

**Do the Views of the Prosecutor's Offices Have an Impact on Whether Intimate
Partner Violence Cases Go To Trial?**

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Abstract

Each year there are approximately 589, 000 nonfatal violent victimizations (e.g., aggravated assault, simple assault) committed by an intimate partner (US Dept. of Justice, 2003). Of that, roughly 85% of these violent victimizations were committed against females (US Dept. of Justice, 2003). Even with this large amount of violence against women, only about 33% of the perpetrators of those crimes are brought to trial in state courts (US Dept. of Justice, 2005). Even a cursory look at the literature indicates that extra-legal factors, including the personal views of the police, judges, and prosecutors, have an effect on which cases are brought to trial. Mandatory prosecution laws attempt to overcome these extra-legal factors. I will investigate if these laws succeed in reducing prosecutorial discretion and result in a greater percentage of domestic violence cases going to trial or if the views of the prosecutors' offices still determine which cases are brought to trial.

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Introduction

Each year there are approximately 589, 000 nonfatal violent victimizations (e.g., aggravated assault, simple assault) committed by an intimate partner (US Dept. of Justice, 2003). Of that, roughly 85% of the violent victimizations by intimate partners were committed against females (US Dept. of Justice, 2003). Even with this large amount of violence against women by intimates, only about 33% of the perpetrators of those crimes are brought to trial in state courts (US Dept. of Justice, 2005). Moreover, the psychological abuse from being in a domestic violence relationship is severe; it can be worse than a physical beating (Leonard, 2002). Despite this level of physical and psychological violence committed against women, prosecutors are often reluctant to charge or punish the male abuser with any crime. In many jurisdictions, the decision to bring charges against the batterer is left to the victim, who will often drop the charges if threatened with bodily harm (Leonard, 2002). When the victim does decide to press charges, many prosecutors make it harder by imposing waiting periods, reducing the charge, or accepting a plea bargain. These “solutions” put the batterer back into the home with the victim, often causing a more severe beating. All these reasons cause the victim to distrust the system, and the next time she is beaten, she may not go to the authorities for help.

The purpose of this study is to look at the views of prosecutors’ offices and determine whether those views have effects on the decision to prosecute domestic violence cases. I will compare results from an analysis of data taken from a dataset on prosecutions of domestic violence cases from 1993 to 1994 to predictions regarding the handling of domestic violence cases derived from different literatures including, but not

limited to, Donald Black's *Behavior of Law*. I will try to determine if the views of those in the legal system give rise to some of the issues facing victims of domestic violence when they bring their alleged attackers to court.

The large number of reported domestic abuse cases, coupled with the small amount of cases that are typically brought to trial, is something that I am interested in studying further. There are many potential factors as to why this inconsistency occurs, such as inadequate funding to bring cases to trial, prosecutorial discretion, and lack of victim cooperation, to name a few. Even a cursory look at the literature indicates that extra-legal factors, including the personal views of the police, judges, and prosecutors, have an effect on which cases are brought to trial. Mandatory prosecution laws attempt to overcome these extra-legal factors. I will investigate if these laws succeed in reducing prosecutorial discretion and result in a greater percentage of domestic violence cases going to trial, or if the views of the prosecutors' offices still determine which cases are brought to trial. If there is a significant correlation between the prosecutors' views and cases going to trial, this would lend support to the notion that there needs to be a shift in the prosecutor's office's attitude against victims of domestic violence.

Domestic Violence Overview

People define domestic violence in many ways. Some people equate domestic violence with violence against women. For example, many feminists who research domestic violence strictly focus on wife abuse and violence against women (Dutton, 2006). As Dutton (2006, 95) explains, some feminists will explain wife assault as a "normal violence used by males to sustain the oppression of women and motivated by a

male sense of entitlement.” Domestic violence can also be referred to as “intimate partner violence.” Intimate partner violence (IPV) is violence between spouses or persons cohabitating (Dutton, 2006). This definition implies that both men and women initiate violence in an intimate relationship, but, as a whole, men usually commit greater injury to women than vice versa (Buzawa, 2003). While men are more likely to be the aggressors and commit more serious injuries to their partners, women, depending on the situation and type of weapon used, can generate a significant amount of injury when they initiate the violence in an intimate relationship (Straus, 2005). It is hard to compare both sides of domestic violence, because men usually cause greater injury to women, even if the woman starts the violence (Straus, 2005).

Straus (2005) talks about the difficulty in not only comparing the extent of injuries men and women cause each other, but also the differing views of assault, depending on which dataset you use. In the National Crime Panel Report as well as the FBI crime reporting data, assault does not necessarily specify physical or bodily harm. Thus, based on these data, women can commit assault as frequently as men can (Straus, 2005). Yet, a male becoming a victim of domestic violence at the hands of a female is difficult for some to grasp. There have been studies that state people believe since women are overwhelmingly the victims of IPV, men must be victims of IPV as well, and they do not report the abuse for fear of ridicule (Straton, 1999).

While defining domestic violence is difficult, controlling it is even more so. According to Dutton (2006), trying to control family violence has been around since Puritan times when the Puritans had laws against wife battering and called it a sin. As

time went on, however, the Puritans saw wife battering as more of a private issue, and different parts of society dealt with battering in their own way (Dutton, 2006).

It was not until 1973 in Phoenix, Arizona, that some people within the United States thought women needed a safe haven, even though the legal system still did not see a need to create laws against domestic assault. They opened what is believed to be the first battered woman's shelter in the United States, the Rainbow Retreat (Tierney, 2004).

Many feminists as well as students of the United States justice system, finding that restraining orders did not work as well as intended, pushed legislation for increasing penalties for batterers. In 1979, more than a dozen states passed laws designed to broaden protection on domestic violence cases by creating harsher penalties on convicted batterers of domestic violence (Tierney, 2004). By 1980, forty-five states, as well as the District of Columbia, passed legislation creating special legal provisions for victims of domestic violence (Tierney, 2004). Yet, even after domestic violence was criminalized, a lot of domestic violence was considered a misdemeanor, meaning that the officer would have to witness the offense to make the arrest. The problem with that is since most domestic disturbances happen within the home, there is a slim chance that a police officer will witness it, making the task of prosecuting under the misdemeanor category much harder (Maschke, 1997).

