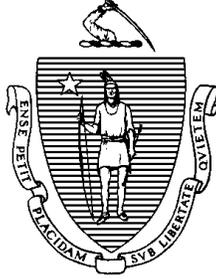


**MASSACHUSETTS TRIAL COURT  
OFFICE OF THE COMMISSIONER OF PROBATION**

1 Ashburton Place, Rm. 405, Boston, MA 02108

**John J. O'Brien, Commissioner**



**Restraining Order Violators,  
Corrective Programming  
And  
Recidivism**

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## **APPENDIX**

Acknowledgments.....	ii
Highlights.....	iii
Reason for the Study.....	1
Study Design.....	1
Portrait of the Defendant.....	2
The Type of Relationship Between the Victim and the Offender.....	3
What Happened in Court.....	4
Intervention and Programming.....	4
Certified Batterer Intervention.....	5
Anger Management.....	6
Substance Abuse Treatment.....	7
Mental Health Counseling.....	8
Summary.....	9
Recommendations of the Commissioner.....	9
Appendix A: Subsequent Arraignments for Program Completers.....	11
Appendix B: Subsequent Arraignments for Program Non-Completers.....	12
Appendix C: Subsequent Arraignments for Program Completers And Those Not Assigned to a Program.....	13
References.....	14

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This study would not have been possible without the cooperation of all Chief Probation Officers throughout the Commonwealth. They very generously took time from their busy schedules to gather the probation folders needed for this study, and provided space at their offices for members of the Research Staff to look through the folders.

We would also like to thank Dolores Gormley, Chief Probation Officer, Joseph Calcasola, Chief Probation Officer, Daniel Ryan, Chief Probation Officer, and Carmine Cardillo, Administrative Assistant, for their invaluable assistance. They traveled throughout the Commonwealth assisting members of the Research Staff in reviewing and coding the contents of the probation folders.

## **HIGHLIGHTS**

- \* The typical defendant before Massachusetts courts is a violence prone, poorly educated, under-employed, indigent person with a serious substance abuse problem.
- \* 43% had two or more victims who were unrelated in their history of civil restraining orders.
- \* 42% of defendants were found guilty, 20.2% had their case continued without a finding after admitting to sufficient facts for a finding of guilt, 3.3% were found not guilty, and 29.4% had their charges dismissed.
- \* Offenders who completed certified batterer intervention were the least likely to have a subsequent arraignment of any kind (47.7%), an arraignment for a subsequent violent offense (37%), or one for a subsequent restraining order violation (17.4%) as compared to those who completed anger management or substance abuse treatment.
- \* Intensity of supervision is a critical determinant of success – 62% of those under probation supervision successfully completed certified batterer intervention compared to 30% with no probation supervision who completed that program.

## **REASON FOR THE STUDY**

In 1995 the Massachusetts Legislature amended Massachusetts General Laws, Chapter 209A, dealing with abuse prevention. Effective February 10, 1995, the amended provisions stated that “Where the defendant has no prior record of any crime of violence and where the court believes, after evaluation by a certified or provisionally certified batterer’s treatment program, that the defendant is amenable to treatment, the court may, in addition to any other penalty, order appropriate treatment as specified.” The statute goes on to say that “In addition to, but not in lieu of, such orders for treatment, if the defendant has a substance abuse problem, the court may order appropriate treatment for such problem” (Massachusetts General Laws, Chapter 209A, Section 7). The Department of Public Health certifies batterer programs, and now refers to them as intervention rather than treatment. Chapter 209A was amended again in 2003, but since this study focuses on a sample from 1998, those changes are not discussed here.

Empirical studies over the last twenty years are inconsistent regarding the effectiveness of batterer intervention programs (Davis & Taylor, 1999; Healey, K. M. & Smith, C., 1998). Because of this inconsistency in results and because different types of corrective programming have been used here in Massachusetts, this study seeks to find answers to the following questions: 1) what types of programs are the defendants referred to in Massachusetts; 2) what is the relative impact of these programs, and 3) do programs work better for some defendants rather than for others?

## **STUDY DESIGN**

Previous research shows that certified batterer programs can have a short term effect – that is, many defendants do not re-assault for 6 - 12 months after completing their program (Gondolf, 1991; Rosenfeld, 1992, Tolman & Bennett, 1990). Long term effects are less clear (Gondolf, 1997). In order to gather information on long term effects following intervention, this study chose a sample from 1998. To measure these effects, recidivism was defined as any new arraignment which occurred after the original charge of violating a restraining order.

In 1998, 5,746 individuals were arraigned in Massachusetts for violating a civil restraining order. A random sample of 2,045 (36%) of these were selected to be in this study.

