**CJA** NEW YORK CITY CRIMINAL JUSTICE AGENCY, INC.

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# CROSS-BOROUGH DIFFERENCES IN THE PROCESSING OF DOMESTIC VIOLENCE CASES IN NEW YORK CITY CRIMINAL COURTS

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**FINAL REPORT**

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## I. INTRODUCTION

The criminal justice system's response to domestic violence has changed dramatically over the last decade in many jurisdictions throughout the U.S. Domestic violence incidents are now being taken more seriously as a result of more frequent arrests, vigorous prosecution and harsher sentencing laws. Federal legislation, notably the Violence Against Women Act (VAWA) of 1994, has encouraged new efforts to combat domestic violence. Under this Act, the Department of Justice has provided funding and technical assistance to state and local law enforcement agencies.

The national trends are reflected in recent changes in New York State and New York City. Recent state legislation includes mandatory arrest requirements for certain family offenses, enhanced penalties for violating an order of protection, a "primary physical aggressor" statute, and anti-stalking legislation. In conjunction with the new legislation, New York City has promoted changes in the criminal justice response to domestic violence (Giuliani 2001). Specialized police units, prosecution bureaus, and court parts have been created to focus more attention on domestic violence cases, and to develop a consistent approach to handling these cases. New York City is now in the forefront of efforts to combat domestic violence.

These changes in New York City's approach to domestic violence raise significant research questions. How are domestic violence cases processed in the courts? Are there borough differences in court processing? How often are defendants re-arrested on domestic violence charges? To address these questions, the New York City Criminal Justice Agency (CJA) has developed a research agenda on domestic violence.

### A. CJA's Research Agenda on Domestic Violence

The current report is the second of a series of CJA reports on domestic violence. CJA's first report compared the case processing of domestic violence (DV) and non-domestic violence (Non-DV) cases disposed in New York City's Criminal Courts (Peterson 2001). That report concluded that the conviction rate in Criminal Court was lower for DV cases than for comparable Non-DV cases. The lower conviction rate in DV cases was due primarily to a lack of victim cooperation in those cases. The report also found that the Criminal Courts relied primarily on batterer intervention programs rather than jail sentences for convicted DV offenders. This reflected the courts' emphasis on monitoring defendant behavior through reports on program compliance.

In the current report, we will focus attention on two features of New York City's current approach to domestic violence cases: prosecution policies for screening cases and the use of specialized domestic violence court parts. The report addresses two major research questions. First, what is the impact on case outcomes of prosecution policies for

screening domestic violence cases? Second, what impact does the use of specialized court parts have on case outcomes in domestic violence cases?

CJA's third report will examine rates of re-arrest for defendants in domestic violence cases. We will determine whether case outcomes, such as conviction, incarceration, and long jail sentences, deter recidivism. We also plan to examine how specialized court parts and case screening policies affect recidivism rates. Surprisingly, previous research has found that case outcomes and case screening policies have virtually no effect on recidivism rates (e.g., Davis et al. 1998). Evidence on the effect of specialized court parts on recidivism rates is mixed (Angene 2000, Newmark et al. 2001). However, little research has been done in jurisdictions like New York City, where criminal justice innovations in policing, prosecuting, and adjudicating domestic violence cases are in place.

B. Review of Prior Research

The current study examines cross-borough differences in the processing of domestic violence cases in three of New York City's five boroughs.[1] This section of the report discusses previous research on domestic violence throughout the U.S. and develops the research questions to be addressed in our study of New York City. In this review of the literature, we discuss studies that define DV offenses as acts that cause physical, psychological or financial harm to a victim who is an intimate partner or family member of the offender. Many of the studies focus specifically on cases of physical violence by men against women, the most common type of DV case. Non-DV offenses usually are defined as comparable acts against a victim who is not an intimate partner or family member of the offender, including acts against strangers, neighbors, friends, co-workers, etc. (The definition of DV and Non-DV offenses used in the data analyses in the current report is based on the legal definition used in New York City courts, as discussed in Section II-B below).