In the late 1980's, the United States Surgeon General classified family violence and violence against women as an epidemic and one that should be considered a health problem (Walker, 2000). This prompted community programs, interventions, and prevention programs to come into being to try to combat the serious problem. These programs were consistent with feminists' perspectives that argue the control of IPV is

contingent on the structural change of male/ female interactions in a way that will empower women (Ferraro, 2005). These feminists believe that the change of male/ female interactions, meaning the way society looks at the male role in a relationship, needs to occur so female are more equal within the relationship structure. A female's empowerment within society, as well as in her own relationship, would provide the confidence a woman feels within herself to try to change the situation facing them (Ferraro, 2005).

While needed, the community programs, interventions, and prevention programs created in the 1980s and 1990s typically considered only risk and resiliency factors while ignoring illness and cure factors (Walker, 2000). Critics of these programs argued that giving individual girls and women the strength and training to spot domestic violence, or an abusive spouse, is good in the short run, but these tactics are unlikely to stop domestic violence itself in the end (Walker, 2000). As feminist scholars argue, for the patriarchal and stereotypical gender roles found in society to remain intact, there must be some type of control of females within the family structure that maintains male dominance (Herzog, 2007). Many feminist scholars, according to Herzog (2007), argue that conservative attitudes toward women are the ideological source of IPV. These attitudes are expressed by batterers, neighbors and family members who ignore the women's subtle pleas for help, and police offices, prosecutors, and judges who assume that the batterer is the sole breadwinner in the household, and to incarcerate him would be more harmful to the family than if he was in the home. These attitudes have stopped many prosecutors' offices from following through on IPV charges (Henning & Feder, 2005).

Recognizing that without going to the source, which is finding ways to reduce the violent tendencies in the batterer, and looking at what types of behavior cause men to batter and women to stay, is like putting a Band-Aid on a severed limb and hoping that the band-aid will stop the bleeding, scholars and activists continued to lobby for IPV laws to be reformed. Finally, in 1994 Congress passed the Violence Against Women Act, which increased enforcement measures when dealing with violent crimes committed against women and provided funding for aid and prevention of such violence (Kurz, 2000).

The Move to Mandatory Arrest

In 1983, the Minneapolis Police Department conducted an experiment to see if mandatory arrests in domestic disturbance calls deter abuse (Sherman, 1992). The researchers designed their study by randomly selecting who would be arrested. Then, once an officer called into dispatch, the dispatcher would tell the officer whether or not he or she was required to arrest (Sherman, 1992). The results of the experiment showed that mandatory arrests in Minneapolis cut recidivism against the same victim in half over a six-month period (Sherman, 1992). This study supported the position that mandatory arrests do, in fact, reduce the rate of repeat offenders.

Mandatory arrest laws are designed to limit police discretion when dealing with domestic violence complaints. As the name implies, mandatory arrest laws require officers to arrest the accused perpetrator of domestic violence. After this initial experiment, a large number of cities and states started mandating police to make arrests

in domestic disturbance calls, making it possible for the arrest to take place without the officer witnessing the crime (Maschke, 1997).

Even with mandatory arrest laws in place, abused women face many obstacles while maneuvering through the criminal justice system. According to Maschke (1997), they first must accept the treatment of the police, even if it is hostile, to begin the first steps toward the wanted outcome. They then must contend with the prosecutor's and the difficulty they have with obtaining restraining orders (Leonard, 2002). Coupled with the hard road that the abused women face dealing with the prosecutor's offices, they must also contend with the judges that preside over the cases, from the restraining orders, to the actual prosecution of an alleged abuser (Ptacek, 1999). I will now consider these obstacles IPV victims must confront and how these obstacles can reduce the number of cases that go to trial despite mandatory arrest laws.

Problems with Mandatory Arrest Laws

Unfortunately, there are still some police officers that do not arrest perpetrators of domestic violence, even when required by law and sometimes despite the battered woman asking for an arrest (Maschke, 1997). There are several reasons for this. Many of these reasons appear to stem from stereotypes or generalizations that police officers carry about calls from battered women. One of those stereotypes is that if they arrest the abuser, the woman is not going to testify or might drop the charges when pressured to prosecute, so officers feel there is little point of making an arrest (Maschke, 1997). This type of stereotype is not limited to male officers. Female officers also express some of the same views of abused women and domestic disturbance calls that their male

counterparts feel. Female officers expressed animosity towards family disturbance calls citing the unwillingness of the victims to follow through with prosecution (Maschke, 1997). Because the victim's very life may depend on the ability to read other's moods, when a police officer goes into a situation thinking nothing will come of it, the victim may not press charges because they can "feel" the perceived outcome from the police officer (Maschke, 1997). In addition, some police officers believe that the woman did something to deserve the beating and is getting what she deserves. This old stereotype about battered women still poses difficulties for victims of domestic violence (Maschke, 1997).

Next, some officers believe that the battered victim will be less likely to call the police because of the "must arrest mandate" (Maschke, 1997). The police officers arriving on scene believe the reason most battered women call is because the woman is mad at that time and want the police to scare the batterer into "doing right." Once there is a need for an arrest, many police officers felt that the female victim will not call the police, because they do not want the man arrested. Instead, they want the man talked to and calmed down. The problem with the police making this assumption is that if a woman is calling the police, it may very well be a true call for help, and they may want the man out of the house and be willing to press charges. If this is the case but the officers do not act on the complaint, the woman could potentially be beat more severely and ultimately the situation could result in someone's death (Walker, 2000).