Once these 2,045 individuals were identified, information was gathered on their civil restraining orders, previous and current criminal information from the Court Activity Record Information database (CARI), and demographic and supervision information from their probation folders or from clerk’s papers if there was no probation folder. Six members from the Office of the Commissioner of Probation visited the courts, read through the probation folders/clerk’s papers, and filled out a pre-tested standardized questionnaire, having previously been trained on how to do so. All information was then entered into an SPSS database for analysis.

## **PORTRAIT OF THE DEFENDANT**

The portrait of the typical Massachusetts defendant presented in this study must be understood in its proper context. It is based on the characteristics of those who have been arrested and arraigned and have official court records. It is unclear if or how this portrait would change if it included abusers who never appear before the court.

On the basis of official court records, **the typical defendant in Massachusetts is a violence prone, poorly educated, under-employed, indigent person with a serious substance abuse problem.**

The typical defendant tends to be male (89%) and most are either Caucasian (72%), Hispanic (13%) or Black (12%). The majority have less than a high school education (58%), tend to be unemployed or under-employed (51%) and are indigent (62%) with a long-standing substance abuse problem (86%), for which most have received previous treatment (52%). Almost one-in-four (22%) had a prior DUI conviction.

A comparison of defendants with the general Massachusetts population clearly shows their dramatic difference.

### **Comparison Between Defendants and the General Population in Massachusetts<sup>1</sup>**

<b>Characteristic</b>	<b>Defendants</b>	<b>General Population</b>
Caucasian	72%	84.5%
Hispanic	13%	6.8%
Black	12%	5.4%
Less Than High School Ed.	58%	14.2%
Unemployed/Under-employed	51%	3%
Earning \$10,000 or less <sup>2</sup>	62%	4.5%
Substance Abuse Problem	86%	8.26% <sup>3</sup>

Source: Research Department, Office of the Commissioner of Probation, 2004

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<sup>1</sup> Comparison characteristics are based on the 2000 Census

<sup>2</sup> In 1998 a person in Massachusetts was considered indigent if their net income was \$10,062.50 or less

<sup>3</sup> Based on the 2000 data from the National Household Survey on Drug Abuse

The defendants are also veterans of the criminal justice system. They have a history of violence independent of battering behavior. The vast majority (80%) have a criminal record. Most (69%) have previously been arraigned for a non-battering related violent offense, with 43% of these having two or more such offenses. Fully one-third (33%) have a history of weapons charges as well.

### **The Type of Relationship Between the Victim and Offender**

Relationship information was not available for 704 (34.8%) of the 2,045 individuals and they were excluded from this analysis.

Far more males were charged with battering females (86.9%) than females battering males (5.7%). Same gender relationships accounted for 7.1% of all charges – 4.6% were female on female and 2.5% were male on male violent episodes.

Current or ex - husband - wife (45.8%) and current or ex - boyfriend - girlfriend (46.8%) accounted for the majority of relationship types. Battering behavior also occurred between casual acquaintances (2.6%) and family members (4.6%). The overwhelming majority (86%) did not live together at the time the restraining order was violated.

Forty-three percent (43%) of those charged with a violation of a restraining order had more than one victim; 16% had three or more victims, consistent with their portrait as high risk violent individuals. The figures on these defendants, who have multiple victims, are much higher than the 23.3% previously reported in our earlier study on civil stage serial batterers (Adams, 1999). The earlier study sampled only those who had a civil restraining order filed against them; the current study focuses on those who have been arraigned for a violation of a civil restraining order. One would expect a larger proportion of defendants with multiple victims among this group. Figures show that abusive behavior can persist and be acted out against a number of individuals. Many defendants are going to abuse whoever enters into a relationship with them. In all, 3,466 people were victimized by these defendants.

There were 1,718 children trapped in this world of violence. Previous research consistently reports high proportions of intergenerational transmission of domestic violence (Ehrensaft, M. K., Cohen, P., Brown, J., Smailes, E. Chen, H. & Johnson, J. G., 2003); yet attempts to short-circuit domestic violence often include programs just for the defendants. Unless more programs are also provided for the children trapped in such a world, it is impossible to respond responsibly and fully to the emotional and physical damage caused by defendants. Several such programs in Massachusetts that do respond to these children are the Child Witness to Violence Project at Boston Medical Center, the Family Safety Project in Methuen, and the Children Overcoming Violence Empowerment in Amesbury.

## **What Happened in Court?**

Detailed disposition information was unavailable for 28 (1.4%) individuals charged with a restraining order violation. They were eliminated from this analysis, leaving a sample size of 2,017.

