



University of Utah

UNDERGRADUATE RESEARCH JOURNAL

DOMESTIC VIOLENCE REFORMATION IN UTAH

by

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A Senior Honors Thesis Submitted to the Faculty of
The University of Utah

Mentored by Dr. James M Curry

In Partial Fulfillment of the Requirements for the

Honors Degree in Bachelor of Science

In

Political Science

ABSTRACT

This thesis examines Utah state legislators' perceptions regarding Utah Code § 77-36-1 (Cohabitant Abuse Procedures Act), which defines domestic violence as a crime within the state—analyzing prominent lawmakers' positions on the issue, with the premise that the law requires reform. To acquire these varied opinions, surveys were issued to legislators that voted upon bill H.B. 403 (Protective Order and Stalking Injunction Amendments) that was the most recent legislation to revise 77-36-1; and thus, they were considered to have the most topical knowledge on the subject. Results proved to address the disparate views legislators have on the topic of domestic violence, but also presented the instances in which opinions were shared, indicating the area of agreement that may promote reform. The evidence suggests the essence of legislators' consciousness towards challenges associated with combatting domestic violence; however, proper reform seems improbable.

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INTRODUCTION

As it stands currently in the State of Utah, “domestic violence” or a “domestic violence offense” means “any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another” (Utah Code § 77-36-1). This includes typical offenses considered to be domestic violence (DV), such as aggravated assault, sexual assault, and/or harassment; however, it also includes offenses unique to this specific state, such as “any offense against property” and “damage to or interruption of a communication device” (Utah Code, 2019). All of these offenses are treated and prosecuted as DV crimes within Utah, and understandably so, given the right context; although, this is assuming that the context that the code proposes is understandable in nature. It is comprehensible that if one were to threaten another cohabitant with assault against them, they would be committing DV; but, to state that the “conspiracy or solicitation” of possibly attempting, say, interrupting someone on the phone is also DV, is less so. Furthermore, due to the finite definitions of “conspiracy” and “solicitation” as they pertain to legal codes, a petitioner could argue that a respondent¹ committed this “crime” with no evidence of he/she actually attempting said crime, or them even threatening to commit said crime; petitioners could simply state they believe a respondent may commit a DV offense, as per conspiracy precedents, and under Utah Code, that would be substantial evidence for a case.

This was the information that was proposed to me during an internship with the Utah Association of Criminal Defense Lawyers (UACDL), prompting a request for research to be

¹ A “petitioner” is defined as the party to which issues a restraining order, a criminal charge, a suing, etc. to another party. The party that receives these legal documents is defined as the “respondent.” Therefore, in certain cases that would prompt generally understood titles such as “defendant” and “plaintiff,” “respondents” would be referred to as “defendants” and “petitioners” would be referred to as “plaintiffs,” respectively.

conducted regarding DV on a national-basis and beyond. The premise behind this request, as it relates to the overall research question asks: is the way in which DV offenses are perceived and charged in court flawed in reducing recidivism rates²? In this thesis I will argue that, yes, it is flawed and ineffective for combatting crimes of DV, and reducing recidivism rates. I will show that Utah state lawmakers are aware of this ineffectiveness, and that these attitudes have shaped contemporary legislative activity related to DV laws.

For this thesis, I distributed a survey to a total of 96 Utah state legislators, which accounts for better than 90% of the members in the legislature. Of the 96 legislators that received the survey, 32 responded—29 of which were through online administered surveys, and three of which were through phone call administered ones. The survey relates to the overarching research question and hypothesized thesis statement due to the structure of the survey, inquiring respondents about their opinions towards the issue of DV and the various sentencing solutions for it, as well as the respondents themselves—being the state law makers that conceived and approved the already mentioned definitions of DV in Utah, identified as Chapter 36, Title 77 of the Utah Code (Cohabitant Abuse Procedures Act). It's fair to assume that these legislative members have the most topical knowledge regarding Utah Code § 77-36-1; therefore, their input was requested to assess elite attitudes about the effectiveness of the legal precedents set by the code in combatting DV. Due to recent social movements (e.g. the Feminist Movement and most certainly, the “Me Too” Movement), violent DV actions and other forms of assault have undoubtedly been presented to the public on an unprecedented level, never before seen; however, despite the strides these crusades have had in developing a safer work environment as well as a

² “Recidivism rates” refer to the rate in which one commits a similar crime that they committed beforehand—the crime in question for this specific pretense being that of domestic violence offenses.

safer home, the same might not be said for them positively effecting how DV crimes are tried in court and subsequently reduced in quantity.

LITERATURE REVIEW

In an effort to formulate a survey detailed enough to address the various issues of DV to Utah state legislators, research was collected relevant to the current issues. As expressed below, several of the first sources mainly describe less used solutions for DV—underlining the alternative policy approaches, how they affect victims and offenders, and how they reduce recidivism rates overall. The remaining sources address the current procedures for DV crimes, illustrating how offenders are tried in court, how victims are fundamentally limited in their options to seek help, how court proceedings and sentences affect the abusive relationship, etc. The research admittedly presented several findings that were contrary to general understandings of DV and how it is atoned for within the legal system; however, despite these contradictions, the data was still considered and implemented into the creation process of the survey.

Roni Elias (2015) presents the premise of reforming the current procedures for DV towards more of a restorative approach, opting for rehabilitative programs as “punishments” rather than incarceration. The article stipulates many of the measures the justice system has taken in order to combat the issue of DV within the past few decades, referring specifically to the women’s movement and how it influenced said reformation. The article thus continues on, certainly crediting the justice system’s reform concerning DV and how it went from being completely ignored as a “private, family matter” to developing a procedure to actually address it as a crime, but also showing where further change could occur—providing actual solutions to the problem and reducing recidivism, rather than instituting minimalistic probations and/or restraining orders that actually tend to put victims more at risk than less so. This solution the

article proposes is that of restorative justice, acting for DV cases much like mediation does for divorce ones—allowing the offender and the victim to consult with one another within regards to the crime, how it affected their family, and what both parties would prefer to occur in the not too distant future between them.

This article by David Hirschel (2001) argues the reasons behind why prosecutors either accept or deny a DV case relative to the characteristics of the offense, the offender's characteristics, and the victim's characteristics. It is through this delineation of reasons that Hirschel hopes to find which is the most significant in influencing a prosecutor to try a case and why, presenting a unique position as to why prosecutors themselves would have quarrels with the current procedures regarding DV within our justice system. The results of the study showed that the two most significant factors that prompt a prosecutor to accept a case are that of visible victim injury and the absence of victim disagreement with the arrest or citation of the offender. Therefore, through the understanding of these variables being those that influence a prosecutor to take a case, it must be considered all the ones that were left out—making the argument that if prosecutors don't necessarily consider these factors to be significant (such as property damage, fear inducing arguments, etc.) then why should the law?

James Lasley (2003) discusses a possible alternative to the usual consequences associated with the crime of DV, (probation, restraining orders, incarceration, etc.), being that of bail supervision. The premise behind bail supervision is to have a paid third-party entity closely supervising a DV offender, making sure they attend their subsequent trials and adhere to the limitations and guidelines set by said trials. The main goal regarding the study itself addressed in this article was to determine the effectiveness of this idea of bail supervision as opposed to other common consequences for DV cases, analyzed through mainly the level of reduction of

recidivism—or lack thereof. Although the results of the study do show that those who are given bail supervision are less likely to be rearrested for DV than if they had been arrested on the spot, the cost of such a practice is quite high, due to the fact that it does require bailbond agents to “bail-out” offenders and take them up as clients. (Thus, giving them their namesake.) These bails are not cheap by any means, reflecting upon the fact that the bail agencies are motivated by monetary gain over actually helping DV offenders and their families; it’s simply not in their job description.

In this article, the main idea disclosed by Margaret E. Johnson (2014) is to underline the significance of the “home,” as well as one’s overall dignity within relation to families experiencing DV, both for the victim and the offender. It is in this way that Johnson presents how this may indeed reduce the level of violence a family is undergoing—implementing some form of livelihood for offenders to have ownership in, rather than subjugating them to homelessness, which in turn tends to only make them more violent. Through this, the article concludes the somewhat convoluted nature of how DV is currently addressed within our justice system, arguing for a more comprehensive and reformative solution of providing homes and shelters for all parties as a long-term strategy, rather than simply slapping a restraining order on the offender’s record and leaving it at that.

