

**A REVIEW OF THE COMMUNITY RESPONSE TO
DOMESTIC VIOLENCE IN
MONROE COUNTY, INDIANA IN 2009**

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1. EXECUTIVE SUMMARY

Domestic violence is a complex problem requiring a variety of community responses. The Bloomington Commission on the Status of Women operates from an advocacy position and undertook this research in that spirit. This report has been prepared with the intention of apprising the community of the manner in which domestic violence offenses are handled in Monroe County and to spark a conversation that addresses whether or not anything needs to change in order to bring greater justice and safety to more victims and survivors. This report, which focuses on law enforcement and criminal justice, reviews the arrests made, charges filed and prosecution of and sentencing for domestic violence crimes within Monroe County, Indiana in 2009. The Bloomington Commission on the Status of Women issues Justice for Victims as part of its series of reports on the status of women in Bloomington and Monroe County and, specifically, as a follow up to its 2006 report, Victimization, Rights and Justice (http://bloomington.in.gov/documents/viewDocument.php?document_id=1896). Most of what follows is based on a review of police arrest reports, publically available information on the online case management system, <http://mycase.in.gov>, and detailed information provided by the Monroe County Prosecutor's Office. Data for this study was collected by Middle Way House staff and volunteers, who worked with a committee comprised of representatives from the Bloomington Commission on the Status of Women, past and present, to analyze the data and compile the report that follows.

Researchers followed charges throughout the life cycle of a case, which has three phases:

- Phase 1: arrest,
- Phase 2: the filing of charges by the Prosecutor, and
- Phase 3: disposition.

Two questions guided the study: 1) what changes to charges occur from the time of domestic violence-related arrests to the filing of charges by the prosecutor, and 2) what changes to charges occur from the time of filing by the prosecutor to the disposition of the case? The report also includes information about final disposition. A brief section looks at outcomes associated with domestic violence arrests in a comparable community. Appendices provide information about levels and types of charges, a sample page from the database, and service statistics from the local provider of services to victims of domestic violence.

Findings: As they compared domestic violence charges over the life cycle of cases, the report's authors noted patterns where appropriate, as follows:

- Overall the number of charges decreased between the time of arrest and the filing decision in the prosecutor's office, and, also, although less so, at the point of conviction.
 - However, there was a noteworthy increase in Battery and Disorderly Conduct between the time of arrest and the time of filing.

¹ See Appendix 3.

- There was a higher conviction rate for Misdemeanor Domestic Battery cases than Felony Domestic Battery cases.
 - Of the 50 Misdemeanor charges filed, 84% resulted in conviction, whereas the conviction rate for the 45 Felony Battery charges filed was 40%.
- There is a potential relationship between Domestic Battery and Disorderly Conduct between the time of arrest and charges being filed by the prosecutor's office.
 - In at least 24 cases, an arrest charge of Domestic Battery appeared to be replaced by Disorderly Conduct at the time of filing.
- A quarter of the original 211 arrests for Domestic Battery resulted in a conviction of Domestic Battery.
 - Of the 95 charges of Domestic Battery filed by the prosecutor's office, 60% resulted in a conviction for Domestic Battery.
- One hundred nineteen cases - just over half of all the domestic violence cases handled by the prosecutor's office - resulted in a plea bargain.
 - One or more charges were dropped in 55 of these cases.
 - 15% of Domestic Battery charges were resolved by plea bargains.
 - 83% of Strangulation charges were dropped through plea bargains.

The findings raise several issues worthy of further consideration as well as potential questions relative to the design of future studies.

1. How domestic violence is handled deserves a perspective that begins as early as possible in the life cycle of the charge – this might start with a 911 call, an on-site police intervention, or a complaint brought directly to the Prosecutor's Office. Starting the study at the earliest possible point revealed a notable discrepancy between perception of domestic violence perpetration at the point of arrest and the time of filing. Although we believe these early data points are worthy of continuous monitoring, it is clear that current data systems and practices do not allow for reliable tracking. Is it possible to add how 911 calls are handled? And how might data at this early point help bring together 911 dispatch, police, staff who file arrest reports, the Prosecutor's Office, etc., to resolve issues related to greater accuracy in reporting, improve systems for tracking data, clarify how the data are to be used, including how data will be shared with the community for greater transparency?
2. Domestic Violence is the most repeated crime in the nation – and with repetition, it becomes more severe. The data reveals a pattern of converting a charge of domestic violence to disorderly

conduct at the time of filing. This practice has the effect of providing the offender with a “clean slate” with respect to domestic violence, negating the Indiana legislature’s intention of escalating misdemeanor domestic battery to felony domestic battery for repeat offenses. The identification of this pattern only suggests a point for further examination - it is not possible with these data to determine why the change was made. The pattern raises many more questions including: What beliefs and contextual factors inform the practice of adding disorderly conduct charges? How does this change in charge relate to subsequent arrests and convictions for domestic battery? Although double jeopardy principles and higher burden of proof standards for charging may account for the decline in the number of domestic violence related charges from phase one to phase two; if one or more charges need to be dropped, what informs the decision to drop domestic battery and not the less severe charge.

3. As one of the most lethal forms of domestic violence, strangulation is classified as a felony on the first offense. Yet, despite the seriousness of this offense, the data on dropped charges in Plea Bargaining reveal that Strangulation was dropped at a very high rate in comparison to other charges. What accounts for this significant difference and what does this suggest about the value and use of this more serious classification status?

4. Sentencing for Domestic Battery matters to perpetrators, victims, and the community. It helps deter future commissions of crimes, provides the survivor time and “space” to heal from her wounds and to develop and begin to implement plans (e.g. acquire a new residence, secure employment, find an attorney for any civil proceedings), and is an important signal of how much a community values safety and justice for victims. In Monroe County in 2009 one-third of all domestic battery cases ended in dismissal and another third resulted in suspended sentences with probation. A total of 14% of offenders were assigned any jail time. In addition, there is only a difference of 21 days between the average jail time spent for a D felony Domestic Battery (72 days) and a Misdemeanor A Domestic Battery charge (51 days). What do these results suggest about the reliance on probation vs. jail time as a sentence? What evidence is available about the effectiveness of these approaches? What is a meaningful length of jail time to support all these outcomes? What explains the modest difference in sentencing between felony and misdemeanor domestic battery?

5. To end violence against women in our community it is necessary that all those identified as playing a part in addressing domestic violence, including law enforcement, the prosecutor, courts, and victim advocates, work together to transform a culture in which the abuse of women is common. Although the path to this transformation will be challenging due to the inevitable tensions between how various players define success, it is critical that all players are open to interrogating evidence about the handling of cases and scrutinizing practices, policies and programs. In addition, to assure victim safety throughout the justice and social service system, offenders must be held accountable for their actions, and it is essential to have greater transparency to provide proper citizen oversight of the community’s response.

2. METHODOLOGY

This study was designed as an exploration of the life cycle of domestic violence cases that came to the attention of the criminal justice system in Monroe County within a single year (2009). The examination began with a review of police arrest reports and included in-depth exploration of publically available information on the Odyssey Case Management System for Indiana Courts and Clerks, the online case management system (<http://mycase.in.gov>), as well as data provided by the Monroe County Prosecutor's Office. The life cycle approach enabled us to more fully examine how domestic violence is handled in the Monroe County justice system and to draw conclusions and consider opportunities for improvement in our community.

A. Arrest Reports

Middle Way House volunteers reviewed each daily arrest report for 2009. In all, 1,197 pages containing approximately 5,000 arrests were perused for the purpose of identifying arrests determined by law enforcement to be domestic violence in nature. To ensure accuracy, two people independently reviewed the entire arrest report.

Below are the charges from the arrest sheets considered to be domestic violence charges:

- Domestic Battery
- Domestic Intimidation
- Domestic Harassment
- Domestic Criminal Mischief
- Domestic Invasion of Privacy
- Invasion of Privacy
- Strangulation
- Stalking

Because the arrest reports provide limited data, the title of each charge was the only information available to help with the determination. All charges with "domestic" in the title were included. Invasion of privacy, strangulation and stalking were included as well because those charges are most commonly associated with domestic relationships. For the purposes of this report, no sexual crimes were included in the database.

Arrests often include several charges. To be included in the database for this report the arrest record had to contain at least one of the charges listed above. This strategy was not without potential flaws. As expected, some charges that were domestic in nature (false negatives) were missed, and some which were not domestic violence-related (false positives) were included.

B. Explaining Discrepancies

After compiling the database of domestic violence arrests based solely on the arrest records, researchers began to reconcile that database with the report of domestic violence prosecutions prepared for the Domestic Violence Task Force by the prosecutor's office ("PO's report"). The

PO's report includes all the cases handled by the Deputy Prosecutor for Domestic Violence during the year.

Initially, the database created from the arrest reports included approximately 375 names; there are 234 names in the PO's report. There were approximately 150 overlapping names, which indicates that study methodology correctly identified over 60% of the cases included on the PO's report. However, there were at least 80 names in the PO's report that were not in the database compiled from the arrest reports and about 145 names in that database not in the PO's report.

There are a number of reasons for these discrepancies. Ninety-nine arrests included in the arrests database were never filed by the Prosecutor's Office. The PO's decision not to proceed may have been based on an insufficiency of evidence, victims being unwilling to cooperate with a prosecution or later claiming to have lied about the crime, dual arrests and instances of mutual combat.

