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An Evaluation of the Effectiveness of Increased Judicial Oversight and Court-Ordered Batterer Intervention Programming in Milwaukee County Misdemeanor Domestic Violence Cases: Preliminary Findings

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AN EVALUATION OF THE EFFECTIVENESS OF INCREASED JUDICIAL OVERSIGHT AND COURT-ORDERED BATTERER INTERVENTION PROGRAMMING IN MILWAUKEE COUNTY MISDEMEANOR DOMESTIC VIOLENCE CASES: PRELIMINARY FINDINGS

by

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ABSTRACT
AN EVALUATION OF THE EFFECTIVENESS OF INCREASED JUDICIAL OVERSIGHT AND COURT-ORDERED BATTERER INTERVENTION PROGRAMMING IN MILWAUKEE COUNTY MISEDEMANOR DOMESTIC VIOLENCE CASES: PRELIMINARY FINDINGS

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In 1999, Milwaukee County was one of three locations in the United States chosen by the Office on Violence Against Women to participate in the Judicial Oversight Demonstration Initiative (JODI). JODI was a five year project aimed at testing the idea of whether an organized community response to domestic violence, with increased judicial and criminal justice involvement, would affect victims' safety and offender accountability. Due to its involvement with JODI, Milwaukee County implemented a number of procedural changes intended to increase victim safety, increase offender accountability, and reduce instances of domestic violence. The most prominent change was the institution of probation review hearings, followed closely by the requirement that domestic violence probationers attend batterer intervention programming. Although studies have reviewed the effectiveness of these procedural changes on offender accountability and recidivism, none have examined offender recidivism data past 2005. This preliminary review extends prior studies with an examination of the effectiveness of probation review hearings and court-ordered batterer intervention programming up to a seven year period.

Dedicated to my father, Jose

and my brother, Edwin.

Your unconditional love and support will never be forgotten.

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LIST OF ABBREVIATIONS

AGSL	American Geographical Society Library
AODA	Alcohol and Other Drug Assessment
BIP	Batterer's Intervention Programming
CCAP	Wisconsin Consolidated Court Automation Programs
DA	District Attorney
DOC	Department of Corrections
DV	Domestic Violence
DVCC	Domestic Violence Commissioner's Court
IPV	Intimate Partner Violence
JODI	Judicial Oversight Demonstration Initiative
VAWA	Violence Against Women Act of 1984

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CHAPTER ONE: INTRODUCTION

The high incidence of domestic violence in our country and around the world motivates academics and practitioners alike to press forward in an unceasing quest to determine the most effective means possible to reduce, or outright eliminate, acts of domestic abuse. More recently referred to as "intimate partner violence" in the academic literature, scholars note that domestic violence affects hundreds of thousands of people every year, and creates a myriad of health and social problems (Douglas & Hines, 2011). Indicative of the substantial concern associated with the consequences of domestic violence, some academics have even gone so far as to examine a variety of factors and effects from an expansive, global perspective (see Abramsky et al., 2011; Garcia-Moreno, Jansen, Ellsberg, Heise, & Watts, 2006; & Shirwadkar, 2004). From around the world to our nation's own backyard, the consequences of domestic abuse experienced by victims range from psychological trauma and sexual assault to severe physical injury and death (Uthman, Moradi, & Lawoko, 2011; Federal Bureau of Investigation Press Release, 2013; 2011 Domestic Violence Homicide Summary; Cho & Wilke, 2010; Chibber & Krishnan, 2011). While the nature of the injuries has remained constant, the terminology used to describe the injuries seems to be dependent upon the author's, or authors', background and audience.

Presently, academics, legislators, and special interest groups employ different terminology for what is essentially the same course of conduct. For example, some academics utilize the term intimate partner violence (IPV). IPV is defined as “threatened, attempted, or completed physical or sexual or emotional abuse” which is “committed by a spouse, an ex-spouse, a current or former boyfriend or girlfriend, or a dating partner”

(Uthman et al., 2011). Other academics and special interest groups use the term "domestic violence" to describe the same behavior (Wooldredge & Thistlethwaite, 2002; Gerlock, 2001; 2011 Domestic Violence Homicide Summary). Along those lines, the Wisconsin State Legislature defines the same acts as "domestic abuse" in Section 968.075 of the Wisconsin Statutes. Section 968.075(1)(a) 1-4, specifically states:

> 'Domestic Abuse' means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:
>
> 1. Intentional infliction of physical pain, physical injury or illness.
> 2. Intentional impairment of physical condition.
> 3. A violation of s. 940.225 (1), (2) or (3).
> 4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subd. 1., 2. or 3.(Wis. Stats., Section 968.075(1)(a)1-4), 2006)

Notably, section 940.225 of the Wisconsin statutes refers to 14 different forms of sexual assault that can be categorized as domestic abuse (Wis. Stats., sec. 940.225(1)-(3), 2005). Despite the terminology chosen by any given author, the underlying description of the offender and conduct is basically identical. I will utilize the terms domestic violence and domestic abuse interchangeably throughout this study.

Regardless of the choice of words, the literature reveals a unanimous assent to the seriousness of the matter. Ongoing efforts by scholars and practitioners to determine effective incidence reducing remedies were, and remain, essential given that an estimated

1.3 million women and 835,000 men are victims of domestic violence annually in the United States alone (Tjaden & Thoemes, 2000). Additionally, an estimated 7 to 14 million American children are exposed to the grim realities of domestic violence (van den Bosse & McGinn, 2009). Because of the largely unsuccessful approaches presented by civil law, criminal law, and family based ideologies prior to the 1980's, the search for new remedies continued. In the wake of the women's rights movement of the 1960's and Battered Women's Movement of the 1970's, a move towards "offender-based criminal justice interventions" was born (Barner & Carney, 2011, p. 236). Members of the Criminal Justice System became noteworthy participants in this movement given the increased criminalization of domestic abuse.

The purpose of this preliminary examination is to explore whether Milwaukee County's probation review hearings and court-ordered batterer intervention programming prevent domestic violence offenders from reassaulting, thus effecting recidivism. The study focuses exclusively on offenders charged with misdemeanor domestic violence cases in 2005, who were placed on probation, required to attend probation review hearings, and ordered to attend batterer intervention programming. The uniqueness of this study lies in its review of offender recidivism up to a seven-year period; a task not previously undertaken for Milwaukee county.

A scholarly review of Milwaukee County's efforts has been rather limited. Although the Department of Justice conducted several reviews of JODI's effectiveness in reducing recidivism among domestic violence offenders and improving victim safety, a general survey of scholarly literature revealed no academic studies. A review of the literature also suggests that no study, or review, has examined offender recidivism past a

one-year period since termination of the JODI initiative in mid-2005, with the exception of one review which examined offender recidivism between November, 2006 and April, 2008 (2008 Recidivism Project CCAP Follow-up, 2008). This investigation continues where others have ended.

Chapter Two presents a review of the academic literature tracing the historical development of nation-wide interest in domestic violence and the criminal justice system's response. Beginning with the legislative advances experienced in every state across the country, the discussion then turns to the criminal justice system's increased involvement in addressing offender accountability and the need to improve victim safety. Chapter Three provides an historical narration of Milwaukee County court practices involving domestic violence cases during the 1980's and early 1990's, and then introduces the Judicial Oversight Demonstration Initiative. The chapter describes Milwaukee's implementation of the Initiative and details the procedural changes instituted as a result. Chapter Three concludes with a description of JODI's impact on Milwaukee's criminal judicial system, including the persistence of probation review hearings and court-ordered batterer intervention programming.

Chapter Four provides a detailed discussion concerning the mixed methodology utilized for this study. Qualitative judicial interviews enriched the descriptive details surrounding Milwaukee county's criminal justice system before, during, and after the implementation of the Judicial Oversight Demonstration Initiative. With respect to the quantitative methodology, the chapter offers a thorough narration of data-gathering strategies, as well as a brief overview of the statistical analysis employed.

Chapter Five puts forth the study findings and discussion. The chapter includes a preliminary comparison between the judiciary's perceived effects of probation review hearings and court-ordered batterer intervention programming on offender recidivism and the descriptive quantitative conclusions of the same variables. Chapter Six presents the study implications and a brief recitation of study limitations and suggestions for future study.

Awareness of the detrimental conditions facing victims of domestic violence has been historically slow to develop. As families struggled with the drastic repercussions inherent in such violence, legislators, law enforcement, and courts did little to address the matter. Systemic and institutional responses improved, however, during the mid-1960's as the nation became increasingly conscious of the devastating impact domestic violence inflicted upon individuals, families, and communities. The passage of legislation protecting victims of domestic violence occurred alongside the development of treatment programming aimed at changing the abusive behavior of perpetrators. Chapter Two delineates this development and highlights the criminal justice system's use of batterer intervention methods as primary response tools.

CHAPTER TWO: AN HISTORICAL INTRODUCTION TO THE CRIMINAL JUSTICE SYSTEM'S RESPONSE TO DOMESTIC VIOLENCE

The criminal justice system undoubtedly plays a role in shaping societal efforts to address the problem of domestic abuse. Although the causes and effects of domestic abuse can be seen as a continuum beginning as early as childhood (Murrell, Christoff, & Henning, 2007), ultimately, many acts of domestic abuse result in the issuance of criminal charges and an offender's interaction with the criminal justice system. With the opportunity to influence the life of every offender who appears before the court, judges are uniquely situated to serve as interceders once the domestic abuse act has been committed. The legal authority bestowed upon the courts by the legislature allows judges to order offenders to attend educational and counseling programs that may be successful in reducing individual recidivism rates. Moreover, judges who specialize in the area of domestic violence are apt to gain key insights concerning the dynamics of domestic abuse through particularized training, and their frequent exposure to the fact patterns and circumstances inherent in domestic abuse criminal cases (Judicial Interview #1, 2013). As such, it stands to reason that criminal courts are in a markedly influential position to act and join the effort to reduce domestic violence.

Efforts by the legal system to address the problem of domestic violence date back to at least the mid-1800's when, in 1871, the state of Alabama repealed the "husbandly" right to punish a spouse through the use of corporeal punishment (Barner & Carney, 2011, p. 235). Shortly thereafter, a number of other states passed legislation that prohibited spousal abuse and allowed for the physical punishment of, and the imposition of fines and jail time against, perpetrators (Barner & Carney, 2011, p. 235). Although

criminal laws existed at the turn of the century against the commission of domestic violence, criminal courts did not play a prominent role in addressing this problem.

Prior to the 1980's, the justice system primarily relegated acts of domestic violence to civil and family courts for processing (Barner & Carney, 2011). Although criminal laws existed prohibiting acts of domestic violence, unilateral divorces and civil restraining orders dominated the court's efforts to respond to the systemic problem of domestic violence (Barner & Carney, 2011). As it stood, the system in place did little to improve the plight of victims, but instead seemed to give the appearance of a decrease in instances of domestic violence. As states increasingly transferred jurisdiction of domestic violence cases to civil courts for the processing of restraining orders and family courts for the granting of unilateral divorces, arrests and incarceration of offenders diminished (Barner & Carney, 2011). Meanwhile, domestic violence persisted. The drastic need for improvement was exemplified by the case of *Tracy Thurman v. The City of Torrington*, (1984). The *Thurman* case altered the practices of the times and propelled the criminal justice system into a new paradigm (Barner & Carney, 2011; Archer, Miller, Spence, & Uekert, 2003). This new paradigm focused on offender-based interventions within the criminal justice system (Barner & Carney, 2011).

Undoubtedly, Tracy Thurman was a tragic victim of domestic violence (*Thurman v. City of Torrington*, 595 F. Supp. 521, 1984). Between October, 1982 and June 10, 1983, Ms. Thurman repeatedly reported her husband's ongoing threats of violence to the City of Torrington's police. Despite her many attempts to secure assistance from law enforcement, Ms. Thurman was repeatedly stabbed, and left for dead by her husband on June 10, 1983. Citing the police department's repeated failure to provide the protection

from her husband due her under the law, Thurman successfully sued the City of Torrington and sparked a wave of legislative changes across the country (Barner & Carney, 2011). As legislators passed new laws concerning acts of domestic violence, court action followed suit with a "move away from civil or family court adjudication" (Barner & Carney, 2011, p. 236) of domestic violence issues towards the heightened criminal offender-based approach. This by no means implies a complete lack of prior involvement from the criminal justice system, but rather suggests a less aggressive approach to the problem of domestic violence than the approach adopted following the *Thurman* matter.

The legislative changes of the 1980's and 1990's brought criminal justice courts to the forefront as key players in the pursuit of remedies to combat domestic violence. Laws that reinforced the prosecutor's discretion to pursue criminal charges no longer left the decision to prosecute to the victim (Barner & Carney, 2011). Discretion under these circumstances gave prosecutors more leeway to pursue legal sanctions against offenders when victims fell under the influence of a perpetrator's threats of retaliation (Davis, Smith, & Nickles, 1997). Additionally, "no-drop" policies requiring the pursuit of criminal charges despite a victim's lack of cooperation, and mandatory arrest laws, increased the visibility and number of domestic violence cases handled by the courts. As the numbers grew, so did the pressure upon courts to become involved and potentially effect a change (Feder & Wilson, 2005). Simultaneous developments in the fields of psychiatry, psychology, and social work served to provide new remedial options for the courts.

Mental health professionals and women's advocates began their attempts to curtail the effects of domestic violence on offenders and victims as early as the early 1900's. One such noted attempt occurred in 1914 when the Psychiatric Institute of the Chicago Municipal Court began combining short term jail sentences with psychiatric treatment for perpetrators of domestic violence (Barner & Carney, 2011). At the same time, social workers provided "casework for victims of spousal abuse" (Barner & Carney, 2011, p. 235). Even though this combined venture of psychiatry and courts did not immediately establish itself as a nationwide endeavor, the social work aspect of the model continued into the late 1900's (Barner & Carney, 2011). Ongoing developments within the fields of social work, psychiatry, and psychology worked alongside increased advocacy efforts for women's rights during the 1960's and 1970's to shift the "institutional response ... from a victim-centered to perpetrator-centered treatment focus" with the goal of preventing recidivism (Barner & Carney, 2011, p. 237). The Duluth Domestic Abuse Intervention Project tested this new school of thought.