Thus, while mandatory arrest laws aim to limit police discretion and increase the prosecution of domestic violence cases, they have been less than perfectly implemented (Buzawa & Buzawa, 2003). Police officers still have considerable discretionary power

when responding to a domestic call, and, given this discretion, the attitudes and prejudices of the responding officers can influence the handling of the case. Even if an arrest is made, the difficulties faced by battered women can continue when they reach the next stage of the legal process (Buzawa & Buzawa, 2003).

Battered Women in the Courtroom

Even when their cases make it to trial, battered women encounter many obstacles in the courtroom. The first time most battered women go to a courthouse is to obtain a restraining order against an abusive partner. The language of the restraining order, however, leads some to believe that it may be difficult to obtain one (Ptacek, 1999). In addition, despite numerous medical records, police reports, and court proceedings, many times the courts conclude that the woman is the aggressor and the male was trying to defend himself at the time of the incident (Leonard, 2002). Prosecutors are wary of trying an abusive spouse, many times because of the stereotypes prosecutors have when they contend with battered woman. If a woman has decided to press charges against her attacker but does not want to testify, she could be charged with contempt of court and jailed (Leonard, 2002). Once she gets out with a criminal record, it will make it more difficult for her to be believed or even listened to because of her lack of following through the first time.

It is not just the prosecutors that have negative stereotypes about battered women, judges have them as well. According to Ptacek (1999), some judges claim that women make up stories or exaggerate the beatings to win custody hearings and divorce cases. Some judges believe that the women are causing the problems and the men are being

falsely charged to get them out of the home so the wife can do what she wants. Some judges also feel that battered women coming into the courtroom to get protective orders against their significant others are trivial affairs and not worth the taxpayers' time (Ptacek, 1999). It is common for the judge to blame the victim for "bringing it on herself", dismiss the charges against the abuser, and send him back into the home (Leonard, 2002). The problem with sending the abuser back into the home is, we can predict with a relatively high level of certainty, that there will be extreme violence or retaliation from the abuser (Shearer-Creamean and Winkelmann, 2004).

Judges have also been known to threaten to lock up the abused wife if she returns to the courtroom with other "minor" problems, or to "be an adult" and handle the abusive situation on her own (Ptacek, 1999). Such was the case when a judge scolded a woman who, after receiving a protective order, asked for a police escort to remove her belongings from her home. The judge scolded her and her victim advocate, citing that the matter was trivial and that there were bigger cases that need the taxpayers' attention. Five months after the judge made that statement, the woman was found stabbed, beaten, and strangled in the city dump, killed by the husband from whom she had tried so desperately to get away (Ptacek, 1999).

A "Self-Help" Response to Domestic Violence

Given the difficulties victims of domestic violence face when trying to escape an abusive relationship, it is not surprising that some victims resort to what Black (1983) refers to as "self-help." According to Black (1983: 34), self-help is the handling of a grievance by unilateral aggression. Self-help may occur in a violent domestic

relationship if the abused woman strikes back violently against her attacker. Yet, as Black (1998) explains, we have criminalized much self-help in modern society. Thus, if an abused women strikes out at her abuser, she is considered the criminal.

Often in cases where a woman kills her former abuser, she must rely on the legal defense of “self defense.” However, the legal defense of self-defense is itself, some argue, a male-based law and does not take into consideration the battered woman (Gillespie, 1989). The self-defense law states that a person has the right to defend him or herself only if they are in imminent danger, and can only use deadly force when all other avenues of escape are exhausted. When an opponent greatly outweighs them, and they are seriously afraid of retaliation, it seems that most women kill their abusers in non-confrontational situations (Downs, 1996). Given that the psychological abuse battered women suffer at the hands of their attacker is comparable to a prisoner of war (Ewing, 1997), it is not surprising that many abused women choose not to confront their abusers and instead strike back at more opportune times.

Thus, victims of IPV often find the system stacked against them. From the unequal power relations of the patriarchal system to the stereotypes about victims of IPV generated and reinforced by that system, women who suffer IPV are often ignored, neglected, or trivialized by the legal system. Moreover, those who decide to “take matters in their own hands” are defined as criminals. Why this is the case, and what can possibly be done to rectify this situation?

Black’s Behavior of Law

Donald Black, in his 1976 book *The Behavior of Law*, offers a theoretical strategy that can explain why abused women have a difficult time navigating through the criminal justice system. According to Donald Black (1976), the use of law within society is a predictable variable and one that can be measured quantitatively. He then relates various aspects of social life, such as social distance and stratification, to law. For example, Black argues that each person has their own rank within society and the higher a person's rank, the more law works in their favor. Thus, the rich, in general, benefit from law more than the poor do, and the poor bear the brunt of law's force more than the rich do (Black, 1976). Therefore, victims that have less rank than their offender are less likely to call the police or have anyone else involved in the dispute (Black, 1976). Within our society, men are seen as the heads of the households; thus, men typically have more "rank" than women (Straus, 1996). Moreover, the authority a husband has over his wife and children varies directly with the dependency the wife and child have on the husband (Black, 1976). Applying Black's proposition, we would predict that women are not only less likely to use law to solve disputes against men, but also that, all else being equal, men will be less likely to be arrested for, charged with, or convicted of battery against a woman (see Black, 1976).

Black also states that law is a form of governmental social control, and he uses stratification to explain different aspects of law. Stratification, according to Black, separates people in "vertical space." Downward law, where the offender has lower status than the victim, is more likely to result in punishment within the criminal justice system than those cases where the victim has a higher status than the offender (Black, 1976). Similarly, vertical status is related to the use of law: the higher one's status, the more

likely they will use law, and the lower one's status, the less likely will use law. Based on this proposition, female victims of IPV would be less likely to call the police, the police would be less likely to arrest the abusive partner, and the prosecution would be less likely to pursue conviction because females typically have lower status in society than the male.