Another significant reason for inconsistencies between the database that emerged from the police reports and the PO's report is that charges at the time of arrest were often different from the charges filed by the prosecutor. The differences varied from a change in the level of a charge (i.e. from Domestic Battery Felony D to Misdemeanor A, and vice versa) to a different charge altogether (i.e. Domestic Battery Misdemeanor A to Disorderly Conduct Misdemeanor B).²

Research into the discrepancy indicates that 24 of the cases initially flagged and included in the domestic violence charges database were eventually prosecuted by someone other than the Deputy Prosecutor for Domestic Violence, who normally handles all domestic violence cases. A possible explanation is that after reviewing the police report, the prosecutor's office determined that the relationship between the perpetrator and the victim was not domestic in nature and, because they could not charge the perpetrators with a domestic crime, the cases were assigned to a different prosecutor. Domestic violence charges can be filed only when the parties are or were married, when they are or were living together as though married, or when they have a child in common. However, in the absence of more in-depth information about each case, there is no certain conclusion to be drawn.

Other discrepancies between the PO's report and the database are attributable to arrests in 2009 for crimes committed in earlier years. For example, many people were arrested for violations of probation for crimes committed in previous years. Because their 2009 arrest was not associated with a 2009 case, the cases were excluded from the database compiled for this study. Also excluded were people who were transported to jail, people who were already in jail, or cases from an earlier year which were re-opened in 2009 because they were arrested for crimes of domestic violence in 2008 or earlier.

Many of the inconsistencies between the database initially developed for this study and the PO's report are traceable to the former's use of the arrest reports as a data source for examining

² For the remainder of this document, we will be using shorthand when describing the type and level of a charge. So Misdemeanor class A will be written MA, and a Felony class B will be written FB. For more information on levels and types of charges, see Appendix 1.

instances of domestic violence in the County. The Prosecutor's Office views these arrest reports as little more than a record of who has been arrested rather than as an accurate source of data upon which to base their charges. In fact, someone in the prosecutor's office reviews the police report daily and makes the final determination of what charge(s) to file. The PO's approach to the arrest reports may be founded on the difference between the police standard for establishing grounds for an arrest, which is probable cause, and the prosecutor's need for admissible evidence. However, starting with the arrest reports provided information that proved useful to an understanding of how domestic violence is handled in Monroe County and that is discussed in the section on Concerns.

The limitations of arrest report data also led to excluding cases from the database which did not *appear* to be domestic in nature (false negatives) but were. Approximately 80 people included in the PO's report were arrested for charges not included in the domestic violence crimes list referred to earlier. Such charges included residential entry, criminal mischief, confinement, and battery. Furthermore, many people were arrested for other crimes that were more or less unrelated to domestic violence (such as drug possession) which made the situation even more difficult to sort through. Conversely, all charges of strangulation and invasion of privacy were included in the database for this study, even if they were not labeled as domestic. In some instances, those charges ended up not to be domestic in nature. These erroneous exclusions and inclusions were unavoidable given that the public does not have access to the detailed police reports and sheriff's database that are available to and used by the Prosecutor's Office.

C. Creating and Reconciling the Database

It was important to the Bloomington Commission on the Status of Women that the database on which the report was to be based be independently arrived at. Consequently, the database was culled from the daily arrest reports without the guidance of the PO's report. When the two sources were compared and the discrepancies identified and analyzed, it became clear that creating a complete and accurate database was impossible with limited access to detailed police reports and sheriff's databases. The researchers and the Deputy Prosecutor expended a great deal of effort in an attempt to reconcile the discrepancies.

All the names from the PO's report which were missing from the database initially were added. For example, a person arrested for Battery who would not have been included in the initial database was added once the Deputy Prosecutor determined that the relationship met statutory requirements for a *domestic* battery prosecution. Ultimately, perfect reconciliation was not possible. The database employed for this study included 355 individuals (compared with 375 initially and the PO's 234), and it continued to include cases the Deputy Prosecutor for Domestic Violence did not ultimately handle.

The Indiana State Court Administration makes public records of court cases available through the Odyssey Case Management System for Indiana Courts and Clerks, which can be accessed online at <http://mycase.in.gov>. The next step in the research was to look up each of the 355 names in the database on the Odyssey System to find the charges filed by the prosecutor. Most challenging was researching over 100 names gleaned from arrest reports which were not in the

PO's report. Dozens of names misspelled in the arrest reports were exceptionally difficult to research in the Odyssey System.

After compiling the charges initially filed by the prosecutor, the laborious process of researching the disposition of each case as detailed on <http://mycase.in.gov> was begun. At times, there were small discrepancies between the information given online and the PO's report which were discussed with the prosecutor's office in an effort to have the most accurate information possible in the database. The Deputy Prosecutor explained that <http://mycase.in.gov> is not always completely reliable because the system is updated by individual judges' clerks, whose accuracy and attention to detail can vary.

To review, researchers compiled charges from the daily arrest records, cross-referenced the resulting database with the names from the PO's report, amended the database by adding arrests that were included in the PO's report but not identified as domestic in nature in the arrest report or that did not originate with an arrest, and added to the database the dispositions of these cases as recorded on <http://mycase.in.gov>. The process yielded a data set that, while informed by the Prosecutor's Office, is substantially independent and sufficiently reliable to use in the analysis presented here.

For that analysis, the cases were entered into an Excel spreadsheet and coded so that each case was broken down into individual sets of charges, level of charges, as well as other factors (such as whether a plea was taken or a case was dismissed). Because there were no C Misdemeanors (MC), MB was coded as "1", MA as "2", FD as "3", etc. For example, a case of FD Battery, MA Intimidation, and MA Drug Possession was coded as a 3 in the Domestic Battery category, 2 in the Intimidation category, and 2 in the "other" category. Sentencing also was coded. As a result quantified definitions of each charge were used to attain a better, more systematic analysis.³

The analysis presented here primarily examines two separate but linked processes: the changes to charges between the time of arrest and the time of filing by the prosecutor, and the changes to charges from the time of filing by the prosecutor through the disposition of a case. For the first process, the 355 arrest records were used and for the latter the 232 cases which remained after weeding out records which were inappropriate for the analysis (as explained in Section C above) formed the database. The PO's report includes 234 cases, as compared to the 232 referenced, because:

1. The PO's report contains two cases from Brown County not included here (Lynes);
2. The PO's report has one duplicate (Brewster); and
3. For one case originally included on the PO's report, but later removed (Young), the Deputy Prosecutor for Domestic Violence is listed on <http://mycase.in.org> as the prosecutor and also recorded as being present at several of the hearings.

³ See Appendix 2 for a table which illustrates this Excel spreadsheet.

3. ANALYSIS

A. Distribution of Charges over Time

The analysis first focused on the eight most common charges throughout the cases' life cycle:

1. At the time of arrest;
2. When (if) the prosecutor's office filed charges; and
3. If the defendant was convicted of any of these charges.

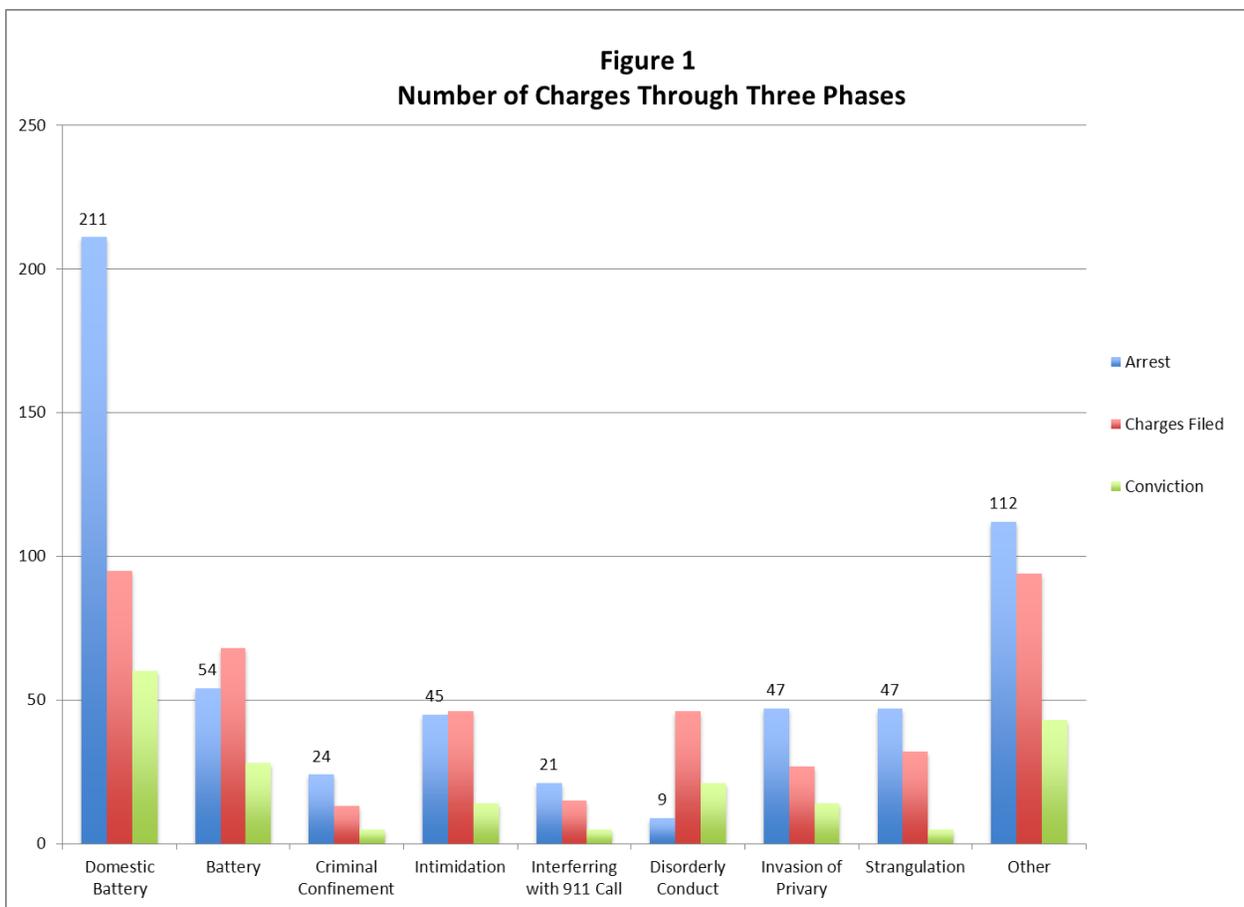


Figure 1 shows an overall trend of a decrease in the number of charges from the time of arrest to the filing by the prosecutor's office, followed by another decrease at the point of conviction. Several examples of this trend are:

- 53C02-0908-CM-02670

- Arrested for: 5 counts of Domestic Battery MA
 - Charged with: 1 count of Battery Resulting in Bodily Injury MA
 - Convicted of: No charges
 - Dismissed: 1 count of Battery Resulting in Bodily Injury MA

- 53C03-0907-CM-02521
 - Arrested for: 7 counts of Domestic Battery MA
 - Charged with: 5 counts Battery Resulting in Bodily Injury MA
 - Convicted of: Plea - convicted of 1 count of Disorderly Conduct MB
 - Dismissed: 4 counts of Battery Resulting in Bodily Injury MA

- 53C02-0907-FD-00557
 - Arrested for: 5 counts of Strangulation FD, Confinement FD, Domestic Battery MA, and Probation hold bond
 - Charged with: Strangulation FD, Domestic Battery MA
 - Convicted of: Plea – convicted of Domestic Battery MA
 - Dismissed: Strangulation FD

- 53C02-0905-FD-00436
 - Arrested for: 4 counts of Strangulation FD, Domestic Intimidation FD, Battery MA, 5 counts of Fail to Appear FD, and Resisting Law Enforcement MA
 - Charged with: Strangulation FD, Intimidation FD, and Battery Resulting in Bodily Injury MA
 - Convicted of: Plea – convicted of Intimidation FD
 - Dismissed: Strangulation FD, Battery Resulting in Bodily Injury MA

These cases illustrate the downward trend in the number of charges throughout the course of the three phases. However, Figure 1 shows several exceptions to this trend. Intimidation and Battery seem to increase from the time of arrest to charges being filed by the prosecutor’s office. One charge of Intimidation was added at the time of filing. A possible explanation for the increase in Battery charges (14) at the time of filing is that individuals originally arrested for Domestic Battery were found not to be in a “domestic” relationship and were subsequently charged with simple Battery.

The most significant exception to the trend of decreasing charges throughout the three phases involved Disorderly Conduct charges. Nine people were charged with Disorderly Conduct at the time of arrest. That number spiked to 46 Disorderly Conduct charges filed by the Prosecutor’s Office, a five-fold increase. Twenty-one (21) of those charges resulted in a conviction. (This phenomenon is discussed in further detail in Figure 3 - “Domestic Battery vs. Disorderly Conduct Over Time” on page 12.)

Analysis focused next solely on Domestic Battery at the same three stages:

1. If there was a Domestic Battery charge at the time of arrest;
2. If the prosecutor's office filed any Domestic Battery charges; and
3. If the defendant was convicted of a Domestic Battery charge.

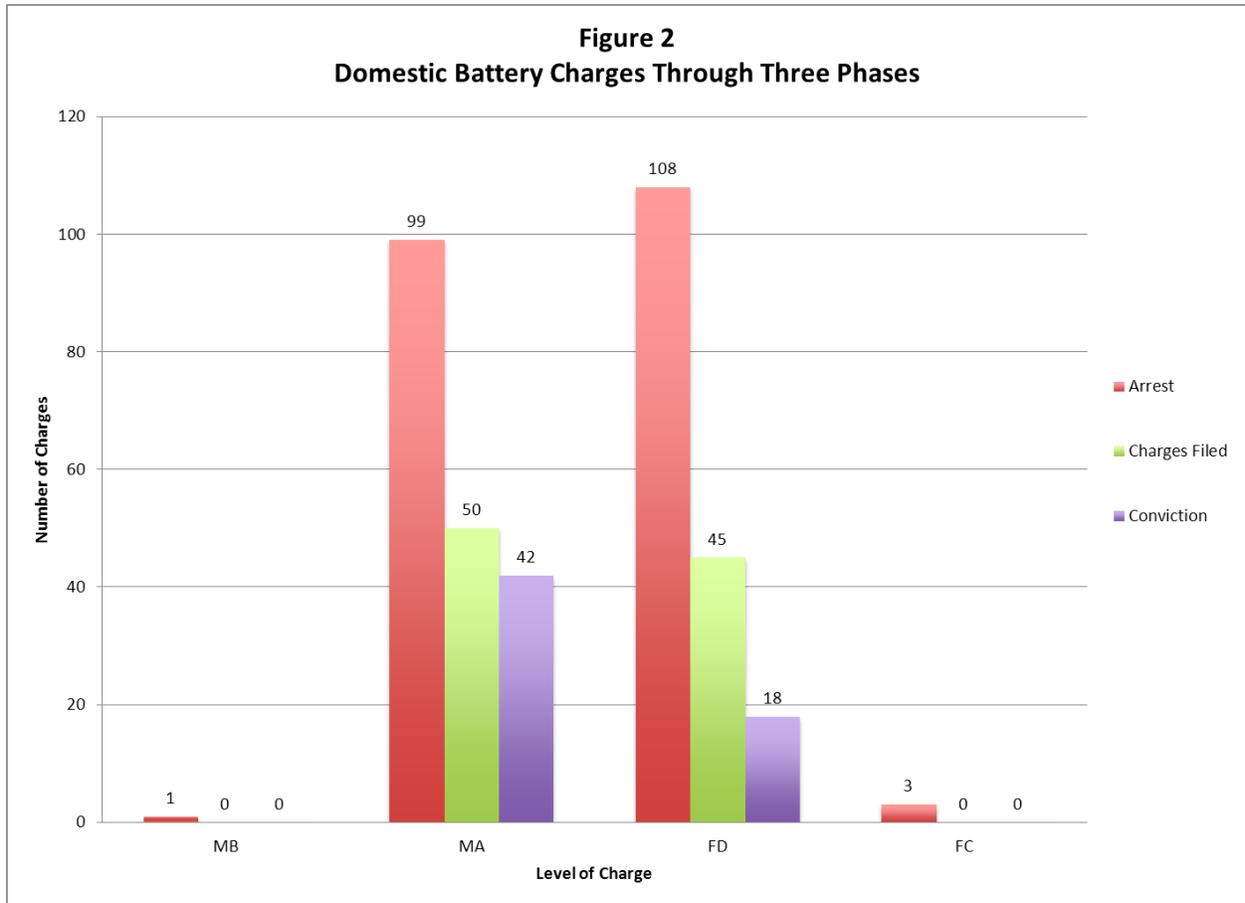


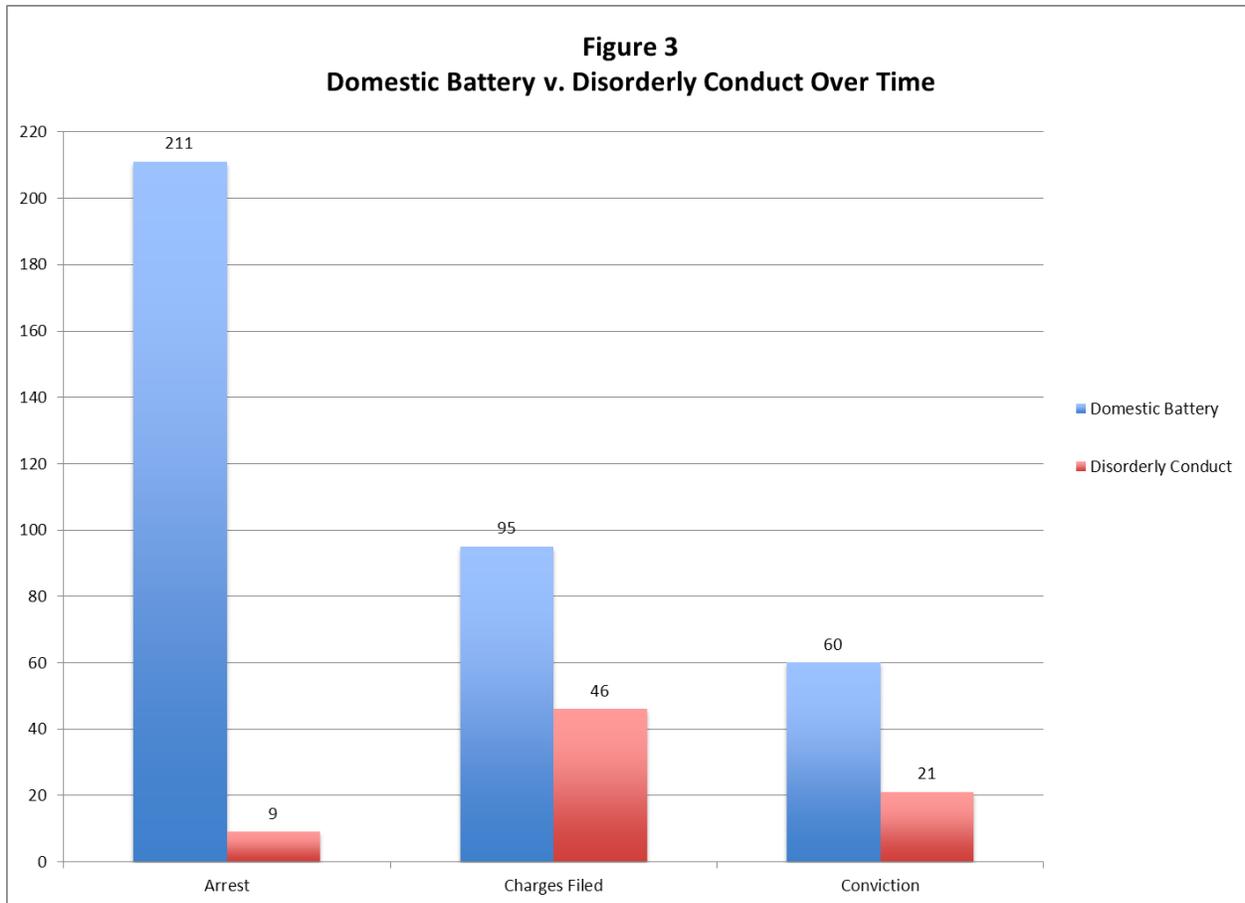
Figure 2 is similar to Figure 1, but it breaks down the Domestic Battery charges by level of charge (Felony vs. Misdemeanor). This graph takes each level of offense and compares the number of charges at each of the three stages.

