sentencing date. The first review hearing was designed to check that the defendant had enrolled in a batterer intervention program. The defendant was informed of the date of the review hearing when he was sentenced and was expected to show up whether or not he had enrolled. If the defendant was in compliance at the first review hearing, then a final review hearing was set for approximately ten months to a year later to check that the defendant had completed the program.<sup>15</sup> If the defendant had not enrolled at the time of the first review hearing, then he had to explain why, and another review hearing was set for the near future to allow time for the defendant to enroll in a program.

The three area batterer intervention programs are fairly similar in content and employ a psycho-educational orientation. Two of the three programs charge clients based on a sliding fee

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<sup>13</sup> Currently, compliance is tracked using a computer calendar system. The legal assistants set a calendar reminder 60 days from the sentencing date. On the 60<sup>th</sup> day, the monthly lists are checked to verify the defendant's enrollment. If the defendant has enrolled, another reminder is calendared for ten months later. These compliance-monitoring procedures were not in place until approximately 2010, so most of the study's subjects were not monitored using this method.

<sup>14</sup> The practice of automatically scheduling review hearings ceased in the fall of 2008 after a consultation between the judge and the DV prosecutor assigned to that court. They agreed that it would be easier to only schedule a review hearing if a motion to impose was filed. The judge had suggested the change after spending time in another court where review hearings were not automatically scheduled. The prosecutor supported this change because having the automatic review hearings greatly increased her weekly caseload and the amount of files she had to carry to court.

<sup>15</sup> The judge decided on a case-by-case basis whether the final review hearing could be waived if the defendant submitted proof of completion ahead of time.

scale, which ranges from \$25 to \$45 per session.<sup>16</sup> Programs B and C each offer two time slots a week, while Program A offers four different time slots. Only Program A offers classes for female offenders. In addition, Program A also offers a modified batterer intervention program to jail offenders, a practice which began in 2007. The jail program is 12 weeks in length and is equivalent to six full sessions of the 36-week program.<sup>17</sup> Accordingly, BIP-mandated defendants who complete the jail program are given credit for 6 sessions towards the required 36 weeks.<sup>18</sup>

It is important to note that a defendant retains credit for each session he attends even if he drops out and then re-enrolls. In other words, defendants who drop out and re-enroll do not have to start the program all over again; they only have to complete the remaining number of sessions to reach 36 total sessions attended. This is true for defendants who re-enroll with a different provider and for those who get credit for completing the jail program.

The features of the program providers are important to consider because a defendant's attendance may be influenced by provider location, program cost, and the group facilitators themselves, all of which differ across the three programs in Strafford County. Another important factor is the program's termination policy. Clients can be terminated from a program for three reasons: non-attendance, non-payment, and inappropriate behavior. Each of the three programs has a slightly different policy on non-attendance. Program A terminates a client if he misses three sessions in a row without communicating with the agency; if the client wants to re-enroll, he must set up an intake appointment and wait for a spot to open up if the groups are full. Program A does not have a limit for the number of times a client is allowed to re-enroll.

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<sup>16</sup> For Program A, the first session is an orientation that costs \$50, and the remaining thirty-five sessions cost \$25 to \$45 each, depending on income. Program B charges \$30 to \$45 per session, while Program C charges a flat fee of \$35 per session.

<sup>17</sup> Each jail session is half the length of a regular session.

<sup>18</sup> Several offenders in the study participated in the jail BIP either voluntarily or because they were ordered by the court to do so after being jailed for another offense, or in the rare case when they were jailed for noncompliance.

The termination policy of Program B is slightly different. This provider does not have a requisite number of sessions at which non-attendance triggers termination because those who miss multiple sessions do not come back anyway, according to the provider. Those who do want to re-enroll are allowed to do so as many times as necessary to complete the program. Program B does terminate clients who are re-arrested; these clients are allowed to re-enroll after their case is resolved.

Program C has the strictest termination and re-admittance policies. Clients who miss three *total* sessions (excused *or* unexcused) are required to meet with the provider to discuss their situation. Those who do not meet with the provider are terminated from the program. Program C only allows clients to re-enroll once; if they drop out again, they are referred to another provider. Clients are also terminated if they are re-arrested, but can re-enroll upon request.

### **Data Collection**

The data I used in the analyses came from the following sources: prosecutor case files, monthly provider lists, and program providers' own attendance records. The following section describes how I selected my initial sample, how I determined which cases to include in the final sample, and how I determined whether each subject completed the program.

### ***Sample Selection***

Every misdemeanor domestic violence case sent to the Strafford County Attorney's Office is entered into a case management system called the DV Database. One field in the database is whether the defendant's sentence included DV counseling. Any defendant who was



mandated to attend a batterer intervention program or complete a DV evaluation has a yes in that field. Accordingly, this database was the only source from which I could obtain a list of all defendants who were court-mandated to attend domestic violence counseling.<sup>19</sup>

From the DV Unit Coordinator, I obtained a cursory sample from the database to examine how often defendants were mandated to attend domestic violence counseling so that I could determine an appropriate sample time frame. I concluded that a two-year window would yield about 200 offenders, a satisfactory *n*. I chose arrest date of July 1, 2006 to June 30, 2008, for my sampling time frame. There were two specific reasons for this selection. First, one of the three area batterer intervention programs was not established until July 2006, so I could not choose a date much before that because of the possibility that availability of a program in or near a defendant's hometown could affect attendance/compliance. Second, I selected an end date (June 30, 2008) that would allow for enough time to pass so that none of the subjects would still be enrolled by the time I collected my data. I calculated that at least two years from arrest date was sufficient time to allow for case-processing time, attendance of the 36-week program, and possible re-enrollment.<sup>20</sup>

Next, I obtained database information for all defendants arrested for misdemeanor<sup>21</sup> domestic violence charges between July 1, 2006 and June 30, 2008. I excluded all cases in which the DV counseling field was not "yes." Since some offenders were arrested multiple times within the two-year period, I identified those cases and collapsed each offender into one

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<sup>19</sup> Because of the volume of domestic violence cases that are handled each year, it would have been highly impractical to go through every file to see whether domestic violence counseling was mandated (assuming I could find all of the files).

<sup>20</sup> Despite my end date selection, three subjects in the sample were still enrolled as of January 2011, the month in which I collected the data.

<sup>21</sup> The sample includes only misdemeanor cases because the (separate) felony case management system does not record sentencing outcomes, let alone whether a defendant was BIP-mandated. This should not be seen as a limitation, however, because batterer intervention programs were originally conceived as a tool to deal with misdemeanor cases. While felony domestic violence cases prosecuted by Strafford County do involve BIP-mandated sentences on occasion, it was neither feasible nor logical to include them in this study.

line of a spreadsheet. This yielded a list of the 221 defendants mandated to attend domestic violence counseling within my sampling time frame. Using this list, I attempted to locate each case file in the Strafford County Attorney's Office. I coded information on a code sheet that I created and recorded any attendance-related information on the back of the code sheet.<sup>22</sup>

As for the data in the case files, I decided to only collect information on variables that would or could be known by the prosecutor at the time of plea/sentencing. Previous attrition studies have measured variables such as psychopathology, childhood experience of abuse, and attitudinal scales, which may very well be helpful to treatment providers. However, prosecutors who are making decisions about which sentence to recommend only have access to certain kinds of information. I wanted to use only this information to determine which variables predicted compliance/failure because the purpose of my study was to better inform prosecutors in their sentencing recommendations.

### ***Types of Cases***

The 221 defendants on my sample list were sentenced to one of three types of domestic violence counseling dispositions: batterer intervention program, DV evaluation, or other. Other included anger management counseling, anger management evaluation, and a 16-week violence intervention program, and these cases were excluded from the study ( $n = 6$ ). Among those sentenced to a domestic violence evaluation, there were three possible outcomes: an evaluation was completed and did *not* recommend the BIP (excluded from the study;  $n = 5$ ); an evaluation

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<sup>22</sup> Not all of the collected data were included in this study. A full list of variables on which data were collected is available from the author.

was completed and recommended the BIP (included in the study; n = 7); or the file contained no evidence that an evaluation was completed (excluded from the study; n = 2).<sup>23</sup>

Among defendants sentenced to the batterer intervention program, there were two types of cases. In the first type, the defendant was arrested once in the sampling time frame and was ordered to complete the batterer intervention program.<sup>24</sup> The second type of case encompassed defendants who were arrested more than once but had their cases resolved concurrently. The typical case of this second type occurred as follows: a defendant was arrested for a DV offense (first arrest), and then before that case was resolved, he was arrested for *another* domestic violence case. Both cases were resolved on the same date by a guilty plea and the sentences were concurrent for all charges.<sup>25</sup> In other words, the defendant was ordered to complete the batterer intervention program as part of multiple cases (arrests), but those cases were resolved on the same sentencing date with a global disposition.<sup>26</sup>

Based on the inclusion/exclusion criteria described here and in the footnotes, the list of cases in the sample was pared down to 120.<sup>27</sup>

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<sup>23</sup> While those who did not get an evaluation were technically not in compliance with their sentence conditions, the situation was not equivalent to those who were ordered to complete the 36-week BIP, which is a much more substantial commitment of time and money.