The Duluth Domestic Abuse Intervention Project (Duluth Model) presented a "psycho-educational treatment approach" for domestic violence offenders (Barner & Carney, 2011, p. 237; Feder & Wilson, 2005). Initiated in 1981, the Duluth Model utilized a multidisciplinary team approach consisting of "emergency responders, police departments, prosecutors, courts, several existing women's shelters, and human services agencies (Barner & Carney, 2011, p. 237). Working together, the various team members supported each other logistically as perpetrators of domestic violence attended group sessions designed to "challenge perpetrators' beliefs about power, control, and dominance

over their spouses" (Barner & Carney, 2011, p. 237). Harking back to an earlier assessment of the Duluth Model, Barner and Carney noted that,

> The hallmark development of the Duluth Model was the 'power and control wheel,' which suggests that relationship violence is rooted in 'patriarchal' societal learning, rather than a constellation of cognitive or emotional triggers. (p. 237)

The notion that domestic violence was a learned behavior naturally led to the belief that the behavior could be unlearned via educational tools offered to perpetrators in group settings. Reminiscent of the 1914 Chicago Municipal Court effort to combine psychiatric treatment with judicial sanctions, the Duluth Model emphasized legal punitive sanctions for violent crimes along with the delivery of group counseling services (Barner & Carney, 2011). Demonstrating initial signs of success, the Duluth Model became the primary method of intervention for domestic violence cases across the country (Barner & Carney, 2011; Corvo, Dutton, & Chen, 2009; Gondolf, 2010; see also Gerlock, 2001). Notwithstanding its popularity, the Duluth Model did not escape criticism.

Donald G. Dutton and Kenneth Corvo presented what are perhaps the sharpest critiques of the Duluth Model. According to Dutton and Corvo, the psychoeducational models promulgated by the Duluth Domestic Abuse Intervention Project were "designed by and are promoted by persons with no therapeutic expertise" (Dutton & Corvo, 2007, p. 659). Namely, the model was developed by "a small group of activists in the battered women's movement" (Corvo et al., 2009, p. 234). Moreover, the authors expressed great concern with the "feminist gender paradigm" upon which the Duluth Model was founded; a paradigm that proclaimed domestic violence as mainly a gender issue (Dutton & Corvo, 2007, p. 659). Approaching the problem of domestic violence from this feminist light

prevented the development of arguably more effective evidence-based interventions. The authors based this judgment on a thorough review of studies revealing empirical data negating the claim of domestic violence as a gender issue. Specifically, the authors noted that statistical data actually pointed to personality disorders, not gender, as better indicators of who would commit acts of domestic violence. As such, Dutton and Corvo considered a model based solely on gender, presumably a flawed premise, to be "simplistic and wrong" (Dutton & Corvo, 2007, p. 659).

Another critical assertion put forth by Dutton and Corvo regarded the research methodology underlying the development of the Duluth Model. The authors took issue with the fact that the program model was based on findings arrived at with a sample size of just 5 women and 4 men (Dutton & Corvo, 2007; Corvo et al., 2009). Given the insufficient sample size of 9, Dutton and Corvo referred to the multitude of large-sample studies they reviewed containing sound methodological procedures that contravened the Duluth Model principles. One such study of over 65,000 respondents found that men were actually slightly less violent than women when it came to instances of domestic violence (Dutton & Corvo, 2007; see also Archer, 2000). In the face of such studies, the authors could not accept the Duluth Model's proposition as credible. Taking the matter one step further, Dutton and Corvo made it a point to distinguish the Duluth's psychoeducational component from the school of cognitive behavioral therapy, contrary to a proponents' likening of both models.

Reiterating the problematic reliance on gender, Dutton and Corvo emphasized the Duluth Model's social and political portrayal of men as bad and women as good. Utilizing such a premise allowed the implementation of "gender shaming as an intervention

technique" (Dutton & Corvo, 2007, p. 659.) Because the Duluth Model was conceived and designed by individuals without therapeutic experience working from findings arrived at with a sample size of 9, Dutton and Corvo rejected gender shaming as a therapeutic treatment method.

In contrast, the authors supported the techniques developed by Dr. Aaron T. Beck, a renowned psychiatrist and father of cognitive therapy (see Gray, 1991, p. 664). Dr. Beck grounded the cognitive therapy model on principles of respect and acceptance of personhood. Allowing these principles to form the basis of his interaction with patients, Dr. Beck would then lead patients in a question and answer session that was intended to allow the patient to recognize faults in their thinking (Gray, 1991). Cognitive-behavioral therapy came to be when aspects of cognitive therapy merged with aspects of behavior therapy. Behavioral therapy focused primarily on the individual's behavioral responses to occurrences within the individual's environment (Gray, 1991, p. 666). This combination of respect of the person and focus on behavior allowed a therapeutic bond to develop between the offender and the therapist (Dutton & Corvo, 2007). Dutton and Corvo noted that a partnership between the offender and therapist was important in the context of batterer intervention programs. Moreover, the authors apparently deemed the model credible because it was developed by experienced therapists with practical experience in the field. Despite its criticisms, other scholars do support the basic tenets of the Duluth Model.

Edward W. Gondolf set forth an ardent defense of the Duluth Model in his 2007 response to Dutton and Corvo's criticisms (Gondolf, 2007). Immediately maintaining the Duluth Model as a "gender-based cognitive-behavioral approach," Gondolf bolstered the

gender-based aspects of the model by identifying support received from government victimization research (Gondolf, 2007, p. 645). Additionally, Gondolf noted that criminological research had upheld the model as a cognitive-behavioral approach. Placing the credibility of the model soundly within the existing research, Gondolf proceeded to defend the model by explaining its tenets and stressing its role in conjunction with other necessary participants.

As described by Gondolf, the Duluth Model uses the "power and control wheel" to uncover behaviors typically related to "a constellation of abuse and violence" (Gondolf, 2007, p. 645). Once exposed, facilitators work with offenders to,

> Challenge the denial or minimization associated with abusive behavior that is particularly prevalent among court-ordered men, and typical in alcohol-treatment programs as well. It also attempts to teach and develop alternative skills to avoid abuse and violence, and promote so-called 'cognitive restructuring' of attitudes and beliefs that reinforce that behavior. (p. 645)

In addition to using the power and control wheel, Gondolf stressed the Duluth Model's reliance on law enforcement for arrests, on the judicial system to impose legal sanctions against offenders for non-compliance, and on collaboration between other agencies to provide victim services. In this respect, the Duluth Model was quite unique in terms of presenting a community approach to the problem of domestic violence. In a subsequent article, Gondolf again commended the Duluth Model.

Highlighting the work of Ellen Pence in developing the Duluth Model, Gondolf initially admitted that the model had been under attack for approximately 30 years (Gondolf, 2010). Despite that acknowledgement, Gondolf credited Pence's ongoing work

as contributing to the improvement of the Duluth Model and serving to attract new supporters. Furthermore, Gondolf maintained that the Duluth Model filled a void in traditional treatment options for batterers. Claiming that general mental health treatment and family counseling services were ineffective intervention methods for domestic violence perpetrators, Gondolf essentially hailed the Duluth Model as "an approach that addressed battered women's experiences and battering men's resistance to change" (Gondolf, 2010, p. 993). Even though Gondolf supported the Duluth Model, he ultimately admitted that a variety of approaches are available when working with perpetrators of domestic violence (Gondolf, 2007).

Alternative approaches to the Duluth Model have been developed and studied over time given the Duluth Model's failure to eradicate domestic violence. To be fair, no one model approach may be able to address all the complexities and dynamics inherent in the act of domestic violence. As domestic abuse continues to pose great problems for communities, families, and individual victims (Gerlock, 2001), ongoing examination of other options is appropriate. A number of scholars have identified alternatives with mixed results in terms of effectiveness.

The alternatives examined appear to be as diverse as the personalities of batterers. One approach, anger management therapy, has been popular among some practitioners because it incorporates an educational component that attempts to expose the learned characteristics of abusive behavior. Moreover, anger management groups focus on the negative repercussions of abusive behavior and the socialization process that leads individuals towards the commission of abusive acts (Aymer, 2008). However, while anger management groups focus on the dynamics of power and control, the main

emphasis appears to be on anger itself as a precursor to physical violence (Aymer, 2008). As such, it does not substantially address the issues of those offenders who act out of a need to dominate their partner versus as a result of an angry outburst.

Restorative justice models, such as prosecution diversion programs for offenders, have also been used to address instances of domestic violence. Diversion programs allow qualified offenders to avoid a criminal conviction if the offender publicly admits guilt and subsequently participates in a counseling program that addresses violent behavior. If deemed necessary, the offender is also required to participate in substance abuse counseling (Hopkins, 2012). Although criticized by women's rights activists as a method that undermines the serious criminal nature of domestic violence, some proponents support the model because of purported healing benefits to victims from publicly hearing an offender admit their criminal conduct (Hopkins, 2012). Also, diversion programs are often in line with "the actual wishes of victims who often say they do not want typical criminal punishment," but instead simply want the offender to publicly admit his wrong and change his ways through counseling (Hopkins, 2012, p. 316).

Additional means introduced by practitioners to combat domestic violence have also been studied, but fall short in terms of complete effectiveness. One such method is psychodynamic therapy which focuses on the examination of underlying, long-standing emotional issues that may lead individuals to batter their partners (Gondolf, 2011; Aymer, 2008). A second proposed approach calls for tailoring the particular counseling or therapy service to the offender's specific personality type (Gondolf, 2011; Ross, 2011). A myriad of personality types have been uncovered for men who batter their partners. Some personality types include depressed, passive/aggressive, antisocial, narcissistic, and

compulsive (Gondolf, *MCMI Results for Batterers,*1999; Gondolf, *Characteristics of Court-Mandated Batterers*, 1999). This approach counters the typical batterers intervention program approach which provides an identical treatment structure to all batterers. Despite the possible potential to curve acts of domestic violence, neither approach has demonstrated complete effectiveness.

Continuing the list of alternatives to traditional batterer programming are the "stages of change" and Grace Therapy approaches. "Stages of change" holds that batterers generally progress through different developmental stages of "readiness" and that some batterers are more "ready" than others to change their behavior (Gondolf, 2011, p. 349). Following this line of reasoning, batterer programs are called to tailor their treatment plans to the specific level of readiness presented by the batterer (Gondolf, 2011). Grace Therapy adheres to a twelve-step model emphasizing "powerlessness, selfishness, and spiritual imbalance as primary factors in the use of violence" (Aymer, 2008, p. 324). This therapy mode centers around God. By no means exhaustive, the briefly described variety of approaches to the problem of domestic violence illustrates the degree of difficulty involved in identifying effective solutions. Notwithstanding the array of options available, the courts' most widely used method of domestic violence intervention is court-mandated batterer programming based, in one form or another, on the Duluth Model.

At present, roughly fifty states have implemented the use of batterer intervention programs based on the Duluth Model, making it

> the most commonly used court-sanctioned intervention in the United States and Canada for men convicted of domestic assault type offenses and having mandatory treatment conditions placed on their probation. (Corvo et al., 2009, p. 324; see also Gondolf, 2010).

More specifically, approximately ninety percent of all batterer interventions nationwide are court-ordered as a result of criminal charges in domestic abuse cases (Barner & Carney, 2011). One of the primary uses of the legal system in this context is to order attendance at batterer programs and to provide punitive sanctions for offender noncompliance with the treatment (Gondolf, *Mandatory Court Review*, 2000).

The fundamental belief underlying this strategy necessarily presumes two cause and effect relationships. The first is a cause and effect relationship between the attendance of batterer intervention programming and reduced individual recidivism. The second is a cause and effect relationship between the threat of punitive sanctions, namely jail time, and program attendance compliance. As previously discussed, some scholars agree that attendance at batterer intervention programming can reduce the likelihood that a batterer will reoffend, and other scholars do not (see also Gondolf, *A 30-Month Follow-Up*, 2000; Feder & Wilson, 2005). That discussion will not be reiterated here. With respect to the second presumed cause and effect relationship, Edward W. Gondolf tested that general belief in a study of Pittsburgh's Domestic Violence Court during the 1990's.

In 1995, the Domestic Violence Court in Pittsburgh implemented a new procedure intended to increase offender compliance with court-ordered batterer intervention programming (Gondolf, *Mandatory Court Review*, 2000). Traditionally, the Pittsburgh court required an offender to attend batterer programming prior to the final

disposition of the matter. Setting a review date at ninety days after the initial appearance allowed the court to verify whether the offender had completed the program. In an effort to increase compliance rates, the Pittsburgh court also instituted a thirty-day review period after the initial hearing to assess an offender's initial compliance with the court-ordered programming. If the court found an offender to be noncompliant at the thirty-day review hearing, the court could impose jail time, again require that the offender participate in the program, or require the offender to proceed on the original charges without any benefit that may have been received had the offender completed the intervention program (Gondolf, *Mandatory Court Review*, 2000, pp. 429-430). Gondolf's study examined the effect of the new procedure on compliance rates.

Using samples of cases selected from 1994, 1995, and 1997, Gondolf found that the additional judicial review hearing positively impacted compliance rates. Specifically, "appearance at program intake dramatically increased from 1994 to 1997 as predicated" (Gondolf, *Mandatory Court Review*, 2000, p. 433). Within two years of implementation, the Pittsburgh Domestic Violence court experienced a 47% increase in offender appearance at program intake. Furthermore, the completion rate for offenders referred by the court rose from 48% in 1994, to 57% in 1995, to 65% in 1997 (p. 434). While some rates were negatively affected by a decrease in court-referrals due, in part, to a decrease in police arrests, Gondolf maintained that the increased judicial oversight led to an increase in attendance and completion of batterer treatment (p. 435). In spite of this impressive finding, another of Gondolf's studies produced disturbing results.

In the early 1990's, Gondolf was involved in an extensive effort to gather raw data from batterer intervention programs in four different states. After collecting an abundance

of information, Gondolf subjected portions of the data to an analysis concerning the perceptions of legal sanctions on program completion and the probability of reassault (Heckert & Gondolf, 2000). Gondolf's most significant finding revealed that no evidence existed to support a connection between an offender's perception of legal sanctions and a specific deterrent effect. In other words, although offenders understood the very real and likely consequence of punitive sanctions for nonattendance at batterer programming and for reoffending, this perception did not move the offender to alter his behavior. Although Gondolf provided possible theoretical explanations for the finding, he admitted that the findings were "unexpected" (Heckert & Gondolf, 2000, p. 386) Gondolf's mixed results have been echoed by other scholars.

In 2005, Feder and Wilson critically examined 10 independent studies of court-ordered batterer intervention treatment. The analysis component of their review focused on the impact court-mandated programs had on recidivism rates above and beyond typical court procedures that did not include mandatory attendance at batterer treatment. Feder and Wilson concluded that, "individual studies evaluating court-mandated batterer intervention programs have provided very mixed findings on their effectiveness" (Feder & Wilson, 2005, p. 240) In short, the studies were inconclusive with respect to the effectiveness of court-ordered batterer intervention treatment. For example, while one study found "fairly consistent evidence that treatment works and that the effect of treatment is substantial," another study found that "a woman is 5% less likely to be re-assaulted by a man who was arrested, sanctioned and went to a batterer's program than by a man who was simply arrested and sanctioned" (Feder & Wilson, 2005, p. 242) The authors ultimately recommended additional research.

In sum, the effectiveness of mandatory participation in batterer intervention programming is debatable. C. Quince Hopkins (2012) provided a succinct summation of the current state of affairs when he stated,

> An important caveat is in order. Batterer intervention programs have not yet proven themselves consistently and robustly effective. To the extent they have been shown to change an individual batterer's use of physical violence, batterers often simply resort to other methods of abuse, such as increased verbal abuse or increased control of their partners' activities. (p. 329)

Regardless of the questionable results, court-ordered batterer intervention with intense judicial oversight continues to dominate the way the criminal justice system addresses the immense problem of domestic violence.