Ji Hyon Kang and James P. Lynch (2014) present domestic and family violence through the lens of various life stages of the given victims and their offenders—establishing whether or not this factor plays a role in the reporting of such crimes. The article begins by discussing the inconsistencies seen throughout the data uncovered by DV studies, stating that in some instances the specific relationship a victim holds with the offender does have an impact (e.g. intimate partner relationships, parent–child relationships, etc.), while in others this variable is completely

insignificant; thus adding yet again to the difficulties of creating generalized legal reformative measures applicable to every DV situation. However, the presentation of the life stage analysis does raise some interesting points of emphasis to consider, mainly seen by the fact that those of the older life stages are far less likely to report DV instances than those of the younger life stages. Kang and Lynch credit this comparable separation of reporting tendencies to the fact that those who are older are generally more dependent upon others than those who are younger, especially within regards to their significant other. Therefore, because the justice system is the way it is concerning DV crimes and offenders usually are separated from their victims in the majority of cases, the simple truth is that older victims can't afford to have their partners and their subsequent incomes stripped away from them after reporting such an offense. The cost is simply too high for these victims.

Zlatka Rakovec-Felser (2014) discusses the finite details of DV within regards to the abuser and the victim, assessing mainly the DV seen in intimate partner relationships and how this violence affects the two parties as well as the overall family dynamic. One of the most fascinating factors that the article addresses is that, opposite from common beliefs, DV is apparent from both sexes. Rakovec-Felser then establishes her main issue with the current way that society treats DV, automatically assuming that men are the one and only culprits and never once considering the possibility of women being just as abusive in these situations. The article also explains the multiple theoretical concepts that can be applied to the problem of DV, these being those of the feminist theory, the conflict theory, and the social learning theory.

In this article, Dr. Carolyn Copps Hartley and Dr. Lynette M. Renner (2016) describe a two-year study they conducted, relative to the effects civil legal services have on DV cases. The study began with 150 female participants, each having various DV cases and relationship

backgrounds. However, as Hartley and Renner subsequently admit, these participants decreased substantially over the period of the study—reducing to nearly a fifth of the original number of participants, at 32 females reporting at the final checkpoint of the study. Therefore, Hartley and Renner make a considerable note of this, stating that this decrease in participation may indeed have affected the results quite significantly so. However, this factor was surprisingly not the most interesting aspect of the study; for, despite the ratio at which the participants diminished from start to finish, the results showed that civil legal services did in fact have a positive effect on DV victims—specifically within regards to their overall income, mental stability, and reduced rates of revictimization.

This may appear as a conflicting result with the overarching position of the court system having a negative effect on DV cases; although, this conclusion the article makes is fairly discredited, per its own admittance, due to the constant throughout every result that the level of input civil legal services had had no discernable effect on the outcome of the case. Put simply, a participant may have experienced these benefits of legal advice through the means of a free legal services agency or through a costly private attorney, and comparatively would have received the same results—meaning that if one can receive the same results income wise, mental health wise, and recidivism rate wise, for little to no cost through legal services, then what need is there for DV specialized lawyers? Additionally, what does this say about the current legal system concerning how DV cases are addressed if prosecutors cannot, on average, produce a better result for victims of DV than much more cost-effective legal services? Is the system really that effective?

Jennifer G. Long, JD and Elaine Nugent-Borakove's (2014) main premise behind their article was to determine the re-offense factors of DV culprits, specifically determining if a prior

history of committing DV offenses has any indication on whether or not one will commit such actions again. The study admittedly conflicts with itself on several occasions, providing evidence for cases in which not arresting DV offenders proved to be beneficial in reducing recidivism rates, and other cases where this was not so. However, relative to the all-encompassing research project at-hand, it does appear as though the authors conclude that if one was prosecuted and convicted of DV, they are more likely to reoffend than those who were not prosecuted and convicted of such crimes previously. Long and Nugent-Borakove's ending comments also mention specific situations throughout their study in which incarceration proved to be effective in reducing recidivism; however, they clarify that this was only applicable to cases where DV offenders had a prior criminal history, and assuredly so, if that criminal history involved other DV offenses.

Dr. Thomas P. George (2008) presents a fairly extensive study, first reviewing the previous studies done relative to the intricacies of DV cases and the effects differing consequences can have on offenders, then conducting a first-hand study as well. The biggest take-away from the study was the varying sentences, mandated probations, and required treatment programs and how these efforts effected DV offenders. In fact, one fascinating conclusion that the author appeared to come to is, while offenders should most certainly be punished for their crimes, less truly did seem to be more regarding ultimately the reduction for recidivism rates. Similar to the article before, there were simply multiple occasions in which the study showed that fines and probation correlated to a much lower recidivism rate for offenders than those who underwent incarceration, reducing not just the rate itself but the time-frame in which one committed another DV offense—since this is, unfortunately, a common understanding concerning DV offenders, that they are likely to offend again. Differing from the aforementioned

conclusion though, there were instances where incarceration did improve recidivism rates; however, this was mainly for offenders with substantially high levels of violence within their records and only appeared to be a beneficial course of action if the punishments were once again reduced in some way—opting for jail sentences with the possibility of parole, rather than the much more severe consequences of prison sentences.

Leigh Goodmark (2015) depicts a situation that occurred in Seminole County, Florida, where a female victim of DV was imprisoned for three days as a punishment for not completely cooperating with her prosecution team. Goodmark describes the account of this woman as somewhat of a cautionary tale, not only underlining the instances in which the specific judge may have been faulty and misguided in his decision to imprison the victim, but also explaining the reasons behind such an astonishing development. Goodmark points to mandatory sentencing policies as the reason behind the victim's experience, stating that present-day courts now focus on charging a given offender of an alleged DV crime, before even considering the rights of the victim or their choice to remain distant from a court trial to protect themselves. The article then continues on, referencing the period (before the 1980s) that disregarded a crime such as DV, and garnered extremely low reporting rates and even lower arrest rates. Therefore, to combat this ignorance in not recognizing the severity of DV crimes, Goodmark states that the justice system may have gone too far in atoning for their transgressions, and that this woman's account is only a testament to that fact.

This article credited by no author (2020) provides a brief summary of the examples in which DV and DV laws may have been prosecuted on an overt level, in an effort to set a precedent. The statistics that the article provides come from an advocacy group known as “Stop Abusive and Violent Environments” (SAVE), that promotes the overall protection and well-

being for victims of DV. Therefore, if an association completely devoted to victims of DV can lament to the possibility of the crime itself being over-criminalized and thus reference data that proposes such a position, it only adds to the argument that the justice system has proven to be ineffective in reducing crimes of domestic violence and solving the issue as a whole.

These studies suggest that there is a dilemma present within the justice system, regarding DV. Efforts implemented to resolve the issue have seemingly backfired, causing homes experiencing DV to undergo the same level of violence before reporting the crime, if not at an even more egregious level after. The multitude of studies and articles referenced above reflect upon the system's ineptitude to reduce recidivism. Furthermore though, the content of several sources also present solutions to the issue at-hand—claiming that despite the current state of DV and how it is addressed legally, there may in fact be alternatives that can eradicate this level of violence and abuse successfully. However, this possibility can only come into fruition if reform is not only discussed but accepted by those who influence and establish laws within the legal system; specifically, those who condoned such a code as 77-36-1.

STATISTICS RELEVANT TO UTAH CODE § 77-36-1

According to the National Crime Victimization Survey (NCVS)³, for DV offenses “reporting rates are increasing but remain low, with reporting rates for both men and women of all nonfatal partner victimization reaching no more than 62%” (As cited by Elias, p. 70, 2016). DV crimes historically have been underreported to the proper outlets, such as law enforcement—greatly endangering the victims who experience said crimes, but also skewing data relevant to

³ According to researchers Ji Hyon Kang and James P. Lynch, they describe the National Crime Victimization Survey (NCVS) as “one of the most important sources of information regarding crime victimization, and data... collected from a sample of 77,200 households comprising nearly 134,000 persons each year” (Kang & Lynch, p. 42, 2014). Due to this, the NCVS is the most accredited source in determining DV statistics and commonalities across victims' experiences.

the specific details of them, falsifying the notion that they are correct representations of what is actually occurring in DV situations across the country. However, of the data that is present, it appears as though court trials and subsequent conclusionary determinations have had little to no success in reducing recidivism. For example, opting to separate a given couple through a restraining/protective order is perceivably flawed in practice, considering “70 percent of reported injuries from domestic violence occur after the separation of the couple” (Rakovec-Felser, p. 63, 2014).