<sup>24</sup> Some of the cases involved defendants who were ordered to continue with/complete the BIP that was ordered in a previous case. In other words, the defendant was arrested before July 2006 and sentenced to complete the BIP. Then he was arrested between July 2006 and June 2008 (within my sampling time frame), and his sentence for that case was to continue attending and complete the BIP ordered in the previous case. These sixteen subjects were ultimately excluded from the study (although data was collected on them) because the sample was supposed to reflect those sentenced to the batterer intervention program for the first time. These defendants were not *really* sentenced to a BIP as part of the arrest in my time frame; they were ordered to comply with the BIP sentence condition from a previous case.

<sup>25</sup> Very rarely, the defendant was sentenced to consecutive suspended jail sentences.

<sup>26</sup> There were a few cases in which the defendant was arrested multiple times within the time frame, but the cases were not resolved together. In these instances, the defendant was arrested within the time frame (first arrest), sentenced to the BIP, and then re-arrested later within the time frame and ordered to continue the BIP ordered in the first case. For these subjects, I only collected data on the first arrest(s) for which the BIP was initially ordered.

<sup>27</sup> Other reasons for exclusion: Database entry mistake – actually sentenced to other type of counseling (n = 4); BIP or evaluation sentence condition was vacated post-conviction for various reasons, such as different disposition on appeal (n = 10); ordered to do BIP but allowed to do individual counseling instead (n = 3); defendant still completing prison portion of other sentence and did not have opportunity to complete or fail (n = 1); unclear

### *Source of Outcome Variable Data*

I constructed the outcome variable data using a triangulation of three sources of information: prosecutor case files, monthly provider lists, and providers' own case files. Sometimes, case files from the County Attorney's Office contained information about whether the defendant completed or failed to complete the program. For example, there were letters from the providers documenting that the defendant had completed the program. If a subsequent hearing was ever held (such as a review hearing or a motion to impose hearing), the prosecutors wrote notes about what transpired at the hearing. These notes indicated if the case was closed because the defendant completed the program, or if the defendant's sentence was imposed because he failed to complete the program. Sometimes, the prosecutors' notes said that the defendant had failed to appear for the hearing and a bench warrant was issued.

If the prosecutor case file did not contain explicit information that the defendant had completed the program or that the defendant had *definitely* failed to complete the program (e.g. sentence was imposed; case closed because the bring-forward period had expired<sup>28</sup>), then I consulted the monthly provider lists. As was previously mentioned, each of the three providers sends the County Attorney's Office a monthly list of clients, detailing whether they are new enrollees, current clients, successful graduates/completers, or were terminated from the program. Using the information from these lists and the information in the prosecutor case files, I reconstructed each defendant's attendance history to the extent possible.

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whether completed or failed even after consulting all sources of data (n = 2); prosecutor case file missing (n = 31); did not have time to code the file because of short data collection window of time (n = 21).

<sup>28</sup> The bring-forward period is the (two year) period of time during which the defendant's sentence is suspended conditioned upon good behavior and completion of the program. If the defendant is not in compliance, the prosecutor must file a motion to impose within the two-year period. A few cases in my study were closed because the bring-forward period had expired.

I also contacted the three providers and asked for attendance information on each client (whether completed program, first and last attendance date, and number of sessions attended). This information was retrieved from the providers' own files/records. I then compared the information from the providers' files to the information on the monthly provider lists to verify accuracy. If no information on completion (or even attendance) could be located from these three sources, I had to assume that the defendant failed to complete the program.<sup>29</sup>

#### **IV. VARIABLES & HYPOTHESES**

The independent variables are divided into four groups: high risk, external pressures, commitment, and deterrence/oversight. For each group, the variables are named and the overall concept of the grouping is explained. For each variable, the way it was measured is described, and the hypothesized relationship to program failure is stated and explained.

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<sup>29</sup> I encountered several cases in which there was no record of attendance or the defendant had dropped out of the program, yet no motion to impose was filed. I consulted with the prosecutors and learned that the most likely explanation was that the case fell through the cracks. There are two other possible but much less likely explanations. First, it is possible that the defendant completed the program but never sent the information to the prosecutor. Based on my observations, that seems extremely unlikely, and even if it did occur, the defendant still technically failed to comply with his sentence conditions because he did not provide proof. Second, it is possible that information on the defendant's attendance/failure was noted in a subsequent case file, but the subsequent case file was not attached to the older one (that I looked at), as office protocol dictates. This scenario seems unlikely because many of the cases *did* have subsequent files attached. Also, the files that lacked any information tended to be older (when monitoring practices were not as organized and there was considerable turnover in office personnel), and all of them were adjudicated in Rochester District Court, which does not schedule automatic review hearings. Accordingly, it is most likely that cases with no attendance information and no follow-up from prosecutors just fell through the cracks.

## High Risk Variables

There are six variables that are hypothesized to put defendants at a higher risk for failure: age, criminal record, prior domestic violence arrest, multiple arrests in case resolution, substance use/abuse, and nature of the offense.

**Age.** Age was measured as the defendant's age at the time of his first arrest. This information was obtained from the police report located in the prosecutor case file. Eventually, the data was recoded into age ranges to allow for statistical analysis.

I hypothesized that younger defendants would be more likely to fail to complete the batterer intervention program. This hypothesis is consistent with the findings of several previous studies (see Jewell & Wormith, 2010).<sup>30</sup> Young people are less mature and often do not consider the long-term consequences of their actions. Younger defendants may not take their sentence conditions seriously and thus may be more likely to fail to complete the batterer intervention program.

**Criminal Record.** Criminal record was coded as a dichotomous variable (whether the defendant had a criminal record – yes or no).<sup>31</sup> Prosecutors run a criminal record check for the defendant and the victim in every case.<sup>32</sup> I hypothesized that defendants with criminal records would be more likely to fail to complete the batterer intervention program. This is because these

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<sup>30</sup> While this finding has been reported by several studies, few offer a causal mechanism through which age is related to program drop-out.

<sup>31</sup> In two of the cases, I coded the criminal record variable as a no even though there was an entry on the defendant's New Hampshire criminal record. In both cases, there was only one offense: driving under the influence, a B misdemeanor. Based on my observations from collecting the data, misdemeanor DUI offenses were always reported on an offender's motor vehicle record but were often not reported on the offender's criminal record. Therefore, since the inclusion of a misdemeanor DUI on a criminal record seemed to be arbitrary, I had to consider defendants with only that prior offense to have no criminal record to ensure that my measure was consistent across subjects.

<sup>32</sup> Out-of-state criminal records are not always checked; thus there is a potential flaw in the dataset.

defendants have already demonstrated a propensity to violate rules, meaning they may be more likely to violate sentence conditions. Some studies have found that an offender's number of previous arrests or convictions predicts likelihood of drop-out, but the support for this relationship has been mixed (Jewell & Wormith, 2010, p. 1088).

***Prior DV Arrest.*** Whether the defendant had a previous domestic violence arrest was coded as a dichotomous variable. On a defendant's New Hampshire criminal record, a special field indicates whether the offense was domestic violence related.<sup>33</sup> I hypothesized that defendants with a prior domestic violence arrest would be more likely to fail to complete the batterer intervention program. The logic is the same as the hypothesis concerning criminal record; defendants who have already demonstrated a propensity for violating laws may be more likely to violate sentence conditions as well. Furthermore, defendants with prior domestic violence histories might be particularly resistant to attending a program designed to change their behavior. Some previous studies have found that first-time domestic violence offenders are more likely to complete the batterer intervention program, but other studies have found conflicting results (Jewell & Wormith, 2010, p. 1088).

***Multiple Arrests.*** The variable termed "multiple arrests" was a dichotomous measure that encompassed a few different scenarios. A defendant received a yes for this variable if he was re-arrested for another domestic violence offense after his first misdemeanor DV arrest but before the case was resolved. A defendant was also coded as a yes if he committed another

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<sup>33</sup> A limitation of this measure is the fact that offenses were not classified as domestic violence related until the late 1990s or early 2000s. Accordingly, offenses committed before this classification were automatically considered to be non-DV-related. Also, out-of-state criminal records rarely indicated whether an offense was DV-related, which likely means that the number of defendants with prior domestic violence arrests was underestimated.

domestic violence offense against the same victim following his first arrest but before case resolution, even if he was not re-arrested.<sup>34</sup> A final scenario that qualified as a multiple arrest case was when the defendant's initial misdemeanor domestic violence arrest was preceded by a felony domestic violence arrest for an offense involving the same victim. In short, this variable represented defendants who committed another domestic violence offense before their first DV case was resolved.