CHAPTER THREE: MILWAUKEE AND THE JUDICIAL OVERSIGHT DEMONSTRATION INITIATIVE

Overview of the Judicial Oversight Demonstration Initiative

The preceding discussion reveals how the plight of domestic violence victims caught the attention of women's advocates, scholars, state legislators, local law enforcement agencies and court systems. As individual voices came together to increase awareness of the prevalent and severe nature of domestic violence, the effort to combat it moved from local channels to state avenues. Eventually, the call for action rose and the Federal Government took notice. The Attorney General's Task Force on Family Violence (Task Force) responded with a bold acknowledgement of the nation's problem.

In September of 1984, the Task Force put forth a report highlighting the urgent need for reform in the area of domestic abuse. Traditionally delegated to the privacy of the family domain, the Task Force advocated the expulsion of domestic violence from the family arena to the public sphere where a perpetrator's behavior could be scrutinized and punished. Drawing attention to the sobering statistics surrounding the victimization of women and children, the Task Force noted that, "the research of the last decade has demonstrated the frightening degree to which family violence is cyclical in nature, with violence in one generation begetting violence in the next" (Attorney General's Task Force on Family Violence [Task Force], 1984, p. 2). The Task Force also stated that, "all now are conceded to represent widespread problems that occur among families in every social and economic class" (Task Force, 1984, p. 2). In short, the Task Force formally recognized domestic violence as an egregious crime that affected men, women, and children from all racial backgrounds and economic classes; a crime that required a community response (Task Force, 1984).

Recognizing the criminal justice system as an authoritative force within the community, the Task Force addressed the role of judges, prosecutors and the police in curtailing the widespread effects of domestic abuse. Speaking directly to the members of the justice system, the Task Force emphasized the use of the law to directly affect the commission of domestic violence. Specifically, the Task Force indicated that,

> The law should be applied in the case of domestic violence as well. *The legal response to family violence must be guided primarily by the nature of the abusive act, not the relationship between the victim and the abuser.* The Task Force recommends that the legal system treat assaults within the family as seriously as it would treat the same assault if it occurred between strangers. [italics in original] (p. 4).

The Task Force premised the notion of an effective legal response on the idea that victims of domestic violence would be able to positively identify the offender. Given that the perpetrator and the victim of family violence personally know each other, Task Force members were confident that the victim's certain identification of the perpetrator would result in punitive legal sanctions. Inherent in this rationale was the belief that victims would cooperate with law enforcement and subsequent prosecution. As a result, the Task Force believed that punitive sanctions would have a greater deterrent effect on perpetrators of domestic violence as opposed to perpetrators of other types of crimes (Task Force, 1984, pp. 4-5). Given the pervasive and complex nature of domestic violence, the Task Force called on others within the community to work in consort with the criminal justice system.

Holding an offender accountable for criminal behavior is but one remedy available to rectify the maladies created by domestic violence. Other concerns discussed by the Task Force included a victim's need for shelter when fleeing from a violent partner, the victim's need for employment and training if establishing a separate household, and the need for day care services if children were involved (Task Force, 1984, p. 6). Moreover, the need for counseling concerning the traumatic nature of victimization could not be overstated. The Task Force stressed the importance of community agencies working together because no agency acting alone could meet all the needs presented by victims of domestic abuse. Accordingly, the Task Force promulgated three recommendations for the criminal justice system:

1. Family violence should be recognized and responded to as a criminal activity.
2. Law enforcement officials, prosecutors, and judges should develop a coordinated response to family violence.
3. Communities should develop a multi-disciplinary team to investigate, process and treat all incidents of family violence, especially cases of physical and sexual abuse of children. (p. 10)

Shortly after the Task Force published its report, State legislators across the country enacted mandatory arrest laws for perpetrators of domestic abuse, and district attorney offices instituted "no drop" policies requiring prosecution of cases regardless of victim cooperation (Barner & Carney, 2011; Judicial Interviews #2 & #3, 2013). In due time, Congress also took notice of the exigent circumstances in which victims of domestic violence found themselves. The Violence Against Women Act of 1994 (the Act) was Congress' response.

Congress enacted the Violence Against Women Act of 1994 after years of receiving testimony from advocates regarding the grievous condition of domestic violence victims (Leroe-Munoz & Roohparvar, 2007). Starting in 1978 and proceeding through the 1980's (Archer, DuPree, Miller, Spence, & Uekert, 2003), the testimony presented went beyond the physical, emotional, and psychological damage caused by domestic violence, to include the economic impact such acts had on individuals, families, and communities (Leroe-Munoz & Roohparvar, 2007). In passing the Act, Congress also relied upon research demonstrating that increased arrest of perpetrators could reduce recidivism (Archer et. al., 2003). Hoping to minimize the impact of domestic violence, Congress awarded millions of dollars in grant money to the Encourage Arrest Policies Program; a program established by the Act (Office of Justice Programs Press Release, 1999; Archer et al., 2003). Grants distributed through the program were meant to help local communities establish law enforcement policies that promoted the arrest and prosecution of perpetrators of domestic violence (Archer et al., 2003). The Office on Violence Against Women, also created by the Act, administered these funds and set aside a substantial portion for the Judicial Oversight Demonstration Initiative (Carbon, 2012; Office of Justice Programs Press Release, 1999).

The Office on Violence Against Women recognized the potential of intense judicial supervision, coupled with batterer intervention programming, when it designed and funded the Judicial Oversight Demonstration Initiative. Implemented from 2000 to 2004, the Judicial Oversight Demonstration Initiative (JODI) was meant to test "an innovative idea for improving the justice system's response to domestic violence cases" (Visher, Newmark, and Harrell, 2008, p. 1; Harrell, Schaffer, DeStefano, & Castro,

2006). JODI called participants to build upon already existing community efforts to improve the safety of domestic violence victims, and particularly called upon judges to increase perpetrator accountability by imposing progressively punitive sanctions (Office of Justice Programs Press Release, 1999). Specifically, JODI was founded on the notion that ordering intensive probation at sentencing, requiring an offender's attendance at batterer intervention programming, and increasing judicial monitoring would deter offenders from committing future acts of domestic violence, (Cox, 2004) thus improving overall victim safety (Visher, et al., 2008; Harrell, Newmark, Visher, & DeStefano, 2002). The ultimate goal was to reduce recidivism among perpetrators and protect victims.

Inherent in JODI's underlying principles was the theory made popular by the Duluth Model. As previously explained, the Duluth Model advocated that batterer intervention programming could teach an offender to refrain from future acts of domestic violence; this being a lesson the judiciary could reinforce by way of intense supervision and punitive sanctions. Police arrest was crucial to this effort given that police contact typically initiates an offender's introduction to the criminal justice system. Hence, JODI's connection to the Encourage Arrest Policies Program. Furthermore, the role of probation agents as reporters of compliance or non-compliance with batterer treatment could not be overlooked. Ultimately, a coordinated community response where law enforcement, courts, prosecution offices, probation units, and treatment providers worked together was necessary to realize the Initiative's potential.

In order to test JODI's underlying theory and effectiveness, the Office on Violence Against Women sought three sites with a demonstrated history and dedication

to pursuing domestic violence interventions. After competing in a rigorous selection process, the chosen sites would receive funding for up to five years. The funding was intended to strengthen, improve, and expand already established practices (Visher et al., 2008). JODI proposed enhancing existing community relationships to strategize and plan the most appropriate course of action, while subjecting each site to periodical progress reviews. The community organizations of particular interest included the judicial system, local law enforcement agencies, the department of probation, and domestic violence community service providers (Visher et al., 2008).

After scrutinizing the applications submitted and conducting thorough on-site evaluations, the Office on Violence Against Women chose to test JODI in Dorchester District Court in Boston, Massachusetts; Washtenaw County in Ann Arbor, Michigan; and Milwaukee County in Wisconsin (Visher et al., 2008; Judicial Interview #1, 2013). All three sites demonstrated "the resources, infrastructure and commitment needed to implement the envisioned demonstration" (Visher et al., 2008, p. 1; Harrell, Visher, Newmark, & Yahner, 2009). In Dorchester, for example, the Boston Police Department enforced a pro-arrest policy in response to calls of domestic violence and the probation department housed a domestic violence unit within the courthouse (Harrell, Newmark, Visher, & Castro, 2007). Similarly, eleven county law enforcement agencies in Washtenaw County maintained mandatory or preferred arrest policies in domestic abuse cases and the judicial system assigned all domestic violence cases to one of four specific courts (Harrell et al., 2007). In Milwaukee, the judiciary previously established three courts dedicated solely to administering domestic violence cases and the District Attorney's office had a domestic violence prosecution unit in place prior to submitting its

application to the Office of Violence Against Women (Harrell et al., 2007; Judicial Interview #3, 2013). While the noted efforts were not exhaustive, they served to illustrate the level of commitment and coordination needed to carry out the Judicial Oversight Demonstration Initiative. Because this study explores the effects of JODI in Milwaukee County, a narrative of Milwaukee's history is in order.

The Historical Development of Milwaukee's Domestic Violence Courts

Prior to the 1990's, Milwaukee County courts treated domestic violence cases much like other courts did across the country. Nationally, matters of domestic abuse were considered familial problems best managed by the issuance of restraining orders and divorces in civil courts (Barner & Carney, 2011; see also Abolfazli, 2006). Although laws existed prohibiting spousal abuse, acts of domestic violence were primarily considered misdemeanor offenses that did not warrant special treatment (Barner & Carney, 2011). This notion was evident in police practices documented as far back as the 1970's typically favoring non-arrest in the majority of domestic violence cases (Davis, Smith, & Nickles, 1997; see also Sherman & Berk, 1984). When officers did make an arrest, "...the presence of a victim/offender relationship led to lower assessments of case worth by screening prosecutors, even when charge severity, victim injury, and use of a weapon were taken into account" (Davis et al., 1997, p. 2). If charged, the matter tended to receive little attention from the judiciary and judges were more likely to impart lighter sentences as compared to sentences rendered in other types of cases (Davis et al., 1997; Abolfazli, 2006). While these practices reflect the general tolerance of the time, they should not be interpreted to mean that no member of the criminal justice system cared about, or acted

upon, the needs of victims of domestic violence. To be sure, the system was not void of arrests, prosecutions, and convictions. However, there were not enough.

Customary policies around the country began shifting during the 1970's as political pressure mounted to treat domestic abuse cases in the same manner as other types of assaults (Davis et al., 1997). The pressure continued into the 1980's when the U.S. Attorney General's Task Force on Family Violence published its 1984 report promoting arrests as the "preferred response" to calls of domestic violence and urging their priority (Davis et al., 1997, p. 3). State legislators and prosecutors echoed the sentiment expressed in the report as they enacted mandatory arrest laws and instituted "no drop" policies, respectively. As a result of these changes, courts experienced a significant rise in the number of domestic violence cases presented (Abolfazli, 2006). Increased awareness of domestic violence, coupled by an increase in the number of issued cases demanded that courts depart from customary practices and assume a new approach.

Mirroring the standard practices across the country, domestic violence cases did not receive individualized attention in Milwaukee County prior to the 1990's. Like many other states, the Wisconsin legislature did not formally define domestic abuse until 1987- three years after Tracy Thurman successfully sued the City of Torrington and the Task Force on Family Violence issued its report. The passage of Wisconsin Act 346 in 1987, and enacted in 1989, created section 968.075 of the Wisconsin Statutes (1987 Wisconsin Act 346). For the first time, the Wisconsin legislature provided law enforcement, prosecutors, and courts with a clear definition of domestic abuse.

In addition to defining domestic abuse, section 968.075 of the Wisconsin Statutes required law enforcement compliance with newly created mandatory arrest laws for

domestic violence cases (Wis. Stats., sec. 968.075, 1987) This marked a significant change in common practice given that, "[h]istorically, police in Wisconsin had exercised their discretion in not arresting most domestic abuse offenders (E. M. McCann, personal communication, March 31, 1997). Under the new dictates of section 968.075(2)1, Wis. Stats., law enforcement officers were required to arrest an individual if the officer reasonably believed the individual had committed an act of domestic abuse and any of the following applied:

> a. The officer [had] a reasonable basis for believing that continued domestic abuse against the alleged victim [was] likely.
>
> b. There [was] evidence of physical injury to the alleged victim.
>
> c. The person [was] the predominant aggressor. (Wis. Stats., sec. 968.075(2)1, 1987)

Acting upon the mandates set forth by the legislature, police substantially increased the number of arrests made when responding to calls reporting acts of domestic violence (Davis et al., 1997). The increase in arrests consequently led to a spike in the number of charging referrals made by law enforcement officers to the Milwaukee County District Attorney's office.

Similar to the initial practices of district attorney's offices in other parts of the country, Milwaukee County's District Attorney's office charged a small portion of the domestic abuse referrals made by local law enforcement (Davis, et al., 1997). According to one report, "...as many as 90% of domestic violence misdemeanor arrests were not charged by the district attorney's office" during the latter part of the 1980's (Davis et al., 1997, p. 10). The early years of the 1990's witnessed some improvement, albeit minimal.

Standing in stark contrast to other Wisconsin counties, Milwaukee lagged behind in terms of charging rates. In 1990, the Milwaukee County District Attorney's office charged 15% of the domestic abuse arrests referred to the office, whereas other counties prosecuted 67.2% of the domestic violence arrests made (McCann, personal communication, March 31, 1997). In 1991, Milwaukee prosecuted 11% of the domestic violence arrests made by law enforcement, while other counties prosecuted 62.5% of their arrests. In 1992 and 1993, Milwaukee prosecuted 14% and 22% of all domestic violence arrests, while other counties prosecuted 76.9% and 73%, respectively (McCann, personal communication, March 31, 1997). Having become aware of the disparity, key personnel within the District Attorney's office implemented a change of policy intended to increase the number of domestic abuse cases prosecuted.

Notably, after the legislature passed section 968.075, Wis. Stats., in 1987, the district attorney's office instituted an "order in" policy with respect to the prosecution of domestic abuse cases. This policy, however, did not bring the office into full compliance with the statutory requirements. Per section 968.075(7), Wis. Stats., the district attorney's office was to initiate prosecution policies as follows:

> (a) A policy indicating that a prosecutor's decision not to prosecute a domestic abuse incident should not be based:
>
> 1. Solely upon the absence of visible indications of injury or impairment;
> 2. Upon the victim's consent to any subsequent prosecution of the other person involved in the incident; or

3. Upon the relationship of the persons involved in the incident. (Wis. Stats, section 968.075, 1987)

Notwithstanding the statutory language, the district attorney's office adopted a policy requiring the appearance of the victim at a charging conference in order to determine the victim's wishes regarding prosecution of the matter. Great weight was given to a victim's desire not to prosecute, especially if the victim and offender were married or involved in a long-standing relationship (McCann, personal communication, March 31, 1997). This was especially true if the victim bore no obvious signs of injury as a result of the incident (McCann, personal communication, March 31, 1997). Concerned that this policy caused the substantially lower prosecution rates experienced within Milwaukee County, the domestic violence prosecution unit developed a new policy; one that brought the office into full compliance with section 968.075(7), Wis. Stats.