Additionally, in situations where DV cases eventually do go to trial, considering the risk possibility of victims endangering themselves and their well-being at the peril of their offenders retaliating and being even more violent for speaking out, the intention of the legal system has been to protect the victim, reduce recidivism, and do so by prosecuting the offender (to set a precedent legally and beyond). However, the unfortunate truth is that in the case of victims deciding to pursue their right of anonymity by opting to not participate fully with the prosecution, due to inhibitions they may have, they are discredited rather than commended. In a study conducted by David Hirschel, assessing the intricacies of prosecuting DV crimes in court, victims that disagreed with the charges or “argued against arrest or citation were two times less likely to have their cases prosecuted” (Hirschel, p. 53, 2001), than if they had agreed with the charges proposed by their prosecutor. To express this in a different way, even when victims speak up about their abuse, silence in court is awarded more so than sharing their opinions relevant to the charges. The inhibitions that cause victims’ dissent from their prosecutors’ opinions can be seen by the account of a woman that was imprisoned for not cooperating entirely with her prosecution team, as disclosed by Leigh Goodmark:

She [the woman] might have feared that her partner would be mistreated in the criminal justice system, a reasonable fear given the almost daily reports of abuses committed by police and corrections officials. She might have needed her partner's economic support. She might have wanted him to co-parent their child. She might have been dependent upon him for housing; in fact, during the hearing, she told the judge that she was currently homeless, living with her parents. (Goodmark, para. 8, 2015)

Not only do victims risk increasing the level of violence they're experiencing from their offenders, but they also risk enduring all of the detriments Goodmark outlines—undergoing possible homelessness, economic strife, single-parenting challenges, etc.

Furthermore, because of the erroneous approach practiced by the justice system to reduce recidivism for DV offenses, successful prosecutions against offenders doesn't necessarily guarantee that re-offenses won't occur; in fact, in a DV study administered within New York criminal justice courts, researchers Jennifer G. Long, JD and Elaine Nugent-Borakove reported the following:

Victim cooperation with prosecutors did not predict recidivism. In other words, when judges imposed sentences to which victims objected, these victims were no more or less likely to be revictimized than victims who wanted their abusers to be prosecuted and sentenced. (Long & Nugent-Borakove, p. 145, 2018)

The level of agreeance victims present in court towards consequential sentences against offenders does not indicate whether they will experience a re-offense or not. Therefore, while a victim's cooperativeness with their given prosecutor directly correlates to the likelihood of their offender being prosecuted, this same act does not have a discernable effect on reducing recidivism, which is the all-encompassing goal. According to the research, victims are not being

protected by the legal system in the way that one would expect, and reduced recidivism rates are lacking with regard to repercussive actions for DV crimes; likewise, the act of prosecuting offenders is also flawed in practice.

The charges and sentences offenders receive in court vary in reducing recidivism rates, challenging law makers to create consequences for DV crimes that are effective in every situation for every type of offender. Dr. Thomas P. George expressed this conundrum in a study examining the differing types of sentencing conditions for DV offenders and their crimes, assessing the combinations of these sentences as well as the effects they have on recidivism rates. Consequences for DV offenses vary considerably; however, the main offenses that judges impose upon offenders typically include treatment/counseling, probation, fines/proscriptions⁴, and incarceration, each having their own measurable effectiveness in counteracting the revictimized nature that DV cases hold. Dr. George expresses the comparable efficacy of these solutions to DV throughout the study, providing statistics and analyses that illustrate the successes and shortcomings these sentencing options have had, such as:

Offenders receiving victim-oriented treatment⁵ (i.e., victim awareness education and/or a victims' panel) were least likely to recidivate (25% any offense, 12% DV offense), followed by individuals receiving any type of probation (32% any offense, 14% DV offense), those receiving any type of treatment and probation (30% any offense, 18% DV offense), and those receiving anger management (35% any offense, 21% DV offense).

(George, p. 15, 2008)

⁴ Within legal context, proscriptions are considered to be "no contact orders," most generally associated with retraining and protective orders (George, 2008).

⁵ Victim-oriented treatment falls naturally within the treatment and counseling category for sentencing conditions of DV. The treatment focuses on educating offenders on victims and what they undergo due to DV offenses, widening offenders' understandings of the situation in an effort to rehabilitate them.

Indications from this data exemplify further issues relevant to how courts combat DV. As noted above, victim-oriented treatment proves to have the most promising results in reducing recidivism rates (only 25% for any offense and 12% for DV offenses, recorded across offenders that received said sentence). Although, according to Table 1 from the same study, this type of consequence is only used 2.4% of the time across the board (George, 2008).

Table 1
Categories of domestic violence sentence conditions and frequency of use.

<i>Sentence Condition:</i>	<i>Frequency:</i>	<i>% of all conditions:</i>	<i>% of sentences w/ condition:</i>
Proscriptions	59,517	33.5	96.2
Fines	29,475	16.6	76.9
Jail	19,744	11.1	72.5
Probation	14,189	8.0	49.5
Assessment	12,077	6.8	35.7
Administrative	11,513	6.5	33.7
Other/unspecified	9,430	5.3	28.4
Domestic Violence Treatment	7,261	4.1	26.7
Victim-oriented treatment	4,296	2.4	15.7
Work	2,903	1.6	10.1
Alcohol and Drug Treatment	2,691	1.5	8.8
Anger Management	1,996	1.1	7.3
Mental health treatment/counseling	1,337	0.8	5.1
Detention	612	0.3	2.2
Total	177,041		

Source: (George, p. 10, 2008).

Furthermore, through the assessment of a much more severe, but also, much more frequently used sentence condition such as “Jail” on Table 1—proving to be the third most applied sentence for the crime, at 11.1% (George, 2008)—Dr. George laments how ineffective this consequence is in reducing recidivism, stating that “eighty-three percent (83%) of individuals who received jail alone committed another crime within five years, and over one-half (55%) committed another domestic violence offense” (George, p. 17, 2008). In fact, within the study, jail sentences proved to elicit the highest rates of recidivism then any other form of sentence—raising the likelihood of an offender committing another crime nearly four times higher, and committing another DV crime

nearly five times more, as compared to the recidivism rate statistics for the afformentioned victim-oriented treatment sentencing condition.

The culmination of these examples in which the legal system falls short in atoning for the transgressions of DV promotes the arguement for a stuctural reform, from how the crime is charged, tried, and ultimately sentenced for a given offender that commits it. The current precedent simply does not achieve any of the intentions it was devised for, whether this be supporting victims, holding offenders accountable, or reducing recidivism, the current practices fail in most if not all situations. In the majority of sources researched, the higher the severity of the punishment for DV crimes resulted in either increased recidivism rates, more violent acts committed against victims, or both—revealing that surprisingly less may indeed mean more, despite popular beliefs and the current political/societal standards.

The overt convicting of DV has fundamentally garnered the exact opposite result of what law makers sought to accomplish in reforming it as a crime, evidential by the fact that while “each year one million Americans are arrested on allegations of domestic violence...Only 30% of arrestees are convicted of the offense, suggesting large numbers of persons are being detained based on weak evidence” (As cited by “How do We Know that our Approach to Domestic Violence has become Over-Criminalized?,” para. 5, 2020). The finite details of Utah Code § 77-36-1 and its severity regarding offenses of DV reflect these same deficient pretenses; therefore, the opinions of the legislators that agreed upon such a legal code were requested and analyzed, in an effort to uncover their positions relevant to this data.

RESEARCH METHODS

The main premise for the research is to uncover elite opinions, in this case members of the Utah House of Representatives and the Senate, on Utah Code § 77-36-1—assessing how

adequate or not they believe the law was in reducing recidivism, as well as their beliefs on the issue of DV as a whole. Utah Code § 77-36-1 has experienced a multitude of changes over the past several years, some even occurred during the writing of this thesis. To elaborate, the 5/14/19 version of Utah Code § 77-36-1 was the original form of DV law that incited attorneys at the UACDL and myself to conduct research for a subsequent reform (as was mentioned in the Introduction); however, as of 7/1/20, this code has in fact been amended and superseded by a newer version. To account for this recent development in the alterations to this law, opinions were only requested from members of the House and the Senate that voted upon the amendment that revised the law.

Legislators that voted on the amendment included 73 members from the House of Representatives that proposed the initial bill of H.B. 403 (Protective Orders and Stalking Injunction Amendments), and 23 members from the Senate that reviewed the bill and passed it with their own amendments. Considering selection bias, the names of the 96 legislators in question were randomized, and no personal information was requested in order for the data to remain anonymous. Data was collected through the use of a survey method separated into two parts: the first querying respondents' opinions about the current state of DV and DV law within the United States, and the second proposing a more local emphasis in questioning, asking one's position on the effectiveness of Utah Code § 77-36-1 and the amendment that altered it. The survey was composed of 15 questions (Appendix 1: Module 1), based on a likert/gradient scale where respondents had the option of answering the questions and statements as either "Agree," "Partially Agree," "Neutral," "Partially Disagree," or "Disagree." Additionally, respondents had the option of providing clarifications for their answers through unrequired "Elaborate" questions, allowing one to expand upon their answer and provide personal comments. Responses were

amassed either via email or via phone call, with phone calls taking no more than 15 minutes to complete, and email responses taking no more than one week to receive—both having the same survey structure format, and questions.