I hypothesized that defendants who committed another domestic violence offense before their first DV case was resolved (i.e. defendants with "multiple arrests") would be more likely to fail to complete the batterer intervention program. Committing another domestic violence offense before case resolution demonstrates an unwillingness to comply with court orders and conditions, especially if the defendant is already facing potential sanctions. This kind of behavior seems to indicate a pattern of noncompliance that will likely continue after sentencing. To date, no other attrition study has examined a variable similar to this one.

***Alcohol/Drug Use.*** Since the role of substance use/abuse is often discussed in relation to domestic violence, I wanted to examine whether this variable had an effect on program failure. I operationalized the variable as a dichotomous measure of whether the defendant had been under the influence of alcohol or drugs at the time of the offense(s). This information was obtained from the police reports located in the prosecutor case file. The police reports contained narrative descriptions written by each responding officer, which included the officer's observations of the defendant, the victim's statements, and any statements made by the defendant. Any written statements by either the victim or the defendant were also included with the reports. If any of

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<sup>34</sup> There were a few possible reasons for why re-arrest did not occur: the defendant was already in custody; the prosecutor decided to just file the new charges in court as part of the on-going case; or the prosecutor agreed not to bring forward any new charges based on additional conduct in exchange for a guilty plea to the original charge(s).



those accounts mentioned that the defendant had been using drugs or alcohol prior to or during the incident, I coded the variable as a yes.

I hypothesized that defendants who were under the influence of alcohol or drugs at the time of the offense(s) would be more likely to fail to complete the batterer intervention program. By doing so, I assumed that alcohol/drug use at the time of the incident was indicative of a larger substance abuse problem. Substance abusers who currently use alcohol or drugs would logically have difficulty meeting expectations of regular attendance and complying with program requirements that insist clients refrain from alcohol or drug use.<sup>35</sup> Previous studies have frequently found a relationship between alcohol/drug use and program drop-out (Jewell & Wormith, 2010, p. 1089).

***Nature of Offense.*** Among the cases I examined during data collection, the nature of the defendants' conduct appeared to reflect a wide range of severity.<sup>36</sup> I wanted to explore whether the nature of the defendant's conduct predicted likelihood of failure to complete the batterer intervention program. I hypothesized that there would be a significant association between the nature of the offense(s) and program failure, but made no prediction as to the direction of the relationship.

In order to test this hypothesis, I began by constructing a scale that reflected the severity of the defendant's conduct. The five most common behaviors were assigned numerical values in descending order of seriousness (physical violence = 5, threatening = 4, property damage = 3, violating an order of protection = 2, and obstructing a report = 1). Using this scale, I

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<sup>35</sup> Some of the providers have clients sign an agreement not to use alcohol or drugs while they are enrolled in the program.

<sup>36</sup> The most common charges were: simple assault; criminal threatening; criminal mischief (vandalism/property damage); obstructing report (preventing victim from calling police); criminal trespass; and violating protective order/stalking.

experimented with a couple of different measures,<sup>37</sup> finally settling on a total offense score. That is, the values for each behavior the defendant committed were added up to produce a total offense score, which reflected the overall seriousness of the incident(s). These total offense scores ranged from 2 to 15 in the dataset and were eventually collapsed into ranges.

While previous researchers have used measures such as the Conflict Tactic Scales to quantify abusive behavior (see Grusznski & Carrillo, 1988, for an example), no other attrition study has used information from police reports to construct a scale of offense severity.

### **External Pressures**

Two independent variables constitute the category of external pressures: relationship to the victim and ability to pay. These variables are predicted to affect the defendant's likelihood of program failure by influencing the defendant's motivation to comply with sentence conditions and by restricting his ability to pay for the program.

***Relationship to the Victim.*** The defendant's relationship to the victim was originally divided into four categories: current dating partner, ex-dating partner, current spouse, and ex-spouse/estranged spouse. The number of ex-spouse/estranged spouse cases was so low that it was subsequently combined with the ex-dating partner cases. The defendant's relationship to the victim at the time of the (first) arrest was the definition used for this variable.<sup>38</sup> This was

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<sup>37</sup> First, I coded only the most serious behavior committed by the defendant. This was not a useful measure because nearly all of the cases had a value of 5. Instead, I added up the values of each offense committed by the defendant to create a total offense score.

<sup>38</sup> While some relationship statuses changed after arrest (e.g. went from current dating to ex-dating partners, or even from ex-dating to current dating partners), it was impossible to determine the final relationship status at the time of plea/sentencing. Furthermore, I found that many relationships were not clearly defined even at the time of (first) arrest, given the inconsistencies in whether the defendant was described as a current dating partner or an ex-dating partner. Therefore, it made sense to use the relationship status at the time of (first) arrest because it was a consistent starting point for every case. Theoretically, I could have used living together as a measure of relationship to victim

determined using information in the officers' narratives and victims' statements included in police reports.<sup>39</sup>

I hypothesized that defendants whose victim was their spouse would be less likely to fail to complete the batterer intervention program. Married defendants have seemingly more invested in their relationship and thus will likely comply with sentence conditions to avoid further sanctions that could negatively affect their families. In other words, married defendants are motivated by their legal, economic, and social commitments to their spouses, which make them more likely to remain in compliance and complete the batterer intervention program. Previous research has consistently found that married offenders are more likely to complete the program (Jewell & Wormith, 2010, p. 1088).

***Ability to Pay.*** The variable most logically related to program completion/failure is the defendant's ability to pay for the program. In Strafford County, the total cost of the 36-week program ranges from \$925 to \$1,625, a substantial expenditure of money for most people. Therefore, a defendant's ability to afford the cost of the program will necessarily depend on his income level. Unfortunately, there was no information about income in the prosecutors' case files.

The two closest measures of ability to pay were employment and indigent status. Employment was a yes/no category on the police report's offender information sheet. A substantial number of information sheets did not include any employment information, and thus the variable was considered missing for those defendants (25.8% of the sample). If employment

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(i.e. live-in partner – yes or no), but I wanted to explore whether the legal status of a relationship (i.e. marriage) affected likelihood of failure. Additionally, I would have had similar problems using this measure because living arrangement could have changed after arrest; plus, some couples lived together even after they had broken up.

<sup>39</sup> If there was conflicting information (and there often was), I deferred to the victim's categorization of the relationship.

status was reported, it corresponded to whether the defendant was employed *prior* to arrest.<sup>40</sup>

Furthermore, there was no way to verify that this information was accurate, as narratives did not frequently mention the defendant's employment status. For all of these reasons, I determined that employment status was a poor measure of ability to pay.

The other proxy measure was the defendant's indigent status; that is, whether the defendant qualified for court-appointed counsel. This information was gleaned from attorney correspondence and notices of appearance, which must be filed with the court and provided to opposing counsel. This measure also suffered from the issue of missing data because several defendants (22.5%) resolved their cases at arraignment without an attorney, so their eligibility for court-appointed counsel was not evaluated. Still, for those defendants who were evaluated, indigent status was a better indicator of income than employment status for two reasons. First, unlike employment status, a defendant's level of income/assets (on which an indigent evaluation is based) is not likely to change drastically between arrest and sentencing; thus it is a much more stable measure. Second, indigent status separates defendants into those below a certain income level (and thus eligible for court-appointed counsel) and those above a certain income level, so at least income is involved in the measure. Employment status indicates whether a defendant has a job, but it provides no information as to how much money is collected from that job. Therefore, indigent status is a more accurate albeit imperfect measure of income level, which determines the defendant's ability to pay for the program.

Using indigent status as a proxy for ability to pay, I hypothesized that indigent defendants would be more likely to fail to complete the batterer intervention program. Indigent defendants have lower income levels and thus will have less money to put towards a program that costs

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<sup>40</sup> It is reasonable to assume that for some defendants, employment status changed after their arrest, possibly as a direct result of the arrest itself.

approximately \$1,000 or more. Previous research has found that income is consistently related to program drop-out (Jewell & Wormith, 2010, p. 1088).<sup>41</sup>

### **Commitment**

The commitment variable was measured out of concern that defendants pleading guilty at arraignment would be more likely to fail to complete the program based on two related but independent possible reasons. First, defendants may plead guilty at arraignment in order to have the case resolved so that it is not hanging over their heads *and* so that the no-contact order against the victim will be dropped immediately.<sup>42</sup> These defendants may be so concerned with resolving the case that they do not truly realize what they are agreeing to; that is, they do not fully understand the financial cost and time commitment required for program completion as well as the consequences of noncompliance. A second reason could be that these defendants do not understand what they are agreeing to because they do not have an attorney present, who would explain the defendant's options and what a BIP-mandated sentence entails *before* the defendant agreed to the sentence.