Black (1976) states that the more intimacy the victim and offender have the less likely the victim will call the police if there is a problem, because "intimacy provides immunity from law (43)." In addition, the greater the intimacy between the victim and the offender, the less likely the police are to treat an incident as a crime. These propositions can explain why fewer cases of IPV go to the prosecutor's office, and still fewer are brought to trial. Also according to Black (1976), "it is less serious to murder one's wife than a stranger (46)." Black's proposition, saying that it is less serious in the eyes of the law to murder an intimate than a stranger, can account for why women are reluctant to call the police when they are victimized and why police are reluctant to arrest the abuser when they are called. This proposition also applies to prosecution, conviction, and sentencing in court cases (Black, 1976). Therefore, the greater the intimacy between a victim and an offender, the less likely that an arrest will be made, that the case will be prosecuted if an arrest is made, that a conviction will occur if the case is prosecuted, and that the sentence will be severe if the offender is convicted.

Another factor that Black (1976) discusses is the relationship between respectability and law. By respectability, Black means one's social reputation, and in general, "law varies directly with respectability" (Black, 1976, p. 112). Thus, a case brought to the attention of the police by an "upstanding citizen" will result in more law than a complaint made by a homeless, unemployed, former convict. Similarly, with

respect to battered women, if a woman calls the police for the first time against an abuser and then drops the charges when the police get there, or does not follow through with the charges later, she would lose respectability. If she were to call the police again, they would view her as less respectable, and are less likely to take her seriously (Black, 1976).

Another concept Black (1976) discusses is organization. Organization is the corporate aspect of social life, or the capacity of collective action (Black, 1976). The more organized a group, or society, the more law is used (Black, 1976). Additionally, “law is greater in a direction toward less organization” (Black, 1976, p. 92), therefore, those who are less organized are more likely to be controlled by law than those who are well organized. In terms of the legal system’s response to domestic violence, this proposition implies that cases filed by the police will more likely succeed than those filed by the victim; cases filed by prosecutor’s offices will succeed more often than those filed by the police, and so forth (see Black, 1976).

Another barrier victims must maneuver when going into a prosecutor’s office to press charges against an offender is the very structure of the prosecutor’s office is to prosecute people that have offended society (Buzawa & Buzawa, 2003). As Buzawa and Buzawa (2003) affirm, because the offender/ victim relationship does not involve society, in the eyes of the office, it is more likely that the case will be dismissed. Even when bringing the charges to court, if the victim showed up alone, rather than with a police officer, the decision to bring charges, and ultimately an arrest warrant, takes much longer to be filed (Buzawa & Buzawa, 2003).

Consequently, Black’s propositions can account for the general patterns we see in domestic violence prosecution. They can account for why women are reluctant to use

law against their abusers; they can account for why police are reluctant to get involved in the dispute; they can account for why prosecutors are less than enthusiastic to take domestic violence cases to trial; and they can account for why abusers are often treated leniently by the courts until it is too late. From this line of reasoning, my hypothesis is that unless factors such as “intimacy” and “rank” are legally forbidden from influencing the case through policies such as mandatory arrest laws, extra-legal considerations, including the general view of a prosecutor’s office, will likely influence and partially determine whether or not domestic violence cases are prosecuted. I hypothesize that these views are more important in determining the disposition of a case than any idiosyncratic set of circumstances that come into play.

A push has begun to create programs that would benefit domestic violence victims with the prosecution of their cases, mainly by making the decision to prosecute more about policy than about the prosecutor’s views. Included in those programs to help domestic violence victims are no-drop policies that many offices are now adopting. A no-drop policy means that even if the victim decides not to testify, the prosecutor is legally obligated to proceed with the case. No-drop policies remove the decision to prosecute from the prosecutors hands, but prosecutors also make the decision of whether or not the batterer will enter a violence diversion program. That, in turn, gives the prosecutor’s office discretion as to who will enter the program and who will not.

Many factors play a role in the prosecution of domestic violence cases. The first is how the police view the situation and how they decide to proceed once they get a domestic disturbance call (Schmidt and Sherman, 1996). If the police decide to not bring it to the prosecutor’s attention, then the case stops there, and the victim may not call the

police in the future. If, however, they either decide or are forced by mandatory arrest policies to bring the incident to the prosecutors' attention, it then falls to the prosecutor's office to bring the case to trial (Hart, 1996). When the prosecutor's office decides to bring the case to trial, there are many other factors that determine how far the case goes through the court system (Rebovich, 1996).

I aim investigating if reducing the prosecutors' office's discretionary powers can weaken the influence of some of the social factors Black (1976) argues determines the amount of law that is typically applied to a given case. My research questions include: can the prosecutors' office use of no-drop policies reduce the influence of the victim's "respectability" on whether or not the case is brought to trial? Does the victims "respectability" within the prosecutors' office play a role in whether or not the cases are brought to trial?

Methods

To test my questions, I will use an ICPSR dataset dealing with the Prosecution of Domestic Violence cases. The dataset includes a sample of District Attorney Offices from across the United States in 1993 and 1994. The dataset used a random, representative sample of the United States population of District Attorney Offices. The total number of prosecutors offices surveyed was 2,859. Each office was sent a mail survey. The original survey was followed up in three different counties for more in-depth questions, as well as an even more in-depth analysis with two of the three counties.

The survey asks a series of questions to get at different programs set in place that would help the victims of domestic violence cases make it to trial. It also asks questions

to get at whether or not the prosecutors' offices believe in the effectiveness of different programs for dealing with domestic violence. The dataset also includes a number of variables concerning the victim and defendant, including how much alcohol the offender and/or the victim had consumed at the time of the incident, victim cooperation with the prosecution of the trial, and the offender attending anger management classes in lieu of a trial.

Analytic Strategy

For the first set of analyses, the unit of analysis is the individual domestic violence case involving female victims. The dependent variable for the case-level analyses is whether cases go to trial or are plea bargained. In these analyses, I will investigate if characteristics of the victim-defendant relationship, the victim, and the defendant influence the case's disposition. Specifically, I will consider intimacy, respectability, and rank. I will then investigate if no-drop policies alter the influence these variables have on case dispositions. The sample size for these analyses ranges from thirty-one to sixty cases.