Most defendants were either convicted (42%), had their case continued without a finding after admitting to sufficient facts for a finding of guilt (20.2%), were found not guilty (3.3%), or had charges that received a straight dismissal (29.4%).

The over-whelming majority of plaintiffs in this study, as in others, were women (91.8%). The Illinois Criminal Justice Authority (1998) found that women who are battered over a prolonged period of time develop a sense of hopelessness, a sense that their life will never improve and that they can do nothing to change it. Such women often need help to overcome their sense of hopelessness and powerlessness.

Just as interventions must be designed for children in families with domestic violence to short-circuit its intergenerational transmission, programs are also needed to empower women who have endured prolonged abuse. Such assistance is available in Massachusetts from more than fifty community based programs which make up the Massachusetts Coalition Against Sexual Assault and Domestic Violence at Jane Doe, Inc.

## **INTERVENTION AND PROGRAMMING**

Program information was unavailable for 379 (18.5%) of the sample, and they were eliminated from the analysis, resulting in a sample size of 1,666. Only 945 of these 1,666, however, were eligible for an intervention after subtracting those with dispositions that made them ineligible (not guilty, straight dismissals, incarcerated, etc.).

Fifty-two percent of those eligible for programming (N = 493) were sent to one-of-four types of court ordered interventions. They were sent to either a certified batterer intervention program, anger management, substance abuse treatment, or mental health counseling. Roughly 13% (N = 107) were sent to more than one type of program, usually a certified batterer intervention program or anger management program with substance abuse treatment and/or mental health counseling.

Correlational analyses indicated that those sent to a program were significantly more likely to have a criminal record ( $p < .01$ ), to have a history of violent offenses ( $p < .01$ ), and to have previous restraining violations ( $p < .01$ ).

In one of our earlier studies, **The Tragedies of Domestic Violence**, (Adams & Powell, 1995) it was found that restraining order defendants with a prior history of delinquency or criminal arraignments were more than twice as likely to violate an order than a defendant without a criminal history or prior delinquency. Therefore, one would expect the program participants, who had considerably more violent records, to have higher recidivism rates. The fact that they did not implies that programs were effective.

There were 216 female defendants; 46 (21.3%) were sent to a program. None were sent to a certified batterer intervention program, 10 were sent to anger management, 23 to substance abuse treatment, and 13 to mental health counseling.

The impact of intervention and treatment was measured in four ways – by completion rate, by subsequent arraignment of any kind, by subsequent arraignment for a violent offense, and by a subsequent restraining order violation, all over a 6 year period (1998 - 2003).

### **CERTIFIED BATTERER INTERVENTION**

Some mandated to certified batterer intervention programs were also sent to substance abuse and/or mental health counseling. Analyses indicated that there were no significant difference in outcomes between these groups, so they were collapsed for analytical purposes into one group - those sent to a certified batterer intervention program.