***Pled at Arraignment.*** I decided to measure the defendant's understanding (or lack thereof) of the commitment required to complete the program as whether the defendant pled guilty at arraignment. I predicted that defendants who pled guilty at arraignment would be more likely to fail to complete the program because they did not fully understand the financial and

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<sup>41</sup> Employment status has also been consistently linked to program drop-out in previous studies (Jewell & Wormith, 2010, p. 1088).

<sup>42</sup> In every domestic violence case, a no-contact order is automatically issued after arrest, which prevents any communication between the defendant and the victim. Violation of this order can result in additional charges (violation of protective order or stalking). The no-contact order is vacated after the defendant is sentenced unless the victim wishes for the order to remain in place. Judges will rarely lift the no-contact order before sentencing, even if the victim is the one who makes the request. Accordingly, it is plausible that part of the defendant's motivation to plead guilty stems from his desire to have the no-contact order dropped.

time commitment of the BIP sentence conditions when they agreed to the plea, and instead were concerned about resolving the case as soon as possible so that they could have contact with the victim and not have charges hanging over their heads. No other study has examined this kind of variable.

### **Deterrence/Oversight**

The final group of variables consists of factors related to deterrence and oversight. These variables are predicted to decrease the likelihood of failure to complete the batterer intervention program by offering increased oversight/monitoring of compliance or by deterring noncompliance because of the potential consequences. The following four variables are included in this group: probation, court oversight, amount of suspended jail time, and pretrial detention. None of these variables have been addressed in previous research.

***Probation.*** One of the deterrence/oversight variables was whether the defendant was on probation while he was mandated to complete the batterer intervention program.<sup>43</sup> I predicted that defendants who were on probation would be less likely to fail to complete the program because their compliance was monitored more intensely and with greater frequency than defendants who were not on probation. In other words, there was an additional oversight mechanism (the probation officer) besides the prosecutor and the court.

Another reason that probation might increase likelihood of completion is because probationers are subject to additional penalties if they do not comply with their sentence

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<sup>43</sup> This variable was coded as a yes for the following three scenarios: if the defendant was already on probation at the time of the offense, and thus his probation continued after sentencing; if the defendant was sentenced to probation as part of the sentence in the original domestic violence case; or if the defendant was sentenced to probation sometime after sentencing (as part of a different case) but before he had completed the batterer intervention program.

conditions. The conditions of the defendant's sentence become part of the defendant's conditions of probation; therefore, a violation of the sentence conditions is automatically a violation of probation. Violation of probation is a separate, chargeable offense and is thus punishable by a jail sentence, which may run consecutive to the original amount of suspended jail time. Accordingly, being on probation may also act as a deterrent to program noncompliance.

***Court Oversight.*** As was mentioned in section III, one of the courts in Strafford County automatically schedules review hearings after the defendant is sentenced, at which the defendant must prove that he is complying with his sentence conditions by providing proof of enrollment and continued attendance at a batterer intervention program. I coded court oversight as a dichotomous variable based on the jurisdiction (i.e. whether the case was adjudicated in the court that scheduled automatic review hearings). I hypothesized that defendants who were subject to automatic judicial review would be less likely to fail to complete the program. Defendants who knew that they would have to come back to court to prove their compliance or face the consequences would be motivated to enroll, attend, and complete the program.

***Amount of Suspended Jail Time.*** The amount of jail time suspended conditioned upon the defendant's completion of the batterer intervention program was predicted to be an influential factor in likelihood of program completion/failure. I coded this variable as the total number of days suspended, according to the prosecutor disposition sheet and/or the sentencing order/agreement in the case file. I predicted that defendants with greater amounts of suspended jail time would be less likely to fail to complete the program. This hypothesis was based on the

assumption that defendants would be deterred by long suspended sentences because jail is undesirable. Therefore, the longer the suspended sentence, the more motivated the defendant would be to complete the program in order to avoid the imposition of that sentence.

***Pretrial Detention.*** Pretrial detention was measured as whether the defendant spent time in jail after his arrest (and before sentencing).<sup>44</sup> This information was gathered from police reports, which noted whether the defendant was transported to jail, and from prosecutors' notes on the disposition sheets, which identified the amount of pretrial credit the defendant had earned. I predicted that defendants who experienced pretrial detention would be less likely to fail to complete the batterer intervention program. This is based on the assumption that the negative experience of being exposed to jail would motivate defendants to comply with their sentence conditions in order to avoid another jail experience (through imposition of the suspended sentence).

### **Outcome Variable**

The dependent variable was defined as failure to complete the court-mandated batterer intervention program. Failures were given a value of 1 while completers were assigned a value of 0.

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<sup>44</sup> A few defendants were not jailed prior to sentencing but were then ordered to begin serving jail time immediately or on weekends as part of their sentence. These cases did not qualify as pretrial detention for the purposes of this study.



## V. BIVARIATE RELATIONSHIPS

The data were analyzed using the SPSS software system. Descriptive statistics are summarized in Table 1. The sample was 92.5% male and 88.3% Caucasian. The victim was the defendant's spouse in 22.5% of the cases.<sup>45</sup> There were 29 defendants who committed another domestic violence crime between their first arrest and case resolution (i.e. "multiple arrests"); of these 29 defendants, 89.7% committed a new crime against the *same* victim while on bail for the first offense. Almost three-quarters (71.8%) of the defendants were represented by an attorney by the time the case was resolved. Out of 120 cases, 7 (5.8%) were originally sentenced to a domestic violence evaluation, which recommended the full 36-week program.

Means tests were conducted to assess the bivariate relationships between the independent variables and likelihood of failure to complete the batterer intervention program. The results of those tests are presented in Table 2. Because the cases in this study are actually the whole population of cases mandated to attend a batterer intervention program during the specified time period, rather than a sample drawn from the whole population of BIP-mandated cases, conventional levels of statistical significance are not, strictly speaking, valid indicators of significance. I used conventional levels of statistical significance as guides to substantive significance. Eta is also included as an indicator of significance.

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<sup>45</sup> While there was a separate variable for marital status (coded as single, married, or divorced), defendants who were in the process of getting divorced from their victim (and thus qualified as an "estranged spouse") were coded as married. Thus it is more accurate to report marital status as relationship to the victim.

Table 1. Variable Frequencies and Percents (n = 120 unless otherwise noted)

	<u>Frequency</u>	<u>Percent</u>
<i>Defendant Age</i>		
17–21	18	15.0
22–25	21	17.5
26–29	23	19.2
30–35	21	17.5
36–44	21	17.5
45–59	16	13.3
<i>Criminal Record</i>		
Yes	90	75.0
No	30	25.0
<i>Criminal History*</i>		
None	30	25.2
Misdemeanors	70	58.8
Felon, no prison	3	2.5
Felon, suspended or served prison	16	13.4
<i>Prior Domestic Violence Arrest*</i>		
Yes	50	42.0
No	69	58.0
<i>Multiple Arrests</i>		
Yes	29	24.2
No	91	75.8
<i>Incident Involved Alcohol/Drugs</i>		
Yes	55	45.8
No	65	54.2
<i>Def. Substance Abuse Problem</i>		
Yes	19	15.8
No	101	84.2
<i>Nature of Offense Scale Total</i>		
2–9 points	95	79.2
10–15 points	25	20.8

\* n = 119

\*\* n = 86

\*\*\* n = 114

Table 1. Variable Frequencies and Percents (continued)

	<u>Frequency</u>	<u>Percent</u>
<i>Relationship to Victim</i>		
Dating Partner	58	48.3
Ex-Partner/Ex-Spouse	35	29.2
Spouse	27	22.5
<i>Indigent**</i>		
Yes	69	80.2
No	17	19.8
<i>Pled When***</i>		
At arraignment	31	27.2
Subsequently	83	72.8
<i>Sentenced to Probation</i>		
Yes	32	26.7
No	88	73.3
<i>Court Oversight</i>		
Yes	37	30.8
No	83	69.2
<i>Amount of Suspended Jail Time</i>		
0–30 days	24	20.0
60–120 days	39	32.5
180–270 days	20	16.7
365 or more days	37	30.8
<i>Pretrial Detention</i>		
Yes	49	40.8
No	71	59.2
<i>Outcome</i>		
Completed BIP	60	50.0
Failed to Complete BIP	60	50.0

\* n = 119

\*\* n = 86

\*\*\* n = 114

Table 2. Bivariate Relationships (n = 120 unless otherwise noted)