This graph illustrates a disparity in conviction rates between MA and FD cases. Convictions were obtained in 84% of MA cases (42 of 50), but convictions were secured in only 40% of FD cases (18 of 45). It is important to note that this is not just a disparity in convicting for Felonies; it also shows the large number of cases that are initially FD and later changed to MA.

There is a clear pattern to these charges, regardless of their class. Of all the arrests for Domestic Battery (211 in total), only about 45% resulted in Domestic Battery charges being filed by the prosecutor's office (95 charges). Of those, 60 people were convicted of Domestic Battery.

This gap between the number of Domestic Battery arrests and charges filed can be attributed to several factors. The standard that needs to be met to make a Domestic Battery arrest is comparatively lower than the threshold that must be met to file Domestic Battery charges. In addition, charges may be lowered or dismissed in plea deals, etc.

An interesting pattern found in the analysis relating to Domestic Battery charging over time was that many of the people originally arrested for Domestic Battery were later charged instead with Disorderly Conduct by the Prosecutor’s Office.



As Figure 3 illustrates, Domestic Battery charges consistently decrease throughout the three stages, while Disorderly Conduct spikes at the time of filing. Several of these cases were examined to determine what might account for this increase in Disorderly Conduct charges.

In at least 24 cases, an arrest charge of Domestic Battery appeared to be replaced by Disorderly Conduct at the time of filing. This relationship is difficult to establish in situations where there are multiple charges. However, there are situations where a “clean swap” of charges was made – a person originally arrested only for Domestic Battery was then charged only with Disorderly Conduct by the prosecutor’s office.

We identified 13 instances of this “clean swap”:

-In six (6) cases, the person was initially charged with Domestic Battery MA at the time of arrest, and was later charged with Disorderly Conduct MB at the time of filing.

-In five (5) cases, the person was initially charged with Domestic Battery FD at the time of arrest, and was later charged with Disorderly Conduct MB at the time of filing.

-In one (1) case, the person was initially charged with two counts of Domestic Battery MA, and was later charged with one count of Disorderly Conduct MB at the time of filing.

-In one (1) case, the person was initially charged with two counts of Domestic Battery MA and one count Battery MB, and was later charged with one count of Disorderly Conduct MB at the time of filing.

The relationship between Domestic Battery and Disorderly Conduct was explored further by looking at all charges that were filed as Disorderly Conduct (phase 2) and working backwards to see what these people were charged with initially at the time of arrest (phase 1). This approach yielded some interesting results. One of the 46 cases in which Disorderly Conduct was charged by the Prosecutor’s Office was eliminated from the analysis because arrest data was lacking, leaving 45 cases. For the sake of simplicity, other charges that appeared unrelated were not considered in our review (drug possession, etc.).

Of these 45 cases, only five (5) were initially arrested for Disorderly Conduct. Two cases included arrests for both Disorderly Conduct and Domestic Battery charges. Of the remaining cases, roughly 16% of the people eventually charged with Disorderly Conduct were actually arrested for Disorderly Conduct.

There remained 38 cases in which a person arrested for a crime other than Disorderly Conduct was later charged with Disorderly Conduct by the Prosecutor’s Office. It appears the most common arresting charges were Domestic Battery (22), Battery (7), and Intimidation (3). The remaining cases included charges of Domestic Battery and Battery (2), Battery and Intimidation (1), Sexual Battery (1), Stalking (1), and Invasion of Privacy (1). So, 24 of the Domestic Battery cases (53%) became Disorderly Conduct cases. That number grows when we take note of the fact that all 45 of these cases were prosecuted by the Deputy Prosecutor for Domestic Violence and, therefore, must have had some element of domestic violence. If we include all of the Battery charges handled by the Deputy Prosecutor for Domestic Violence, we would have an additional eight (8) cases, resulting in a total of 32 of the 45 cases (71%) changing from a charge of Battery to Disorderly Conduct.

Without more information, we cannot determine why these changes were made. It is possible that in situations where the facts of the case do not meet the statutory requirements of Domestic Battery or if something about the case suggests that it might be weak going forward, the Prosecutor’s Office adds Disorderly Conduct charges at the time of filing to obtain convictions on as many charges as possible or in the belief that a Misdemeanor B class conviction is better

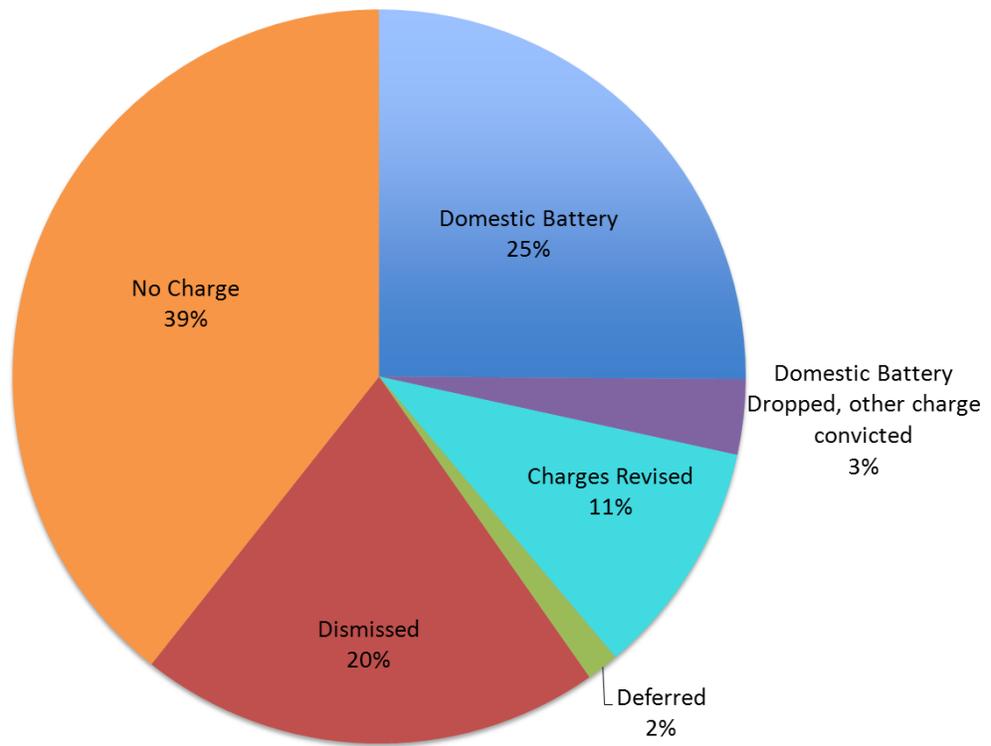
than no conviction at all. The phenomenon is worth further investigation. A charge and subsequent conviction for domestic battery is considerably more likely than a charge and conviction for disorderly conduct to serve as a deterrent to a repeat battery of an intimate partner because sanctions specifically designed to protect victims, such as escalation of the level of criminal charges and prohibitions on gun ownership, follow from domestic battery convictions.

B. Breakdown of Results in Cases Initially Filed as Domestic Battery

Noticing this pattern between Domestic Battery and Disorderly Conduct helped us realize we should take a closer look at all of the original arrests made for Domestic Battery. We decided to compare those charges with the charges at phase three – in other words, at the disposition of the case.

Graph 4 illustrates the end result of cases for which the charge at arrest (in Phase 1) was Domestic Battery. This graph shows that only a quarter of those original 211 arrests for Domestic Battery actually resulted in a conviction of Domestic Battery. Ninety resulted in no Domestic Battery charge (whether it was never filed or later dropped in the plea bargain), while 43 cases, where the initial charge was Domestic Battery, were dismissed. For 22 of these cases, initially characterized as Domestic Battery, charges were completely revised such that domestic violence was no longer evident. Many of these 22 instances included Disorderly Conduct charges in place of Domestic Battery.