After investigating if aspects of these individual and relationship characteristics influence case dispositions, I conduct an analysis at the level of the prosecutors' offices. The dependent variable for the analysis at the organizational level is how the prosecutor's office handled the cases when the victim was uncooperative. In these analyses, I will see if the prosecution-level variables have an effect on the outcome of trials and whether or not the cases are going to be prosecuted focusing on when the victim is uncooperative. The number of cases for this analysis ranges from sixty to one hundred and twenty.

Measures for the Case-Level Analyses

As mentioned above, the dependent variable for the case-level analyses is whether or not the case went to trial. The variable is coded as 0 if it resulted in a plea and 1 if it went to trial. Unfortunately, we only have data on a limited number of cases, and the analyses for this section are limited to correlations because of the small sample size and problems with missing data. Therefore, these analyses are tentative and cannot be considered a “critical test” of the theory.

The dataset includes variables that can serve as proxy measures of concepts used by Black (1976) to predict how law will be used and were discussed in the literature review. The first defendant-level variable is the level of intimacy. Intimacy is measured by the type of relationship the victim has with the offender. For example, if the victim and offender are married they will have more intimacy than if the victim and the offender are dating or acquaintances. The variable I use to look at intimacy is coded as a dummy variable with married coded as one and all other relationships coded as zero.

Another concept discussed in my literature review is the respectability of the victim (see Black 1976). I use a proxy measures to assess the victims’ respectability, since there are not specific questions to look at how Black (1976) measures respectability. If the victim was chemically impaired, or under the influence of drugs and/or alcohol at the time of the incident, the victim would have less respectability within the court system than they would if they were not taking a substance. A dummy variable was created where those who were intoxicated, and therefore less respectability, were coded as 0 and those who were not intoxicated were coded as 1. Another proxy measure

of respectability will be measured using an item regarding if the victim was willing to testify at trial. The dummy variable is coded as 1 if the victim was willing to testify. I will use the victim's age as a proxy measure of the victim's "prestige" or "rank" (older victims have higher "rank"). In addition, victims who were employed at the time of the incident have higher rank than those who were not employed.

Measures for the Prosecutor's Office Analyses

With regards to the prosecutor's office analysis, the data, like the individual case variables is limited, but I chose to focus on cases where the victim was uncooperative, and how the prosecutors dealt with this situation, to look at Black's (1976) rank and respectability concepts. Donald Black (1976) would predict that because of the reduced respectability of the victim, these cases should not go to trial, so these are worse case scenarios.

There are two important factors that Black discusses that pertain to the prosecutor's office: respectability and organization. To test Black's notion of respectability, I look whether or not the victim agreed to testify at the trial, or if the victim was uncooperative. When the victim was uncooperative, I also look at how the prosecutor proceeded with the rest of the trial. One of the ways the prosecutors can continue with the trial is by using a videotape of testimony made by the victim, who would potentially show the jury her fear, but it would be in the victim's own words. This goes to respectability because it would show the victim, just not in person, which is better than not seeing the victim at all. Another way the prosecutor does continue with the case even when the victim does not testify is to use neighbor testimony. This can be seen as

disreputable because the juries are unable to hear the victim's words, or even see the victim during the trial. I will measure these factors by using a dummy variable with one equaling the prosecutors used the victim's testimony and zero being equal to the prosecutor's not using the victim's testimony, and one if the prosecutors used the neighbors' testimony and zero if they did not.

To test Black's notion that organization influences legal outcomes, I have two measures dealing with the victim and prosecutor. This is designed to see if groups of well-integrated members of society (i.e. those groups with more organization) like police or the prosecution are more likely to have their cases brought to trial than those that come from the victim alone. Applying Black's proposition (1976), if a prosecutor's office brings a case to the legal system's attention, it is more likely to gain a conviction than one brought to the system's attention by an individual victim. The two variables that I will use to test Black's (1976) notion of respectability are (1) whether or not the filing responsibility rests with the prosecution and (2) if the filing responsibility rests with the victim. The variable that looks at whether the filing responsibility rests with the victim is coded with no equaling zero and yes equaling one. The variable that looks at whether the filing responsibility rests with the prosecutor is also coded with one being yes, and zero being no. By looking at these two variables, I can see if the victim, with less organization, has a harder time getting their cases to trial versus the prosecutor with more organization.

The central question of this research is to determine if the influence of factors discussed by Black (1976) have on the outcome of a case can be reduced through legislative action. To answer this question, I will include an item that measures if the

prosecutor's office that is handling a case has a no-drop policy. With the inclusion of the no-drop policy, I would predict that more cases would go to trial, regardless of whether or not the victim agreed to testify at trial or not.

I used different statistical techniques, including, bivariate correlations, partial correlations, and logistic regression analysis to test the following hypothesis:

- H1: The greater the intimacy between the offender and victim, the lower the probability the case will go to trial.
- H2: The greater respectability of the victim, the greater the probability the case will go to trial.
- H3: The greater rank of the victim, the greater the probability the case will go to trial.
- H4: The lower rank of the offender, the greater the probability the case will go to trial.
- H5: The greater the organization of the entity filing the grievance, the greater the probability the case will go to trial.
- H6: The addition of the no-drop policy will decrease the influence of intimacy, rank, respectability, and organization on the likelihood of a domestic violence case going to trial.