	<u>% Fail</u>	<u>Eta</u>	<u>Sig.</u>
<i>Defendant Age</i>			
17–21	44.4	.212	.378
22–25	61.9		
26–29	34.8		
30–35	57.1		
36–44	42.9		
45–59	62.5		
<i>Criminal Record</i>			
Yes	52.5	.077	.403
No	43.3		
<i>Criminal History*</i>			
None	43.3	.308	.009
Misdemeanors	42.9		
Felon, no prison	66.7		
Felon, suspended or served prison	87.5		
<i>Prior Domestic Violence Arrest*</i>			
Yes	52.0	.041	.656
No	47.8		
<i>Multiple Arrests</i>			
Yes	65.5	.175	.056
No	45.1		
<i>Incident Involved Alcohol/Drugs</i>			
Yes	43.6	.117	.203
No	55.4		
<i>Def. Substance Abuse Problem</i>			
Yes	36.8	.114	.214
No	52.5		
<i>Nature of Offense Scale Total</i>			
2–9 points	47.4	.103	.265
10–15 points	60.0		

\* n = 119

\*\* n = 86

\*\*\* n = 114

Table 2. Bivariate Relationships (continued)

	<u>% Fail</u>	<u>Eta</u>	<u>Sig.</u>
<i>Relationship to Victim</i>			
Dating Partner	56.9	.259	.017
Ex-Partner/Ex-Spouse	57.1		
Spouse	25.9		
<i>Indigent**</i>			
Yes	55.1	.204	.059
No	29.4		
<i>Pled When***</i>			
At arraignment	45.2	.070	.460
Subsequently	53.0		
<i>Sentenced to Probation</i>			
Yes	56.3	.075	.413
No	47.7		
<i>Court Oversight</i>			
Yes	54.1	.054	.557
No	48.2		
<i>Amount of Suspended Jail Time</i>			
0–30 days	45.8	.073	.892
60–120 days	51.3		
180–270 days	45.0		
365 or more days	54.1		
<i>Pretrial Detention</i>			
Yes	55.1	.085	.357
No	46.5		

\* n = 119

\*\* n = 86

\*\*\* n = 114

According to the results of the means test, indigent defendants were significantly more likely to fail to complete the program, consistent with the hypothesis. However, the *n* was reduced to 86 cases for this analysis because of missing data for defendants who did not have an attorney. Accordingly, any results from this variable must be interpreted with caution.

Defendants who committed another domestic violence crime between their first arrest and case resolution (i.e. defendants with “multiple arrests”) were significantly more likely to fail to complete the program. This result was consistent with the hypothesis.

Defendants whose victim was their spouse were significantly less likely to fail to complete the program. Interestingly, defendants who were in a dating relationship with their victim had nearly the same likelihood of failure (56.9%) as defendants whose victims were an ex-dating partner or ex-spouse (57.1%). Only current marriage to the victim exerted a significant effect on likelihood of completion.

Whether the defendant had a criminal record was in the predicted direction but did not reach statistical significance. I decided to break criminal history into more meaningful categories to see if there was a relationship between severity of prior sanctions and likelihood of failure. I hypothesized that those who had been in prison or who had been sentenced to suspended prison time would be more likely to fail to complete the program.

In order to test my new hypothesis, I created new categories for the variable criminal history. Those who did not have any criminal record retained a value of 0. Defendants whose previous convictions were limited to misdemeanors were assigned a value of 1. Convicted felons who did not have a prison-involved sentence were coded as 2s. Finally, defendants who had previously been sentenced to suspended prison time or who had actually served time in prison were given a value of 3.

A means test of the new criminal history variable revealed a very strong relationship with failure to complete the program. Specifically, defendants who had suspended or served prison time were significantly more likely to fail to complete the program ( $p < .01$ ).

Defendants who were under the influence of alcohol or drugs at the time of the offense(s) were hypothesized to be more likely to fail to complete the program. The results from the means test indicated that the direction of the relationship was opposite of the prediction, although the results did not reach conventional levels of statistical significance ( $p = .203$ ). I realized that perhaps my definition of substance use was too broad and decided to measure substance *abuse* using a more restrictive classification.<sup>46</sup>

The new variable – whether the defendant had a substance abuse problem – was measured as a dichotomous variable. A defendant received a yes for this question if his sentence included any of the following four conditions: a LADC evaluation; AA attendance; completion of Therapeutic Community in the county jail; or probation to monitor substance abuse.<sup>47</sup> A LADC evaluation is an evaluation by a Licensed Alcohol and Drug Counselor (LADC), the purpose of which is to determine whether the defendant has a substance abuse problem.<sup>48</sup> Therapeutic Community is a program at the county jail designed to address problems of addiction. Inmates in this special program live apart from the rest of the general population and receive intensive substance abuse and cognitive behavioral counseling (Strafford County Department of Corrections, 2011).

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<sup>46</sup> The new substance abuse problem variable was clearly a more selective measure of substance use/abuse, as indicated by the fact that all of the defendants who received a yes on this variable had also been given a yes on the original variable (whether the defendant was under the influence of drugs or alcohol at the time of the offense).

<sup>47</sup> While several defendants were sentenced to probation for a variety of reasons, some defendants were specifically sentenced to probation in order to monitor their substance abuse, a purpose which was noted by the prosecutor on the disposition sheet in the case file. As such, only defendants who had this specific notation in their file were counted as having a substance abuse problem for the new variable (among those on probation).

<sup>48</sup> Similar to the domestic violence evaluation, a LADC evaluation contains recommendations for future treatment (if needed), which become part of the defendant's sentence conditions.

The new substance abuse problem variable was examined for its bivariate relationship with program failure using a means test. The eta was nearly identical to the original alcohol/drug involved variable (.114 and .117, respectively). The significance level still failed to reach conventional levels of significance ( $p=.214$ ), but given the small sample size, the significance level was close enough to inspire interest in the results. The direction of the relationship was the same as that of the original substance use variable, which was opposite of the hypothesis. In other words, having a substance abuse problem was associated with *lower* likelihood of failure to complete the batterer intervention program. Again, the relationship was not statistically significant, but the direction of the relationship was very interesting.

Means tests revealed that the following variables did not demonstrate a significant bivariate relationship with failure to complete the batterer intervention program: whether the defendant had a prior domestic violence arrest; whether the defendant pled guilty at arraignment; whether the defendant was on probation after being mandated to attend the program; whether the defendant was subject to automatic judicial review (i.e. court oversight); whether the defendant experienced pretrial detention; or the amount of suspended jail time the defendant faced for noncompliance. As for age, although the eta was relatively large compared to the etas for the other variables (.212), there was no discernable directional pattern across age groups.<sup>49</sup>

Therefore, I concluded that the results were not substantively significant.

No hypotheses were formulated about the nature of the offense and likelihood of program completion. A scale was constructed to measure the severity of the offense by assigning numerical values to the five most common criminal behaviors (see section IV). It seemed logical that defendants with higher total offense scores would be more likely to fail to complete the

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<sup>49</sup> A larger sample would probably reveal a null effect.



program. However, the results of a means test indicated that there was no significant relationship between offense score and likelihood of failure.

## **VI. REGRESSION RESULTS**

Most of the variables were analyzed using logistic regression to discern whether their independent effect on likelihood of failure to complete the program was significant, after controlling for the effects of the other variables. Pretrial detention was not included in the regression analysis because it was likely the product of other variables.<sup>50</sup> The amount of suspended jail time was not included because it also was likely the product of other variables,<sup>51</sup> and because the bivariate relationship indicated that there was no significant relationship to failure whatsoever ( $p=0.892$ ).

At first, the indigent variable was included in the regression analysis. The independent effect of indigent status on failure did not reach conventional levels of statistical significance

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<sup>50</sup> Pretrial detention occurred for a few reasons. According to state statute, anyone arrested for violating an order of protection must be held in custody until arraignment. Most of the defendants who fell into the multiple arrest category were re-arrested for violating the order of protection that was automatically issued as a result of the first arrest. Therefore, pretrial detention was often the product of having multiple arrests. Another reason for being held in pretrial detention included committing an offense so severe that cash bail was deemed appropriate (and the defendant could not afford to pay), which may thus be related to the nature of the offense variable. However, this seemed to be a rare event because these cases were (ultimately) misdemeanors. Defendants who were on probation at the time of their arrest could be held at the jail on a probation hold at the request of their probation officer, meaning that pretrial detention could be related to criminal history (assuming probationers are more likely to be felons). Finally, defendants who had bench warrants from previous (unrelated) cases at the time of their arrest may have been held in jail because they could not afford the cash bail associated with the bench warrants. These defendants thus had criminal records, making pretrial detention somewhat associated with having a criminal record.

<sup>51</sup> From my observations, the amount of suspended jail time was solely a product of the severity of the offense (more severe cases received longer suspended sentences) and the criminal history of the defendant (defendants with no criminal history generally received shorter suspended sentences, such as 60 days or less, while defendants with long criminal histories tended to receive longer suspended sentences, such as a year). While I hypothesized that the amount of suspended jail time would act as a deterrent to failure, the fact that this variable was determined by two other variables makes it unlikely to have an independent effect and subject to potential problems of multicollinearity.

(Beta = 0.865;  $p = 0.271$ ;  $\text{Exp}(B) = 2.375$ ), but its effect cannot altogether be disregarded.