As of September 1, 1994, the district attorney's office eliminated the requirement that victim's appear at a charging conference as a prerequisite to the issuance of charges (McCann, personal communication, March 31, 1997). Instead, the office aggressively pursued the prosecution of all viable law enforcement referrals of domestic violence, whether or not the victim wished to proceed. Furthermore, the office gave little regard to the relationship between the offender and the victim, as well as less consideration to the absence or presence of visible injuries (McCann, personal communication, March 31, 1997). The new policy closely adhered to the requirements of section 968.075(7)(a), Wis. Stats., and gave greater weight to the impact of domestic abuse on children (McCann

personal communication, March 31, 1997). The change ultimately led to a sizeable increase in prosecutions, as the rate of domestic abuse incidents charged rose from 22% in 1993 to 62% by 1995 (McCann personal communication, March 31, 1997; see also Davis et al., 1997, p. 21). As a key component of the criminal justice system, the courts experienced the effects of the substantial rise in domestic abuse cases presented for adjudication. Falling squarely within the midst of the changes around them, Milwaukee County criminal courts were pressed to confront their customary operations concerning domestic abuse matters.

Much in line with their counterparts across the nation, Milwaukee County criminal courts did not pay particular attention to the adjudication of domestic violence matters (Judicial Interview #3, 2013). Once charged, the cases were routinely assigned to general misdemeanor courts where they often became lost in the shuffle and suffered from a lack of attention (Judicial Interviews #2 and #3, 2013). Because general misdemeanor cases often commanded priority over misdemeanor domestic violence matters on the courts' calendars, domestic violence cases routinely experienced long delays in prosecution (Judicial Interview #2, 2013). The long delays frequently resulted in a cessation of cooperation from the victim for the prosecution and, ultimately, in case dismissal. Simply put, victims stopped appearing in court because they tired of waiting for their case to be resolved (Judicial Interview #2, 2013). Given the lower percentage of domestic abuse cases charged by the District Attorney's office during the 1980's and early 1990's, it stands to reason that the courts' exposure to the consequences of domestic violence was not as great then as its exposure to the consequences of other crimes. The force of the urgency, however, could not be denied when it became apparent that

Milwaukee was not immune from violence such as that displayed in the Tracy Thurman case.

On March 9th, 1992, Milwaukee County courts experienced first-hand the destructive force of domestic violence when Shirley Lowery's life came to an end in a courthouse hallway (Wilmington Morning Star, 1992). Plagued for 17 months by a man who repeatedly sexually assaulted her and threatened her life at gunpoint, Ms. Lowery's requests for help from the police went unanswered. Seeking help from the courts, Ms. Lowery arrived at the courthouse on March 9th, 1992 and proceeded to the seventh floor where she planned to request a permanent restraining order. Instead, she was met by the man who had plagued her for 17 months. On that morning, in the hallway of the seventh floor, Ms. Lowery was once again attacked by the man. This attack ended her life (Wilmington Morning Star, 1992).

Coinciding with the timing of Ms. Lowery's death, Milwaukee County courts acknowledged that domestic violence was a community problem and that the act of domestic abuse involved relationship dynamics seldom found in general misdemeanor offenses (Judicial Interview # 3, 2013). These particular dynamics set domestic violence crimes apart from other offenses and called for special attention from the judiciary.

The mid-1990's marked an internal paradigm shift for the Milwaukee County Criminal Justice System when two members of the judiciary responded to the call and voluntarily integrated cases of domestic violence crimes into their general crimes calendars (Judicial Interview #1, 2013). Assigning all domestic violence cases to these two courts allowed the judges to become directly involved in the lives of the offender and the victim during the pendency of the criminal matter, and to develop an expertise

regarding family dynamics and needs (Judicial Interview #2, 2013). Unbeknown to the two judges, their actions planted the seeds of Milwaukee County's first specialized domestic violence courts (Judicial Interview #1, 2013).

The gradual rise in domestic violence prosecutions during the early 1990's necessarily resulted in a greater number of offenders and victims coming before the court. While the increase assisted in honing judicial awareness of the expansive problem of domestic violence, it also presented logistical difficulties for the two courts that voluntarily assumed assignment of domestic abuse cases. The two courts hearing domestic violence matters did so in addition to their existing general misdemeanor calendars. As such, the rise in domestic abuse cases eventually strained the courts' dockets and limited resources. Once again, victims of domestic violence found themselves facing lengthy wait times for case resolution. As previously experienced, victim cooperation with prosecution waned, cases were dismissed, and conviction rates suffered. Consequently, offenders were not held accountable as often as the courts preferred. (Davis et al., 1997; Judicial Interview #3, 2013). The strain on the two voluntary courts, and the judiciary's ongoing desire to address the problem of domestic violence, led to the establishment of Milwaukee County's first domestic violence specialty court in September of 1994 (Judicial Interviews #2 & #3, 2013).

Formation of the specialty court was grounded upon two beliefs. First, that "fewer victims would change their minds about cooperating with authorities if they could simply reduce the amount of time it took to dispose of domestic cases" (Davis et al., 1997, p. 7). Second, that some defendants would be deterred from threatening or harming victims if sanctions from the court for such behavior was swift (Davis et al., 1997). Thus, the

specialty domestic violence court, scheduled to hear only domestic violence offenses, was intended to reduce the amount of time taken to adjudicate a matter. Initially successful, the court reduced case processing time by half, and the offender conviction rate increased by approximately 13% (Davis et al., 1997, p. 15). Despite the increase in convictions, a smaller portion of offenders received incarceration as the court acquiesced to victims' requests opposing jail time (Davis et al., 1997, p. 15). The court's success was short-lived, however, as the District Attorney's office implemented its previously discussed "no-drop" policy in January of 1995.

Although admittedly slow to adhere to the requirements of section 968.075(7), Wis. Stats., passed in 1987 and effective in 1989, the District Attorney's office came into full compliance on January 1, 1995. Executing its official "no drop" policy requiring the prosecution of all viable cases regardless of victim cooperation, the District Attorney's office substantially increased the number of domestic violence cases filed with the newly created specialty court. As the lone domestic abuse court in Milwaukee County, the court eventually became inundated with cases. As a consequence, processing times returned to the levels experienced prior to the institution of the specialty court, reaching periods of up to one year in some instances (Davis et al., 1997, p. 23). Furthermore, the conviction rate fell from 69% to 52%, resembling rates experienced before the new court assignment (Davis et al., 1997, p. 23). Recognizing the exigency presented by the circumstances, the judiciary took steps to improve their systemic response (Judicial Interviews #1 and #3, 2013).

By 1995, two additional domestic violence courts were established to address the substantial increase in domestic violence cases filed with the court (Judicial Interview #3,

2013; Judicial Oversight Demonstration Initiative Grant Application [JODI Application], 1999). Milwaukee County then operated three full-time courts dedicated solely to the adjudication of domestic violence crimes. Each court was assigned approximately 600 cases at any given time (JODI Application, 1999), thus exponentially increasing the judiciary's exposure to the characteristics of domestic violence. The expertise developed was undoubtedly enhanced by specialized annual judicial training available to all judges who chose to attend (JODI Application, 1999, p. 3; Judicial Interviews #1, #3, & #4, 2013). The training received instructed the judges on various dynamics of domestic violence behavior, including the principles of the "power and control" wheel established by the Duluth Model (See Appendix A). Accepting the basic principles that domestic violence is a learned behavior and that it stems from an offender's desire to dominate and control the victim, judges began utilizing the services of local domestic abuse agencies providing anger management counseling and batterer intervention programming (Judicial Interviews #1, #2, & #3, 2013). This extra measure, however, took place upon conclusion of the case, and only if the judge imposed a period of probation. Judicial review of an offender's attendance at counseling was practically non-existent, leading some judges to question the effectiveness of the practice.

Although judges became increasingly aware of the intricacies particular to domestic violence cases, sentencing practices during this time remained substantially unaltered. At the time of sentencing, judges considered three competing factors; factors mandated by case law. These factors consisted of the nature and gravity of the offense, the risk the offender presented to the community, and the offender's rehabilitative needs (*State v. Gallion*, 258 Wis. 2d 473, citing *State v. McClearly*, 49 Wis. 2d 263, at 276).

Examining each case on its own merits and facts, judges did the best they could to balance competing theoretical philosophies concerning the causes and control of criminal behavior and thereby deliver an appropriate and meaningful sentence. Generally speaking, sentences for misdemeanor offenses consisted of the imposition of a fine, a period of incarceration, or a combination of both (Wis. Stats., sec. 939.51(3), 2006) An alternative to sentencing available to judges was the imposition of a period of probation with court-ordered conditions. As domestic violence cases appeared before the courts for disposition, judges listened to the arguments presented by the prosecutor and defense attorney and ultimately decided on what the court considered to be the most appropriate sentence. If probation was deemed necessary, the condition that the offender attend anger management counseling or batterer intervention treatment often followed (Judicial Interview #3, 2013).

The court's involvement in the case ceased immediately upon the imposition of a sentence, given that a sentence typically concluded the court proceedings (Judicial Interview #8, 2013). Ordering a monetary forfeiture as a penalty rendered the Clerk of Courts office responsible for collections and the judiciary typically did not involve itself in collection efforts. On the other hand, if the court imposed a period of incarceration or probation, then the offender was turned over to the authority of the Department of Corrections (DOC) without further involvement from the courts (Judicial Interview #8, 2013). An order calling for a period of incarceration was enforced by the DOC without further consultation from the judiciary (Judicial Interviews #2 & #4, 2013). Orders for probation, however, presented concerns for the judiciary because the imposition of probation was routinely accompanied by conditions with which the court expected the

offender to comply. Compliance reports were rarely provided to the courts (Judicial Interviews #1 & #3, 2013).

Under the established system of practice, the Milwaukee judiciary seldom, if ever, learned whether domestic violence offenders successfully complied with the conditions of probation (Judicial Interviews #3 & #4, 2013). Monitored by the DOC, offenders answered to the Department's probation agents without accountability to the courts (Judicial Interview #4, 2013). If an offender failed to attend court-ordered anger management counseling or batterer intervention, the DOC was free to initiate administrative revocation proceedings; proceedings governed by administrative rules that did not involve the participation of criminal court judges (Judicial Interview #8, 2013). As such, the courts were limited in their ability to gauge the effectiveness of their imposed conditions of probation, particularly the requirement that an offender participate in an anger management or batterer's treatment program (Judicial Interviews #1 & #3, 2013). Without a doubt, this particular condition of probation was of great concern to the judiciary given its efforts to improve the court's response to the troubles caused by domestic violence (Judicial Interviews #1, #3, #4, & #8, 2013).

Another of the court's concerns involved the tracking of recidivism rates. Recidivism rates are often used to measure the effectiveness of criminal justice interventions (Judicial Interviews #1 & #8, 2013). If recidivism rates drop after an intervention is implemented, a positive correlation may exist between the two variables generally speaking to the success of the intervention. On the other hand, if recidivism rates remain the same or increase, then one may logically suppose that the implementation of the intervention had no effect on recidivism, or may have had a

negative impact. The courts at this time had no system in place to record subsequent offenses for individuals ordered to attend anger management or batterer intervention programming (JODI Application, 1999). Without such a mechanism, the courts were unable to determine the effectiveness of their orders. Although the courts diligently pursued improvements to the system, needs remained.

As judges, prosecutors and law enforcement agencies created and instituted systemic changes to confront domestic abuse, the city of Milwaukee pressed forward with efforts established before the Thurman and Lowery assaults, and prior to the passage of section 968.075, Wis. Stats. In 1979, the City of Milwaukee's Common Council created the Common Council Task Force on Sexual Assault and Domestic Violence (JODI Application, 1999, p. 9). Currently known as the Milwaukee Commission on Domestic Violence and Sexual Assault (Commission), the Commission brought together representatives from various local organizations and functioned as "Milwaukee's coordinated community response to domestic violence and sexual assault" (JODI Application, 1999, Attachment A-1, p. 1). Consisting of appointed members from the criminal justice system, domestic violence service providers, and other members of the local and state community, the Commission was credited with, "host[ing] meetings, conferences, retreats, symposia, planning sessions and needs assessments and through them [helping to] identify competing concerns, resource shortages and the system improvements ... need[ed] to serve victims and hold offenders accountable" (JODI Application, 1999, p. 9). Additionally, the Commission played a key role in helping members gain "a systemic view of [the] community's response to domestic violence" (JODI Application, 1999, p. 9). Considering all noted efforts as a whole, Milwaukee

county proved to be a prime location to institute the Judicial Oversight Demonstration Initiative.

Milwaukee's Implementation of the Judicial Oversight Demonstration Initiative

The Office on Violence Against Women approved Milwaukee County's application and in 2000 Milwaukee became one of the three sites selected to implement the Judicial Oversight Demonstration Initiative. Funding received from 2000 to 2004, allowed for a number of changes to occur with respect to how key Milwaukee organizations responded to the problem of domestic abuse (Harrell et al., 2006). For instance, the District Attorney's office received funding that supported the Domestic Violence Prosecution Unit's efforts to prosecute cases despite a victim's lack of cooperation. This effort included the increased use of photographic evidence and victim 911 recordings to support an officer's testimony at trial should the victim fail to appear (Harrell et al., 2006). Grant funds allowed for the addition of four assistant district attorney's to the existing team of seven, thereby improving the team's ability to request the collection of additional evidence from local law enforcement on individual cases, and the team's ability to review, charge, and prosecute the increased number of domestic violence cases presented by law enforcement (Harrell et al., 2006). The Milwaukee Police Department also received funding that was subsequently used, in part, to employ a "...full-time Domestic Violence Liaison to make follow up contacts with victims to assist in safety planning and referrals to victim service providers" (Harrell et al., 2006, p. 3). In line with the community approach adopted by JODI, local non-profit domestic abuse service providers used their funds to improve their batterer intervention programs and to expand the services they provided to victims (Harrell et al., 2006), and the Department of

Corrections adopted new policies requiring probation agents to update the courts with offenders' compliance with batterer treatment and the agent's efforts to contact victims. The noted changes, while not exhaustive, help frame the discussion concerning the significant changes implemented by the Milwaukee County judicial system.