RESULTS AND DISCUSSION

Of the 96 total state legislators that received the survey, 32 members responded: 29 of which responded through the original online survey that every member received, and three of which opted to have the survey administered via phone call, alternatively. The inputs from all 32 respondents were acceptable, as each filled out the survey completely; therefore, the usable response return rate for the survey was 33.3%. The respondents were an accurate representation of the sum of state legislators, which at a total of 104 members, is comprised of 78.8% Republican and 21.2% Democrat. Comparatively, while the respondents themselves were anonymous and therefore their political affiliation cannot be disclosed, of the 96 legislators that received a survey the ratios were quite similar, with 79.2% that were Republicans and 20.8% that were Democrats—all coming from different regions throughout Utah. In addition to the survey itself being simplified into two sections, the analysis for the results is split up into five sections, and lists accordingly: Background Information of Legislators, Recidivism Reduction, Victim Protection, Offender Prosecution, and The Current Laws: Relative to Domestic Violence as an Issue. All of the 15 questions were situated throughout the survey within consideration of these analysis categories, as to not indirectly influence respondents to assess questions in a certain order or in a certain way. The results and discussion of this study are expressed below.

Background Information of Legislators

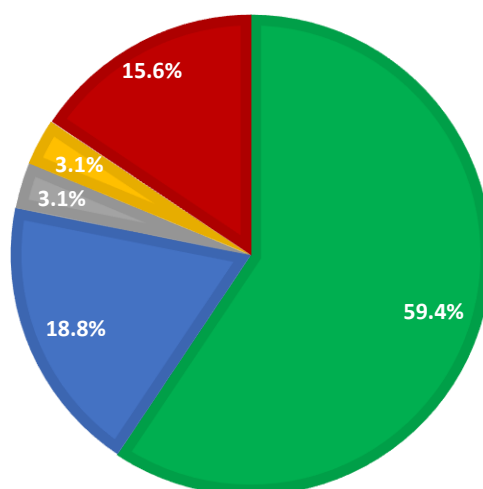
The questions for this section characterized the specific respondent that filled out the survey—as disclosed by Question 1 and Question 2, in Module 1. These questions were devised

to ascertain background information about a given respondent, asking them “are you a member of the Senate or the House of Representatives” (Module 1: Question 1) and “in your career, how many domestic violence cases would you estimate you’ve had experience with, whether legislated, tried, or participated in” (Module 1: Question 2). Of the sum of respondents that took the survey, 84.4% were members of the House of Representative and 15.6% were members of the Senate, understandable considering that a larger amount of legislators voted on bill H.B. 403 that subsequently altered 77-36-1, and thus, they received more survey requests. As represented by Figure 1, the particular expertise that legislators had on the issue of DV were quite varied. The majority of respondents, at 59.4%, stated that they had had experience with roughly 1-5 DV cases in their careers.

Figure 1
Legislators’ responses to Question 2.

QUESTION 2: LEGISLATORS’ SELF-REPORTED NUMBER OF CAREER ENGAGEMENTS WITH DV CASES

of DV cases: ■ 1--5 ■ 6--10 ■ 11--15 ■ 16--20 ■ 20+



The next most frequently answered option was that of 6-10 DV cases, at 18.8%, meaning that almost 80% of the legislators that voted for H.B. 403 and altered the definitions of DV in the state of Utah had no more than 10 DV cases that they could recall having experienced in their

careers. Granted, while having a legal background isn't fundamentally required in order for one to become a legislator; regardless, this statistic played a factor throughout the study as a whole. Referencing the "Elaborate" portions of the survey, there were several instances in which legislators admitted to not having a particularly vast level of expertise in the topic of DV—commenting that they "don't have the information necessary to evaluate" or even stating that they simply "didn't know" regarding a question (Module 2). DV experience was certainly present during the approval process of the bill; however, not at an exceptionally high level.

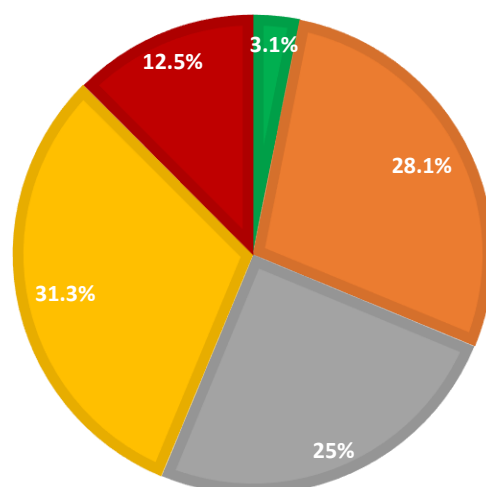
Recidivism Reduction

Questions devoted to this section were formulated to address the most significant aspect of the research: Answering whether the justice system is effective in reducing recidivism rates for DV. The questions implemented for this section were those of Question 5, Question 8, Question 10, and Question 11, each representing prominent issues the legal system has in alleviating the high recidivism rate for DV (Module 1). Beginning with Question 5, that stipulates "the justice system is designed to reduce recidivism for domestic violence and succeeds in doing so" (Module 1), answers were quite split. As seen in Figure 2, the answer with

Figure 2
Legislators' responses to Question 5.

QUESTION 5: LEGISLATORS' RESPONSES TO THE JUSTICE SYSTEM BEING DESIGNED TO REDUCE RECIDIVISM

■ Agree ■ Partially Agree ■ Neutral ■ Partially Disagree ■ Disagree



the highest percentage was that of “Partially Disagree,” with 31.3% of respondents; however, the next highest was that of “Partially Agree,” with 28.1% of respondents. These answers, while being complete opposites to the question, had a ratio difference of only 5%—equivalent to the percentage value of just above one respondent (1 respondent = 3.1%).

Contrary to this though, the comments for this question all appeared to agree that the justice system is not successful in reducing recidivism rates for DV, providing statements such as:

- “We see too much recidivism to say that the system is successful in doing what it's designed to do” (Module 2).
- “I think the whole criminal justice system sucks, so I can’t imagine that I would think it was doing great things in terms of domestic violence” (Module 2).
- “I’ve yet to see the judicial system reduce recidivism through any action of their own.

Usually it occurs through legislative direction that again comes from good data gathering and results in better policy making” (Module 2).

All of these individual quotes provide emphasis to the problematic situation of reducing recidivism rates through the means of the justice system, each adding their own aspect to incorporate within the argument, but all seeming to suggest the same position.

Question 10 and Question 11 were constructed as opposites of each other, one stating that “domestic violence crimes are best combatted through severe sentences, such as incarceration” (Module 1: Question 10), while the other promoted that “domestic violence crimes are best combatted through less severe sentences, such as treatment—victim-oriented, anger management, mental health counseling, etc.” (Module 1: Question 11). As depicted by Figure 3

and Figure 4, results were yet again fairly spread out for Question 10, but also discernably conclusive for Question 11.

Figure 3
Legislators' responses to Question 10.

QUESTION 10: LEGISLATORS' RESPONSES TO THE EFFECTIVENESS OF SEVERE SENTENCES FOR DV

■ Agree ■ Partially Agree ■ Neutral ■ Partially Disagree ■ Disagree

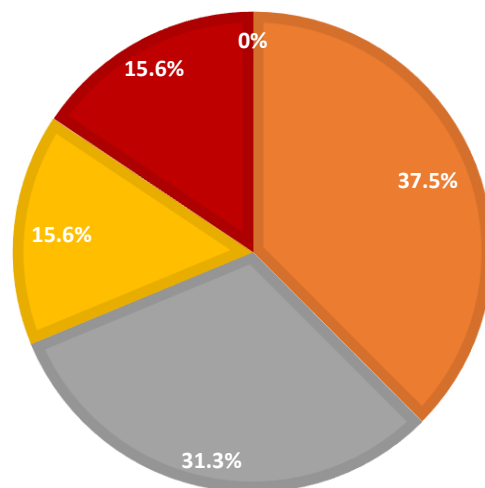
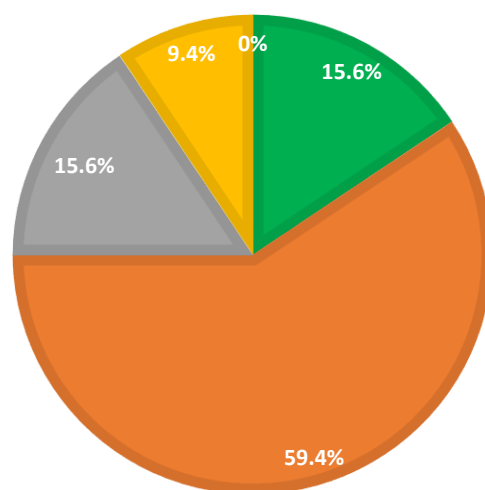


Figure 4
Legislators' responses to Question 11.