However, including this variable in the regression model reduced the number of cases to 86, which was problematic as it excluded a quarter of the sample. Accordingly, I decided to remove indigence from the regression analysis because of the possibility that excluding so many cases could produce biased results.<sup>52</sup> The results of the regression model with the remaining variables are presented in Table 3.

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Table 3. Regression Model (n = 113)

<u>Variable</u>	<u>Beta</u>	<u>Sig.</u>	<u>Exp(B)</u>
Defendant Age	0.107	.470	1.113
Criminal History	0.747	.017	2.110
Prior Domestic Violence Arrest	-0.394	.420	0.674
Multiple Arrests	0.669	.267	1.953
Def. Substance Abuse Problem	-1.041	.092	0.353
Nature of Offense Scale Total	0.239	.691	1.270
Relationship to Victim	-1.597	.006	0.203
Pled When	0.101	.842	1.106
Sentenced to Probation	0.071	.894	1.074
Court Oversight	0.096	.853	1.100
Constant	-1.116	.357	0.328

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Nagelkerke R Square = 0.250

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<sup>52</sup> It is important to note that the same variables were significant when indigent status was included in the regression model. (Criminal history and relationship status to victim were very significant, while multiple arrests and substance abuse problem approached conventional levels of statistical significance.) Results of this regression analysis are available from the author upon request.

In the new regression model, the results of the bivariate analyses were largely confirmed. Criminal history<sup>53</sup> demonstrated a significant partial effect on failure in the predicted direction. In other words, the likelihood of failing to complete the batterer intervention program increased as the severity of the defendant's criminal history increased, with suspended or served prison time representing the most severe criminal history.

Relationship to the victim also remained a significant predictor of failure in the regression model. Specifically, defendants whose victim was their spouse were significantly less likely to fail to complete the program.<sup>54</sup> Again, these results were consistent with the hypothesis.

The interesting direction of the bivariate relationship between failure and substance abuse problem<sup>55</sup> was confirmed by the regression analysis. Defendants who had substance abuse problems were significantly *less* likely to fail to complete the batterer intervention program, which was opposite of the predicted direction of the hypothesis. The effect of this variable on failure reached modest levels of conventional statistical significance ( $p=0.092$ ), whereas in the bivariate analysis, the significance level did not reach conventional levels ( $p=0.214$ ), suggesting that the significance of the relationship became clearer after other variables were controlled for.

While the bivariate analysis found that defendants who committed another domestic violence crime between their first arrest and case resolution (i.e. defendants with multiple arrests) were significantly more likely to fail to complete the program, the partial effect of this

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<sup>53</sup> The new variable of criminal history – which subdivided those with criminal records into misdemeanors, felons without prison, and felons with served or suspended prison time – was included in the regression analysis because the bivariate results indicated that this was a better measure of previous criminal conduct than whether the defendant had a criminal record or not (the original “criminal record” variable).

<sup>54</sup> For the regression analysis, this variable was recoded into a dichotomous variable of whether the victim was the defendant's (current) spouse.

<sup>55</sup> The new variable of substance abuse problem (whether the defendant had a substance abuse problem) was used instead of alcohol/drug involvement (whether the defendant was under the influence of drugs or alcohol at the time of the offense) because it was a more selective measure. In other words, having a substance abuse problem was a better indicator of the possible relationship between substance use/abuse and program failure than whether the defendant consumed drugs or alcohol at the time of the particular offense(s).

variable did not reach conventional levels of statistical significance ( $p=0.267$ ). Still, the direction of the relationship remained positive in the regression analysis, consistent with the hypothesis. Given the fact that a small  $n$  weakens statistical significance, it is likely that this variable would have reached conventional levels of statistical significance if the sample size had been greater. This fact, in conjunction with the large odds ratio, demonstrates that the multiple arrest variable is a “yellow flag” in predicting failure to complete the batterer intervention program and should be kept in the discussion.

The regression analysis confirmed that the following variables did not demonstrate a significant effect on failure to complete the program, even after controlling for the other variables: the defendant’s age; whether the defendant had a prior domestic violence arrest;<sup>56</sup> whether the defendant pled guilty at arraignment; whether the defendant was on probation after being mandated to attend the program; or whether the defendant was subject to automatic judicial review (court oversight).

## **VII. FINDINGS AND CONCLUSIONS**

Based on the results of the bivariate and regression analyses, three variables were found to be significantly related to failure to complete the court-mandated batterer intervention program: relationship to the victim, criminal history, and whether the defendant had a substance abuse problem. Indigent status and multiple arrests emerged as “yellow flags” that likely affect

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<sup>56</sup> Although prior domestic violence arrest was not significantly related to failure according to both the bivariate results and the regression analysis, the direction of the relationship changed in the regression model. Specifically, the bivariate relationship was positive (defendants with a prior DV arrest were 4.2% more likely to fail) yet not significant ( $p=0.656$ ), while the partial effect was negative (Beta = -1.597) yet still not significant ( $p=0.420$ ). Because of the significance levels, the change in direction is ultimately irrelevant.

failure but must be interpreted with caution. Several variables were not related to failure to complete the program. Those variables were defendant's age, whether the defendant had a criminal record, whether the defendant had a prior domestic violence arrest, the nature of the offense, when the defendant pled guilty, whether the defendant was on probation after being mandated to attend, whether the defendant was subject to automatic judicial review (i.e. court oversight), the amount of suspended jail time that could be imposed for noncompliance, and whether the defendant experienced pretrial detention. For each of the independent variables, I compare the findings to the original hypothesis and offer possible explanations for the results, including limitations of the study. I also offer interpretations of the findings with respect to policy recommendations. Finally, areas of future research are outlined, particularly future analyses with this dataset.

### **High Risk Variables**

Two of the six high risk variables demonstrated significant relationships with likelihood of failure to complete the batterer intervention program. Perhaps the strongest predictor was the defendant's criminal history. Originally, I hypothesized that defendants with criminal records would be more likely to fail to complete the program. When the bivariate analysis did not support this prediction, I broke down criminal record into misdemeanors and felonies, using suspended or served prison time to differentiate between felons. I found that this ordinal variable of criminal history significantly predicted failure. Specifically, felons who had suspended or served time in prison had a failure rate of 87.5%. Given how powerful this predictor was, I recommend that prosecutors do not agree to BIP-mandated sentences for defendants with previous suspended or served prison time on their record.

The other high risk variable significantly related to program failure was substance abuse. I narrowed my original definition of the variable from whether the defendant was under the influence of alcohol or drugs at the time of the offense(s) to whether the defendant had a substance abuse *problem* as recognized by the court. I predicted that defendants with a substance abuse problem would be more likely to fail to complete the program. The results of my analyses found a significant relationship in the opposite direction. Defendants with a substance abuse problem were actually *less* likely to fail to complete the program. This relationship was present in both the bivariate and the regression analyses, suggesting that it is not an anomaly.

While this finding seems counterintuitive, there is a logical possible explanation. Two of the three program providers are also Licensed Alcohol and Drug Counselors (LADCs). Therefore, defendants may receive simultaneous help with managing their substance abuse problem when they attend the batterer intervention program. Thus the reasons that might make a substance abuser seem more likely to drop out are being neutralized by the dual treatment. Perhaps getting help for their substance abuse problem provides more incentive for defendants to attend the program.

This dual-treatment explanation for the unexpected finding needs to be confirmed by checking whether defendants with substance abuse problems actually went to the two programs run by LADCs. If this is confirmed, then the results suggest that having a substance abuse problem is not necessarily a barrier to program completion.<sup>57</sup>

I hypothesized that defendants who committed another domestic violence offense before their first DV case was resolved (“multiple arrests”) would be more likely to fail to complete the

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<sup>57</sup> However, prosecutors cannot assume that sending a defendant with a substance abuse problem to a LADC-run batterer intervention program will be enough to ensure attendance. They must keep in mind that there were other sentence conditions in place for defendants in this study – substance abuse counseling, AA, probation – that may have increased likelihood of compliance, and thus should also be part of the sentence.

program. The logic for this prediction was that these defendants had demonstrated an unwillingness to comply with court orders/conditions. This hypothesis received some support. The relationship was significant in the predicted direction in the bivariate analysis, but the significance decreased to below conventional levels in the regression model, although it was still in the predicted direction. Therefore, while I cannot conclude that this is a predictive factor with the same confidence as the others, I cannot disregard its effect either. Thus I am classifying this variable as a “yellow flag.” In other words, if a prosecutor is considering recommending a BIP-mandated sentence and then finds out that the defendant committed a new domestic violence offense after the first arrest,<sup>58</sup> the prosecutor should rethink the recommendation by looking at the presence or absence of other risk factors for failure.<sup>59</sup>

As for age, I predicted that younger defendants would be more likely to fail to complete the program. This hypothesis was not supported; in fact, the variable was not significant at all. The null finding for age was somewhat surprising given the fact that many other studies consistently found a significant relationship (see Jewell & Wormith, 2010). This could be a reflection of how study design – what type of attrition studied and sample selection basis – can influence results. Ultimately, the practical consequence of this result is that prosecutors should not be reluctant to recommend a BIP-mandated sentence to younger defendants because age does not predict likelihood of completion.