Results

Individual Case Level Correlation (Table 1)

		Zero Order Correlation with Case Going to Trial	1 st Order Partial Correlation with Case Going to Trial Controlling for No- drop Policy
		Did the individual case go to trial or did it end in a plea?	Did the individual case go to trial or did it end in a plea?
Intimacy	Pearson Correlation Significant (2- Tailed) N	.000 1.000 46	.010 .946 43
Is the victim employed?	Pearson Correlation Significant (2- Tailed) N	.031 .839 46	.040 .795 43
Was the defendant employed at the time of the arrest?	Pearson Correlation Significant (2- Tailed) N	-.020 .896 45	-.022 .890 42
Was the victim intoxicated at the time of the incident?	Pearson Correlation Significant (2- Tailed) N	-.223 .307 23	-.234 .294 20
Did the victim testify at trial?	Pearson Correlation Significant (2- Tailed) N	-.103 .521 41	-.099 .541 38
Respondent's age	Pearson Correlation Significant (2- Tailed) N	-.235 .116 46	-.236 .119 43

Table 1 reports the bi-variate case disposition (whether or not the case went to trial or was settled with a plea) and the partial correlation between intimacy and case disposition while controlling for the presence of a no-drop policy. As shown in Table 1, no variable was significantly related to case disposition. While none of the correlations

were statistically significant, if the victim was intoxicated ($r = -.223$), if the victim testified ($r = -.103$), and the victim's age were correlated with case disposition at relatively high levels ($r = -.235$). The fact that these correlations are not significant is likely due to the very small number of cases. While recognizing these findings cannot be generalized, it is worthy to note that two of the correlations (victim intoxication and victim testifying) are in the direction that support Black's propositions. The victim's age, however, is in the opposite direction than what Black would predict, assuming that age is positively related to "rank."

When I ran the partial correlation, I found that nothing is significant, but the bivariate correlations did not change substantially. When I added the no-drop policy, there seemed to be no change in the correlations and none of the variables were significant. While nothing was significant, the correlation directions did not change either, suggesting that the no-drop policy has very little effect at the individual level and is not a factor when looking at the victim's or the offender's background.

**Logistic Regression of How Case is Handled When the Victim is Uncooperative
(Table 2)**

		B	S. E.	Wald	df	Sig.	Exp (B)
1	Use family/ neighbor testimony to overcome an uncooperative victim	-2.059	.904	5.188	1	.023	.128
	Use tape of victim testimony to overcome uncooperative victim	1.507	1.413	1.137	1	.286	4.511
	Filing Responsibility rests with the victim	-1.708	.758	5.073	1	.024	.181
	Filing responsibility rests with the prosecutor	.991	.738	1.803	1	.179	2.695
	Constant	1.524	1.452	1.102	1	.294	4.592

I next ran a logistic regression to analyze the variables at the organizational level. These variables had the dependent variable of how the case was handled when the victim is uncooperative. I used these to test Black's (1976) theory that the more organization and entity has, the more law it has at its disposal. Table 2 presents the results of a logistic regression analysis that predicts if a case was brought to trial based on if the prosecutor used family or neighbor testimony to overcome an uncooperative victim and if the filing responsibility rested with the victim. Both of these factors significantly reduce the likelihood of a case going to trial ($b = -2.059$ and $b = -1.708$, respectively). If the filing responsibility rests with the prosecutor approaches statistical significance predictor ($p = .179$), and although it is not statistically significant, if the filing responsibility rests with the prosecutor's office increases the likelihood of a case going to trial ($b = .991$) in this dataset. The use of a tape of the victim testimony to overcome an uncooperative victim is unrelated to a case going to trial. To test my last hypothesis in the prosecutor level variables I added the no-drop policy to the logistic regression, as seen in Table 3.

**Logistic Regression of How Case is Handled When the Victim is Uncooperative
Adding No-drop Policy (Table 3)**

		B	S. E.	Wald	df	Sig.	Exp (B)
1	Use family/ neighbor testimony to overcome an uncooperative victim	-3.374	1.436	5.520	1	.019	.034
	Use tape of victim testimony to overcome uncooperative victim	4.448	2.142	4.311	1	.038	85.436
	Filing Responsibility rests with the victim	-1.760	1.050	2.810	1	.094	.172
	Filing responsibility rests with the prosecutor	1.598	1.104	2.094	1	.148	4.941
	Does your office employ the no-drop policy?	-.137	.947	.021	1	.885	.872
	Constant	-.812	1.747	.216	1	.642	.444

Table 3 exhibits the results when the no-drop policy was added to the organizational variables. The no-drop policy, when it is added to the model, shows some interesting results. The use of family or neighbor testimony to overcome an uncooperative victim stayed significant ($p=.019$) and it is still negatively related to the dependent variable, reducing the likelihood the case would go to trial ($b=-3.374$). When compared to Table 2, adding the no-drop policy seems to further reduce the likelihood the case will go to trial when family or neighbor testimony is used.

There are a few interesting things that happen with the other variables when the no-drop policy is added. One interesting thing is that the filing responsibility rests with the victim is no longer significant as it was in Table 2 (from $p=.024$ to $p=.094$). The relationship direction stays the same ($b=-1.760$), suggesting that perhaps with the no-drop policy, there is no longer a concern who files the charges, as they will go through with the trial anyway. Another interesting finding was the use of videotape of the victim testimony to overcome an uncooperative victim became significant, and the relationship stayed the same. The fact that this variable became significant is worth noting because of the non-significance in Table 2 (from $p=.286$ to $p=.038$). The relationship became stronger, meaning that there is an even greater likelihood that the case will go to trial. The last interesting finding is the filing responsibility rests with the prosecutor, while still not significant ($p=.148$ in Table 3), became closer to being significant with the addition of the no-drop policy ($p=.179$ in Table 2).

Discussion and Conclusion

Case Level Variables

Once I ran all the data, I found that nothing was significant in the case level variables. This could be attributed to the small sample size, making it extremely difficult to get a significant finding. However, I found many interesting things with the direction of the correlations. When I included the no-drop policy, there was no change in the direction, or in the significance of the individual case level variables.