QUESTION 11: LEGISLATORS' RESPONSES TO THE EFFECTIVENESS OF LESS SEVERE SENTENCES FOR DV

■ Agree ■ Partially Agree ■ Neutral ■ Partially Disagree ■ Disagree



Illustrated by Figure 3, the most frequently chosen answer for Question 10 was in fact “Partially Agree,” with 37.5% of the sum of entries. Despite this though, the total of disagreeable options

(“Partially Disagree” and “Disagree) equated to 31.3% of the sum of entries, which establishes a variance of only two respondents or 6.2%. Therefore, while the results may suggest that legislators partially agree that incarceration is an optimal solution in reducing recidivism for DV, the margin is miniscule enough that it would be difficult to argue in its favor as being significant. On the adversarial side of the analysis, Figure 4’s visualization of the data expressed by Question 11 is less debatable, for “Partially Agree” is clearly the cumulative choice amongst legislators, with an overall percentage of 59.4%.

By comparison, surveyed legislators seem to prefer less severe sentences (treatment and counseling) over more severe ones (incarceration), prompting a connection between their opinions and what the research data concluded by measuring the effectiveness of various sentencing conditions for reducing recidivism rates of DV. The comments for these two questions solidify the position ever further, lamenting that “the data is clear, severe sentences can actually increase recidivism, not reduce it” (Module 2). One respondent specifically, responding via phone call, shared their solution quite eloquently—not only addressing the necessity of promoting more treatment-based outcomes within our judicial system, but also the cautious demeanor one should use to approach it:

There has to be some kind of treatment model that’s good. We need to be very careful about the treatment programs that we send them [offenders] to, that they are actually effective. We need to look at outcomes, a lot of times we just look at input, so we need to look at outcomes—which I think government is very bad at doing—and see if something’s effective or not... Look at the results, and if a program’s not working it’s not necessarily because that person’s unsalvageable. (Module 2)

As already mentioned before, less may indeed mean more in reducing recidivism rates, and while these legislators may agree with such a statement within regards to incarceration versus treatment, this preference is incapable of thriving within a system bound by Utah Code § 77-36-1 and its severely generalized precedents.

Victim Protection

Question 6 was the only question present for this section, proposing to respondents the statement that “the justice system is designed to protect victims of domestic violence and succeeds in doing so” (Module 1). Results for the question indicated that legislators did agree with the statement. The highest frequency of responses submitted were for “Partially Agree,” with an overall percentage of 50% of respondents, and the next highest was that of “Neutral” and “Partially Disagree,” which each were 18.8%. However, while the amount of questions for this section was quite low, the amount of comments referencing it and victims in general were quite high, providing opinions about victims of DV and their experiences within the justice system not just under Question 6, but all throughout the survey:

- “It [the legal system] is designed that way but again due to prejudices and sometimes poor data they don't protect victims like they should. With the current Criminal justice reform movement I believe we are now starting to treat the victim like the suspect and the suspect like the victim” (Module 2).
- “Rights of defendants make prosecuting very difficult if there is not a willing victim” (Module 2).
- “Clearly incarceration ‘protects the victims’ at least during the pendency of the jail time” (Module 2).

- “It [bill H.B. 403] helps the victim but does not help reduce the number of crimes”
(Module 2).

These comments and several others outline possible misconceptions law makers may have pertaining to victims of domestic violence, specifically referencing the data that the “Literature Review” suggested. To state that a “willing victim” is preferable in protecting said victim and prosecuting a DV offender, that “clearly incarceration ‘protects victims,’” and that current laws help “the victim but [do] not help reduce the number of crimes,” is completely contrary to what the collected research exemplified. A willing and cooperative victim is no more or no less likely to experience a re-offense than if they weren’t so in court (Long & Nugent-Borakove, 2018), incarceration statistically is the most detrimental sentencing condition to reduce recidivism rates (George, 2008), and realistically, if the quintessential goal is to protect victims from offenders of DV, then how is the system helping them by not “reduc[ing] the number of crimes?” The system appears to be flawed in counteracting the issue of DV, and these sentiments are evidence of that.

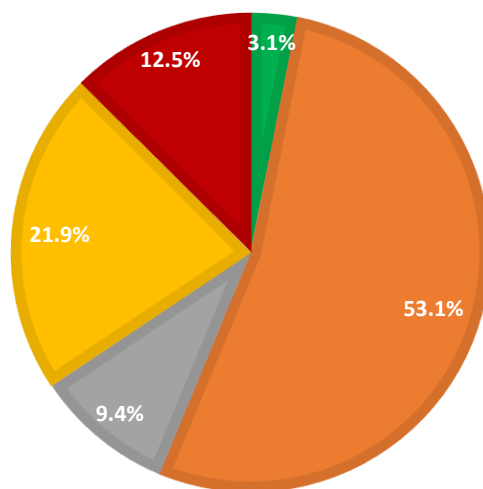
Offender Prosecution

This section conveys legislators’ opinions about prosecuting offenders, assessing what procedures they believe institute the most efficacy in reducing re-offenses. Question 7 and Question 9 were conceived to accomplish this goal, inquiring respondents if “the justice system is designed to prosecute offenders of domestic violence and succeeds in doing so” (Module 1: Question 7), and asking if “sentencing conditions for domestic violence should take into account the risk factor of the offender (Module 1: Question 9)? Data displayed by Question 7 was fairly one-sided, as seen by Figure 5, the majority of respondents reported “Partially Agree” for the statement, with 53.1%.

Figure 5
Legislators' responses to Question 7.

**QUESTION 7: LEGISLATORS' RESPONSES TO THE JUSTICE SYSTEM
BEING DESIGNED TO PROSECUTE OFFENDERS**

■ Agree ■ Partially Agree ■ Neutral ■ Partially Disagree ■ Disagree

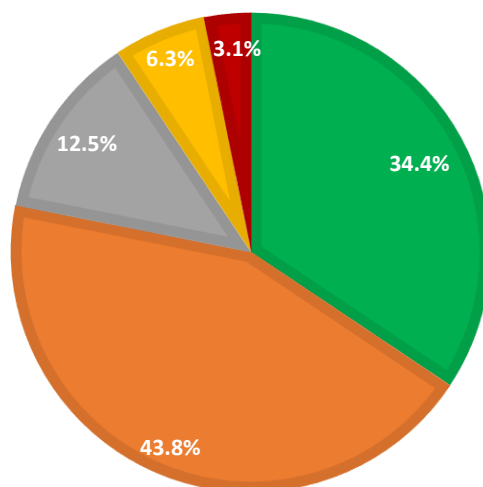


Despite the next most frequently responded option being that of “Partially Disagree,” at 21.9%, the difference is substantial enough to state that most legislators partially agree that one of the justice system’s designations is to prosecute DV offenders, and that it succeeds in doing so (Module 1). Continuing on, Question 9 offers an even wider margin in comparable results—as disclosed by Figure 6—not only does “Partially Agree” again have the highest frequency of

Figure 6
Legislators' responses to Question 9.

**QUESTION 9: LEGISLATORS' RESPONSES TO EVALUATING THE RISK
OF OFFENDERS FOR SENTENCING PURPOSES**

■ Agree ■ Partially Agree ■ Neutral ■ Partially Disagree ■ Disagree



responses, with 43.8% of all respondents, but “Agree” presents the second highest, with 34.4% of all respondents. Therefore, the total frequency of responses for agreeable options (“Partially Agree” and “Agree”) totals at 78.2% overall. Legislators were perceivably within agreeance when asked questions based upon prosecuting offenders; however, their comments did tend to conflict with each other.