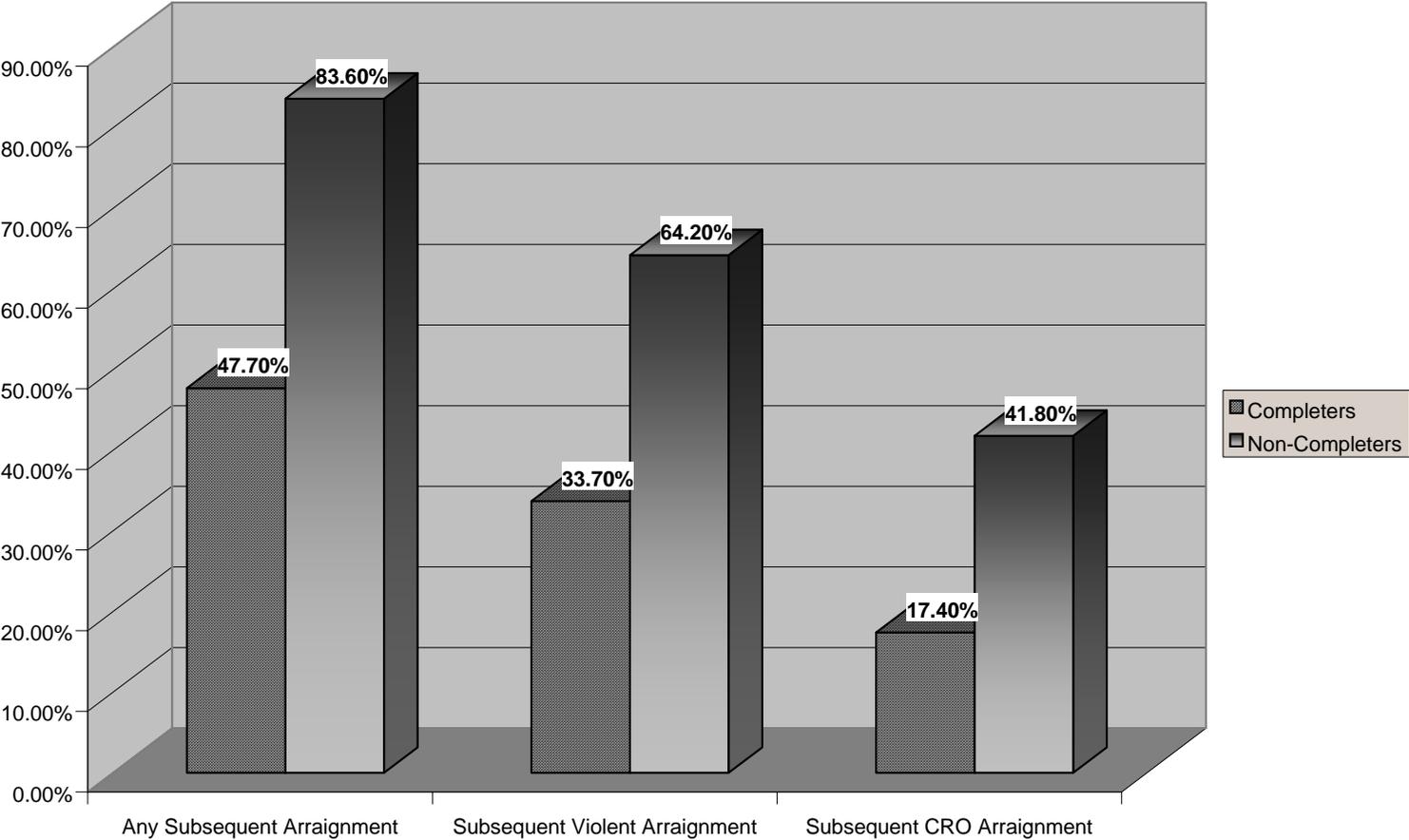
**Completion Rate.** Fifty-six percent (56.2%) of the 170 people sent to a certified batterer intervention program successfully completed the program. Completion rates for minority participants were high, contrary to previous national research (Williams & Becker, 1994, 1999). Completion rates for Black participants was 68.4%, and for Hispanics it was 50%.

Most non-completers simply failed to attend (51%) or had a new arraignment or were incarcerated (16.4%). These were individuals who had a GED or less than a high school education, were under or unemployed, were indigent, had a history of both prior civil restraining order arraignments and prior arraignments for violent offenses, and were current substance abusers. In other words, educational level ( $p < .01$ ), employment ( $p < .03$ ), indigency ( $p < .02$ ) and substance use/abuse ( $p < .01$ ) were all significantly correlated with program completion. The amount of supervision given the offenders was also important – 62% of those on probation supervision completed the certified batterer intervention program as compared to 30% of those with no probation supervision.

**Subsequent Arraignments.** Certified batterer intervention programs are effective for those who complete the program. Over a six year period, correlational analyses indicated that those who completed the program were significantly less likely to be re-arraigned for any type of offense ( $p < .01$ ), significantly less likely to be re-arraigned for a violent offense ( $p < .01$ ), and significantly less likely to be re-arraigned for a civil restraining order violation ( $p < .01$ ) as compared to those who did not complete the program.

In other words, most of those who completed the certified batterer intervention were not re-arraigned for any kind of subsequent offense (47.7% vs. 83.6% for non-completers), were less likely to have a subsequent arraignment for a violent offense (33.7% vs. 64.2% for non-completers) even given their previous history of violent behavior, and subsequent restraining order recidivism was dramatically different (17.4% vs 41.8% for non-completers).

**Program Outcome - Certified Batterer Program**



**ANGER MANAGEMENT**

Since there were no significant outcome differences between those who attended anger management and those who attended anger management and substance abuse or mental health treatment, all were collapsed into an anger management group.

**Completion Rate.** The completion rate was higher for those who attended an anger management program than for those who completed a certified batterer program – 68.5% of those sent to anger management completed the program as compared to 56% of those who were mandated to a certified batterer intervention. Certified batterer programs, however, are 40 weeks in length; the length of anger management programs is considerably shorter, ranging from 12 to 20 weeks depending on the specific program.

As with those in the certified batterer programs, most anger management program non-completers simply failed to attend (57.1%) or had a new arraignment or were incarcerated (25%). Substance abuse was the only identifiable major reason why individuals failed to complete anger management – 79.2% of those who did not complete had a current substance abuse problem.