Upon receiving funds to institute the Judicial Oversight Demonstration Initiative, the Milwaukee County judiciary incorporated three large-scale changes to the manner in which domestic violence cases were handled. To begin with, the judiciary instituted a fourth court dedicated solely to certain aspects of misdemeanor domestic violence cases. This court, commonly referred to as the Domestic Violence Commissioner's Court (DVCC), provided support to the existing three domestic violence judicial branches by assuming responsibility over all initial appearances in cases where the offender was out of custody, conducting pre-trial hearings for both in-custody and out of custody offenders, setting bail, reviewing the pre-trial monitoring of cases, and accepted guilty pleas (Harrell et al., 2006). The transfer of responsibilities for these duties from the three domestic violence branches to the DVCC, permitted the judicial branches to expend a greater amount of time and resources on trials and sentencing hearings. The transfer of duties away from the three branches also served to free up room on the courts' dockets to incorporate the adjudication of all felony domestic violence matters previously handled in general felony courts, and to schedule review hearings for offenders placed on probation. (Harrell et al., 2006). Thus, establishment of the DVCC branch brought all domestic violence cases under the umbrella of the specialty courts and created the room needed on the dockets for the critical probation review hearings.

The second major change in court processing of domestic violence cases brought about by JODI was the development and execution of intensive pretrial supervision of select offenders released on bail pending resolution of their charges. Accepting the notion of "early intervention in domestic violence cases as a top priority" (Harrell et al., 2006, p. 21), members of the judiciary executed a strategy whereby certain offenders received increased supervision while released into the community on bail. The purpose of the monitoring was to ensure compliance with the conditions of bail ordered by the commissioner or the judge, and to immediately hold offenders accountable if they failed to comply. To this end, offenders subject to intense pretrial monitoring were supervised by a bail monitor employed by the court. The bail monitor maintained frequent contact with the offender and the victim via "office visits, letters, phone calls, collateral contacts, and home visits" (Harrell et al., 2006, p. 23). Any violations of the conditions of bail were immediately reported to the court for review and exposed the offender to a modification of bail; a modification which included the possibility of incarceration (Harrell et al., 2006). While discussed only summarily here, the pretrial monitoring program was, in fact, rather involved. A detailed discussion will follow with future expansions of this research project.

The final large scale modification to the manner in which courts administered domestic violence cases as a result of the Judicial Oversight Demonstration Initiative involved the implementation of probation review hearings. As previously discussed, Milwaukee County criminal court judges routinely ordered compliance with certain conditions as part of a probationary sentence. Conditions of probation could include the offender's attendance at an anger management class or a batterer's intervention program,

that the offender refrain from contacting the victim during the period of probation, and that the offender participate in an alcohol or drug use assessment (Judicial Interviews #1, #3, & #4, 2013). Other conditions typically ordered by the judges required an offender to maintain full time employment, maintain absolute sobriety, and prohibited the offender from possessing any weapons or firearms (Judicial Interviews #1, #3, & #4, 2013). Despite the court's authority to order compliance, the dictates of reality were such that judges were all too often unaware of an offender's abidance with the imposed conditions. The institution of probation review hearings, a primary focus of this study, altered that reality.

The implementation of probation review hearings stemmed from the general notion that increased judicial involvement in domestic violence cases could reduce recidivism rates among offenders. The fundamental underpinnings of this notion revolved around two beliefs presented to the judiciary at national domestic violence training conferences. The first was that the threat of immediate sanctions served as a deterrent effect in favor of offender compliance with conditions of probation (Judicial Interviews #1, #3, & #4, 2013). The second was that violent behavior could be altered by participation in cognitive programming, specifically batterer intervention programming (Judicial Interviews #1, #3, & #4, 2013). Although the judges expected compliance with all conditions imposed, attendance at batterer intervention programming was of paramount concern given its potential to reduce future acts of domestic violence. Using the threat of immediate sanctions for non-compliance, the judiciary hoped to increase offender participation in batterer programming and ultimately reduce recidivism.

Milwaukee County's probation review hearings, the primary focus of this study, provided the forum for JODI to test these hypotheses.

Considered the "signature improvement" to the judiciary's response to crimes of domestic violence, all misdemeanants receiving a probationary sentence received a future court date which allowed the judge to personally review the offender's compliance with the conditions of probation, particularly the mandate to attend batterer's intervention counseling (Judicial Interview #3, 2013; Harrell et al., 2006). Judges generally scheduled review hearings 60 to 90 days after sentencing in order to provide probation agents with sufficient time to identify appropriate treatment providers, refer the offender to the particular treatment agency, and allow the offender enough time to enroll and begin programming (Judicial Interviews #1 & #8, 2013; Harrell et al., 2006). Approximately 30 to 60 hearings were scheduled on any given review date, with reviews scheduled every third Friday of the month (Judicial Interviews #1, #2, & #3, 2013). The three domestic violence specialty courts alternated months so that only one mass probation review hearing was conducted per month. Offender compliance was reviewed by the original sentencing judge (Harrell et al., 2006). Key personnel worked together to improve the effectiveness of the hearings.

Indicative of the partnerships developed as a result of JODI, probation agents with the Department of Corrections submitted to the courts status reports for each offender within one week of the review date (Judicial Interviews #1, #5, & #8, 2013). The reports informed judges as to offender compliance with the conditions of probation ordered at the time of sentencing. Judges reviewed the reports prior to the hearings to identify non-compliant offenders and prepare sanctions. The hearing was attended by the offender, the

probation agent, an assistant district attorney, and, at times, defense counsel (Judicial Interview #3, 2013; Harrell et al., 2006). Deputies from the Milwaukee County Sheriff's Department also attended the hearings in the event the judge imposed sanctions and ordered that an offender serve time in the county jail.

Typical grounds for non-compliance included a failure to attend batterer intervention programming, the use of alcohol or illegal substances, and violations of the court order prohibiting contact with the victim (Harrell et al., 2006). Such non-compliance often resulted in the immediate imposition of three days in the county jail, and the offender's removal from the courtroom by a deputy in plain view of all other offenders in the courtroom. The sanction essentially resulted in a weekend in jail intended to enforce the importance of the offender's compliance with the conditions of probation, while at the same time posing as little disruption as possible to an offender's work schedule (Judicial Interview #8, 2013; Harrell et al., 2006). A follow-up review before the judge was then scheduled to remind the offender of the court's authority to impose additional sanctions should the offender persist in non-compliance and maintain accountability (Harrell et al., 2006). An extensive evaluation of the probation review practice found significant contributions in some respects, but overall, a lack of evidence suggesting a deterrent effect on recidivism.

In 2006, Harrell, Schaffer, DeStefano, and Castro, reviewed the effects of the Milwaukee Judicial Oversight Demonstration Initiative. Comparing data regarding a group of offenders receiving probation after the implementation of JODI's probation review hearings and a group of offenders receiving probation prior to its implementation, the authors found that "JODI clearly increased the accountability of offenders" (Harrell et

al., 2006, p. 83). The authors based this conclusion, in part, upon data analysis revealing that "virtually all JOD probationers were subject to at least one review hearing, with the average probationer subject to 1.3 hearings" and that "the likelihood of sanctioning per compliance problem was significantly higher during JOD" (Harrell et al., 2006, pp. 75-76). Harrell et al. (2006) further noted a significant increase in the number of probationers revoked during the JODI implementation period; an increase of 25% when compared to the number of revocations experienced by the pre-JODI sample group. Although such findings suggest a potential for general success with respect to offender accountability, other findings reveal a cautionary note with regards to the effects of increased judicial oversight on recidivism.

A major tenet underlying the judicial order for batterer intervention programming (BIP) as a condition of probation is that attendance at such programming potentially reduces the chances of an offender engaging in subsequent domestic violence. Thus, efforts geared towards increasing offender participation were of paramount concern and adopted by both the judiciary and the Department of Corrections. One such effort involved an increase in the number of probation agents contacting BIP service providers to ascertain an offender's compliance. Prior to the implementation of JODI, only 53% of probation agents communicated with BIP providers regarding offender compliance (Harrell et al., 2006). With the implementation of JODI, that percentage increased significantly to almost 80% (Harrell et al., 2006). Despite the increase in an agent's communication with the BIP service provider, there was "no increase in the likelihood of required BIP attendance" by offenders (Harrell et al., 2006, p. 73). Another such effort directly involved the probation review hearing.

At the time of sentencing, offenders were advised that the Court would review their compliance with imposed conditions of probation at a future review hearing (Judicial Interviews #4 & #8, 2013). The hearing date was concrete, as offenders left the courtroom with the date in hand. Judges further advised offenders that attendance at a batterer intervention program was mandatory and that failure to attend could result in the imposition of sanctions, including jail time (Judicial Interviews #4 & #8, 2013). Notwithstanding the court's admonition, failure to attend batterer intervention programming occurred at a rate of approximately 54% in the JODI sample group, versus approximately 41% in the pre-JODI sample of probationers (Harrell et al., 2006, p. 75). A final area of relevance concerns rates of arrest between the two groups.

Harrell et al.'s 2006 data analysis generally revealed no significant difference in arrest rates between the two groups. Of the 289 offenders examined from the pre-JODI period, 68 were arrested during the first year after disposition of their domestic violence offense; this represents 23.5% of the group. Of the 333 JODI offenders examined, 82 were arrested during the first year after disposition of their cases, representing 24.6% of the group (Harrell et al., 2006, p. 79). One important exception, however, was noted. "The results show[ed] that JOD probationers were significantly less likely than pre-JOD probations to be arrested for domestic violence ($p<.05$) and that they had significantly fewer domestic violence arrests during the first year on probation ($p<.05$)" (Harrell et al., 2006, pp. 78-79). Thus, the institution of probation review hearings, along with increased offender accountability, may have effected re-arrest rates for acts of domestic violence. Importantly, the authors, did not attribute the effect to deterrence, but rather to the increase in incarceration resulting from a greater number of revocations during the JODI

implementation -- a consequence of increased offender accountability (Harrell et al., 2006, p. 84).

Although I have limited my discussion of Harrell et al.'s 2006 study to areas I deem most relevant to the present research, namely the courts, probation review hearings, and mandatory attendance at batterer intervention programming, the authors in fact examined various components of the Judicial Oversight Demonstration Initiative in Milwaukee. A review of the additional areas is beyond the scope of this thesis and reserved for my dissertation. Of importance to this study, however, are the authors' conclusions that,

> The success of JOD in Milwaukee appears to result from increased surveillance and rapid, consistent responses to probation non-compliance. There is little evidence that offenders were deterred from subsequent abuse, but rather that incapacitation reduced the likelihood of subsequent domestic violence arrests. (Harrell et al., 2006, p. 84)

The importance of this conclusion lies in the inability to determine the effects of JODI on recidivism; a major goal of the initiative. The difficulty in assessing recidivism lies not with the study itself, but perhaps with the study period. Harrel et al., engaged in a pointed examination of the immediate effects of JODI in Milwaukee. As such, the study critically analyzed re-arrest rates for offenders in the study sample during the one year period following the imposition of probation. The effects of JODI's probation review hearings and court-ordered attendance at batterer intervention programming may reveal themselves in a study encompassing of population of offenders over a period of time greater than one year. Such are the aims of this thesis.

Milwaukee Since the Judicial Oversight Demonstration Initiative

Approximately 13 years have passed since the Judicial Oversight Demonstration Initiative's inception in 1999. The Milwaukee County Criminal Justice System has retained some of the changes brought about by the Initiative, but has concluded others primarily due to cessation in funding. Two of the most prominent additions to the judicial system to come to an end were the Domestic Violence Commissioner's Court and the intensive pre-trial supervision (Visher, Newmark, & Harrell, 2007; Judicial Interviews #1 & #3, 2013). Although both components enhanced offender accountability and alleviated demands on the domestic violence circuit courts' case loads, neither could be sustained without third-party funding. Nonetheless, several other key components of the Initiative remain.

Milwaukee County's Criminal Justice System continues to operate three full-time domestic violence courts dedicated solely to the administration of domestic violence cases. Court dockets consisting of misdemeanor and felony charges provide assigned judges with a constant repletion of cases. For example, during the month of January 2013, one of the three courts began with a caseload of 433 cases and ended the month with a caseload of 395. Total numbers for the remaining two courts were similar in that the second court began with 423 cases and ended with 356, while the third court began the month with 363 cases and ended with 395 open cases (Felony Division Case Load Report, 2013). Each month, cases close while new ones open. In addition to the continued existence of the three specialty courts, each court continues to impose much the same conditions of probation as it did during the Initiative.

To be sure, the courts are bound by statutes and case law requiring judicial consideration of the severity of the offense, the need to protect the community, and the offender's character when imposing a sentence (Judicial Interviews #6 & #7, 2013). The greater the severity of the offense, the greater the likelihood that an offender will receive a period of incarceration as a punitive sanction rather than the imposition of a probationary sentence (Judicial Interview #6, 2006). For those cases in which probation is deemed appropriate, the conditions imposed by the courts today are identical to those imposed during the JODI initiative. Specifically, Milwaukee criminal courts continue the requirement of attendance at batterer intervention programming or anger management counseling, the attendance at an alcohol or other drug assessment, that the offender not engage in any contact with the victim of the offense, and that the offender attend a mental health evaluation if deemed appropriate (Judicial Interviews #1 & #7, 2013). Lastly, when the court places a domestic violence offender on probation, the court also orders that offender to return to court for a review hearing.

As was the practice of the courts during JODI, each of the three domestic violence courts is assigned to facilitate probation review hearings on a rotating basis every third Friday of the month (Judicial Interviews #5, #6, & #7, 2013). Probation review hearings are still scheduled 60 to 90 days after sentencing and are heard by the sentencing judge. Additionally, probation agents with the Department of Corrections continue to attend the hearings and submit compliance reports to the courts prior to the scheduled hearing date (Judicial Interviews #5 & #7, 2013). With respect to the implementation and enforcement of sanctions, the courts' practice of imposing a weekend in jail for minor violations of the conditions of probation endures, with Sheriff's deputies on hand to immediately arrest

violating offenders (Judicial Interviews #6 & #8, 2013). Despite the number of years that have elapsed, violations incurred by offenders today mirror those encountered by the courts during the JODI period. Of all violations brought to the attention of the courts during review hearings, the most prevalent continue to be on-going alcohol or drug use by the offender, violations of the no-contact order, and failure to attend batterer intervention counseling (Judicial Interviews #5, #6, & #7, 2013). Regardless of the passage of time, offender behavior appears constant.

Judicial concern regarding the court's effectiveness in reducing recidivism also persists. Although recent probation practices continue substantially unaltered from their inception during JODI, there appears to be little to no current empirical evidence upon which conclusions can be drawn as to the effectiveness of the procedure in reducing recidivism. Despite its adherence to a well-grounded theoretical framework, namely that offenders are taught violent behavior and engage in domestic violence because of a desire to control and exercise power (Judicial Interviews #2, #4, & #7, 2013), scholars and practitioners in the field of criminology have gradually come to acknowledge the importance of addressing contributory factors of domestic violence typically not addressed in traditional batterer intervention programming (See Gondolf, 2009). Such factors include mental health disorders, substance abuse, and issues regarding childhood trauma (Gondolf, 2009, p. 578). Because theoretical approaches can change over time, an effort to remain effective and efficient necessarily requires an examination of ongoing practices. Set against this backdrop, this study evaluates the effects of Milwaukee County's continued practice of mandatory probation review hearings and offender attendance at batterer intervention programming on recidivism. This descriptive study

will provide preliminary findings as an initial step towards a more detailed and comprehensive future analysis.