Comments concerning the prosecution and ultimate conviction of DV offenders were quite similar to the ones expressed in the previous section, certainly recorded underneath questions devoted to the topic, but also seen under numerous other questions as well. One profound takeaway the comments emphasize is how certain legislative respondents are in their opinions about the justice system and how it may indeed fail in prosecuting offenders correctly. For example, a comment from Question 7 states that “the justice system is little more than a whip. It’s more notable for its abuses than for its functionality” (Module 2). In addition, a Question 9 comment argues that “incarceration does nothing to assist in alleviating the problem” (Module 2) asserting yet again the downfalls of overtly incarcerating offenders of DV. These statements, while possibly sanicle and surely unapologetic, add even more validity to the position that the justice system neglects solving DV and reducing recidivism rates. As shared by these respondents, the justice system is seldom to go beyond punishments and consequences for one’s actions in committing a crime and essentially rehabilitating criminals—especially within regards to DV offenders.

The Current Laws and Codes: Relevant to Domestic Violence as an Issue

The last section of analysis questions respondents to consider the current codes and procedures for DV, proposing whether or not the situation is indeed a prominent legal and societal issue that requires reform. Therefore, this section’s significance is second only to the

most crucial section of “Recidivism Reduction,” as it asks legislators specifically about Utah Code § 77-36-1 and what effects the passing of amendment H.B. 403 will have on it in the near future. Questions specified for this section were those of Question 3, Question 4, and Questions 12-15. One of the most compelling results of the entire survey is credited to the comparable data of Question 12 and Question 13; because, in contrast to the totality of results and comments thus far, perpetuating the visible flaws the legal system has in dealing with cases of DV, respondents seemed quite optimistic in approving a bill that makes the code in question of 77-36-1 even more strict.

In fact, data from these two questions of “regarding the passing of bill H.B. 403 ‘Protective Order and Stalking Injunction Amendments,’ will this measure have a positive effect in reducing crimes of domestic violence” (Module 1: Question 12), and “regarding the passing of bill H.B. 403 ‘Protective Order and Stalking Injunction Amendments,’ will this measure have a negative effect in reducing crimes of domestic violence” (Module 1: Question 13), portrayed the most conclusive results of almost any other question. Results for Question 12 stated that, of the agreeable options, 62.5% answered for “Partially Agree” and 25% answered for “Agree” (Module 1), raising the total to 87.5% in favor that H.B. 403 will reduce recidivism rates for DV—a reasonable result, considering the vote for the bill to be passed as an amendment was unanimous, at 73-0.

Furthermore, the results for Question 13 were just as conclusive, with a disagreeable option total at 68.8%, split up into two 34.4% totals for both “Partially Disagree” and “Disagree” (Module 1). Legislators seem to indisputably support H.B. 403, regardless of the contradictions its severity promotes relative to the data of the research study. Comments from respondents describe exactly what the amendment entails, the vast majority hoping that it will have a positive

effect on the issue but, doing so by strengthening protective order-based consequences, which is flawed in practice (Rakovec-Felser, 2014):

- “Increasing the length and removing hurdles of protective orders is helpful to the victims. Expanding the protections to include more situations also allows more people to get those protects. Unfortunately this system is already overburdened and hard to monitor. There is evidence that this process is not working now” (Module 2).
- “It puts more teeth into protective orders. They can even be permanent, which would be a relief to recurring victims. And I like that convicted perps who are denied bail must appear before the court before release.” (Module 2).

Separating couples experiencing DV has proven to increase recidivism, not reduce it; and so, providing “more teeth” for protective orders that promote such situations to occur, may indeed correlate in the exact opposite result of what was intended, as far as the data is concerned.

Relating this to the effects the amendment will assuredly have on 77-36-1, Question 14 and Question 15 urged respondents to acknowledge several quandaries. First, Question 14 asked if they “believe the 5/14/19 version of Utah Code § 77-36-1 was effective in reducing recidivism rates for domestic violence” (Module 1), being the definitional code before H.B. 403 was implemented, and second, Question 15 asked if they “believe the 7/1/20 version of Utah Code § 77-36-1 will be more effective in reducing recidivism rates for domestic violence” (Module 1), after said amendment implementation. Admittedly, the results were quite inconclusive. As seen by Figure 7 and Figure 8, Question 14 produced the highest level of “Neutral” respondents, at 56.3% overall, and Question 15 appeared to continue the trend, with a shared 34.4% for each option of “Neutral” and “Partially Agree.”

Figure 7
Legislators' responses to Question 14.

QUESTION 14: LEGISLATORS' RESPONSES TO THE EFFECTIVENESS OF UTAH CODE 77-36-1 (V. 5/14/19)

■ Agree ■ Partially Agree ■ Neutral ■ Partially Disagree ■ Disagree

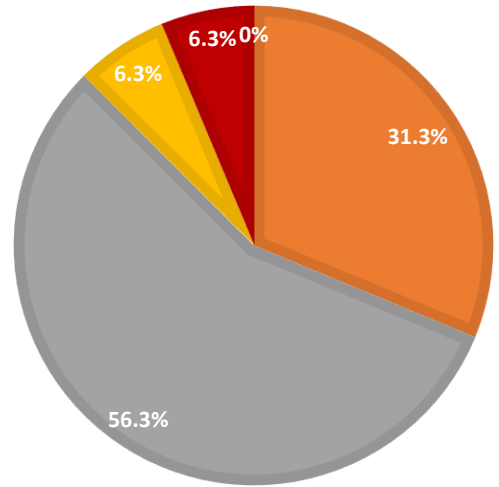
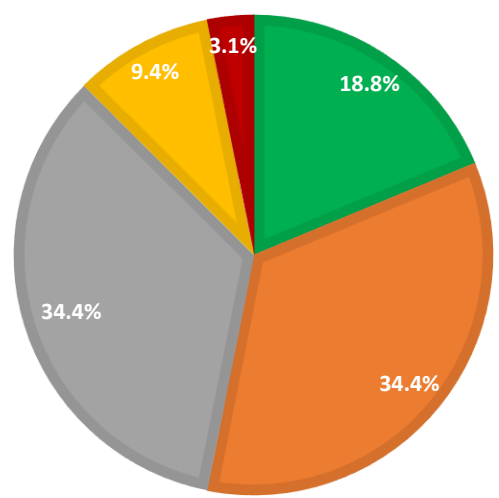


Figure 8
Legislators' responses to Question 15.

QUESTION 15: LEGISLATORS' RESPONSES TO THE EFFECTIVENESS OF UTAH CODE 77-36-1 (V. 7/1/20)

■ Agree ■ Partially Agree ■ Neutral ■ Partially Disagree ■ Disagree



To clarify, several respondents commented that they were not familiar with this code, thus, they did not feel particularly comfortable in providing an answer—underlining why in fact so many responded as “Neutral.” However, despite these unusually high neutral levels (possibly due to

the lack of expertise concerning DV, as mentioned before), the second most frequently submitted answers for the two questions were that of “Partially Agree.” Therefore, it appears that the majority of surveyed legislators partially agree, not only that the 5/14/19 version of Utah Code § 77-36-1—that influenced this reformative research study to begin with—was effective in reducing recidivism, but also that the newer and more severe version of 7/1/20 will be even more effective in doing so.

CONCLUSION

“As psychologist Judith Herman has noted, there is no better vehicle for re-traumatizing victims of violence than participating in the adversarial justice system” (As cited by Goodmark, para. 8, 2015).

The justice system is one of the many essential foundations of American society, instituted to protect the public and establish fairness throughout every facet of the nation. Its fundamentally just procedures have garnered a history of judicial precedents and codes that are used to this day. However, as a legal system, it is not independent of requiring reform in certain instances, for the betterment of all parties bound by it. Reducing recidivism, protecting victims, and prosecuting offenders are the intrinsic goals of addressing DV as a crime; and yet, the judicial system falters in achieving these goals. As evidential from the data, DV law is in fact one code that irrefutably demands a reform, referencing the introductory research question that the way in which DV offenses are perceived and charged in court is flawed in reducing recidivism rates. The thesis statement argued that this was indeed true, and this position was affirmed by the survey data and the analysis that followed.

I recommend for future research that, while state legislators may in fact be the ones that propose, debate, and approve laws, this does not guarantee that they entirely recall every

proposal that is brought to their attention—as they receive thousands of bills per year. Therefore, a recommendation is to propose a background document about a given code and/or bill before submitting survey materials, as to give respondents a brief synopsis on the topic before they opt to participate or not. Additionally, there were several questions that proved to be quite confusing for respondents, particularly those of Question 3, Question 4, and Question 13; therefore, an entire redrafting for those questions are also recommended, or they could alternatively be redacted altogether. Finally, considering the most useful results came from phone call administered surveys, as it allowed respondents to express their individual opinions without any restrictions, this form of survey gathering is recommended for further research—providing respondents the option to clarify questions or concerns in a more interpersonal manner, rather than subjugating them to a finite electronic survey structure.