Another null finding resulted from a test of the hypothesis about defendant’s prior domestic violence record. I predicted that defendants with a prior domestic violence arrest

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<sup>58</sup> This scenario also applies to defendants who were arrested for a misdemeanor domestic violence offense while on bail for a felony DV arrest.

<sup>59</sup> It is possible that the multiple arrest variable was also an indicator of likelihood of being re-arrested after the case was sentenced. From my observations during data collection, defendants who were re-arrested and incarcerated for a substantial period (or periods) of time seemed less likely to complete the program. Perhaps this is because incarceration affects one’s income, which may determine ability to pay for the program. It also could be indicative of an unwillingness to comply with legal and judicial requirements.

would be more likely to fail to complete the program. The statistical results indicated that there was no significant relationship, and thus the hypothesis was not supported. A discussion of this finding must start with an acknowledgment of the data's limitation. Arrests prior to the late 1990s almost never reported whether an arrest was domestic violence related or not, so I had to code the variable as a no. Also, most out-of-state criminal records did not indicate whether an offense was DV-related, regardless of the year, so I also had to assume that it was not DV-related. Therefore, it is possible that the null finding is due to incomplete information in the criminal records.<sup>60</sup>

As for a policy recommendation, I conclude that based on the domestic violence history information available to prosecutors, whether the defendant has a prior DV arrest is not a useful predictor of failure to complete the batterer intervention program.

The last of the high risk variables that I examined was a scale measuring the nature of the offense(s) committed by the defendant. I constructed a scale to quantify the severity of the defendant's behavior because I wanted to explore whether the types of crimes committed affected whether the defendant completed the program. No prediction was made as to the direction of the relationship, but I hypothesized that there would be a significant relationship between the nature of the offense and program completion. The results indicated that there was no significant relationship. Thus the scale I constructed to measure offense severity has no predictive utility for prosecutors.

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<sup>60</sup> There is no readily available solution to this problem because documentation procedures regarding domestic violence cases did not exist when earlier cases were processed.



## External Pressures

Both of the external pressure variables exhibited significant relationships with failure to complete the batterer intervention program. First, relationship to the victim was a strong predictor in both the bivariate analysis and the regression model. Consistent with my hypothesis, defendants whose victim was their spouse were much less likely to fail to complete the program, compared to all other relationship types. It is particularly noteworthy that the defendants with a dating relationship to the victim and defendants who were ex-partners had nearly identical drop-out rates (56.9% and 57.1%, respectively). This suggests that something about having a marital relationship with the victim motivates defendants to complete the program. Previous studies have posited that married defendants have a higher stake in conformity (Babcock & Steiner, 1999, p. 55). That is, they have economic and social commitments and investments that would be threatened by the consequences of further sanctions, so these defendants are more likely to remain in compliance.

Based on the results of the analysis, I recommend that prosecutors look at the defendant's relationship to the victim in considering whether he should receive a BIP-mandated sentence. Defendants whose victim was their spouse are much less likely to fail to complete the program and thus are likely to remain in compliance with this sentence condition if mandated to complete the program.<sup>61</sup>

The second external pressure variable was ability to pay, which was measured by whether a defendant was indigent (i.e. qualified for court-appointed counsel). I predicted that indigent

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<sup>61</sup> I am somewhat reluctant to recommend these defendants as "good" candidates for the program because of the implications for victim safety. One study of women who were leaving battered women's shelters found that the best predictor of returning to the abusive partner was whether the batterer was in treatment. "If the man was in treatment, 53% of the wives planned to return to him; if he was not, only 19% of the women planned to return to him" (Gondolf, 1988b, as cited in Holtzworth-Munroe, 2001, p. 175). Thus it is important to continue evaluation research to determine whether batterer intervention programs are effective at reducing recidivism, particularly among specific sub-groups of batterers.

defendants would be more likely to fail to complete the program. The bivariate analysis found a significant relationship in the predicted direction. The results of the first regression model suggested that indigent status was a “yellow flag” predictor (it approached statistical significance), but the variable had to be removed from the model because it drastically reduced the number of cases.

Overall, the results indicate that indigent status is likely an independent predictive factor. However, this finding must be interpreted with caution. There were missing data because 28.3 % of defendants in the sample resolved their cases without an attorney; most of these defendants (27 out of 34) pled guilty at their arraignment. Therefore, it is unclear whether there was a systematic bias produced by the missing cases, and thus whether the results would be different if there was indigent status information for all of the cases in the sample.

While the possibility of a systematic bias from the missing data requires the results to be interpreted with caution, I was able to form my own impressions about the causes of failure by reading the prosecutors’ notes on post-conviction court proceedings during the process of data collection. Over and over again, I saw hearing notes that indicated the defendant had not enrolled or had dropped out because he could not afford the program (according to the defendant). The unequivocal fact is that a defendant cannot complete the program unless he pays for the classes, which range from a total of \$925 to \$1,625, and he cannot pay for the classes if he does not have the money.<sup>62</sup> Therefore, there must be at least *some* effect of ability to pay on whether a defendant completes the program, even if other factors are stronger predictors.

As for a policy recommendation, I strongly encourage prosecutors to determine the defendant’s approximate income before agreeing to a BIP-mandated sentence. If the income is

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<sup>62</sup> Prosecutors obviously recognized this fact because some of the files had the following notation: “Defendant was advised of cost of program before plea.”

below a certain amount – so that it raises doubts about whether the defendant will be able to spend more than \$1,000 on the program – then the prosecutor should seriously reconsider a BIP sentence recommendation.<sup>63</sup>

### **Commitment**

The commitment variable was measured out of the concern that defendants pleading guilty at arraignment would be more likely to fail to complete the batterer intervention program because they agreed to the sentence without realizing the financial and time commitment required to complete the program. I used whether the defendant pled guilty at arraignment to measure this variable and hypothesized that defendants who pled guilty at arraignment would be more likely to fail to complete the program. The results of the analyses did not support this hypothesis as no significant relationship was found.

The null finding suggests that there is no overarching pattern of defendants pleading guilty too hastily and then failing to complete the program. While it is possible that some defendants who plead guilty at arraignment do not understand what they are agreeing to and thus fail to complete the program, it is also possible that other defendants plead guilty at arraignment because they are willing to accept responsibility for their actions and comply with their sentence conditions. There is no way to distinguish between these two types of defendants using the research design employed by this study. Ultimately, the results demonstrate that prosecutors do not need to discontinue their practice of allowing defendants to plead guilty at arraignment,

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<sup>63</sup> Sometimes prosecutors have tried to address the ability to pay issue by giving the defendant a longer period of time within which he must complete the program (e.g. twelve months instead of ten). I discourage this practice because ability to pay is not likely to improve after sentencing and thus defendants are going to be less willing (or able) to spend the little money they have on batterer intervention program sessions, regardless of whether it is over a ten-month period or the entire two-year bring-forward period.

because there is no evidence that this is associated with failure to complete the batterer intervention program.<sup>64</sup>

### **Deterrence/Oversight**

The four deterrence/oversight variables were hypothesized to decrease the likelihood of failure to complete the batterer intervention program by offering increased oversight/monitoring of compliance or by deterring noncompliance because of the potential consequences.

Surprisingly, none of these variables were a significant predictor of compliance, even after controlling for the influence of other factors using the regression model. While the results are unexpected, there are a few logical explanations for why these variables produced null findings.

The first deterrence/oversight variable was whether the defendant was put on probation. I predicted that defendants who were on probation would be less likely to fail to complete the program because their compliance was being monitored much more closely. These defendants would also be deterred by the consequences of noncompliance because they could be charged with violation of probation – which carries additional penalties – if they failed to attend/complete the program.

The results of the analyses found no relationship between probation and failure to complete the program. This is likely because the defendants who were sentenced to probation were already determined to be at high risk for noncompliance and thus needed probation

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<sup>64</sup> During data collection, I noticed that some defendants were not allowed to plead guilty at arraignment for whatever reason; although they wanted to plead guilty, a future court date was set. My impression was that the judge or prosecutor thought the defendant did not understand the consequences of pleading guilty and thus did not accept the plea at that time. The consequences of those decisions to not let defendants plead guilty at arraignment affected my sample. Accordingly, my results should *not* be interpreted as suggesting that *everyone* be allowed to plead guilty at arraignment because it will not affect compliance. Judges and prosecutors should still use whatever procedures they normally do to parse out which defendants should not be allowed to plead guilty at arraignment. My results only suggest that those who would normally be allowed to plead guilty at arraignment are at no higher risk for failure than those who plead guilty after arraignment.

monitoring. In other words, only those at highest risk for noncompliance were put on probation, so the effect of probation monitoring on compliance could not be parsed out from the factors that put a defendant at high risk for noncompliance. Therefore, it is unknown how probation affects the compliance of defendants in general; the study only shows that probation does not seem to increase the compliance of at-risk defendants.