The first thing I found with the case level variables was that the directions of the correlations support Black (1976) in some of his assertions. There was one, however, that was surprising. I predicted that intimacy, based on Black (1976), would have some effect on whether the case goes to trial or is a plea, but it did not. Thus, unlike what Black predicts, in domestic violence cases, it does not seem to matter what the relationship is between the offender and the victim. From a legal standpoint, since domestic violence and intimate partner violence covers so many different types of relationships, there can be no real to measure as to the degree of the intimacy in the relationship. Domestic violence laws do not truly consider the closeness of the relationship, nor the length of the relationship, so looking at intimacy from this standpoint, would not, in my opinion, affect Donald Black's measure of intimacy. Regardless of the intimacy of the victim and offender, the offender will get charged with the same crime. That is, intimacy is relatively constant in these relationships; therefore, it cannot account for much of the variance in the dependent variable. Black's proposition may explain why domestic violence often results in cases being treated leniently by the

courts relative to other crimes of violence, but it cannot account for differences in how domestic violence cases are handled because all of the parties involved are intimate.

My next hypothesis stated that the greater the victim's respectability, the greater the probability the case will go to trial. When I ran the variables in a correlation, while it was not significant, I did find that two of the proxy variables were negatively correlated with a case going to trial. These correlations seem to support Black's prediction. If a victim was intoxicated (thereby having less respectability), their case was less likely to go to trial. However, if the victim testified (thereby having more respectability), their case was less likely to go to trial. . A possible scenario would be when the victim is testifying, the offender will more likely ask for a plea because he sees that the victim is no longer afraid of him, and the chances of the offender being convicted with the victim testifying goes up. When the no-drop policy was added to the victim testifying variable, the results do not seem to change. While this can be explained by Black, it can also be explained by the strength of evidence. It is a stronger case in the eyes of the prosecution for the victim to be sober during the incident than intoxicated. If the victim is intoxicated, the prosecutor might decide that the case lacks strong enough evidence to take the case to trial.

Similarly, the effect of age contradicts my predictions. I assumed older respondents would have more respectability; however, the effect indicates that older respondents' cases were less likely to go to trial. This refutes Black's proposition (1976) because he states that an older person will have more rank and respectability within society than will a younger person. A way to explain this would be to look at ageism, and the way society can discriminate against a person because of their age. Some might

think if the victim and offender are older, they are more able to take care of situations without the court system, or at least been able to handle these types of situations sooner in the relationship. When there is talk about older couples, the literature tells us that there seems to be a double standard in aging. People tend to see women as old sooner, perhaps leading some to be less concerned what happens to older women (Sontag, 1997). In a patriarchal society, the idea of a double standard could be another issue older woman have to contend with, the aging society mixed with the society tending to be less concerned with women. Another intersection that might affect older women would be class status. Since people of lower class are more likely to go to court, and people from a lower class have a lower rank in society, people who are older, that are also of a lower class can be at a disadvantage within society. While I cannot say this with certainty, the results tend to support the idea of age discrimination. On the other hand, it may not be that age discrimination is occurring; instead, it could be that some unmeasured variable (such as social class and the disparity in the legal system of people from a lower class being more likely to go to court) is confounding the relationship between age and case disposition. Finally, it could be that Black's proposition does not apply to domestic violence. Unfortunately, given the limitations of the data, there is no way to know definitively which of these plausible explanations are correct.

My third hypothesis stated that the greater the rank of the victim the greater the probability the case will go to trial. When looking Table One, although nothing is significant, the correlation between the dependent variable and the victim rank, or whether victim is employed, is positively correlated. This indicates that the higher the victim's rank, the greater the chance the case has to go to trial. According to Black

(1976), the person with the higher rank will have law work in her favor more often than a person with lower rank will. Thus, this proposition would be supported. I emphasize, however, that this very weak correlation was not statistically significant.

Using whether or not the victim was employed to establish rank can have positive and negative results. On the one hand, from a legal standpoint, it would increase the victim's rank if they did have a full or part-time job during the incident. As I stated earlier, Henning & Feder (2005) argue that prosecutors often assume the offender is the main breadwinner in the household. If the victim is employed, the prosecutor may assume that taking the offender out of the home would have less of a negative impact on the family than if the victim did not have a job at the time of the incident. On the other hand, from a feminist standpoint, men can feel threatened when a woman gets a job and being employed would decrease the women's rank in society. Some scholars, such as William T. Bielby (1991), state that society will act to maintain the status quo and keep women out of the workforce so men can continue to have financial control over them. This argument, however, does not appear to be supported by these data since "rank" as measured by being employed is positively—although not significantly—related to more law (i.e. the case going to trial), but the data also does not allow me to say this argument is correct definitively.

With the small sample size, it is hard to see if, with more cases, the variables would be significant, and if the correlations would really mean something. This was my main limitation with the study. Still, an interesting finding was the use of the no-drop policy had no effect on the significance, magnitude, or direction of any relationship. This

suggests that the legislation does not diminish the importance of extra-legal social factors have in determining law as Black suggests.

Prosecutor Level Variables

Moving to analysis of the organizational variables, the use of a family member or neighbor testimony to overcome an uncooperative victim was significant and inversely related to a case going to trial. This means that when the family member or neighbor is used instead of the victim, the case is less likely to go to trial. This finding may support Black's (1976) theory if we assume that when a victim does not come to court, she is considered in the eyes of some as less reputable. When the victim is not seen in the courtroom, the prosecutor may worry that the jury may perceive that the victim is not really invested in the case and has no real concern about the outcome. Conversely, when the prosecutor uses a video of the victim as testimony was positively related to the case going to trial. This could mean that when the prosecutor at least has the victim's face in the courtroom, it lends some credibility and respectability to the victim. These findings seem to support Black's (1976) idea that the more respectability the victim has, the more law the person has. When the victim does not testify, her respectability may be questioned; however, when the victim is in court on a video, she would likely be seen as more respectable than if she was not there.

A significant predictor of a case going to trial when the victim was uncooperative was if the filing responsibility rests with the victim. This variable was inversely related to a case going to trial. This finding offers suggestive support for Black's proposition relating organization to law. Victims have "less organization" than do prosecutor's

offices, and cases victims bring to the judicial system have a lower likelihood of going to trial.

When I looked at the variable of whether or not the filing responsibility rests with the prosecutor, the results showed that it was not significant, but positively related to a case going to trial. Although this predictor was not statistically significant, the positive direction further supports Black's (1976) notion that the greater the organization, the more law. These findings support my fifth hypothesis: the more organization one has, the more likely a case will go to trial.