**Subsequent Arraignments.** There were no statistically significant differences in the recidivism rates between those who completed anger management and those who dropped out of the program. Moreover, program results seem to be less effective for those who completed anger management than for those who completed a certified batterer program. Over a six year period, more of those who completed anger management were re-arraigned both for a subsequent offense (55.7% vs. 47.7%) and for a subsequent violent offense (42.6% vs.33.7%). Re-arraignment rates for subsequent restraining order offenses were basically identical in both groups (18% for anger management and 17.4% for certified batterer intervention).

The fact that certified batterer intervention had a greater positive effect on subsequent arraignment history is remarkable. Substantially more of those assigned to certified batterer intervention were less well educated, more had a long standing substance abuse problem, and significantly more had a criminal history, especially one involving violence and prior restraining order violations. Because of this, the impact of failure to complete programming is worse for those mandated to certified batterer intervention than to anger management.

Seventy-five percent (75%) of those who failed to complete anger management were re-arraigned for a subsequent offense vs. 84% of those who failed to complete certified batterer intervention. Fifty-four percent (54%) had a subsequent arraignment for a violent offense as opposed to 64% for those who did not complete the certified batterer program. Finally, 29% were re-arraigned for a subsequent restraining order violation versus 42%.

### **Substance Abuse Treatment**

A total of 167 people were sent to substance abuse treatment. At the time of this report, however, there were still 20 (11.9%) in treatment. Because the specific purpose of this study was to analyze program *outcome*, these individuals were eliminated from the sample, leaving a sample size of 147.

Individuals were sent to a wide variety of substance abuse treatment including both inpatient and outpatient drug and alcohol treatment, AA, NA, and even DUIL programs. Because the numbers of individuals in each treatment group were so small, all substance abuse treatment categories were collapsed into one basic group for analytical purposes.

**Completion Rate.** The completion rate for those sent to substance abuse treatment was 51.7%. While the completion rates of minorities in the other intervention groups were relatively high, they were not here. In fact, completion rates for Blacks was 38.5% and for Hispanics 44.4%.

The reasons for non-completion were more varied than in other intervention groups. Some, as in the other programs, did not complete due to failure to attend (36.6%) or a new arraignment and/or incarceration (14%). Others did not complete because of substance abuse problems (9.9%) or acting-out behavior (7%).

Non-completers basically had either a GED or less than a high school education (62%), were indigent (73.9%), had a violent criminal history (50%), and had a long standing substance abuse problem (100%).

**Subsequent Arraignments.** Over a six year period, 57.9% of those who completed substance abuse treatment were re-arraigned for a new offense; the highest proportion of any intervention group. One-in-five were also re-arraigned for a subsequent restraining order violation, the highest proportion of any intervention group.

For those who did not complete treatment, 73.2% were re-arraigned for a subsequent offense, 52.1% for a subsequent violent offense, and 28.2% for a subsequent restraining order violation. However, when the recidivism rates of treatment completers was compared to those of non-completers, there were no statistically significant differences between the two groups.

## **MENTAL HEALTH COUNSELING**

Ninety-six defendants were mandated to mental health counseling. At the time of this report, 22 of the 96 (22%.9) were in on - going counseling and program results for an additional 8 (8.3%) were unknown. These were eliminated from the analysis, leaving a sample of 66. This is a very small sample, so it should be understood that all analyses must be interpreted with caution and are, at best, only suggestive.

Those sent to mental health counseling were generally better educated than those mandated to other interventions (60% had a high school diploma or better), more likely to be employed full time (62.3%), less likely to be indigent (49.3%) and less likely to have a current substance abuse problem (53.5%), and while many (76.1%) did have a prior arraignment history, it is the lowest prior arraignment rate of any group. Why then were they assigned to mental health counseling? Nearly one-third of these people had a history of mental health treatment, and many were undergoing treatment at the time of disposition.

**Completion Rate.** The majority of those sent to mental health counseling successfully completed their treatment – 78.7% – the highest completion rate of any group. Attendance problems were the major reason why people did not successfully complete. Those least likely to complete were those with either a GED or less than a high school education (75%), those who had a current substance abuse problem (66.7%), and tended to be unemployed (50%) and indigent (75%).

**Subsequent Arraignments.** The defendants who completed mental health treatment were the least likely of any group to have any type of subsequent arraignment – 36.5% had a subsequent arraignment for any type of offense, 25% were re-arraigned for a violent offense, and 15.4% for a subsequent restraining order violation.