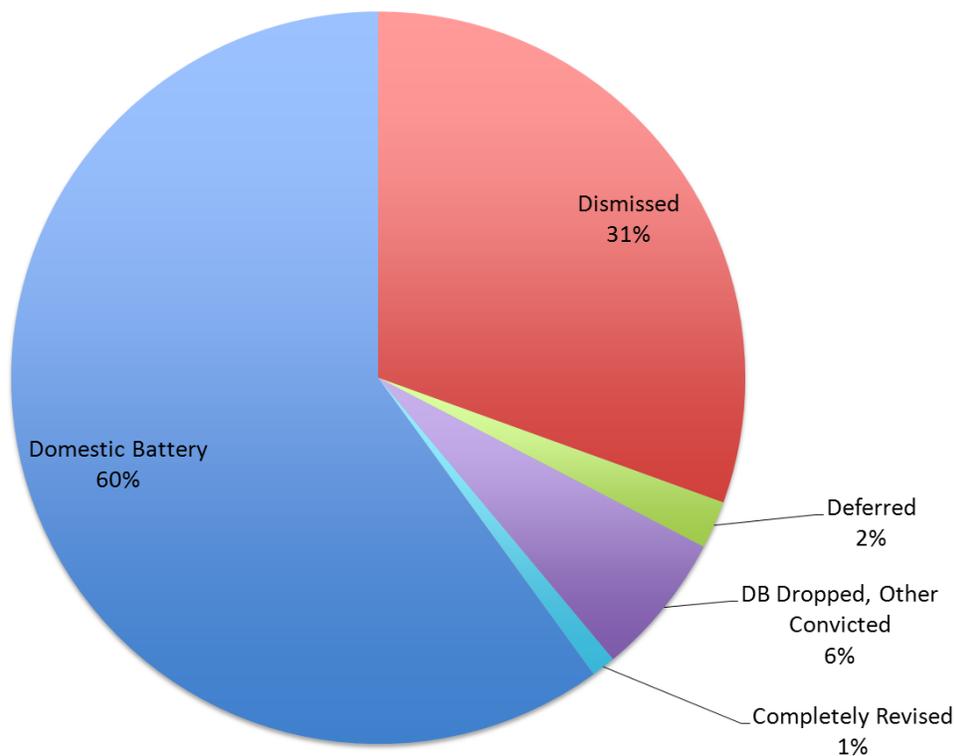
Figure 4
Result of Cases Initially Arrested as Domestic Battery



This figure is for all 211 arrests culled from the arrest sheets. It must be remembered that only 95 of the cases resulted in the Prosecutor's Office filing domestic battery charges. Factors mentioned above such as lack of evidence, failing to meet statutory requirements, and dual arrests are not taken into account here.

Below is Figure 5, which breaks down only the 95 cases in which charges were filed after the arrest. Of those 95 cases, 57 were resolved by convictions for Domestic Battery. This examination of outcomes reveals that although the conviction rate is low (25%) for all arrests for Domestic Battery, it more than doubles once the Prosecutor's Office files a charge of Domestic Battery (60%).

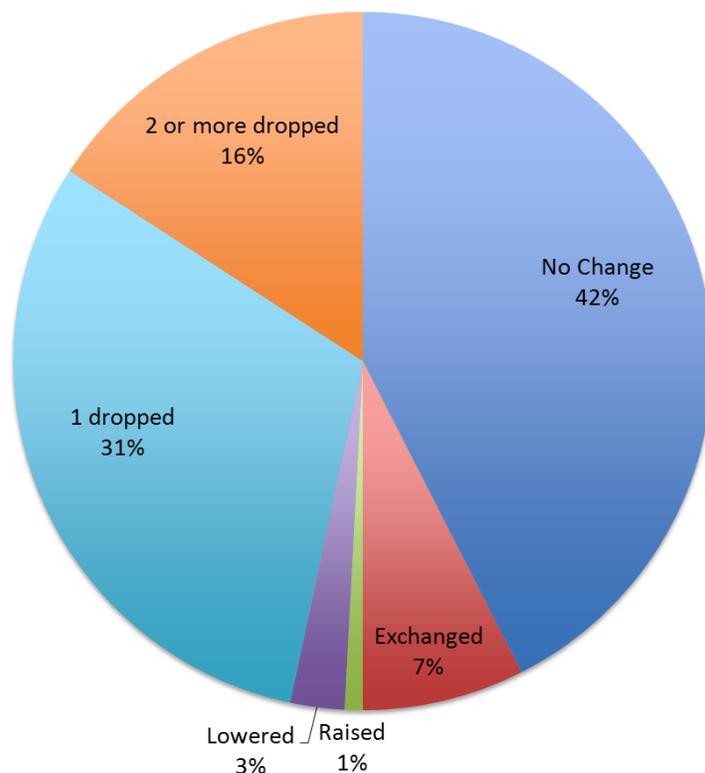
Figure 5
Result of Cases Initially Filed as Domestic Battery



C. Effects of Pleas

Many charges are modified prior to a case's final disposition. Oftentimes these modifications occur within the context of plea bargaining. Just over half of all the domestic violence cases filed by the Prosecutor's Office in 2009 resulted in a plea bargain (51%) – and if one looks only at convictions (and excludes dismissed cases from the total), the percentage of cases resulting in a plea increases to 78%. Figure 6 exemplifies the frequency with which charges were changed or dropped in those 119 cases involving plea bargains.

Figure 6
Modifications Made to Charges in Cases Resulting in Plea Bargain



In slightly less than half of these cases (47%) at least one charge was dropped, and at least two charges were dropped during the plea bargaining in 18 of them. These were different from the nine (9) instances where charges seemed to be substituted. In those cases, the defendant was originally charged with one or two crimes, but was later convicted of a different, albeit generally related, crime. The Exchanged (Substituted) category included such instances as Domestic Battery MA being dropped for Battery MA. In cases that involved a substitution, Domestic Battery was dropped once but added four times. The lowered and raised categories refer to one charge changing from, for example, MA to MB. Few charges were either lowered (3 cases) or raised (1 case).

It is to be expected that charges will be modified as a consequence of plea bargaining. Figure 7, below, demonstrates the rate at which charges were changed or dropped in 36 cases that did not result in a plea bargain. There were four (4) instances of cases being exchanged – three (3) remaining at the same level Misdemeanor and one (1) rising from a Misdemeanor to a Felony.

Figure 7
Modifications Made to Charges in Cases without Pleas

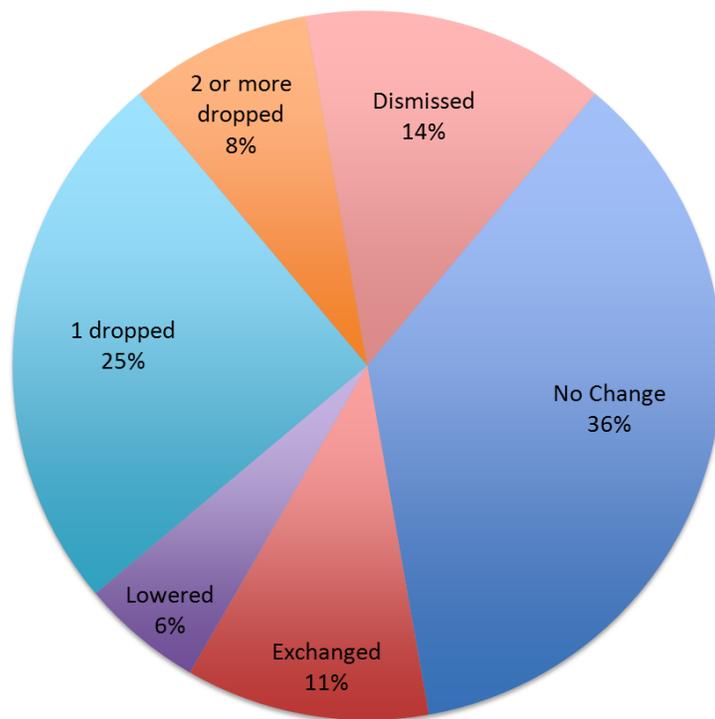


Figure 8 represents a deeper look at which charges were dropped in cases that resulted in plea bargains, as well as cases that did not result in plea deals. Cases that resulted in dismissals were not included. Figure 8 on the following page shows what we found.

Figure 8 – Ratio of Dropped Charges to number of charges for Pleas and Non-Pleas

		Domestic Battery	Battery	Criminal Confinement	Intimidation	Interfering with 911	Disorderly Conduct	Invasion of Privacy	Strangulation	Other
Plea	Number of Dropped Charges	8	15	6	11	6	8	4	19	18
	Number of Charges at Filing	54	32	9	22	9	14	12	23	52
	Percentage Dropped	14.8%	46.9%	66.7%	50.0%	66.7%	57.1%	33.3%	82.6%	34.6%
No Plea	Number of Dropped Charges	4	4	0	2	1	2	0	0	7
	Number of Charges at Filing	13	9	1	4	1	9	2	1	12
	No Plea	30.8%	44.4%	0.0%	50.0%	100.0%	22.2%	0.0%	0.0%	58.3%