CHAPTER FOUR: METHODOLOGY

My examination of the effectiveness of Milwaukee County's current probation practice in domestic violence (DV) courts involved the collection and analysis of two primary sources of evidence. The first, subjective in nature, consisted of personal interviews conducted with eight Milwaukee County Circuit Court judges. The second source, objective in nature, consisted of an original dataset compiled from data held out to the public on Wisconsin's Consolidated Court Automation Programs (CCAP). This dataset includes information on all misdemeanor cases charged in Milwaukee County during 2005, including cases classified by the Milwaukee County District Attorney's office as domestic violence related. Once all the information was collected, I conducted a preliminary descriptive analysis of the data and compared the judiciary's perception of probation practice effectiveness to the general descriptive findings.

Judicial Interviews

Milwaukee judges presiding over domestic violence cases hear approximately 600 cases per year (JODI Application, 1999). While this number is not constant, it stands to reason that exposure to such a high volume of cases in this particular field allows judges to develop specialized knowledge with respect to the effectiveness of current sentencing practices in general, and probation review hearings in particular. Additionally, judges are uniquely situated to impart information regarding the initial development of JODI and the continuation of practices developed during that Initiative. As such, judges who never presided over a domestic violence calendar were excluded as interview candidates for this thesis. The eight judges interviewed were chosen from the remaining available, all of whom had presided over a domestic violence calendar at one time or another.

In order to capture both the historical and current aspects of sentencing practices and probation review hearings, I interviewed judges who presided over domestic violence calendars at the time of JODI's inception, during JODI's implementation, and well after the Initiative's conclusion. Using a non-probability snowball sampling strategy, I solicited the names of applicable judges and found that approximately 14 names repeatedly surfaced as the judges most knowledgeable on the matter. Of the 14, I selected four of the first judges to preside over the newly formed domestic violence courts in the latter 1990's and early 2000's, and four judges who presided over the same courts during the last four years. One of the chosen judges also presided over a domestic violence calendar during 2005, the current study's year of interest. The total number of judges interviewed was chosen arbitrarily. Time constraints inherent in a thesis project prevented me from approaching all 14 judges for interviews, although I recognize the importance of a robust sample and reserve engaging in additional interviews for future studies. I also acknowledge that the non-probability nature of this sample prevents my ability to generalize the findings to the judiciary as a whole. Nonetheless, the information provides rich historical detail and insight into judicial perspectives concerning issues of domestic violence.

After the initial determination was made, each judge was contacted via e-mail. The e-mail described the purpose and scope of the project and included a copy of the interview questionnaire. All eight judges agreed to be interviewed. Interview times were then scheduled at a location convenient for the judge with an anticipated duration time of approximately one hour. All interviews were recorded with the judges' consent for later analysis and to ensure the accuracy of my reporting. In addition to providing answers to

the questions posed, a number of judges provided me with written reports, charts, and materials containing detailed information regarding the planning and implementation of the Judicial Oversight Demonstration Initiative. This information proved extremely helpful in creating an historical context for the current practice of requiring attendance at batterer intervention programming as a condition of probation and scheduling mandatory probation review hearings. While I conducted the judicial interviews, ongoing efforts were made to assemble a dataset consisting of all domestic violence misdemeanor cases charged in Milwaukee County during 2005.

Quantitative Data

The year 2005 was chosen because the overwhelming majority of examinations concerning the Milwaukee Judicial Oversight Demonstration Initiative were performed with data collected through 2004. Only one review found contained data through September 2005 (Long, undated report). I found no review of JODI that considered data for all of 2005, nor for any subsequent year. Therefore, using a complete dataset from the year 2005 allowed this study to commence where others had concluded.

Furthermore, a review of the academic scholarship suggests that the most common follow-up period for examining the effectiveness of court involvement in domestic violence intervention is between 12 and 15 months. This study measures recidivism based upon whether the 2005 offender was charged with any new crime after the imposition of probation for the original 2005 offense. Beginning with data collected from 2005 allowed me to search for new charges on CCAP through December 31, 2012. Thus, this study incorporates up to a seven and one half year follow-up period measuring recidivism based on the issuance of new charges. The exact length of the follow-up

period ultimately depends on the date in which the original 2005 matter concluded. For example, if a matter charged during 2005 did not conclude until mid-2007, the follow-up period is reduced to a five and one half year period. Although the nature of the data prevents a definitive follow-up period, it does allow for a rather extensive time frame of up to seven and one half years.

As noted, for purposes of this study the initiation of subsequent criminal charges is used to measure the effectiveness of mandatory probation review hearings and court-ordered batterer intervention treatment on recidivism. Given the time limits related to a thesis project, I was unable to obtain county-wide arrest data specific to all offenders placed on domestic violence probation for a 2005 case. Considerations of data availability and costs led to the use of subsequent criminal charges as the measure of recidivism. Because not all acts of domestic violence result in police involvement, let alone the issuance of formal charges, this measurement most likely underreports the actual occurrence of re-assault. Nonetheless, it provides a good starting point for the discussion.

Data analysis was limited to misdemeanor offenders and, therefore excluded felons. I followed this course of action because a greater number of misdemeanants receive probation thereby creating a greater data pool for analysis (Judicial Interview #7, 2013). Felonies by definition tend to be crimes of a more egregious nature than misdemeanors with a greater likelihood of eliciting incarceration from the judiciary versus a probationary sentence (Judicial Interviews #1 & #7, 2013) As a result, misdemeanor cases presented as the more viable data. The first step, however, was

obtaining a complete 2005 dataset that included all misdemeanor domestic violence cases filed from January 1, 2005 through December 31, 2005.

Data collection for this project presented a significant challenge. Consultations with several judges from the Milwaukee County courthouse, two staff members with the District Attorney's office, and a court administration staff member revealed that no existing comprehensive database maintained by the judges, district attorney's office, or the courts contained the necessary information. Submitting a search request to the American Geographical Society Library (AGSL) also proved unsuccessful.

After consulting with AGSL staff, a request was made to the Wisconsin Department of Corrections to determine whether the DOC maintained a database which listed all offenders placed on probation for misdemeanor domestic violence cases in 2005. Additional information requested included the offender's conditions of probation imposed by the court, and any record of the offender's prior and subsequent criminal history. The DOC reported that the Department did not maintain the data requested in any uniform database. Rather, an examination of each and every individual offender's file would be required in order to obtain the needed information. After receiving this response from the DOC, it was determined that an original dataset would have to be created for this project. It was at this time that the decision was made to gather the relevant data from the Wisconsin Circuit Court's public website, commonly referred to as CCAP.

The Wisconsin Circuit Court's public website was established in 1998 as the information system used by the courts. Although the system was primarily designed for record keeping, it can be used as a means to collect data and statistics regarding a variety of cases from around the state (JODI Application, 1999, p. 9). Thus, CCAP furnishes a

good deal of information to the public regarding all non-confidential court case filings. With respect to criminal cases, CCAP lists each and every criminal case filed by the State of Wisconsin District Attorney's office in each county and provides demographic information such as the offender's gender, birth date, and race. Additionally, with respect to Milwaukee County, CCAP provides a variety of information concerning the particulars of each case, such as sentencing details, an accounting of all imposed conditions of probation, and the number of probation review hearings held. Because all cases are sorted by county, an examination exclusive to Milwaukee was possible. Given the descriptive objectives of this study, CCAP was deemed an appropriate source from which to gather data.

Despite the wealth of information available on CCAP, the system's interface did not permit the collection of data with ease. To this end, I enlisted the invaluable assistance of a member of the University of Wisconsin's Geographic Information Systems Club to develop and implement a rather complex computer script that extracted all relevant information from every misdemeanor criminal case filed in Milwaukee County during 2005. Case details from a total of 7,815 misdemeanor cases were initially collected after excluding duplicate filings and renumbered cases. In addition to collecting demographic information and sentencing details for each case, the script captured general case information such as the date the case was filed, the judge to whom the case was assigned, and the name and number of charges filed against each offender. A complete list of the relevant variables collected for this project is displayed in Table 1. Once this initial dataset was assembled, it became necessary to identify all the domestic violence

cases within the set for further analysis relevant to this thesis. This also proved to be no small task.

Table 1
Data Variables Collected From CCAP

Offender Data	Conditions of Probation	Judicial Oversight Indicators
Offender Age	Anger Management Counseling	Number of Review Hearings Held
Offender Gender	Batterer Intervention Counseling	Compliance At Time Of Review
Prior Offense(s)	Attend Review Hearing	DOC Revocation
Current Offense(s)		
Subsequent Offense(s)		

Note. Data regarding prior offenses and subsequent offenses was divided into two groups: domestic violence offenses and non-domestic violence offenses.

The Wisconsin Circuit Court's website groups all misdemeanor offenses together whether or not the offense is classified as domestic violence. Because of this, I developed a list of three indicators designed to identify those cases which involved acts classified as domestic violence. The first indicator, and most telling, was whether the case was assigned to one of the four domestic violence court judges during 2005. The second indicator was the assistant district attorney case number assigned to the case. The third, and final indicator, was the particular charge alleged. Admittedly, the most accurate dataset would be compiled by examining each of the 7,815 cases for all indicators. The time constraints associated with a thesis project rendered that method unfeasible, but will be undertaken for future expansion of this project. For this study, using all three indicators allowed me to compile the most comprehensive domestic violence misdemeanor dataset possible under present time restrictions and resource limitations.

As noted, the primary indicator was whether the case was assigned to one of the three domestic violence courts. During 2005, four judges presided over the three misdemeanor domestic violence calendars. The names of these judges were identified after reviewing the roster of court assignments for the years 2004, 2005, and 2006. The rosters were obtained from the Chief Judge's office where the administrative staff maintains records regarding court assignments. The first two judges were each assigned to a domestic violence branch for all of 2005. The third and fourth judges shared the third court calendar with one judge presiding over the calendar from January 1, 2005 to July 31, 2005, and the second judge presiding over the calendar from August 1, 2005 to December 31, 2005. A number of circuit court judges rotate calendars mid-year accounting for the shared calendar in the third court. Once the judges were properly identified, the first round of eliminations occurred.

Having identified the judges assigned to hear domestic abuse cases in 2005, I sorted the dataset based on the names of the four judges identified. All 2005 cases assigned to these four judges were initially included in the dataset and only cases assigned to judges who have never presided over a DV calendar were excluded. Some care had to be taken at this point, however, because cases not concluded in 2005 could ultimately be assigned to a judge who presided over the matter after a subsequent judicial rotation. The case would remain in a DV branch, but with a new judge. Each of these cases was examined individually to determine whether the initial appearance was held in the designated DV intake court. I deemed this measure appropriate because only domestic violence cases could be assigned to the DV intake court. I then addressed a concern posed by the third DV court's shared calendar.

As previously noted, two judges shared the third domestic violence court's calendar with the first judge presiding over the calendar from January 1st, 2005 to July 31, 2005, and the second judge presided over the calendar from August 1st, 2005 to December 31, 2005. Both judges presided over non-domestic violence cases for the half of 2005 that they were not assigned to DV court. These cases were also captured in the creation of the original dataset and now had to be omitted. A spot check of cases that fell outside the six-month period confirmed that both judges were indeed presiding over cases that were not domestic violence related during those time periods and, therefore, could be excluded. Removal of the cases was accomplished by manually inspecting each case assigned to these two judges and deleting those with filing dates outside the six-month period the judge was assigned to the domestic violence bench. Once all nondomestic violence cases were separated from the original dataset using the primary indicator, I was able to examine the cases for the second indicator, namely the district attorney case number assigned to the case.

Examination of the district attorney (DA) case number helped further distinguish domestic violence cases from general misdemeanor cases. The Milwaukee county District Attorney's office is responsible for filing all criminal actions within the County. When a case is filed, the district attorney's office assigns an internal office number to the case. Each case is assigned a different number and alpha code meant to identify the case as a general misdemeanor case, a felony case, or a domestic violence case. For example, district attorney case number '05DV0033' indicates that this particular case is the 33rd domestic violence case received by the district attorney's office in 2005. Based upon office policy, domestic violence misdemeanors cases included the designation "dv"

within the DA case number while general misdemeanor cases included the designation "xm" within the DA case number. District attorney case numbers appeared on the CCAP "case details" page for practically every case and were captured by the computer script.

Consideration of the DA case number was necessary given the complication presented by judicial rotations and therefore, the use of a judge's name as the sole indicator that a case was domestic violence related. By conducting a visual examination of all cases remaining in the domestic violence dataset, I confirmed an assigned "dv" case number for each case. I then conducted a visual inspection of all cases in the non-domestic violence dataset and confirmed that the cases did not have a "dv" district attorney case number assigned. This combined process resulted in 2,680 cases remaining in the study dataset; the total number of misdemeanor domestic violence cases filed by the Milwaukee County District Attorney's office in 2005. Like the use of judicial assignments to identify domestic violence cases, use of the DA case number as an indicator is not an error free method given the possibility of human error when assigning the case number. Nonetheless, the additional filter helped to ensure that only domestic violence cases remained in the study dataset. Having tested the dataset against the first and second indicators, I moved on to the final indicator, namely, the specific offense charged.

The final indicator was also the weakest indicator, but still helpful as a tertiary test of whether a case was related to an act of domestic violence and therefore retained in the dataset for final analysis. As previously noted, a domestic violence classification stems primarily from the relationship between the offender and the victim, not from the nature of the charge itself. For this reason, a number of criminal charges exist that can be

classified as domestic violence in some cases, but may also be considered general misdemeanor offenses in others. Such crimes include Battery, Disorderly Conduct, and Unlawful Use of a Telephone. If a husband batters his wife, for instance, the matter is classified as domestic violence. Conversely, if an offender batters a complete stranger, the necessary relationship does not exist and the matter is routed to a general misdemeanor court. On the other hand, a number of criminal charges exist that are not statutorily defined as domestic violence. Such crimes include Possession of a Controlled Substance, Retail Theft, Prostitution, and Operating a Motor Vehicle While Intoxicated. Given the structure of Milwaukee County circuit courts, these crimes would never appear on a domestic violence calendar. The third indicator revolved around these latter types of crimes.

Testing the dataset for the presence of crimes that would not be classified as domestic violence under Wisconsin law called for yet another visual inspection of the data. This examination scrutinized the fields within the dataset listing the particular crime, or crimes, charged in each case. All cases within the domestic violence dataset met the requirements of the third indicator and remained in the study dataset; a dataset that contained 2,680 domestic violence misdemeanor cases. Subjecting the data to all three indicators, resulted in a dataset consisting of cases that were (a) assigned to a domestic violence court in the year 2005, (b) assigned a 'dv' district attorney case number, and (c) did not present with criminal charges that would automatically exclude the matter from a domestic violence court. The time limitations inherent in a project of this nature necessarily prohibited individual inspection of all 7,815 cases identified in the original

dataset. Therefore, use of the preceding indicators provided the strongest dataset possible for this analysis.