Consistent with the results from the other groups, the defendants who failed to complete treatment had higher re-arraignment rates. Over one-half (57.1%) had a subsequent arraignment for any kind of offense, 42.9% were re-arraigned for a violent offense, and 35.7% for a subsequent restraining order violation. Once again, however, when the recidivism rates of treatment completers was compared to those of non-completers, there were no statistically significant differences between the two groups.

### **Summary**

Offenders least likely to recidivate are those closely monitored by their probation officers and who complete a certified defendant intervention program.

Non-completers in all interventions are at a high risk of recidivating. These are likely to be the most challenging offenders. Most of these are the least well educated, are under or unemployed, are indigent, and have a serious on-going substance abuse problem.

Serial batterers continue to be a significant portion of defendants.

Although 62.2% of offenders were convicted, it is disconcerting that 29.4% of defendants had their charges dismissed, sometimes because plaintiffs chose not to pursue the matter in court. These plaintiffs, research shows, continue to be at risk.

### **RECOMMENDATIONS OF THE COMMISSIONER**

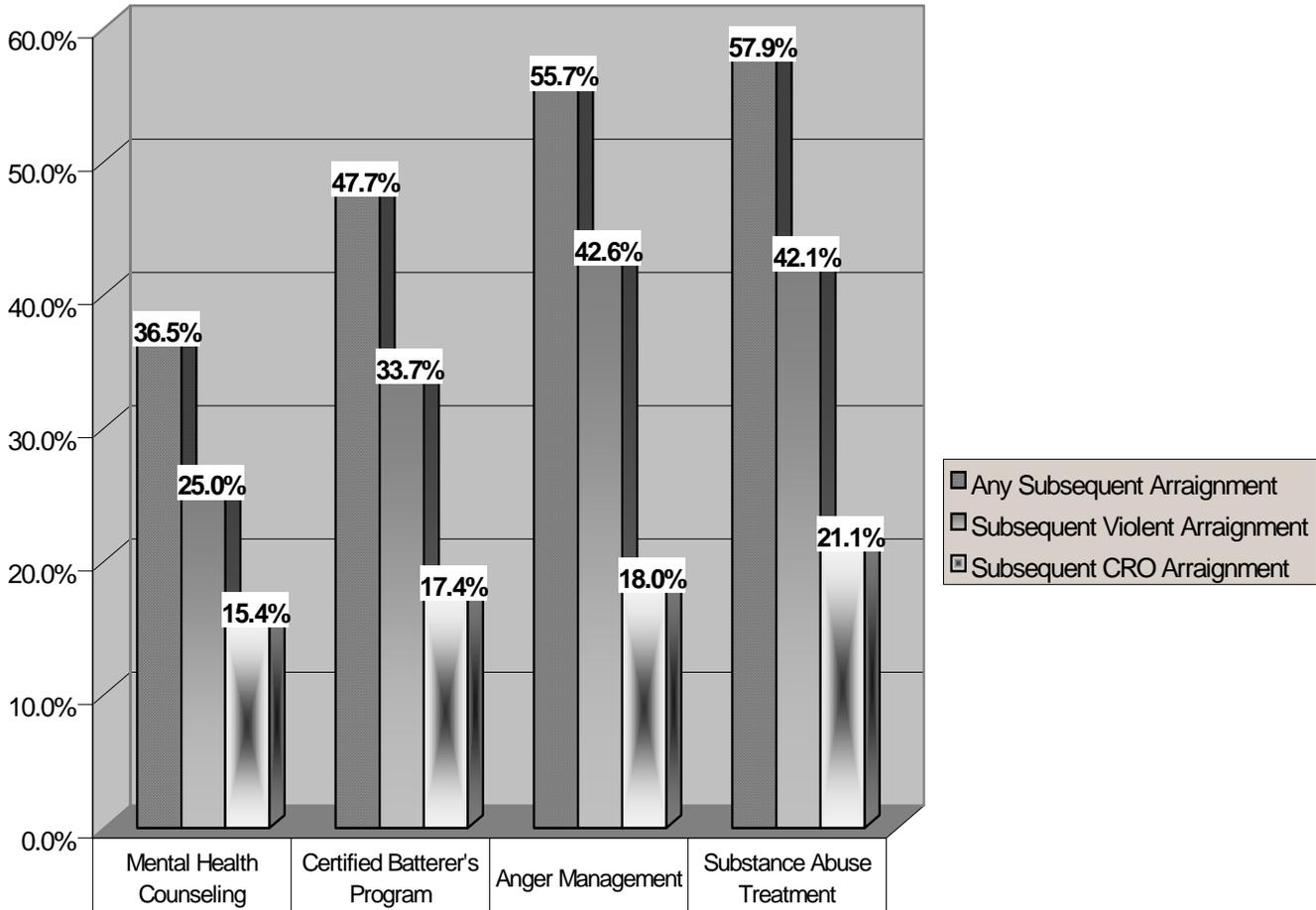
**A collaborative relationship must be maintained between all concerned with the problem of domestic violence in Massachusetts.** This research shows that stringent supervision can successfully reduce domestic violence when partnered with certified batterer intervention. Such a partnership must exist between probation, law enforcement, victims' advocates, certified batterer intervention providers, and community agencies dedicated to empowering victims and their children.