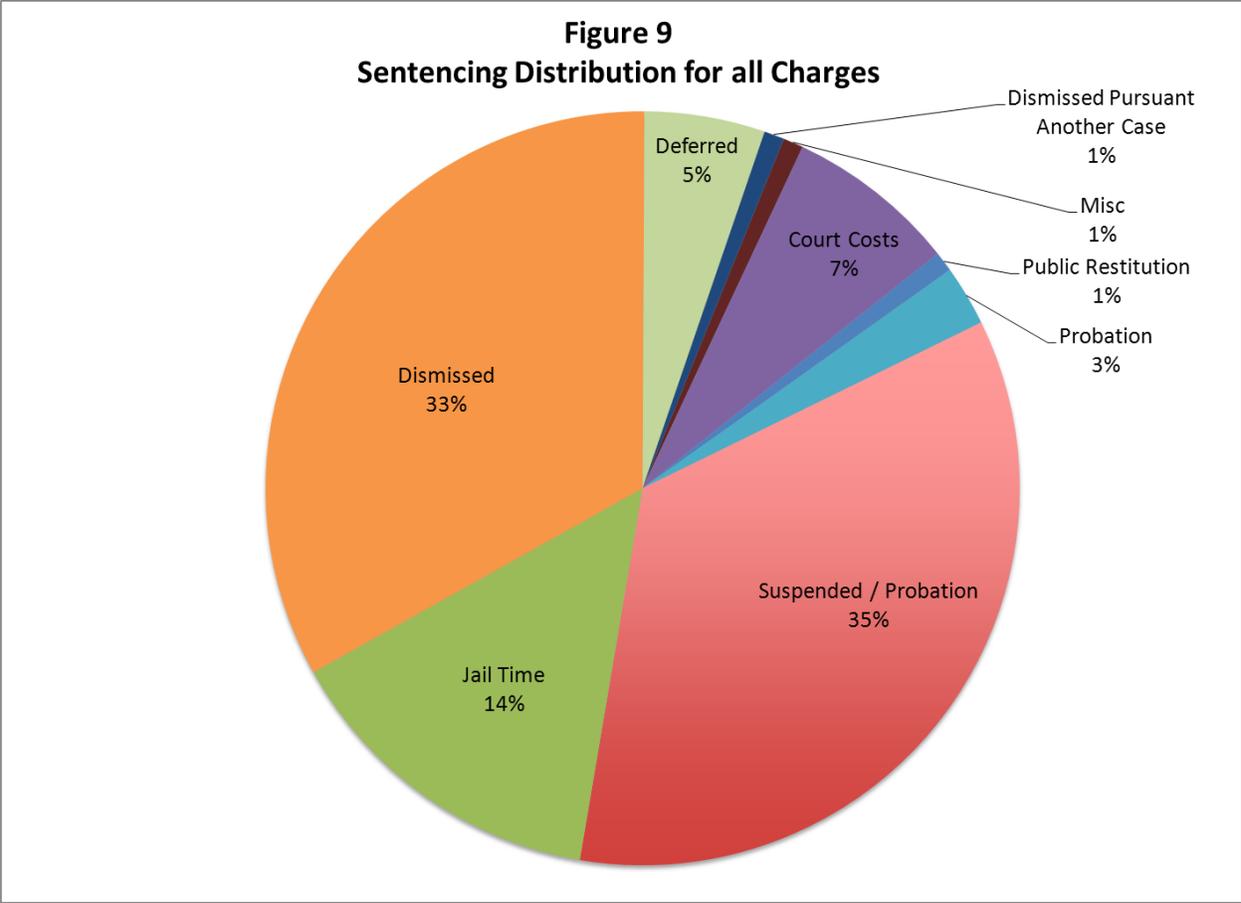
Figure 8 is relatively straightforward. Most notably, it shows that in a plea bargain, Strangulation has the highest probability of being dropped, with 19 out of 23 charges (82.6%) dismissed. Strangulation, which can be lethal, is a Felony which carries a more severe penalty than a Misdemeanor charge of Domestic Battery. The high incidence of dropping Strangulation charges merits further investigation.

Figure 8 also shows the frequency with which Criminal Confinement and Interfering with 911 calls (both at 66.7%) and, again, Disorderly Conduct (57.1%) charges are dropped in plea bargains.

When looking at the percentage of cases dropped, it is important to first look at the number of cases in total. For Domestic Battery (without pleas), there were 13 cases, enough to make at least cursory conclusions. Conversely, since there is only one instance of a dropped Criminal Confinement charge in the absence of a plea agreement, inferences should be made very warily if at all. With these caveats in mind, it is noteworthy that both Battery and Intimidation were dropped in nearly half of all cases, regardless of whether there was a plea. Nineteen of all 41 Battery charges were dropped, and 13 of all 26 Intimidation charges were dropped.

D. Sentencing

Figure 9 summarizes the sentencing distribution for all 232 cases handled by the Deputy Prosecutor for Domestic Violence. Many cases resulted in sentencing in several categories, such as probation plus court fees. To graph this data, only the most prominent aspects of defendants' sentences were used. For example, some defendants were sentenced with probation as well as court costs. However, in most instances, the court costs were nominal; so those cases were represented as part of the suspended sentence/probation portion of the graph.



As the figure illustrates, 1/3 of all charges were dismissed and approximately another 1/3 were given a suspended sentence with probation. Jail time was awarded in only 14% of the cases. Note: The two miscellaneous sentences in this graph represent one case in which a warrant for someone is still out and another where a case was transferred to a different county.

Figure 9 shows 1% (2 cases) resulted in public restitution. In the PO’s report, these two cases are categorized as Judgment Withheld. Further research into the PO’s Judgment Withheld category revealed two (2) additional cases resolved with a sentence of public restitution as well as a \$1 fine, and those cases were categorized as “Guilty Pleas.” Researching that further uncovered 12 more cases in the PO’s report with a sentence of a \$1 fine. These 12 cases were also categorized as “Guilty Pleas.” The PO’s report noted that most of these defendants received a judgment in a different case (greater than a \$1 fine).

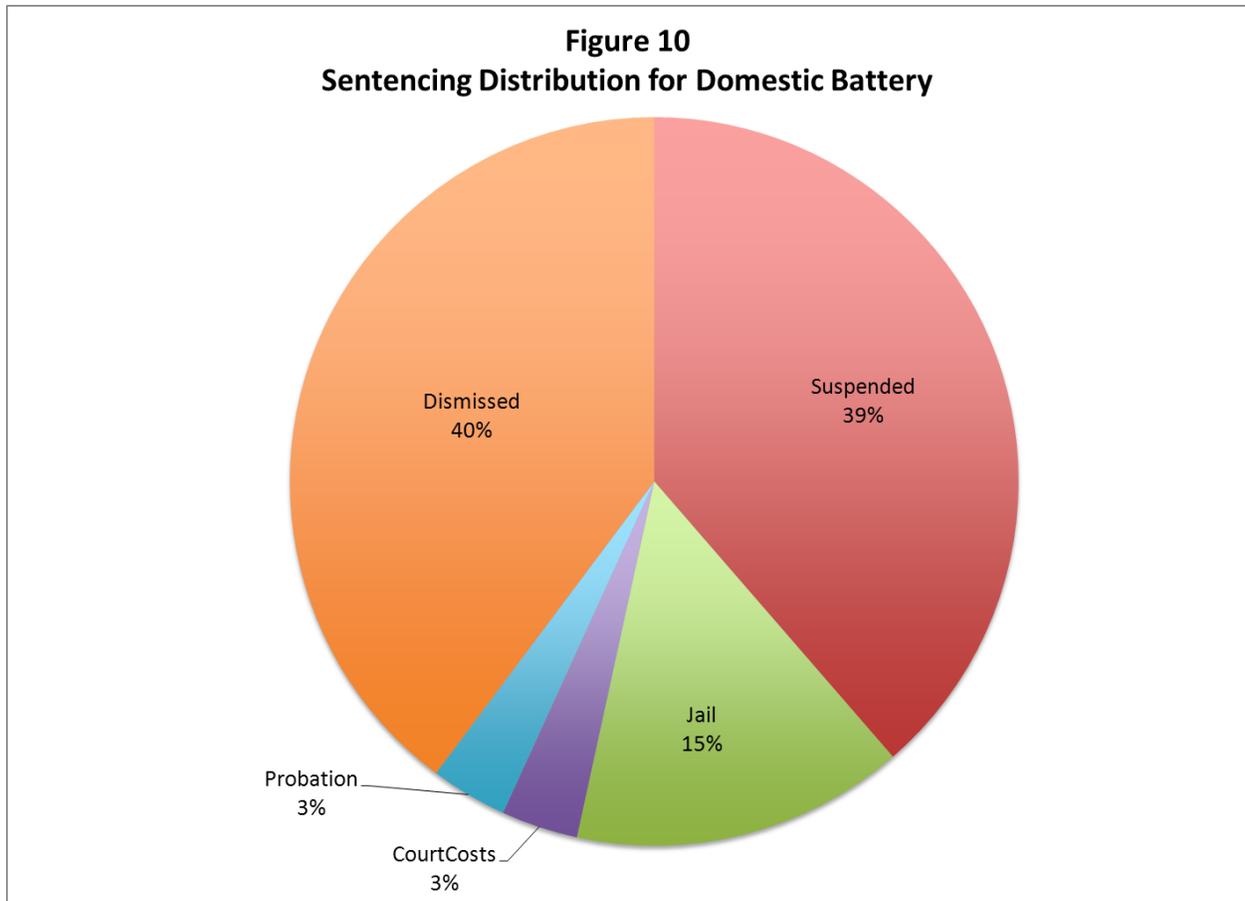
Research conducted for this report revealed a much higher number of dismissals than the PO’s report contained. One possible explanation is that <http://mycase.in.gov> did not identify the difference between an outright dismissal and a dismissal pursuant to another case. The prosecutor views a dismissal pursuant to another case as a more preferable outcome than an outright dismissal. Looking closely at specific instances does not necessarily support this view. For example, we can examine the case of defendant Deckard:

1. 53C02-0808-CM-03253 – Domestic Battery MA – Guilty Plea
 - a. Sentence = 360 days
 - b. Served = 8 days
 - c. Jail Credit = 16 days
 - d. Suspended Sentence/Probationary Period = 349 days
 - e. DV Fee = Yes
 - i. He served an additional three days and his probation was extended six months after he admitted to Domestic Battery allegations from 53C02-0909-CM-03467.
 - ii. He was held and served another 50 days while the court handled 53C02-1003-CM-00913. He admitted to Domestic Battery allegations from 53C02-1003-CM-00913 and was sentenced to serve 100 days of his originally suspended sentence. He was given good-time credit of 50 days and released on his own recognizance under this cause.
2. 53C02-0811-CM-04761– Domestic Battery MA – Dismissed pursuant to another case
3. 53C02-0909-CM-03467– Domestic Battery MA – Dismissed pursuant to another case
4. 53C02-1003-CM-00913– Domestic Battery MA – Dismissed
5. 53C02-1007-CM-02783– Domestic Battery MA⁴ – Guilty Plea
 - a. Sentence = 24 days
 - b. Served = 12 days
 - c. Jail Credit = 12 days
 - d. Suspended Sentence/Probationary Period = None
 - e. DV Fee = Yes

The concern raised by this example (and there are other very similar case histories) is not just that three of the charges of Domestic Battery were dismissed, but that given the defendant was convicted of one count, opening the way to an increase in the charge level of any subsequent domestic battery (as the Indiana Code allows), upon committing Domestic Battery again, he was not charged with a Felony. Instead, despite multiple domestic batteries, he was charged with a Misdemeanor. It is possible that he could have initially been charged with a Felony which was later reduced to a Misdemeanor as a consequence of a plea deal. However <http://mycase.in.gov> does not indicate that to be the case. In the end, there was no Felony conviction and the perpetrator spent *a total of 12 days in jail*, defeating the purpose of legislation specifically written to assure that meaningful sentences would be meted out for repeat domestic violence offenses.