When I added the no-drop policy to the models, there were some very interesting findings. The use of family or neighbor testimony to overcome an uncooperative victim stayed significant and the relationship's direction stayed the same. This suggests that even with the no-drop policy, when the victim is uncooperative and the prosecutors use the family or neighbor testimony to overcome that, there is still less likelihood the case will go to trial. The use of videotape testimony to overcome an uncooperative victim, while staying the same direction, became significant when the no-drop policy was added. This is meaningful because it became almost three times as likely that the case will go to trial when the no-drop policy is applied. This could be because having the victim on videotape is the next best respectable thing, making it more likely the prosecutor will try the case. This is what Black's (1976) notion of respectability argues; the more respectable a person is, the more likely the law will work for them. When the victim is perceived as so afraid of the defendant, but was still able to tell her story, it can be seen as a very respectable act. Based on these findings, victim respectability may be the most important social factor in determining if domestic violence cases go to trial.

When the no-drop policy was added to the logistic regression, it made filing responsibility resting with the victim no longer significant. Similarly, the filing responsibility resting with the prosecutor was not a significant predictor. Thus, once I controlled for a no-drop policy, the influence of organizational factors on case dispositions were no longer noticeable.

The data seem to support Donald Black (1976) in some of his assertions. There may be deep-seeded beliefs embedded within our society that some laws cannot change. Respectability, rank, intimacy, and organization as social factors are ingrained in our society, and law has a difficult time combating these; therefore, we must look to other ways to eliminate the behavior. My data only scratches the surface of whether or not this is truly an issue, but with some of the findings, with more data, we can really explore whether this is the case. While on the individual level the no-drop policy may not necessarily help victims, perhaps because the law is enforced more at the organizational level, it has its uses. The no-drop policy is intended for prosecutor's offices to use to ensure the case will go to trial. The no-drop policy is effective as the data showed in easing the burden victims feel in different areas of the legal system. By making it more about the organization, the no-drop policy can in effect make it easier for victims to perhaps understand that the law is starting to be supportive during this difficult time. The data also showed that when the no-drop policy is implemented, the issue of with whom filing responsibility rests is less significant. I see this as potentially meaning that the no-drop policy, like I expected, is effective in reducing some of the extra-legal factors that influence case dispositions at the organizational level. As the data suggest when the no-

drop policy is implemented and the victim testifies, even in a videotaped testimony, the likelihood that a case will go to trial is increased.

Some implications for future research would be to conduct a survey with Donald Black's (1976) concepts in mind, to really look at his measures and see if these factors actually influence the outcomes of the cases and, if they do, if we can overcome these factors to bring justice to victims of domestic violence. It might also be useful to more closely rework Donald Black's theory from a more feminist standpoint, adding in factors that the interactions of sexism and classism, not to mention racism, might have in determining the outcomes. It is possible, as some feminists argue, that women, just because they are women, have lower rank than men do. The current study was only able to use proxy measures of Black's (1976) theory. Even with the use of proxy measures, however, some support for the theory was found.

In addition to not being able to definitively operationalize Black's concepts, another serious limitation of the study, as I have stated earlier, was the small sample size. I would have liked to have a larger sample so I could determine if the non-significant factors were problems with Black's theory, the measures of his concepts, or if there were just not enough cases to find significant results. There needs to be more research in the area of domestic violence, especially since the no-drop policy may not always work the way it was intended. The research should focus on why some victims are not willing to testify, as well as how hard it is for victims to gain support from the criminal justice system. Given the importance of having a victim testify for having the case go to trial, we need to find ways to increase the likelihood of women testifying in domestic violence cases. To do this, we must figure out how to make it safer for these women to take the

stand and confront their abuser. Figure out how to accomplish this, however, has proven difficult. Domestic violence awareness is important for lawmakers to understand the need for more specialized domestic violence laws. Lawmakers need to be more aware of the emotional toll these types of situations take on the victim, and they need to be more understanding and open to new ideas about controlling domestic violence. The more aware people within the criminal justice system are about the uphill battle domestic violence victims face in the court system, the better they may handle the many issues that arise from the process.

Appendix A

Trial or Plea		
Variables	Question	Responses
TrialPlea	Did the defendant go to trial or plea?	Plea = 0 Trial = 1
Race/Ethnicity		
Variables	Question	Responses
Ethnicity	Victim's Racial/ Ethnic Category	White = 1 Other = 0
Age		
Variables	Question	Responses
AGE	Respondent's age	Continuous
Children		
Variables	Question	Responses
Children	Does Respondent have children?	Yes = 1 No = 0
Intimacy		
Variables	Question	Responses
Intimacy	What is the Respondents relationship to the Offender?	Husband = 1 Other = 0
Victim Rank		
Variables	Question	Responses
victimemploy	Is the victim employed?	1= Yes 0= No
Victim Respectability		
Variables	Question	Responses
Vicetestify	Did the victim actually testify?	Yes = 1 No = 0
Vrespect	Which party was taking substance	Victim = 1 Defendant = 0
Offender Rank		
Variables	Questions	Responses
OffendEmpty	Was the defendant employed at the time of the arrest?	1= Yes 0= No
Offender Respectability		
OffenderAlcohol	Did the defendant use alcohol?	1= No 0= Yes

No Drop Policy		
NoDropPolcy	Does your office employ a No Drop policy?	Yes = 1 No = 0
Prosecution Level Variables		
handlecase	How was the case handled?	Trial = 1 Plea = 0
usefam	Use family or neighbor testimony to overcome uncooperative victim	Yes = 1 No = 0
usevictvideo	Use tape of victim testimony to overcome uncooperative victim	Yes = 1 No = 0
vicfile2	Filing responsibility rests with the victim	Yes = 1 No = 0
prosfle2	Filing responsibility rests with the prosecutor	Yes = 1 No = 0

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