**Serial batterers must be identified.** Since official records underestimate the incidence of battering behavior, when a serial batterer is identified his/her battering behavior could be significantly more dangerous than indicated by official records. Frequent and random home visits would put the defendant on notice that his/her behavior is being closely monitored. Such an individual must be surrendered to the court immediately if the probation officer becomes aware of unacceptable behavior.

**On-going training** in domestic violence is recommended for all probation officers. Such training enables probation officers to identify signs of domestic abuse that may otherwise go unnoticed, and teaches them how to be of assistance to victims and their children.

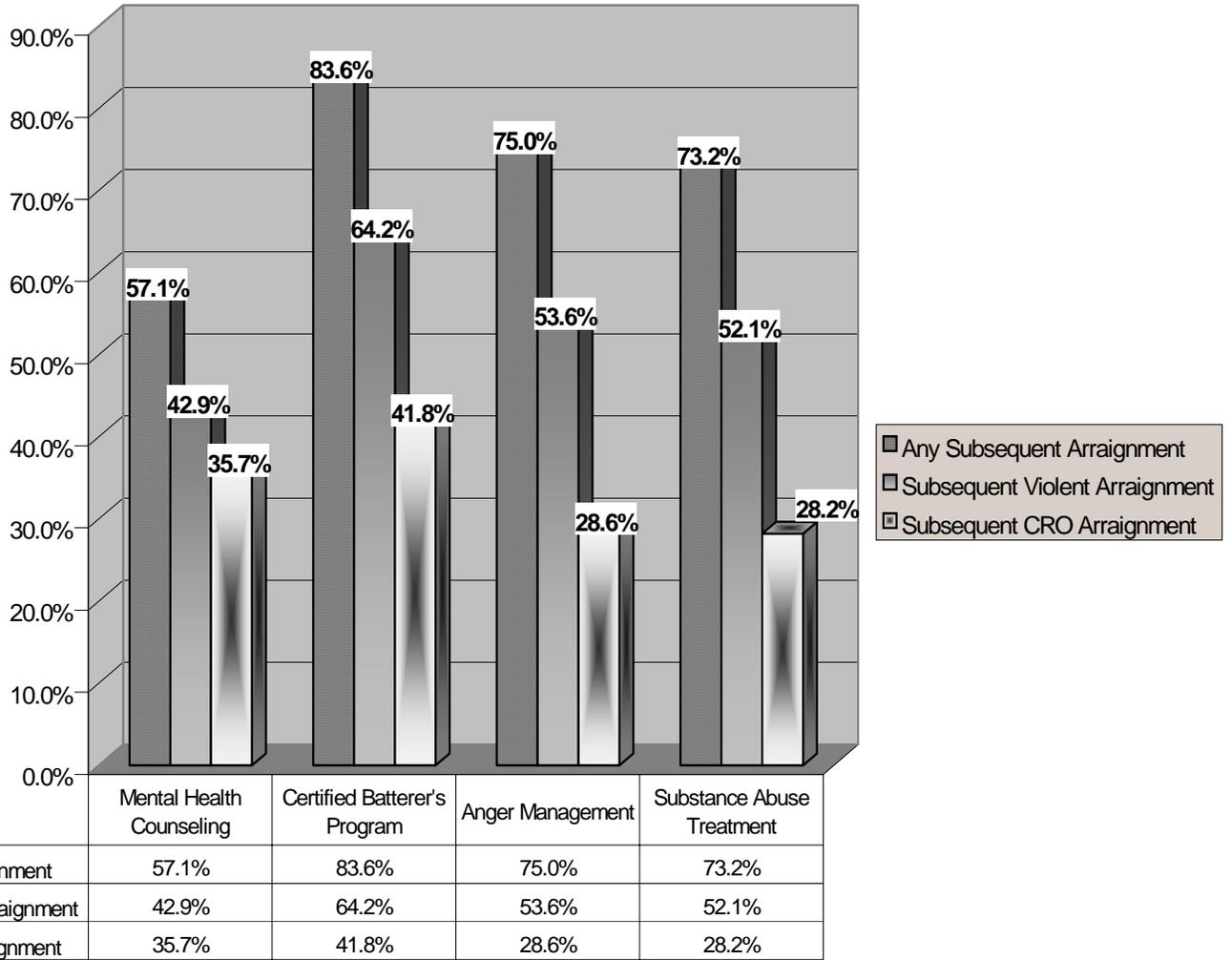
**Many domestic violence probationers should be randomly tested for substance abuse.** Recidivism is more likely among those with a serious substance abuse problem. Positive tests can be an indicator of who is likely to engage in additional abusive behavior. Probation officers are therefore urged to recommend alcohol and drug testing to the court on cases in which substance abuse is a factor.