In summary, it is without question that DV is a challenging issue to approach and requires one to consider factors and variables that commonly exceed and overwhelm expectations. Strides have certainly been made to alleviate some of the pain and violence many families experience all across the country; however, the route legislation appears to be traveling upon may indeed undo all of that effort made for a positive result in reform. The most disconcerting result this study emphasized was not necessarily that Utah state legislators are unaware of the issues present with DV, as the comment sections of the survey expressed, many were perceivably quite aware of the issues and the crucial steps that had to occur legislatively and beyond. However, the disconnect appeared to occur when biases and personal perceptions of DV offenders and their crimes surfaced, prompting respondents to elaborate upon views and solutions that completely contradicted previous comments they may have mentioned several questions earlier. Furthermore, it was also baffling that while results from the study depicted

opinions that varied quite significantly in ideology and expression, to reiterate, the vote for H.B. 403 that ultimately changed 77-36-1 was unanimous, without the slightest inkling of dissent—illustrating the unfortunate reality that legislators may indeed have inhibitions about certain bills, but don't risk conflicting with the majority opinion.

In this progressive era, DV offenders' actions have no domain to be condoned in any manner or situation, and that is a truth shared within this thesis; although, as asserted by a respondent, if “the more data we gather the better we can create laws and rules that work for domestic violence” (Module 2), then logic dictates that evidence and research vastly surpasses any one vendetta that hasn't proved to be effective. This study and overall thesis propose what that necessary data reveals, and although these legislators in question may have not had access to this data during the passing of H.B. 403, if they had, it would stand to reason that they may have in fact come to the same conclusion present here: The judicial system is flawed in reducing recidivism for crimes of domestic violence, and Utah Code § 77-36-1, regardless of the version, is simply a testament to this.

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Appendix 1: Domestic Violence Survey

Consent/Survey Request Statement

“Opinions About Utah Code § 77-36-1”

Dear [Insert Legislator],

Hello! My name is Jacob Hall, and I am currently a senior at the University of Utah. I am emailing you with regards to a study I am conducting for my Honors Thesis, mainly concerning Utah Code § 77-36-1. I am aware that you, as well as several of your legislative associates, have recently passed an amendment entitled “H.B. 403” that affected 77-36-1; and so, I felt as though your input would be the best to request about this matter. With your permission, if you wouldn't mind taking a 5-10 minute long survey I have listed below, I would sincerely appreciate it. All submissions will be completely anonymous, and if you would rather prefer to have it administered over the phone alternatively, you will see that my number is at the bottom as well. If you have any questions or need any clarifications, please feel free to contact me or my thesis advisor, his information will be at that bottom too. As a Utah citizen, I truly appreciate all the work you as a State Legislator do for our state, and I will be looking forward to your response. Thank you, and have a wonderful rest of your day.

Survey Link: [Insert Link]

Phone Number: (801) 792-6502

Thesis Advisor's Contact Info: (Email) james.curry@poli-sci.utah.edu

From,
Jacob Hall

Domestic Violence Survey Results (Module 1)

Part 1—Opinions About Utah Code § 77-36-1

1. Are you a member of the Senate or the House of Representatives?
 - a. Senate (84.4%)
 - b. House of Representatives (15.6%)

2. In your career, how many domestic violence cases would you estimate you've had experience with, whether legislated, tried, or participated in?
 - a. 1-5 (59.4%)
 - b. 6-10 (18.8%)
 - c. 11-15 (3.1%)
 - d. 16-20 (3.1%)
 - e. 20+ (15.6%)

3. The issue of domestic violence requires a prominent legal/societal movement in order to be solved. (Ex. *Roe v. Wade* (1973), *Brown v. The Board of Education* (1954), *Plessy v. Ferguson* (1896), etc.)
 - a. Agree (15.6%)
 - b. Partially Agree (43.8%)
 - c. Neutral (21.9%)
 - d. Partially Disagree (6.3%)
 - e. Disagree (12.5%)

4. The recent reforms for domestic violence have beneficially affected the issue in a way that it doesn't require a prominent legal/societal movement in order for it to be solved.

(Ex. *Roe v. Wade* (1973), *Brown v. The Board of Education* (1954), *Plessy v. Ferguson* (1896), etc.)

- | | |
|-----------------------|---------|
| a. Agree | (3.1%) |
| b. Partially Agree | (37.5%) |
| c. Neutral | (15.6%) |
| d. Partially Disagree | (31.3%) |
| e. Disagree | (12.5%) |
5. The justice system is designed to reduce recidivism for domestic violence and succeeds in doing so.
- | | |
|-----------------------|---------|
| a. Agree | (3.1%) |
| b. Partially Agree | (28.1%) |
| c. Neutral | (25.0%) |
| d. Partially Disagree | (31.3%) |
| e. Disagree | (12.5%) |
6. The justice system is designed to protect victims of domestic violence and succeeds in doing so.
- | | |
|-----------------------|---------|
| a. Agree | (0.0%) |
| b. Partially Agree | (50.0%) |
| c. Neutral | (18.8%) |
| d. Partially Disagree | (18.8%) |
| e. Disagree | (12.5%) |
7. The justice system is designed to prosecute offenders of domestic violence and succeeds in doing so.

- | | |
|-----------------------|---------|
| a. Agree | (3.1%) |
| b. Partially Agree | (53.1%) |
| c. Neutral | (9.4%) |
| d. Partially Disagree | (21.9%) |
| e. Disagree | (12.5%) |
8. The domestic violence minimum mandatory sentences in Utah reduce recidivism.
- | | |
|-----------------------|---------|
| a. Agree | (0.0%) |
| b. Partially Agree | (31.3%) |
| c. Neutral | (25.0%) |
| d. Partially Disagree | (31.3%) |
| e. Disagree | (12.5%) |
9. Sentencing conditions for domestic violence should take into account the risk factor of the offender. (I.E. higher-risk offenders should get higher sentences and lower-risk offenders should get lower sentences).
- | | |
|-----------------------|---------|
| a. Agree | (34.4%) |
| b. Partially Agree | (43.8%) |
| c. Neutral | (12.5%) |
| d. Partially Disagree | (6.3%) |
| e. Disagree | (3.1%) |
10. Domestic violence crimes are best combatted through severe sentences, such as incarceration. (To reduce recidivism).
- | | |
|--------------------|---------|
| a. Agree | (0.0%) |
| b. Partially Agree | (37.5%) |

- c. Neutral (31.3%)
- d. Partially Disagree (15.6%)
- e. Disagree (15.6%)

11. Domestic violence crimes are best combatted through less severe sentences, such as treatment—victim-oriented, anger management, mental health counseling etc. (To reduce recidivism).

- a. Agree (15.6%)
- b. Partially Agree (59.4%)
- c. Neutral (15.6%)
- d. Partially Disagree (9.4%)
- e. Disagree (0.0%)

Part 2—THE FOLLOWING ARE BASED UPON THE 2020 GENERAL SESSION

12. Regarding the passing of bill H.B. 403 “Protective Order and Stalking Injunction Amendments,” will this measure have a positive effect in reducing crimes of domestic violence?

- a. Agree (25.0%)
- b. Partially Agree (62.5%)
- c. Neutral (9.4%)
- d. Partially Disagree (0.0%)
- e. Disagree (3.1%)

13. Regarding the passing of bill H.B. 403 “Protective Order and Stalking Injunction Amendments,” will this measure have a negative effect in reducing crimes of domestic violence?