The central question posed by this thesis project concerns the effectiveness of routinely placing the majority of domestic violence misdemeanor offenders on probation and ordering that the individual attend either anger management counseling or batterer intervention programming. Despite this focus, cases that did not conclude with a probation sentence were retained in the dataset so as to provide a general descriptive picture of the state of affairs in Milwaukee domestic violence courts during 2005. Retained cases included those dismissed prior to sentencing, those resulting in either a fine or incarceration only, and those cases which have not yet been concluded because the offender failed to appear for a scheduled court date. Although all misdemeanor domestic violence cases remained in the study dataset, particular attention was given to those cases resulting in a probationary sentence.

Of the total 2,680 misdemeanor domestic violence cases filed in Milwaukee county during 2005, 673 resulted in a probationary sentence. Due to the time limitations of this project, a random sample of 224 of the 673 probationary cases was used for descriptive analysis. This number reflects approximately one third of the probationary cases and was chosen because each of the 224 cases had to be critically reviewed individually and compared with the information presented on CCAP to ensure that the script obtained all the required information. A total of 224 cases was manageable for this project, but scrutinizing 673 cases individually would not have been feasible and is reserved for future analysis. Descriptive analysis here was completed using Excel software.

CHAPTER FIVE: FINDINGS AND DISCUSSION

The Duluth Model approach to batterer intervention highlights the role of power and control in offender perpetration of domestic violence, as well as the community's coordinated response to that violence (Gondolf, 2010). Firmly grounded as a feminist cognitive-behavioral theoretical method, the Duluth Model focuses on male offender thinking patterns which form the basis of male violence against female partners; thinking patterns that influence the exertion of power and control over the female. Ardently contending that these thoughts and corresponding behaviors are learned, the Duluth Model emphasizes intervention that fervently challenges the offender's thought processes and introduces alternative forms of nonviolent behavior towards his partner (Gondolf, 2010, p. 996). Very much a gendered victim-centered approach, critics of the Model argue that factors leading to the commission of domestic violence extend far beyond gendered thinking patterns. Therefore, effective measures aimed at reducing instances of domestic violence must incorporate intervention strategies addressing a multitude of reasons why offenders batter.

Scholars examining alternative methods of combating domestic violence have drawn attention to a number of causal explanations falling outside the purview of power and control. The inability to control anger, juvenile exposure to violence, and personality disorders are but a few of the suggested catalysts of domestic violence (Dutton & Corvo, 2007; Aymer, 2008; Ross, 2011). Ongoing battles with alcohol and drug addiction, while not presented as the root cause of violence, must also be considered (Heckert & Gondolf, 2000). In the midst of this complicated mesh of intervention strategies, Milwaukee County domestic violence judges align closely with the tenets of the Duluth Model, while

recognizing the severe hindrance on success imposed by offender substance abuse and mental health issues.

Judicial Interviews

All judges interviewed unequivocally expressed dynamics of power and control at the crux of domestic violence behavior. Citing offender confessions and victim narratives presented in their courtrooms, along with teachings from national domestic violence conferences, the judges placed offender traits of power and control at the heart of problems to be addressed when confronting crimes of domestic violence. Appearing quite versed in the literature concerning prominent intervention methods for batterers, the judges unanimously agreed that batterer intervention programming, versus anger management counseling, presented the most effective means to challenge an offender's belief system regarding dominance and submission and change the corresponding violent behavior. In fact, a number of judges specifically stated that anger management counseling in and of itself would not suffice in addressing the root cause of domestic violence given anger management counseling's focus on the control of an emotion versus the changing of an offender's belief system (Judicial Interviews #1, #3, #6, & #7, 2013). As one judge noted,

> Anger management is not for an issue of domestic violence power and control. In fact, what you only do is make a better batterer. You're not dealing with the root cause of domestic violence. Domestic violence's root cause is...power and control. It is not about 'I have a temper problem.' Now surely that can exacerbate it, but that's not the root cause. And so when you send someone to anger management, that's where you teach them to count to ten, control that anger, let it diffuse.

> You're not dealing with the root cause . . . It is not about anger, not anger. (Judicial Interview #4, 2013)

With this understanding, all judges interviewed ordered offenders placed on probation to attend batterer intervention programming when the judge discerned an underlying problem of power and control, versus an offender's difficulty controlling anger. In addition to placing issues of power and control at the center of domestic abuse intervention, the judges were keenly aware of additional factors contributing to the occurrence of domestic violence and hindering its abolition.

Concerns of alcohol and drug dependency, as well as mental health issues, were commonly expressed during the judicial interviews (Judicial Interviews #1, #2, #5, & #8, 2013). Although seemingly not considered the key causes of domestic abuse, the judiciary stressed the need to address such ailments due to the potential detrimental effects of addiction and mental health on successful completion of batterer intervention programming (Judicial Interviews #4 & #8, 2013). Batterer intervention programming was held out as a significant tool in the court's efforts to reduce instances of domestic violence. Problems such as alcohol addiction or schizophrenia, for example, if left untreated jeopardized an offender's ability to participate in, and complete, batterer programming. Consequently, the judges routinely ordered probationers to attend an alcohol and drug assessment (Judicial Interviews #1, #3, #6, & #7, 2013). Furthermore, judges required offenders to undergo a mental health evaluation if the underlying facts of the case warranted such an order (Judicial Interviews #4, #5, & #7, 2013). The court's ability to examine an offender's compliance with conditions of probation was also considered a principal judiciary instrument.

The institution of probation review hearings during JODI was a hallmark development for Milwaukee County's criminal justice system. Approximately 13 years later, all judges interviewed attest to the importance of the review hearings and support their continuation. As succinctly noted by one judge, probation review hearings conveyed upon the judges the ability to "assess the quality of compliance" with conditions of probation ordered by the court (Judicial Interview #8, 2013). Interestingly, the judiciary did not view compliance strictly from the standpoint of offender compliance, but also reviewed the Department of Correction's compliance with facilitating conditions of probation (Judicial Interviews #1, #3, #4, & #5, 2013). If offenders did not comply with court orders, the judiciary was able to impose sanctions at the time of the review hearing. If a probation agent did not assist the offender in obtaining court-ordered treatment, the judge was able to question the agent during the probation review hearing as to why the agent failed to assist the offender in complying with court orders (Judicial Interviews #2, #3, #4, & #8, 2013). The ability to determine compliance and take action for non-compliance were deemed vital to the court's efforts to motivate offender completion of batterer intervention programming. Aptly stated, "BIP is not effective alone. You have to have the review hearings to make sure the offender goes . . . . "You go because someone is making sure that you go" (Judicial Interview #2, 2013). Without exception, the judges favored maintaining probation review hearings notwithstanding the uncertainty surrounding the hearings' actual effectiveness.

Judges responded candidly when asked whether they believed the current practice of mandatory probation review hearings was successful in reducing instances of domestic violence. While most believed it did, others were not so sure. As one judge stated, "I

believe so, and I hope so, but I'm not sure" (Judicial Interview #1, 2013). Another judge noted,

> That's the hundred dollar question. . . . I'd like to believe it's effective since we're putting so much effort into it especially the probation reviews . . . I still see people coming back . . . however, we don't really keep track of those people that don't and why. . . . Some do awful, some mediocre and some absolutely fabulous and I'd like to think that I won't see some of them back ever. (Judicial Interview #5, 2013)

The consensus among the judges was that the review hearings were generally effective in ensuring offender compliance with the conditions or probation, particularly attendance at batterer intervention programming. However, the lack of recent empirical evidence demonstrating a reduction in recidivism left the judges questioning the level of effectiveness. Not surprisingly, a number of judges seemed to develop their own informal measures of success.

Absent current study data depicting a reduction or increase in recidivism, some judges spoke of success in terms of their observed experiences within the courtroom. For a number of judges, success was achieved if just one victim presented during a probation review hearing and reported a positive change in her significant other's behavior due to the court's involvement generally, or attendance at batterer intervention specifically (Judicial Interviews #7 & #8, 2013). For one judge in particular, success was defined by an offender who came in for his third probation review hearing smiling. When asked by the judge why he was smiling, the offender replied, "I got it. I finally got it" (Judicial

Interview #2, 2013). The offender thanked the judge and the judge shook his hand. In recounting this event, the judge stated,

> As far as I'm concerned, that one case made the whole project worthwhile. That one case for me. That may be a life that wasn't snuffed out because he may have met someone . . . and thought 'my last ability in controlling someone is by killing 'em.' (Judicial Interview #2, 2013)

The possibility that one life may have been saved due to mandatory probation review hearings and batterer intervention programming was enough for this judge.

Other judges spoke of success in terms of observing a majority of offenders in compliance at probation review hearings (Judicial Interviews #5, #6, & #7, 2013). A frequent caveat expressed by judges in this regard was the admission that offenders revoked by the Department of Corrections would not have appeared at a review hearing and hence, not be included in the judge's visual analysis of success (Judicial Interviews #2, #5, #7, & #8, 2013). Nonetheless, these judges developed a general impression of success due to the larger number of offenders in compliance at review hearings versus the number of offenders taken from the courtroom in handcuffs for non-compliance. Still others found success in the potential of inducing compliance among offenders sitting in the courtroom during review hearings when noncompliant offenders were taken into custody (Judicial Interviews #3, #4 & #8, 2013). However anecdotal the measure of success, it motivated the judiciary's ongoing efforts to address domestic violence.

Regardless of the perceived gains credited to probation review hearings and batterer intervention programs, judges clearly understood the limitations inherent in their roles as judges. To begin with, judges readily acknowledged that not all cases presented

for adjudication received probationary sentences -- the only viable means of conducting probation review hearings and reviewing offender compliance. Offenders involved in heightened levels of violence often received incarceration with probation deemed inappropriate (Judicial Interviews #1, #3, #5, & #7, 2013). As noted by one judge, "very serious cases warranted prison and were given such sentences" (Judicial Interview #8, 2013). Imposing a jail sentence typically meant the offender would not receive batterer treatment; a reality many judges expressed concern over given the probability that the offender would continue his relationship with the victim upon release from custody (Judicial Interviews #5, #7, & #8, 2013).

Additional limitations included the dismissal of cases before adjudication because victims often fail to appear on the day of trial. Dismissed cases never reach adjudication and therefore, offenders in those cases do not receive the opportunity to attend batterer intervention programming (Judicial Interview #8, 2013). Probably the greatest limitation, however, lies in the cessation of all court authority once the offender either receives a jail sentence or is no longer required to attend a probation review hearing (Judicial Interview #7, 2013). Judges understood that at some point offenders would return to the community without supervision, at which time the true test of effectiveness would begin. Despite their limitations, or perhaps because of them, judges expressed a sincere desire to identify and employ the best methods available to hold offenders accountable and improve safety for victims and their families.

Ultimately, improving the lives of domestic violence victims and their families was of paramount concern to the judges. This is not to say that judges were disinterested in the lives of the offenders. Judges commonly expressed sentiments such as,

> The notion is that if we get them the anger management, the batterer's intervention, if we get them clean and sober, if we get them to work, you know if we . . . even had the potential for parenting classes, a whole host of things, the idea is that if we get them the needed programming and get them involved and engaged in this, it will serve the better. [It will] help them become productive members of the society and not offend again. (Judicial Interview #8, 2013)

However, the primary goal seemed to be that of finding strategies and solutions that increased the potential for victim safety and the safety of the family if children resided in the household. Readily acknowledging that the current court practices were "not a perfect solution nor effective 100 percent of the time," (Judicial Interview #2, 2013) judges generally opined that, "if it can help one victim stay alive, then it is worth it" (Judicial Interview #2, 2013). In their quest to improve the court's response to domestic violence, the judges welcomed this study and generously contributed their time and knowledge. Furthermore, interest in the quantitative findings was expressed.

Descriptive Statistics

The primary objective of this study is to provide a preliminary evaluation of the effectiveness of mandatory probation review hearings on offender recidivism, as well as the impact of court-ordered attendance at batterer intervention programming. To this end, descriptive statistics are provided to present an overview of the effects of such practices on offenders who were charged with domestic violence cases in 2005 and subsequently placed on probation. Descriptive analysis is employed given the preliminary nature of this thesis and the fact that no other study has examined the 2005 data for the time span

covered here. As such, an overall summary was deemed appropriate, reserving in-depth statistical analysis for future study.

Of the total 7,810 misdemeanor cases collected from CCAP, 2,680 represented cases in which the offender was charged with a domestic violence related offense. The total number of cases, not charges, was used for this study. As such, although many cases filed in 2005 contain more than one charge, each case has a raw value of one for purposes of this study. Of the 2,680 domestic violence cases filed, 1,346 were ultimately dismissed by the court, or remain in bench warrant status to this day. The remaining 1,334 cases were adjudicated with the imposition of a sentence consisting of a fine, a period of incarceration, the imposition of probation, or a combination thereof. In total, 673 of the 1,334 cases resulted in a probationary sentence and as previously indicated, a random sample of 224 was analyzed for descriptive statistics. Notably, 2 offenders appeared twice within the random sample. Because each of their two cases presented with different characteristics, they were retained in the sample. Thus, n = 224 cases, but 222 offenders (See Table 2). Very little demographic information is made available on CCAP, but an offender's gender and age are provided.

Of the total 222 offenders in the sample, 28 were women and 194 were men (See Table 3). The women varied in age with the youngest at 17 and the oldest at 53. The men ranged in age from 17 to 56. Age distribution according to gender, as well as their relative proportions, are provided in Table 3 below. The age distribution between genders does not appear to be equally proportionate which is reasonable given the much smaller number of female offenders as compared to male offenders in the sample. Further analysis of the similarities and differences between the sexes shall be conducted in future

studies with the total population. At this time, descriptive analysis will continue with the examination of a key component of Milwaukee's domestic violence probation: court-ordered batterer intervention programming.

Table 2
2005 Case Filings and General Disposition

Type	Total	Percentage
All misdemeanors	7810	
Domestic violence misdemeanors	2680	34%[a]
DV cases dismissed or in bench warrant status	1346	51%[b]
DV cases sentenced	1334	49%[c]
DV cases sentenced to probation	673	25%[d]
DV probation random sample	224[e]	33%[f]

[a] n=7810
[b,c] n=2680
[d] n=1334
[e] Two offenders included in the random sample have two cases apiece; the random sample of 224 represents 222 offenders.
[f] 33% of DV cases sentenced to probation.

Table 3
Gender and Age Distribution

	Gender			
Age	Female	Percentage	Male	Percentage
17 - 19	6	22%	19	10%
20 - 29	9	32%	66	34%
30 - 39	7	25%	63	32%
40 - 49	5	18%	42	22%
50 - 59	1	3%	4	2%
Total	28	100%	194	100%

Review of the data included in the sample suggests that Milwaukee's domestic violence courts ordered offender attendance at batterer intervention programming at a much higher rate than anger management counseling. A total of 50 offenders were ordered to participate in anger management counseling as a condition of probation, while 156 were ordered to engage in batterer intervention programming. These figures represent 22% and 67% of the sample, respectively, and fall short of 100% because the court did not order either form of intervention in 21 cases. Moreover, the court did not specify the particular method of intervention in one case although treatment was ordered. Both forms of intervention were ordered in four of the cases and are included in the above-noted figures (See Table 4). By and large, the theoretical philosophy expressed by the judges, a philosophy that essentially adopts the Duluth Model's proposition that issues of "power and control" are the root cause of domestic violence, is borne out by the rate at which the court ordered attendance at batterer intervention programming as compared to

another form of counseling. The importance of probation review hearings to procure offender compliance with counseling was also demonstrated in the sample data.