## Appendix A: Subsequent Arraignments for Program Completers

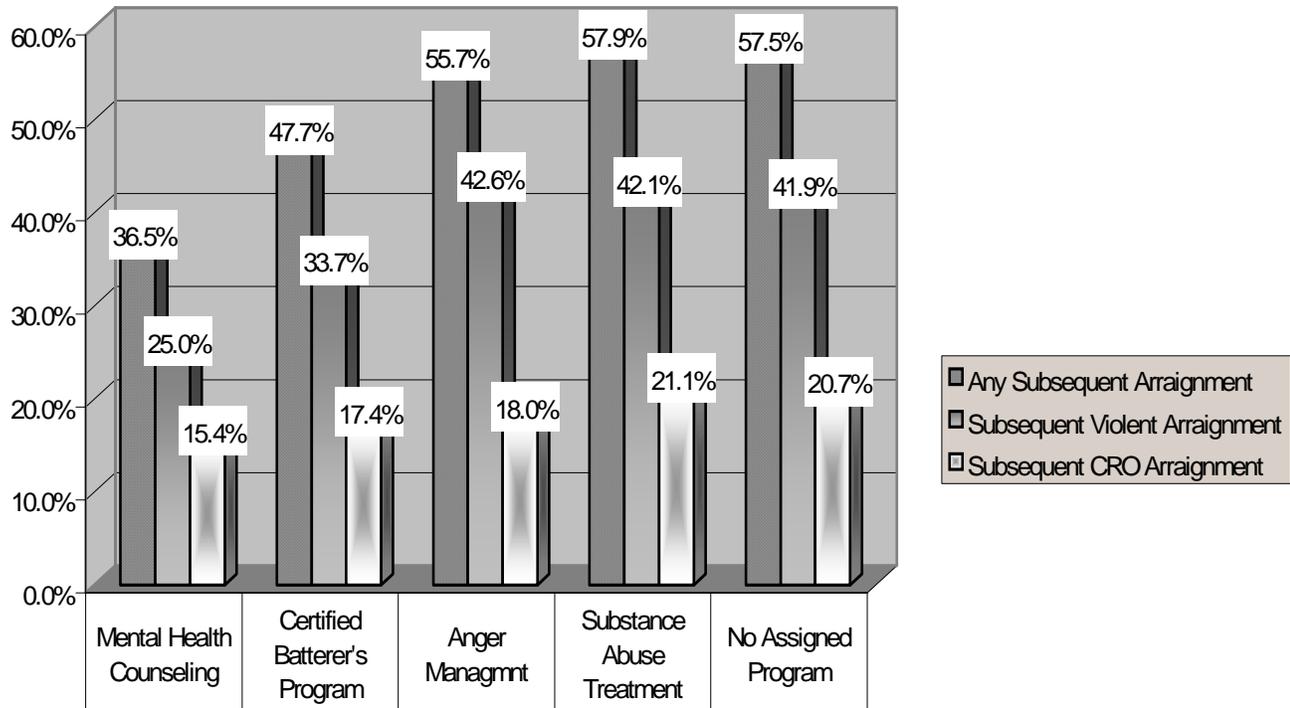


	Mental Health Counseling	Certified Batterer's Program	Anger Management	Substance Abuse Treatment
Any Subsequent Arraignment	36.5%	47.7%	55.7%	57.9%
Subsequent Violent Arraignment	25.0%	33.7%	42.6%	42.1%
Subsequent CRO Arraignment	15.4%	17.4%	18.0%	21.1%

## Appendix B: Subsequent Arraignments for Program Non-Completers



### Appendix C: Subsequent Arraignments for Program Completers and Those Not Assigned to a Program



Any Subsequent Arraignment	36.5%	47.7%	55.7%	57.9%	57.5%
Subsequent Violent Arraignment	25.0%	33.7%	42.6%	42.1%	41.9%
Subsequent CRO Arraignment	15.4%	17.4%	18.0%	21.1%	20.7%

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