- | | |
|-----------------------|---------|
| a. Agree | (0.0%) |
| b. Partially Agree | (15.6%) |
| c. Neutral | (15.6%) |
| d. Partially Disagree | (34.4%) |
| e. Disagree | (34.4%) |
14. Do you believe the 5/14/19 version of Utah Code § 77-36-1 was effective in reducing recidivism rates for domestic violence?
- | | |
|-----------------------|---------|
| a. Agree | (0.0%) |
| b. Partially Agree | (31.3%) |
| c. Neutral | (56.3%) |
| d. Partially Disagree | (6.3%) |
| e. Disagree | (6.3%) |
15. Do you believe the 7/1/20 version of Utah Code § 77-36-1 will be more effective in reducing recidivism rates for domestic violence?
- | | |
|-----------------------|---------|
| a. Agree | (18.8%) |
| b. Partially Agree | (34.4%) |
| c. Neutral | (34.4%) |
| d. Partially Disagree | (9.4%) |
| e. Disagree | (3.1%) |

Domestic Violence Survey Elaboration Results (Module 2)

Part 1—Opinions About Utah Code § 77-36-1

3. Elaborate for the answer above (Not Required)
 - Desegregation, abortion rights and separate but equal are prominent legislation. Domestic abuse has so many variables and it would be difficult to create such sweeping legislation.
 - Legal manipulation seldom solves the problem, but societal movement does. Laws aren't needed as much when people manage themselves.
 - The above references refer to more social justice concerns and not domestic violence.
 - My hope would be to solve this problem systemically without having to wait for human tragedy to work its way through the court system
 - The legal/societal movement can help, but domestic violence is often associated with anger issues, lack of respect for human beings, or other emotional challenges which can be addressed, in my opinion, through counseling, possible medication, stronger families, and spiritual strengthening.
 - Already recognized as a problem, but people do not treat it seriously enough. Society seems to not value it enough to commit to trying to solve it.
 - I am very concerned about domestic violence, and I've made it a subject of official interim study. I've spoken to groups about it. I know it's a huge problem! But after consulting with various experts, I've become discouraged about finding a legislative fix. There are things we can do to facilitate resolution for individual homes, but I've despaired of finding a general solution. Still seeking one, however. Open to suggestions.
 - Just not convinced that we need the judicial branch to legislate an answer and even then there will still be people who will still disagree with the outcome

- Domestic violence is already illegal if it meets statutory requirements
 - I don't know what "prominent legal/societal movement" means.
4. Elaborate for the answer above (Not Required)
- See answer above.
 - Not sure what reforms this question refers to.
 - We've made progress on this issue, both from a legal and a societal perspective. But we have a long way to go in addressing the issue.
 - One Utah bill that comes to mind allows a DV victim to port her cell phone with her to a new account once she decides to leave her abuser, so that she preserves her contacts with the outside world. That was a great bill. There are some legislative solutions to small aspects of DV.
 - I believe that the more data we gather the better we can create laws and rules that work for domestic violence rather than allowing the judicial branch to legislate from the bench
 - see above
5. Elaborate for the answer above (Not Required)
- Domestic abuse is the result of stressors frequently. Lack of education and resources to assist families is part of this systemic societal problem.
 - The law does not teach morals and rarely changes attitudes. The justice system discourages some of this behavior, but society (including media, entertainment and advertising) reinforces bad behavior - without consequences.
 - Some of the tools that can result in reduced recidivism are available to the justice system, but not all.

- Requirements for sentencing on DV cases are helpful, but not the best option. What is best costs money, and, as mentioned above, the state isn't willing to commit those resources to solving the problem.
- We've made progress on this issue, both from a legal and a societal perspective. But we have a long way to go in addressing the issue.
- We see too much recidivism to say that the system is successful in doing what it's designed to do.
- With trauma informed initiatives, we are getting closer to addressing the needs of the victim. One promising development in recent years is the broader use of the Lethality Assessment Protocol, which helps law enforcement and the victim herself determine risk more objectively.
- I've yet to see the judicial system reduce recidivism through any action of their own. Usually it occurs through legislative direction that again comes from good data gathering and results in better policy making. Judges have a tendency to allow their personal prejudices guide their decisions. I have seen judges treat females like the weaker party and no matter the circumstances they side in favor of the female and I have also seen the reverse occur. We need to do a better job of removing the amount they can insert their personal prejudices into decisions.
- Domestic violence is a function of individual conduct and acts As such, the justice system addresses violations of the law and consequences - recidivism may also be addressed by other state sponsored agencies

6. Elaborate for the answer above (Not Required)

- The judicial system is over burdened. I believe steps to educate families and assist them would provide better result than punitive actions. Working to resolve drug abuse and mental illness would be a better use of resources than police action.
- Restitution is not sufficient in most crimes.
- I believe there are many successes, but some failures.
- I think the system is designed to protect victims, but part of the reason we see domestic violence continue is that people don't seem to change their habits. I don't think the justice system succeeds in helping people change.
- LAP has helped a lot. Still a long, long way to go.
- It is designed that way but again due to prejudices and sometimes poor data they don't protect victims like they should. With the current Criminal justice reform movement I believe we are now starting to treat the victim like the suspect and the suspect like the victim.

7. Elaborate for the answer above (Not Required)

- A lot of violence is not reported or prosecuted because of lack of evidence.
- The justice system is little more than a whip. It's more notable for its abuses than for its functionality.
- Sometimes plea bargains get in the way of administering appropriate penalties.
- Rights of defendants make prosecuting very difficult if there is not a willing victim.
- My focus has been on the victims, but the perpetrators are the root of the problem. I understand that perpetrators are often in and out of jail within hours, which is not a strong deterrent. Mandatory counseling, whether incarcerated or not, should definitely be a part of it.

- Again the prejudices and criminal justice reform has caused current issues with this system.
 - Depends on conduct of prosecutors, judges, and defense counsel as well as the "rule of law", as is the case with many criminal acts including rioting, vandalism, etc.
8. Elaborate for the answer above (Not Required)
- Jail time does nothing to change the climate in these families to prevent more abuse, or actually does the opposite.
 - As mentioned above, not all necessary tools are available to the justice system.
 - I am generally not a fan of statutory mandatory minimum sentences. They can end up being abused by prosecutors to impose sentences that may be too harsh or inflexible. But I also think that mandatory minimums have the benefits of educating people about the seriousness of an issue. And I think that we have been too lax in the past in not taking domestic violence seriously enough and not providing people the resources they should have to effectively address this problem.
 - They might if they were used effectively but with plea bargains and infinitesimal motions that delay the process I think they do not currently work like they were intended.
 - Have not seen evidence that this is effective
9. Elaborate for the answer above (Not Required)
- Incarceration does nothing to assist in alleviating the problem.
 - sentencing should be primarily based on the illegal act and the requirements of the law
10. Elaborate for the answer above (Not Required)
- Other treatment would help.
 - There are other necessary solutions beyond severe sentences.

- See my answer above re: mandatory minimums.
- I am hosting a roundtable on domestic violence in the coming weeks. I haven't done enough research on this issue particularly to have a strong opinion on this statement.
- Circumstances are so individualized. Some require severe, some may not.
- Depends on what has occurred and if the person that committed the violation is willing to change or get help or remove themselves from the environment.
- This may or may not be an accurate or universally applicable statement depending on facts and circumstances

11. Elaborate for the answer above (Not Required)

- I don't know
- Those additional treatment options are essential, but severity of sentence should also be an important consideration.
- Generally, I think treatment to address the underlying causes of domestic violence rather than harsher prison sentences is a better use of resources and is more likely to have better outcomes for all involved.
- I think a combination of treatment and punishment are necessary to combat all types of crime, including domestic violence.
- Treatment would be best, but we probably need the whole range of options to deal with the variety of perpetrators and victims.
- If the suspect is willing to participate and make meaningful change
- This may or may not be an accurate or universally applicable statement depending on facts and circumstances

- Treatment is the right thing to do. However, it doesn't always work and should not be the only answer for all situations.

Part 2—THE FOLLOWING ARE BASED UPON THE 2020 GENERAL SESSION

12. Elaborate for the answer above (Not Required)

- Increasing the length and removing hurdles of protective orders is helpful to the victims. Expanding the protections to include more situations also allows more people to get those protects. Unfortunately this system is already overburdened and hard to monitor. There is evidence that this process is not working now. Creating a system that breaks the cycle with education and assistance instead of jail time.
- We'll see - I hope so!
- That's the goal of the bill.
- It puts more teeth into protective orders. They can even be permanent, which would be a relief to recurring victims. And I like that convicted perps who are denied bail must appear before the court before release.
- If it is used as intended
- Time will tell

13. Elaborate for the answer above (Not Required)

- It helps the victim but does not help reduce the number of crimes.
- Don't know
- The wording of this question is confusing to me. I feel like there is a double negative in the question.
- "negative effect on reducing" is kind of convoluted...but I think it will have a positive effect on reducing DV.

- Time will tell

14. Elaborate for the answer above (Not Required)

- I'm not sure. You probably have the data that would answer this question.
- Most laws don't do anything to prevent domestic violence.
- I don't have the information necessary to evaluate this.
- I believe it could be improved
- Time will tell

15. Elaborate for the answer above (Not Required)

- I believe the changes were helpful - the proof is in the pudding.
- I hope it will. But I don't have the information to evaluate this. I wouldn't have voted for it without hoping and expecting that it will move the state in a positive direction on this issue.
- We still have a lot of work to do in addressing domestic violence.
- I believe the bill was created to bolster the ability to reduce recidivism and protect our population from domestic violence.
- The more seriously the court takes DV, the more seriously the perpetrators will take it.
- As always it is dependent on participation and willingness of those involved to make it work
- Time will tell

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