Extensive research suggests that until recently the police, prosecutors and judges have taken minimal action in response to domestic violence (Pleck 1987, Worden 2000). Beginning in the 1970's, reformers throughout the U.S. sought to have the criminal justice system respond to domestic violence offenders the same way it responded to offenders who committed comparable crimes against strangers (Frisch 1992). The national reforms in policing, prosecuting and adjudicating domestic violence cases have been reflected in changes in New York State and New York City over the past decade. CJA's first report on domestic violence (Peterson 2001) reviewed some of these changes, including the introduction of mandatory arrest policies, specialized prosecution bureaus and specialized court parts. The report used data from the third quarter of 1998 to compare case outcomes in DV and Non-DV cases in New York City and discussed two major conclusions. First, weak evidence, particularly lack of victim cooperation, is one of the most important factors inhibiting the successful prosecution of DV cases. Second, New York City's Criminal Courts rely primarily on batterer intervention and drug and

[1] Queens and Staten Island are excluded for reasons that are explained below.

alcohol treatment programs to monitor defendants and to insure defendant accountability. In the current report, we move beyond an examination of these citywide patterns to explore cross-borough differences in prosecution screening policies for DV cases and in the use of specialized DV court parts.

The variations among the boroughs that we will examine in this study reflect different approaches to processing DV cases. These approaches, in turn, reflect different philosophies of dealing with the problem of victim reluctance to cooperate and differences in the use of mixed dockets vs. specialized court parts to process DV cases. To understand the reasons for these differences and the questions they raise, we review the literature on prosecution screening policies in DV cases and on the use of specialized DV court parts. Much of this literature is written from a national perspective and provides a context for understanding practices in New York City. We also review literature on New York City practices when available.

1. Prosecution Screening Policies in DV Cases

Prosecutors in the U.S. traditionally have viewed DV cases as difficult to prosecute. Charges in DV cases are frequently dropped—studies have reported dismissal rates from 50% to 80% (Elliott 1989). Many prosecutors believe that domestic violence victims are reluctant to cooperate with criminal prosecutions (Belknap and Graham 2000, Cahn and Lerman 1991, Elliott 1989, Schmidt and Steury 1989). Victim cooperation is an important factor in determining whether the defendant will be convicted in both DV and Non-DV cases (Belknap and Graham 2000, Feeney et al. 1983, Newmark et al. 2001). Victims in DV cases often refuse to press charges or to testify against the batterer because of fear of retaliation, a desire to continue the relationship, concerns about losing the economic support provided by the batterer, or the hope that the battering will stop (Kirsch 2001, Lerman 1986). Victims who cooperate in the initial phases of prosecution often change their minds later. Without victim cooperation, it is often difficult to establish strong evidence in DV cases. Many domestic incidents occur in the home where the only witnesses may be the parties to the incident. In the absence of medical records of treatment for injuries, it may be difficult to prove in court what happened to the victim. DV cases are often dismissed because of the lack of victim cooperation.

In some jurisdictions, prosecutors rely on “first-party complaints,” which require the victims of domestic violence to sign the complaint. However, because many victims are reluctant to press charges, prosecutors in many jurisdictions have developed alternative policies and practices. In many district attorneys’ offices prosecutors or the police sign the complaint. This reduces the risk that the victim will become the target of retaliation or pressure from the defendant to drop the charges (Lerman 1986). To encourage victims to cooperate after charges are filed, DA’s often use victim advocacy programs to provide counseling and support services (Cahn 1992). These programs provide information about how the criminal justice system works, and address victims’ concerns about housing, financial support, fear of retaliation, etc. This approach can reduce the victim’s isolation and inform the victim about the potential benefits of prosecution (McGuire 2000). However, even when prosecutors file the complaints and

make services available to the victims, many victims in DV cases refuse to cooperate with the prosecution.

Some jurisdictions have a "drop-permitted" policy, and dismiss the case when efforts to encourage and maintain victim cooperation fail. However, in many jurisdictions, more aggressive efforts are made to pursue these cases. Some district attorneys' offices have established "no-drop" or "mandatory" prosecution policies that require prosecutors to go forward with most DV cases even when the victim refuses to cooperate. This action makes it clear to the defendant that the state, not the victim, is responsible for prosecuting the case (Cahn and Lerman 1991, Herrell and Hofford 1990). Under no-drop prosecution policies, "evidence-based prosecution" of DV cases is often used when victims are not cooperating. This practice uses "hearsay exceptions" (such as "excited utterances" on 911 tapes), photographs, police testimony, medical reports and physical evidence to build a case without the cooperation of the victim (Stone 2000). Of course, in many cases such evidence is unavailable or insufficient to make a viable case. If evidence-based prosecution is not possible and the victim is unwilling to testify if the case goes to trial, the case is likely to be dismissed.