Even though being on probation did not affect the compliance of at-risk defendants, having another entity monitor the defendant's compliance took the burden off of prosecutors and likely reduced the number of cases that fell through the cracks. While probation is clearly not appropriate or necessary for all defendants – and an increased caseload would be a burden on probation officials – there is utility in probation as an oversight mechanism to ensure that defendants who are not in compliance with their sentence conditions are held accountable. Ultimately, my recommendation is that prosecutors should consider whether expending probation resources on a particular defendant might be important to *keeping track of* – not ensuring – compliance, based on potential red flags such as a history of failure to appear in court or comply with court conditions.

Court oversight was the second of the deterrence/oversight variables. One of the jurisdictions in Strafford County scheduled automatic review hearings, at which the defendant had to prove that he was currently enrolled and attending sessions at a batterer intervention program. I hypothesized that defendants who were subject to automatic judicial review (court oversight) would be less likely to fail to complete the batterer intervention program. However, the results of the analyses found no relationship between court oversight and compliance.

While it is clear that automatic judicial review did not increase defendants' likelihood of completing the batterer intervention program, court oversight did prevent noncompliant

defendants from escaping sanctions. Therefore, this practice is an important method of ensuring that defendants who do not attend or complete the program are held accountable. While automatic review hearings were discontinued and prosecutors' tracking procedures were improved, I still recommend that the court consider reinstating this practice to ensure that cases do not fall through the cracks, as so many in this study did.

The third deterrence/oversight variable was the amount of suspended jail time the defendant faced if he did not comply with his sentence conditions. I hypothesized that the amount of suspended jail time would be negatively related to failure; that is, the longer the suspended sentence, the less likely the defendant would be to fail. The results of the study did not support this hypothesis, finding no significant relationship. The variable appears to be the product of two other factors: nature of the offense/offense severity and the defendant's criminal history. By itself, the amount of suspended jail time does not influence compliance.

In assessing this finding, it is actually logical that the *amount* of suspended jail time would not be an important factor in a defendant's cost-benefit analysis of compliance (assuming one is conducted). The mere possibility of going to jail at all is likely more important than the number of days one would spend in jail.<sup>65</sup> Ultimately, I conclude that the amount of suspended jail time is not an effective tool of inducing or predicting compliance for prosecutors. I recommend that prosecutors choose an amount of suspended time that, if ultimately imposed, would represent their conception of "justice" for the case.

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<sup>65</sup> One limitation of the variable should be acknowledged even though it is unlikely that this limitation had any effect on the results. I chose to measure the amount of suspended time that a defendant was sentenced to without taking into account (i.e. subtracting) time served or stand committed time. This means that any defendant who had served time in jail before sentencing and/or who had to stay in jail for some amount of time after sentencing actually faced less than the amount of suspended time (because he was given credit for time served). While I did have information on most of the defendants' pretrial credits and stand committed sentences, I chose not to calculate the effective amount of suspended time. I did so for several reasons: missing data/lack of confidence in the final calculation; the difficulty of factoring in the jail's good time policy; and because the range of numbers would have been so varied that I would have had to collapse them anyway.

The final deterrence/oversight variable was pretrial detention. I predicted that defendants who experienced pretrial detention would be less likely to fail to complete the batterer intervention program. This was based on the assumption that exposure to jail would make defendants not want to return and thus comply with their sentence conditions to avoid sanctions. The results of the study did not support this hypothesis; no significant relationship was found.

Whether the defendant experienced pretrial detention was determined by other factors (as discussed in section VI), and thus it was impossible to extract the independent partial effect of pretrial detention on compliance. Furthermore, it is possible that there is a qualitative difference between defendants who are detained for a short period of time (i.e. exposed briefly to the deterrent) and those who are held for months until their sentencing. Perhaps the deterrent effect of pretrial detention is determined by the *amount* of time spent in jail prior to sentencing. Ultimately, I conclude that pretrial detention is not a useful predictor of compliance based on the results of my study.

### **Summary of Policy Recommendations**

The results of this research produced several policy recommendations for prosecutors who want to consider the defendant's likelihood of compliance in determining whether court-mandated attendance of a batterer intervention program is an appropriate sentence condition. Defendants who have previously been sentenced to suspended or served prison time are very likely to fail to complete the program, so an alternative sentencing option should be considered. Defendants whose victims are their spouse are much less likely to fail to complete the program compared to other relationship types, and thus should be considered likely to comply with sentence conditions. Defendants who commit another domestic violence offense before their

first DV case is resolved are demonstrating warning signs of future noncompliance, and thus a BIP-mandated sentence should be reconsidered in light of other predictors. Finally, prosecutors should collect information about the defendant's income and be wary of agreeing to a BIP-mandated sentence for those who do not make enough money to afford the program.

Having a substance abuse problem or pleading guilty at arraignment should not preclude a defendant from receiving a BIP-mandated sentence because there is no evidence that either variable reduces likelihood of compliance. Likewise, the defendant's age, prior domestic violence record, and the nature of the offense do not predict future noncompliance. Finally, there is no reason to believe that pretrial detention, amount of suspended jail time, probation, or court oversight exert any independent influence on a defendant's compliance. However, both probation and court oversight provide additional sources of monitoring so that the prosecutor does not bear sole responsibility for tracking defendants' compliance.

### **Limitations**

This study has a few limitations that must be acknowledged. First, fifty-two cases had to be excluded from the sample because the files were missing or data could not be collected within the allotted time period. Accordingly, it is unknown how the inclusion of this missing data would affect the results.

The second limitation is that the research design does not control for the influence of post-sentencing legal action on defendants' noncompliance. While some of the variables measured in this study clearly play a role in the defendant's compliance, what happens after sentencing – specifically, the legal system's response to initial noncompliance – likely also influences whether the defendant ultimately completes or fails to complete the batterer



intervention program. Specifically, noncompliance was dealt with in several ways: either the court was notified (through a motion to impose or at an automatic review hearing) or the prosecutor took no action to impose the sentence. If the court was notified, the defendant was usually given more time to complete the program. Sometimes the suspended sentence was ultimately imposed, and occasionally the case was closed regardless of compliance because the bring-forward period had expired. There was no conceivable way to control for all of the post-sentencing developments in each case.

### **Future Research**

The results of this study suggest several avenues of future research, including further examinations of this dataset and other similarly designed studies. With regard to this dataset, I intend to revise the definition of failure. Currently, any defendant who completed the program before data collection began is considered a completer, even if it took him four years to do so. There are important differences to be explored between defendants who complete the program within a reasonable amount of time (e.g. ten months, or even two years) and defendants who take longer than the bring-forward period itself. If prosecutors knew that it would take a defendant longer than two years to complete the program, then they might reconsider recommending a BIP-mandated sentence. Therefore, it is necessary to redefine failure in order to explore the variables that are associated with completing the program within the *expected* amount of time.

Another way in which I want to enrich my study is to add qualitative context. I plan to interview Strafford County domestic violence prosecutors and ask them what criteria they use to determine whether a defendant should be mandated to attend a batterer intervention program. I will compare the information from these interviews to the results of my study and explore how

my original results can be used specifically in light of how prosecutors make decisions about batterer intervention program appropriateness.

My research design should also be used as a template for future attrition research, in that future studies should select their samples based on sentenced defendants instead of clients seeking treatment at batterer intervention programs. This will ensure that defendants who do not even begin attending a program are captured as failures. Future research should also employ better measures of certain independent variables that were in my study. Ability to pay should be measured as the defendant's income. Length of pretrial detention should also be explored in relation to noncompliance. An improved measure for the nature of the offense/offense severity variable should be developed to determine whether this variable is related to program completion.<sup>66</sup>

Finally, other variables that could not be measured in my study should be addressed in future research. The role of gender is likely important because it is possible that certain variables are only predictors for males or females. Accordingly, future studies should include larger numbers of female subjects and control for the influence of gender. Whether the defendant has children is also a potential predictor of compliance as it may contribute to a defendant's stake in conformity, a concept that has been associated with being married. As for marriage, future research must explore why being married is related to a lower likelihood of failure to complete a batterer intervention program. It is important to understand the causal mechanisms that mediate the relationships between predictor variables and completion of court-mandated domestic violence counseling.

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<sup>66</sup> One possible source of an improved measure for this variable is the Lethality Assessment Protocol. The Lethality Assessment Protocol is a checklist filled out by the police officer using information from the victim; its purpose is to assess whether the offender's behavior shows warning signs of future fatality.

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