⁴ Since Mr. Deckard was previously convicted of Domestic Battery (a class A Misdemeanor), legislation provides the option to charge this Domestic Battery as a Felony.

When graphing the sentencing distribution for Domestic Battery, the results were very similar to the distribution for all charges. Slightly more than 1/3 of the cases were dismissed, a little more than 1/3 of the cases resulted in a suspended sentence, and only 15% of the defendants received jail time.



Of the 95 Domestic Battery charges, 35 were dismissed. The \$50 domestic violence fee⁵ was charged in 85% of the remaining cases, which left 9 cases where the domestic violence fee was not charged. However, it was charged in 16 other cases for crimes other than Domestic Battery. Those crimes included Battery (2), Invasion of Privacy (5), Intimidation (7), Stalking (1), and Strangulation (1).

Finally, looking at the average length of time convicted offenders spent in jail revealed that the time spent in jail by those convicted of a D felony Domestic Battery was 72.1 days while those charged with MA Domestic Battery served 50.8 days.

⁵ Indiana Code 33-37-5-13 requires that a person convicted of specific offenses, including Domestic Battery, pay the \$50 domestic violence prevention and treatment fee.

4. DISCUSSION

There is no doubt in the minds of the authors of this report that all those identified as playing a part in addressing domestic violence in Monroe County, from law enforcement officers to the prosecutor, courts and Monroe Circuit Court Probation Department as well as victim services providers, are committed to the end goal: ending violence against women in our community. However, while it is preferable, in fact, necessary, that law enforcement, the prosecutor, the courts and victim advocates work together to transform a culture in which the abuse of women is common, it also is inevitable that there will be tensions among the players because each defines success differently. The police define success as obtaining sufficient evidence when making an arrest to ensure the Prosecutor's Office is able to bring charges against an offender. The Prosecutor's Office defines a successful outcome as anything other than an outright dismissal of a case. Victim Advocates, on the other hand, want to see domestic violence arrests proceed to domestic violence charges being filed, convictions for domestic violence, and appropriate jail time. For advocates, that pattern sends a clear message to perpetrators and victims alike. It also opens the way for the criminal justice system to take advantage of legislation specifically designed to raise the level of a charge from a misdemeanor to a felony for a repeat offense and to deprive an offender of the right to bear arms.

The Bloomington Commission on the Status of Women operates from an advocacy position and undertook this research in that spirit. This report is grounded in the same three principles underlying the Bloomington Commission on the Status of Women's 2006 report on Victimization, Rights and Justice: the primacy of assuring victim safety throughout the justice and social service system, the expectation that offenders will be held accountable for their actions, and the need for transparency to provide citizen oversight of the community's response. This report has been prepared with the intention of apprising the community of the manner in which domestic violence offenses are handled in Monroe County and to spark a conversation that addresses whether or not anything needs to change in order to bring greater justice and safety to more victims and survivors.

The findings presented in this follow-up report, which is a review of cases from 2009, demonstrate an important step toward the articulated principles, particularly the promotion of transparency and oversight. Specific concerns emanating from the findings are enumerated below.

1. There were less than half as many domestic violence charges at phase two (the time of filing) than at phase one (the time of arrest). Some explanations for the difference mitigate what appears to be a drastic decline in following up on domestic violence-related arrests. It would appear that more work needs to be done to reduce the discrepancy between perceptions of domestic violence perpetration at the point of arrest and the time of filing. While the double jeopardy provision of the Indiana Constitution may prohibit filing some charges,⁶ and the standards differ for

⁶ The Fifth Amendment to the U.S. Constitution provides that "nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb," whereas Article I, Section 14 of the Indiana Constitution states, "No person shall be put in jeopardy twice for the same offense." The Indiana Supreme Court has interpreted the state constitution to provide a broader protection

establishing probable cause and filing charges, some issues—such as the nature of the relationship between the parties—should be resolvable, perhaps with a change to the police protocol. For the purposes of providing the community oversight this work represents, creating an access route for the researchers to the arrest reports, rather than the arrest sheets, would minimize the appearance of so steep a reduction in charges, save considerable time for the researchers and the Deputy Prosecutor, and result in the publication of more timely reports. Double jeopardy principles and higher burden of proof standards for charging may account for the decline in the number of domestic violence related charges from phase one to phase two; however, if one or more charges need to be dropped, it would seem prudent to drop the less severe charge. However, because the process lacks community oversight, researchers did not have access to data that could determine the role of double jeopardy/burden of proof in reducing the number of charges between phases.

2. The frequency with which Felony charges were reduced to Misdemeanors, a questionable relationship between Domestic Battery and Disorderly Conduct charges, and the handling of repeat offenders raise questions that cannot be answered by the researchers – or any of the parties – in isolation. What we know is that Domestic Violence is the most repeated crime in the nation – and with repetition, it becomes more severe. The change from Felony to Misdemeanor domestic battery results in less jail time for offenders and thus compromises the safety of victims. The change from domestic violence to disorderly conduct provides the offender with a “clean slate” with respect to domestic violence, negating the Legislature’s intention of escalating misdemeanor domestic battery to felony domestic battery for repeat offenses. The cases in which special sanctions for repeat offenses were not utilized are of particular concern.

3. Findings related to dropped charges in Plea Bargaining reveal that Strangulation, a felony even upon the first offense, was dropped at a very high rate. Strangulation is terrifying for victims for good reason: in instances where it is not immediately lethal, it could result in death days later and in damage that lasts a lifetime.

against re-prosecution than the federal amendment. *Richardson v. State*, 717 N.E.2d 32, 49 (Ind.1999). Double jeopardy principles based on the state constitution are violated when a reasonable possibility exists that the evidentiary facts used by the fact-finder to establish essential elements of one offense were also used to establish all of the essential elements of a second challenged offense. *Richardson v. State*, 717 N.E.2d at 49-52. *See also Alexander v. State*, 768 N.E.2d 971 (Ind. Ct. App. 2002). Further, double jeopardy principles based on statutory construction and common law bar conviction or punishment in five circumstances: for a crime, which consists of the very same act as another crime, for which the defendant has been convicted and punished; or for a crime, which consists of the very same act as an element of another crime, for which the defendant has been convicted and punished; or for both a greater and a lesser included offense; or for a crime and an enhancement of a crime where the enhancement is imposed for the very same behavior or harm; or for a crime and conspiracy where the charged overt act is the very same act as another crime. *Guyton v. State*, 771 N.E.2d 1141, 1143 (Ind.2002). *See also Davis v. State*, 770 N.E.2d 319 (Ind. 2002); *Calvert v. State*, 930 N.E.2d 633, 641-42 (Ind. Ct. App. 2010).

4. Sentencing for Domestic Battery varies. In Monroe County in 2009 one-third of all domestic battery cases ended in dismissal and another third resulted in suspended sentences with probation. Jail time was assigned to 14% of offenders. Victim advocates generally take the position that jail time is a preferred outcome and that the length of time spent in jail matters as, at the very least, it sends a message about how seriously a community views a crime. Jail time for offenders also allows the survivor “space” to heal from her wounds and to develop and begin to implement plans (e.g. acquire a new residence, secure employment, find an attorney for any civil proceedings). It is the Commission’s recommendation that a meaningful amount of jail time be followed by probation.

5. It is difficult to make comparisons between communities. Questions inevitably arise about demographics and culture, and the comparability of the systems in place to address issues. Also, an obvious question would be about the comparison itself: is it apples to apples? For a comparison, we went to Duluth, Minnesota, chosen because it is a recognized model in the field and because the relevant actors annually produce a clear picture of the system’s response to domestic violence and disseminate it to the community.

The Duluth report for 2011 concluded that 77% of disposed DV-related cases ended in convictions, 17% ended in dismissals and 6% were continued. A close comparison of how the data was generated and the analytic methods used in both Duluth and Monroe County could provide the Monroe County community with useful information. These data are interesting but of limited utility in the absence of a close reading and category by category comparison with this report. At present, we do not have information on time actually served or the use of probation for example.

The identification of a meaningful comparison group would provide Monroe County the opportunity to benchmark performance on the handling of domestic violence. How might we identify and invest in proper benchmarks?

6. While researchers received a truly commendable level of cooperation from the Prosecutor’s Office, the process and integrity of community oversight is compromised when the researchers lack direct access to important data. It is imperative that access to the detailed police reports and sheriff’s database be provided. In fact, for true transparency and the most comprehensive view of our community’s response to domestic violence, the Commission recommends that Monroe County adopt the Duluth Assessment or a similarly structured format and that researchers who do not play a role in the community’s response to domestic violence be employed to collect and affirm the accuracy of the data. In addition to providing Monroe County residents with the information needed to evaluate local efforts, the use of common methods and data sources will provide the kind of apples to apples comparisons that make it possible to establish realistic goals for local performance.