Supporters of no-drop prosecution offer several justifications for this policy. First, a no-drop policy prevents victims from facing the pressures of deciding whether or not to file a complaint. Victims may be reluctant to file a complaint because they want to avoid the possibility that the defendant will be sentenced to jail. Victims may also be subjected to pressure from family members. Second, under a no-drop policy, batterers realize that the victim has no influence over the judicial process (Hanna 1996). This removes any incentives for the batterer to intimidate the victim to drop the charges. In this view, victims are safer when the prosecutor, and not the victim, controls the process (Belknap and Graham 2000, Epstein 1999). Third, victims may become more willing to cooperate with the prosecution under a no-drop policy (Corsilles 1994). Victims are less likely to ask that charges be dropped, and some who initially refused to cooperate may eventually agree to testify voluntarily. Fourth, batterers are more likely to agree to a plea bargain when they realize that their case will not be dismissed and that conviction is likely (Corsilles 1994). After a no-drop policy has been in place for a while, the need for victim testimony may be reduced since defendants have an incentive to plea bargain (Smith et al. 2000). Finally, no-drop policies send a message to the community that domestic violence is serious and will not be tolerated (Hanna 1996).

Although no-drop prosecution policies are designed to take domestic violence cases seriously and to pursue them as far as possible, they have been criticized as too aggressive. First, critics of no-drop prosecution policies argue that such policies may actually increase the risk of further abuse (Coker 2001, Ford 1991, Mills 1998, 1999). No-drop prosecution policies assume that victims are safer when they cooperate with the prosecution (Coker 2001). However, this assumption ignores cases where victims are successful in ending the violence on their own after dropping charges. Such cases are hidden from the view of police, prosecutors and judges, since the victims do not have further contact with the criminal justice system. Coker (2001, p. 826) concludes that "it is not always clear that the criminal justice system offers a better alternative."

Second, victims' decisions about whether and when to go forward with prosecution or to drop charges may constitute a power resource (Ford 1991). Being able to withdraw the threat of prosecution may enable a victim to negotiate informally with the defendant to end the violence. This "victim empowerment" approach suggests that victims' refusal to cooperate should not be viewed as a problem. "… [F]rom a victim's perspective, filing and then dropping charges is a useful strategy for managing her situation" (Ford 1991). Victims who are empowered to decide whether or not the prosecution will proceed may be able to use that power to control the defendant's abusive behavior.

Third, Mills (1998, 1999) suggests that no-drop prosecution policies not only endanger some victims but also inadvertently inflict additional emotional abuse on the victim. By ignoring the victim's wishes regarding prosecution, or by compelling the victim's testimony by subpoena, prosecutors are emotionally abusing victims (Mills 1999). No-drop prosecution removes victims' power to control the terms of their relationships (Ford 1991). Mills and Ford recommend that victims be permitted to decide whether or not to proceed with prosecution. In their view, the victim gains power in the relationship with the batterer only if the victim controls whether the prosecution will proceed.

Given the variety of approaches to prosecuting domestic violence cases, it is surprising that only a few research studies have assessed the impact of these policies. When victims are required to sign the complaint, many DV cases are not prosecuted (Cahn 1992). In Washington, D.C., only 15% of DV cases were prosecuted in 1995, when victims were required to sign the complaint. After implementing a no-drop policy in 1996, prosecutors signed the complaint and 67% of DV cases were prosecuted (Epstein 1999). Furthermore, once no-drop policies are introduced, the conviction rate in prosecuted cases often increases (Corsilles 1994). For example, in Washington, D.C., the introduction of the no-drop policy increased the conviction rate from 20% to 69% (Epstein 1999). A change in the no-drop policy in Duluth, Minnesota requiring prosecutors to subpoena testimony from uncooperative victims cut the dismissal rate in half, from 47% to 23% (Asmus et al. 1991). These findings suggest that removing victims' discretion over charging and prosecution decisions can significantly increase the proportion of DV cases resulting in a conviction.