Table 4
Court-Ordered Treatment

Type	Total	Percentage
Batterer's intervention	152[a]	68%
Anger management	50[a]	22%
None ordered	21	9%
Unspecified	1[b]	1%
Total	224	100%

[a]Totals include four cases in which the court ordered both BIP and anger management counseling.
[b]The court ordered the offender to continue existing counseling; counseling type unspecified.

All but 22 cases included orders that the offender return to court for a probation review hearing. As Table 5 demonstrates, offenders in 202 cases were ordered to attend review hearings with the majority of cases, 61%, having just one review hearing scheduled. This does not imply that most offenders required only one review hearing because they were compliant. While this was true for many, several occasions existed when the offender was already revoked by the time the court held the first, or the last, review hearing. Additionally, the number of times a hearing was scheduled does not necessarily coincide with the number of times an offender was actually before the court. Several cases revealed instances when the offender was revoked by the time of the second, third, or fourth review hearing and therefore was not present in court for the

review. Likewise, if an offender was an absconder, he or she did not appear at the hearing. More often than not, however, offenders did make their appearances.

Along these same lines, having zero hearings scheduled did not equate with offender compliance. The data revealed that on occasion the court did not schedule a review hearing if the offender was serving a jail sentence on another matter. In such instances, the court typically ordered the probation agent to schedule a hearing within a certain period of time after the offender's release from custody. Most of the time no hearing was scheduled. In a much smaller proportion of cases, the court did not order a review hearing and no explanation was found in the CCAP entries. Nonetheless, a cumulative percent of 90% of cases scheduled for at least one review hearing, with 29% of those scheduled for more than one hearing, coincides with judicial expressions emphasizing the sentiment that attendance at probation review hearings can effect an offender's compliance with the conditions of probation. A review, then, of offender compliance is in order.

Table 5
Probation Review Hearings

Hearings Scheduled	Total Case	Percentage
0	22	10%
1	136	61%
2	41	18%
3	17	07%
4	8	04%
Total	224	100%

A total of 112 cases, 50%, from the sample ended in revocation while 104 cases, 46%, resulted in successful completion of probation. CCAP entries were silent with respect to the revocation or success of eight cases, representing 4% of the sample. Thus, the status of those offenders is unknown and not included in the count. Importantly, inclusion of the eight cases as either resulting in revocation or successful completion of probation would not alter much the approximate 50/50 division of the two groups. What is known of the cases is that five had no review hearings scheduled and three had a review hearing scheduled wherein the offender's non-compliance was noted. Notably, non-compliance at review hearings was rather common in cases resulting in revocation. Of the total 112 cases ending in revocation, 79 reported offender non-compliance at the review hearing. This represents 70% of all revoked cases in the sample. Conversely, only 16 cases, 14%, reporting compliance resulted in revocation (See Table 6). For 17 of the total cases resulting in revocation, no review hearing was scheduled. These findings might suggest that mandatory probation review hearings are not as effective in producing compliance, and ultimately reducing recidivism, as some domestic violence intervention models propose. The statistical significance, however, of probation review hearings is a subject to be addressed during the dissertation of the matter. That said, the sample data could suggest that factors outside the purview of the court, such as offender personality, mental health issues, or alcohol or drug issues, may have an influence upon offender compliance or non-compliance.

The existence of prior convictions on the part of the offender may indicate the existence of chronic maladies that challenge the court's attempts to address the root cause of domestic violence, whatever they may be. Given this reasonable presumption, the

offenders within the sample data were examined for prior convictions. Of the 112 cases resulting in revocation, 75 offenders had prior convictions and 37 did not. These totals represent 67% and 33% of the revoked offenders respectively. Furthermore, 39 of the revoked offenders had prior domestic violence charges while 53 had priors that were nondomestic violence related, representing 35% and 47%, respectively (See Table 7). A number of offenders possessed both domestic violence and nondomestic violence related priors and are incorporated in the noted figures. On 16 occasions, I was unable to determine whether an offender's priors were domestic violence related. This difficulty was due in part to the fact that counties outside of Milwaukee do not designate district attorney case numbers in the same manner as Milwaukee. Furthermore, I do not possess the necessary information to determine whether judges outside Milwaukee County are regularly assigned to domestic violence cases, or how those cases are assigned. Thus, the indicators necessary in identifying domestic violence cases were absent, generally, for cases charged outside of Milwaukee county.

Some difficulty occurred in identifying older cases within Milwaukee county as well. Cases charged prior to the institution of Milwaukee's coordinated criminal justice response to domestic violence lacked district attorney identifiers and were assigned randomly to any of the judges presiding over a general misdemeanor calendar. As such, it was impossible to determine the domestic violence nature of older cases reflecting charges that could be characterized as either domestic violence or not. The most common charges presenting with this difficulty were battery and disorderly conduct. Given this difficulty, the 16 cases could not be included in the descriptive analysis presented. In the context of court-ordered batterer intervention, mandatory probation review hearings, and

prior convictions, this study explores the effectiveness of Milwaukee county courts' response to domestic violence.

Table 6
Offender Compliance at Probation Review Hearings

	Compliant	Percentage	Not Compliant	Percentage
Revoked[a]	16	13%	79	71%
Not revoked[b]	84	81%	12	12%

[a]n = 112.
[b]n = 104.

Table 7
Offender Revocation Status

	Prior Charges[a]		New Charges[b]	
Status	DV	NonDV	DV	NonDV
Revoked	39	53	46	52
Not revoked	23	38	18	24

[a]Criminal charges filed prior to the offender's 2005 DV case.
[b]Criminal charges filed after the conclusion of the offender's 2005 DV case.

This thesis measures effectiveness in terms of subsequent criminal charges, or the lack thereof. The study sample includes 108 individuals who did not incur new criminal charges after their 2005 domestic violence conviction, reflecting 48% of the sample. On the other hand, 116 offenders, or 52%, were subsequently charged with crimes. Sixty-five of the 116 repeat offenders, or 56%, incurred new domestic violence charges and 77, or 66%, incurred charges that were not related to domestic violence, but instead consisted of general misdemeanor crimes and an assortment of felonies. Interestingly, 78 of the

reoffenders also had their 2005 domestic violence probation revoked, representing 67% of those with subsequent criminal charges. Not all those who reoffended were revoked, however, which accounts for the slightly higher n = 116 for individuals reoffending versus n = 112 for offenders revoked. The nature of the subsequent charges could not be determined for three of the total 222 offenders. Finally, 27offenders, or 23%, were issued both domestic violence related and nondomestic violence related charges subsequent to their 2005 domestic violence probation.

As is common with studies that measure recidivism based on the presence of new criminal charges, the numbers reported are likely to be an underestimation of the true rates of reoffense. Firstly, the data obtained from CCAP only reflects acts that resulted in actual charges. Instances in which the district attorney's office declined prosecution are not included in the count. Second, reports made to the police that were not forwarded to the district attorney's office for review are absent. Third, acts of domestic violence never reported to the police cannot be considered. Finally, CCAP does not record any offense occurring outside the state of Wisconsin. Set within these limitations, this study endeavors to portray, as accurately as possible, the current state of affairs.

Table 8
Reoffense Type

Subsequent Charge[a]	Total	Percentage[b]
Domestic violence	65	56%
Nondomestic violence	77	66%
Both	27	23%

[a]Totals exclude charges that could not be classified as DV or not DV.
bAverage based on 116 offenders with subsequent charges.

CHAPTER SIX: STUDY LIMIATIONS AND POLICY IMPLICATIONS

It is important to recognize at the outset of this discussion that a causal relationship between mandatory review hearings, court-ordered batterer intervention programming, and recidivism cannot be established by this evaluation. Causation can be established only by an experimental design. That said, the random nature of the sample allows for tentative inferences with respect to the population from which the sample was drawn, although predictive value cannot be ascertained from descriptive statistics. Nevertheless, the study provides insight regarding Milwaukee county's domestic violence court practices in terms of probation review hearings and court-ordered attendance at batterer intervention programming. This insight is particularly helpful for two reasons. First, it reflects aspects of an offender's behavior up to seven years after the initial 2005 charge. Offender behavior is seldom captured in studies for this length of time. Second, it sheds light upon the ever-present question regarding the effectiveness of court practices.

The general consensus among judges interviewed was that probation review hearings were, for the most part, effective in ensuring offender compliance with the conditions of probation, particularly attendance at batterer's intervention programming. Arrived at from an anecdotal perspective, and one that did not incorporate revocation rates, the consensus appears to be a reasonable one. Comparison, however, to the sample data may alter perspectives. The sample data reflected a 50% revocation rate. While some could consider this an ineffective rate, others may consider the 46% probation completion rate a court program success. Along the same lines, the 70% rate of noncompliance at probation review hearings among individuals subsequently revoked may cause dismay for some, while others might find reassurance in knowing that not all noncompliant

offenders are revoked. Still others may be encouraged by the 48% rate at which offenders did not reoffend, yet harbor concern regarding the 52% reoffense rate. Ultimately, judgments of effectiveness rely upon individual definitions and perspectives of success or failure. In that respect, this study does not suppose to render the current court practices effective or ineffective. It is important, however, to consider the preliminary findings here in light of the bigger picture.

The randomness of this sample permits inferences to the larger population on the basis of representativeness. When compared proportionately to the population, the findings are concerning. For example, a 50% revocation rate in the sample can translate to 336 offenders revoked from the general probation population. Moreover, a 70% noncompliance rate among the revoked can reflect 471 individuals from the population. Finally, a reoffense rate of 52% could indicate 350 repeat offenders from the 673 probation population. Inferences at this point are speculative as the data has not yet been subjected to significance testing, but are discussed here in an effort to increase awareness with respect to the potential impact of revocations and the propensity for repeat offending. Significance testing will occur during the dissertation of the matter. For the present, it may be beneficial to consider these results in light of what is at stake, namely victim well-being.

Another material aspect of consideration relates to the place of probation cases among all domestic violence cases filed in Milwaukee county during 2005. Probation cases represent 25% of the total number of domestic violence cases filed. Approximately one-half of the cases never reach adjudication because they are dismissed or are currently in bench warrant status. The remaining quarter of the cases are sentenced in a fashion

other than with a probationary sentence, specifically, confinement in jail or prison, or the imposition of a fine. Consequently, the total number of cases available for court impact on rehabilitation is substantially reduced to just one quarter of the total available when the court focuses on overseeing compliance at the end of a case, versus at its inception. With a 50% sample revocation rate, the number is reduced even further.

Admittedly, this study is limited to preliminary findings with advanced statistical analysis to follow. Nevertheless, thoughtful consideration can be given to potential schemes that increase judicial oversight at times when the court may be able to reach a larger portion of domestic violence offenders; schemes that may help reduce recidivism and revocation rates. Interventions instituted at the time of an offender's initial appearance, such as attendance at a domestic violence counseling orientation, would allow the court to begin the process of addressing the causes of domestic violence well before the court loses a large proportion of offenders to dismissed cases and revocations that occur before the scheduled probation review hearing. Such a practice would also provide the court with a glimpse of the offender's character prior to case disposition based on attendance at the orientation and voluntary participation in any recommended counseling. The matter could be approached post-adjudication as well.

An offender's revocation does not have to mark a missed opportunity to engage in domestic violence counseling. Milwaukee has the benefit of strong community members historically committed to addressing the social ills of domestic abuse. Perhaps strategies can be developed and employed that strengthen the Department of Correction's response to domestic violence offenders, once incarcerated, in terms of available treatment options that address the individual root cause of domestic violence behavior. Such efforts could

be targeted towards offenders originally sentenced to confinement by the court and those incarcerated after a probation revocation. Understandably, contemplated changes to any existing intervention plan inevitably must confront the questions of resource availability and long-term effectiveness. While I suggest adopting changes to improve Milwaukee's criminal justice response to domestic abuse, I do not do so irrespective of logistical and practical considerations.

Whether the descriptive findings here are considered from a "glass half-full" or "glass half-empty" perspective, the rates of offender revocation and re-offense suggest a need for reevaluation of current practices. Concededly, no one method will likely result in a 100% decrease in recidivism or revocation. Indeed, Emile Durkheim proposed that society would never rid itself of crime and considered it inescapable (Siegel, 2006). Regardless, efforts to improve systemic responses persist in light of the fact that every individual failure may result in a victim's physical suffering, emotional suffering, or even death.

The limitations of this thesis should be considered and addressed to improve the research design adopted for future study. To begin with, judicial perceptions were limited to the number of interviews conducted for this thesis under scope and time restraints. Additional interviews should be conducted for the dissertation to increase the representativeness of the sample. Applying a random sample strategy, versus the snowball strategy employed here, would also increase representativeness and design validity. With respect to interviews, incorporating members of the Department of Corrections would help clarify the rates and underlying reasons for offender success and failures. Such information could prove vital to improvement strategies. Furthermore,

interviews with treatment providers and offenders would assist in gaining first-hand information as to the factors leading to the commission of domestic violence or refraining from such acts.

Data gathering methods for statistical analysis should also be expanded. The present study is limited in the measure of recidivism adopted. To the extent possible, an offender's arrest record should be incorporated into the measure of reoffense. Although this additional method does not guarantee inclusion of all acts of domestic violence, it does increase the accuracy of the total measure. Furthermore, the limitations inherent with the use of CCAP data can be overcome with examination of an offender's DOC file. CCAP entries do not provide information regarding the basis for an offender's revocation. Additionally, no data is provided concerning the offender's compliance with court-ordered counseling. An in-depth examination of the effectiveness of domestic violence counseling and mandatory probation review hearings is incomplete without such accounts.

A preliminary evaluation of basic offender characteristics can serve as a sound starting point for analysis, but the analysis is greatly improved by the addition of socio-demographic variables. Such explanatory factors can be obtained from the offender's DOC file and should be included in future studies; their impact on recidivism can be insightful. Taking this step would allow for the consideration of factors that may contribute to success or failure, but are not located on public data sites such as CCAP.

The anticipated continuation of this study will utilize regression models to assess the significance of probation review hearings and domestic violence counseling on recidivism. Adding an offender's socio-economic characteristics will improve the model,

although the nature of this study will not yield a causal effect. Be that as it may, future study findings, particularly in the area of significance testing, can assist the court when deciding to either implement new interventions or retain existing practices. Domestic violence victims and their families deserve no less.

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Appendix

Duluth Model Power and Control Wheel

http://www.theduluthmodel.org/pdf/PowerandControl.pdf; retrieved August 25, 2013.