5. APPENDIX 1 –LEVELS & TYPES OF CRIMINAL CHARGES

A. Level of Criminal Charges

This report often differentiates between misdemeanors and felonies. A misdemeanor is generally a crime punishable with incarceration for one year or less. There are four possible levels of a misdemeanor crime:

Misdemeanor A Class (MA) – most serious level of a misdemeanor crime

Common example: Domestic Battery, Intimidation, Invasion of Privacy, Interference with Reporting a Crime

Misdemeanor B Class (MB)

Common example: Battery, Disorderly Conduct, Harassment

Misdemeanor C Class (MC)

Misdemeanor D Class (MD) – least serious level of a misdemeanor crime

Note: MC's and MD's are rarely charged, and are not dealt with in this report

The “lower” the level of misdemeanor charge, the less severe the possible punishment or penalty if convicted of the crime.

Felonies, on the other hand, are more severe than misdemeanors and therefore carry heavier penalties if convicted. The same four levels apply to felonies:

Felony A Class (FA) – most serious level of a felony crime

Common example: Battery resulting in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age

Felony B Class (FB)

Common example: Battery resulting in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age

Felony C Class (FC)

Common example: Battery resulting in serious bodily injury to any other person or if it is committed by means of a deadly weapon

Felony D Class (FD) – least serious level of a felony crime, one level above MA

Common example: Strangulation, Domestic Battery (if previously convicted), Criminal Confinement

B. Types of Charges

This report repeatedly refers to different types of criminal charges. The crimes which are referred to most frequently in the report are defined using the Indiana Code below.

Domestic battery - IC 35-42-2-1.3

Sec. 1.3. (a) A person who knowingly or intentionally touches an individual who:

- (1) is or was a spouse of the other person;
- (2) is or was living as if a spouse of the other person as provided in subsection (c); or
- (3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.

(b) However, the offense under subsection (a) is a Class D felony if the person who committed the offense:

(1) has a previous, unrelated conviction:

(A) under this section (or IC 35-42-2-1(a)(2)(E) before its repeal); or

(B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in this section; or

(2) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(c) In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:

(1) the duration of the relationship;

(2) the frequency of contact;

(3) the financial interdependence;

(4) whether the two (2) individuals are raising children together;

(5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and

(6) other factors the court considers relevant.

Battery - IC 35-42-2-1

Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) it results in bodily injury to any other person;

(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of the officer's official duty;

(C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's

official duty;

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; or

(F) it is committed against the state chemist or the state chemist's agent while the state chemist or the state chemist's agent is performing a duty under IC 15-16-5;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of the officer's official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who has a mental or physical disability and is committed by a person having the care of the person with a mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer;

(M) a family or household member (as defined in IC 35-41-1-10.6) if the person who committed the offense:

(i) is at least eighteen (18) years of age; and

(ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense; or

(N) a department of child services employee while the employee is engaged in the

execution of the employee's official duty;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2);

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); and

(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

Strangulation - IC 35-42-2-9

Sec. 9. (a) This section does not apply to a medical procedure.

(b) A person who, in a rude, angry, or insolent manner, knowingly or intentionally:

(1) applies pressure to the throat or neck of another person; or

(2) obstructs the nose or mouth of the another person;

in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Class D felony.

Criminal confinement - IC 35-42-3-3

Sec. 3. (a) A person who knowingly or intentionally:

(1) confines another person without the other person's consent; or

(2) removes another person, by fraud, enticement, force, or threat of force, from one (1) place to another; commits criminal confinement. Except as provided in subsection (b), the offense of criminal confinement is a Class D felony.

(b) The offense of criminal confinement defined in subsection (a) is:

(1) a Class C felony if:

(A) the person confined or removed is less than fourteen (14) years of age and is not the confining or removing person's child;

- (B) it is committed by using a vehicle; or
 - (C) it results in bodily injury to a person other than the confining or removing person; and
- (2) a Class B felony if it:
- (A) is committed while armed with a deadly weapon;
 - (B) results in serious bodily injury to a person other than the confining or removing person; or
 - (C) is committed on an aircraft.

Invasion of privacy; offense; penalties - IC 35-46-1-15.1

Sec. 15.1. A person who knowingly or intentionally violates:

- (1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);
- (2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- (3) a workplace violence restraining order issued under IC 34-26-6;
- (4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
- (5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, and including a no contact order issued under IC 35-33-8-3.6;
- (6) a no contact order issued as a condition of probation;
- (7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
- (8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;
- (9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
- (10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9);
- (11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:
 - (A) tribe;
 - (B) band;
 - (C) pueblo;
 - (D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(12) an order issued under IC 35-33-8-3.2; or

(13) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

Intimidation - IC 35-45-2-1

Sec. 1. (a) A person who communicates a threat to another person, with the intent:

(1) that the other person engage in conduct against the other person's will;

(2) that the other person be placed in fear of retaliation for a prior lawful act; or

(3) of causing:

(A) a dwelling, a building, or another structure; or

(B) a vehicle;

to be evacuated;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

(1) Class D felony if:

(A) the threat is to commit a forcible felony;

(B) the person to whom the threat is communicated:

(i) is a law enforcement officer;

(ii) is a judge or bailiff of any court;

(iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;

(iv) is an employee of a school corporation;

(v) is a community policing volunteer;

(vi) is an employee of a court;

(vii) is an employee of a probation department; or

(viii) is an employee of a community corrections program.

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

- (2) unlawfully subject a person to physical confinement or restraint;
- (3) commit a crime;
- (4) unlawfully withhold official action, or cause such withholding;
- (5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;
- (6) expose the person threatened to hatred, contempt, disgrace, or ridicule;
- (7) falsely harm the credit or business reputation of the person threatened; or
- (8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

Harassment; "obscene message" defined - IC 35-45-2-2

Sec. 2. (a) A person who, with intent to harass, annoy, or alarm another person but with no intent of legitimate communication:

- (1) makes a telephone call, whether or not a conversation ensues;
 - (2) communicates with a person by telegraph, mail, or other form of written communication;
 - (3) transmits an obscene message, or indecent or profane words, on a Citizens Radio Service channel; or
 - (4) uses a computer network (as defined in IC 35-43-2-3(a)) or other form of electronic communication to:
 - (A) communicate with a person; or
 - (B) transmit an obscene message or indecent or profane words to a person;
- commits harassment, a Class B misdemeanor.

(b) A message is obscene if:

- (1) the average person, applying contemporary community standards, finds that the dominant theme of the message, taken as a whole, appeals to the prurient interest in sex;
- (2) the message refers to sexual conduct in a patently offensive way; and
- (3) the message, taken as a whole, lacks serious artistic, literary, political, or scientific value.

Interference with the reporting of a crime - IC 35-45-2-5

Sec. 5. A person who, with the intent to commit, conceal, or aid in the commission of a crime, knowingly or intentionally interferes with or prevents an individual from:

- (1) using a 911 emergency telephone system;
 - (2) obtaining medical assistance; or
 - (3) making a report to a law enforcement officer;
- commits interference with the reporting of a crime, a Class A

Disorderly conduct - IC 35-45-1-3

Sec. 3. (a) A person who recklessly, knowingly, or intentionally:

- (1) engages in fighting or in tumultuous conduct;
- (2) makes unreasonable noise and continues to do so after being asked to stop; or
- (3) disrupts a lawful assembly of persons;

commits disorderly conduct, a Class B misdemeanor.

(b) The offense described in subsection (a) is a Class D felony if it:

(1) adversely affects airport security; and

(2) is committed in an airport (as defined in IC 8-21-1-1) or on the premises of an airport, including in a parking area, a maintenance bay, or an aircraft hangar.

(c) The offense described in subsection (a) is a Class D felony if it:

(1) is committed within five hundred (500) feet of:

(A) the location where a burial is being performed;

(B) a funeral procession, if the person described in subsection (a) knows that the funeral procession is taking place; or

(C) a building in which:

(i) a funeral or memorial service; or

(ii) the viewing of a deceased person;

is being conducted; and

(2) adversely affects the funeral, burial, viewing, funeral procession, or memorial service.

6. APPENDIX 2 – A SAMPLE OF THE EXCEL DATABASE

Index	Case Number	Charge at time of Arrest	Domestic Battery	Battery	Confine	Intim	Interf 911	Strang	Other
1	53C02-0902-FD-00117	Domestic Battery FD, Probation Violation	3	0	0	0	0	0	0
2	53C02-0912-CM-04580	Domestic Battery MA, Illegal Consumption MB	2	0	0	0	0	0	1
3	53C02-0909-FD-00765	Domestic Battery FD, Confinement FD, Intimidation MA	3	0	3	2	0	0	0
4	53C03-0911-CM-04291	Strangulation FD, Battery MA, Interference with reporting a crime, probation hold bond	0	2	0	0	99	3	0
5	53C02-0902-FD-00151	Domestic Battery FD, Interfering with reporting a crime, probation violation	3	0	0	0	99	0	0
6	53C02-0908-FD-00680	Domestic battery MA, Residential entry FD, Strangulation FD	2	0	0	0	0	3	3
7	53C02-0912-CM-04830	Battery MA, Criminal Trespass MA	0	2	0	0	0	0	2

7. APPENDIX 3 - SERVICE STATISTICS FROM MIDDLE WAY HOUSE, 2009

The overwhelming majority of domestic violence incidents are not reported to police or prosecutors and never make their way into the criminal courts. Middle Way House is the area program designed to meet the crisis intervention, housing, and supportive service needs of victims of abuse.

The information below is taken from Middle Way House's annual report for 2009.

- Women Sheltered	75
- - of women sheltered, those who did not return to abusive relationships following their shelter stay	66
- Women in two-year transitional housing	48
- Non-Resident Women provided with legal advocacy for issues handled in civil court	346