Although these results suggest that no-drop policies increase conviction rates substantially, prosecutors in many jurisdictions with no-drop policies screen out large numbers of cases. In these jurisdictions, the no-drop policy applies only *after* many cases are screened out. A study of 4 jurisdictions with no-drop policies found that between 12% and 30% of cases were declined for prosecution (Smith et al. 2000). In these jurisdictions, prosecutors screened out many cases that they felt were not viable (i.e., not provable in court). Conviction rates would presumably be much lower if these cases were not screened out and all cases were prosecuted under a no-drop policy.

Only one study has examined the effect of a "victim empowerment" policy where charges are dropped at the victim's request. Ford and Regoli (1992, 1993) used an experimental design to compare results for a drop-permitted treatment group and a no-drop control group. About 45% of victims in the drop-permitted group decided to drop the charges.[2] Pursuant to the policy, no cases were dropped in the no-drop group. Among those who dropped charges, over 40% were battered again in the subsequent six months. Interestingly, those in the drop-permitted group who chose to pursue the case experienced a much lower 7% recidivism rate in the 6 months after case disposition. The recidivism rate in the no-drop group was about 30%. Ford and Regoli (1993) argue that this demonstrates that victims in the drop-permitted group who pursued the case were able to use their control over the prosecution process to reduce the battering. They argue that the drop-permitted policy allows victims to develop alliances with police, prosecutors and judges, and to use these alliances to deter the batterer. Under a no-drop policy, victims who do not wish to proceed often avoid all contact with the criminal justice system, and are cut off from resources and alliances that may prove useful in the future. Of course, the results also provide support for using the no-drop approach. The high rate of recidivism among victims who chose to drop the charges suggests that these victims fared worse (40% vs. 30% rate of recidivism) than those whose cases were pursued under the no-drop policy. Advocates of no-drop policies would argue that those who dropped charges may have been coerced or intimidated to do so. Nevertheless, the low rate of recidivism for victims who were permitted to drop charges but did not suggests that victim empowerment policies can be effective for some victims.

2. Specialized DV Court Parts

Specialized court parts to hear DV cases have been established in some jurisdictions, in part, because of problems encountered in processing DV cases in court parts with mixed dockets. Three problems have been identified. First, DV cases are treated more leniently than Non-DV cases when they are processed in mixed dockets (Fritzler and Simon 2000, Miethe 1987). This lenient treatment may be the result of several factors. Judges, prosecutors and others may hold stereotypes that DV offenses are less serious than other offenses, or that the victim provoked the offender. DV cases may be seen as having weaker evidence than Non-DV cases; specifically, victims may be less cooperative in DV cases. DV cases may also be viewed as more complex than other cases, requiring resources (such as access to batterer intervention programs) that court parts with mixed dockets may lack.

Second, DV cases have unique characteristics not associated with similar Non-DV cases (Fritzler and Simon 2000, Newmark et al. 2001). In DV cases, the victim and defendant often have emotional and economic ties that continue during the processing of the case and after case disposition. Under these circumstances, victims are often more concerned about their own safety and less concerned with punishing the defendant. In DV cases, the victim is in greater danger of facing renewed violence. The defendant has

[2] Unfortunately, Ford and Regoli (1993) do not provide information about the characteristics of the victim or defendant in cases where the victim dropped the charges.

greater access to the victim, and greater motivation to intimidate the victim. Furthermore, domestic violence, more than other types of violence, often occurs in a private location and is therefore difficult to detect and to prevent. These unique characteristics of DV cases are often ignored when cases are heard in mixed dockets. DV cases therefore appear to be weaker and more problematic than Non-DV cases.

Third, some have argued that mixed dockets are not sufficiently focused on victim safety (Fritzler and Simon 2000). In a mixed docket, the ongoing risks faced by the victim may not receive serious attention, since these risks are not typical of the majority of cases on the docket. As a result, orders of protection may not routinely be issued in DV cases and defendants may not be appropriately warned to avoid intimidating the victim. The traditional adversarial approach may anger the defendant while failing to provide protection for the victim. Furthermore, in mixed dockets the reasons for victim non-cooperation and the need for non-traditional types of evidence may not be addressed adequately.

Specialized court parts were designed to take a different approach to DV cases. In New York, for example, the specialized DV parts have been part of a broader effort to introduce "problem-solving courts … [which] attempt to reach beyond the immediate dispute to the underlying issue, and then to involve community agencies and others in resolving it …" (Kaye 2001, p. 4). By addressing the underlying problem, these courts seek to reduce "revolving door" justice, where defendants return to the courts repeatedly for committing similar offenses (Berman and Feinblatt 2001). While no one philosophical approach underlies the problem-solving approach, specialized DV courts have been guided by the principles of therapeutic jurisprudence, preventive law and restorative justice (Fritzler and Simon 2000). Therapeutic jurisprudence encourages positive therapeutic consequences for victims through coordination of the efforts of the criminal justice system. Preventive law focuses attention on preventing future violence through judicial monitoring of the defendant. Restorative justice focuses on providing assistance to victims as well as rehabilitation for offenders.

Drawing on these general principles, specialized domestic violence court parts were established to achieve three goals: increase defendant accountability, promote victim safety, and coordinate the activities of criminal justice agencies that respond to domestic violence (Kaye and Knipps 2000). These goals are explicitly aimed at recognizing the special characteristics of domestic violence cases. Since the defendant's relationship with the victim poses a risk of future violence against the same victim, the specialized DV court parts monitor defendants' behavior closely for any evidence of further violence. To enhance victim safety, these court parts provide victims with links to social services and alternative housing. To encourage consistency in the approaches of police, DA's, probation, corrections and the courts, the specialized court parts work to coordinate the institutional responses to domestic violence.

Among the key features of specialized DV courts are: assigning cases to a specialized calendar, screening for related prior cases, providing advocacy and services to victims, providing treatment programs for defendants, coordinating efforts with partner

agencies, providing specialized training to court personnel, improving case management through information technology, and monitoring the defendant's behavior (MacLeod and Weber 2000, Newmark et al. 2001). Specialized DV parts usually seek to require defendants to complete a batterer intervention program. Jail sentences are usually imposed only on chronic offenders or those who inflict serious injuries. Although studies of batterer intervention programs generally have found them to be ineffective at changing defendants' behavior (Chalk and King 1998, Watson 2000a), they are used by the courts as a means of monitoring defendants (Tsai 2000). Furthermore, victims often prefer that the defendant receive treatment rather than a jail sentence, and it may be easier to obtain cooperation from the victim if the sentence does not include jail time. It is also often easier to reach a plea agreement with the defendant if the sentence does not include jail time.

Early research has found that the unique features of specialized DV parts change the way cases are processed (MacLeod and Weber 2000, Newmark et al. 2001). This research has shown that victims receive more services and have more information when cases are heard in specialized DV parts than they do when the cases are heard in mixed dockets. Court personnel develop a better understanding of the unique features of DV cases, and are more responsive to victims. Because only DV cases are heard, these cases are handled more consistently and procedures to enhance victim safety are used routinely. The frequent monitoring of defendants improves enforcement of the conditions of release and sentencing.

The specialized DV court parts are relatively new, and only a few studies describing their impact have been completed. Two studies have been completed in New York City. Newmark et al. (2001) studied the first specialized DV part established in New York City: a Brooklyn Supreme Court DV part (which hears only felony cases), which was established in June 1996. Based on a comparison of DV cases processed before and after the establishment of this court part, the study concluded that the specialized part did *not* significantly increase the conviction rate (about 90%) or change the sentencing patterns in DV cases. Re-arrest rates were actually higher after the establishment of the DV part, but this may be due to the closer monitoring of offenders, which increases the likelihood of detecting a repeat offense. Miller (1999) examined the impact of the simultaneous establishment of a specialized DV prosecution bureau and a specialized DV Criminal Court part in Queens, New York. The specialized part handled cases of misdemeanor or lesser severity. The conviction rate increased from 30% to 60%, even as the volume of cases increased from 3,500 per year to 4,700 per year. Miller does not report any data on changes in sentencing patterns or re-arrest rates.

Very little research is available on the impact of specialized DV parts operating in other jurisdictions in the U.S. (see Tsai 2000 for a description of some of these court parts). One recent study examined the introduction of a specialized DV part to hear cases with misdemeanor charges in San Diego, California (Angene 2000). This study compared the outcomes of DV cases before and after the introduction of a specialized DV part in the late 1990's. There was no change in the proportion of defendants who were convicted (about 93%) or in the proportion of convicted defendants assigned to a

batterer intervention program (about 85%). However, there was a decline from 61% to 33% in the proportion of convicted defendants who were incarcerated (some convicted defendants were incarcerated *and* assigned to the batterer intervention program), although the length of the sentences increased from a median of 45 to 60 days. Recidivism (defined as a new police contact for domestic violence within one year of conviction) declined from 21% to 14%. The San Diego study suggests that introducing a specialized DV part does not affect the likelihood of conviction, reduces reliance on incarcerative sentences, and reduces recidivism rates.

Davis et al. (2001) examined the impact of a specialized misdemeanor DV part in Milwaukee in 1994. By reducing case processing time, Milwaukee officials hoped to reduce the opportunity for the defendant to intimidate the victim, thereby increasing the number of victims willing to testify. The specialized DV part cut case processing time in half, from 166 days (when cases were heard in the general misdemeanor courts) to 86 days (when cases were heard in the specialized DV part). As expected, defendants were less likely to intimidate the victim before the case was disposed. Victim cooperation increased and the conviction rate increased from 56% to 69%. As in San Diego, there was a decline in the percentage of convicted defendants sentenced to jail, from 75% to 39%. Recidivism within 6 months of case disposition declined from 30% to 16%, as reported in victim interviews.

Buzawa et al. (1999) studied the Quincy, Massachusetts Domestic Violence Court, which has been recognized as a national model for other jurisdictions. Quincy uses an integrated, system-wide approach, encompassing not only the court, but also the police department, DA's office, and the corrections department. The study does not provide data from a period before the court was introduced, but nevertheless includes useful information about court outcomes and recidivism. During the 7-month sample period from 1995-1996, 18% of cases were declined for prosecution. Among cases that were prosecuted and reached a final disposition, 79% ended in conviction. About 35% of convicted defendants were sentenced to jail. Approximately half of the victims reported re-victimization within one year of the original offense.

C. Research Questions

In summary, very little research has been done to evaluate the impact of new approaches to prosecuting and adjudicating domestic violence cases, either nationally or in New York City. We know very little about the impact of no-drop prosecution policies or specialized DV parts on case outcomes in DV cases.

Interestingly, New York City presents an opportunity to examine the impact of different prosecution screening policies and the use of specialized court parts. The current study examines case outcomes for DV cases disposed in Criminal Court in the Bronx, Brooklyn and Manhattan.[3] The study uses data from the third quarter of 1998, a

[3] DV cases sustained as felonies and disposed in Supreme Court were excluded from our study. Only about 3% of DV cases were disposed in Supreme Court in the third quarter of 1998.

time when there were significant borough differences in the processing of DV cases. As will be explained in more detail below, in the Bronx in 1998 the DA's office pursued primarily first-party complaints, i.e., those where the victim signed the complaint, indicating a willingness to go forward with the case. The Brooklyn and Manhattan DA's offices each had a no-drop prosecution policy in 1998. In these two boroughs, cases were prosecuted even if the victim did not want the defendant prosecuted. Furthermore, unlike many jurisdictions in the U.S. with a no-drop policy (Smith et al. 2001), the no-drop policy in Brooklyn and Manhattan was applied to virtually all cases brought to the DA's office. By comparing the Bronx to other boroughs, our study will be able to assess the impact of no-drop prosecution policies on case outcomes in DV cases. Furthermore, while specialized Criminal Court DV parts have been established citywide, the timing of their creation has varied by borough. Specialized DV parts in Criminal Court were established in Brooklyn and the Bronx in 1997. However, a specialized DV part was not established in Manhattan until 2000. By using data from 1998, this study will be able to compare case outcomes in a borough without a specialized DV part (Manhattan) to case outcomes in boroughs that had specialized DV parts (Brooklyn and the Bronx).

By comparing the outcomes of DV cases across boroughs, our study begins to fill in the gaps in our knowledge of the court processing of DV cases. The current report addresses the following questions:

1) What are the effects of prosecutorial case screening policies on case outcomes in DV cases?

2) What are the effects of the use of specialized court parts on case outcomes in DV cases?

The findings presented in this report will provide information about the results of different approaches to prosecuting and adjudicating DV cases. Specifically, as we address the first question, we will consider whether there were differences in DV case outcomes between the Bronx, which pursued primarily first-party complaints and Brooklyn and Manhattan, which used a no-drop policy and pursued cases with or without victim cooperation. We expect to find that more cases were declined for prosecution in the Bronx, due to the reluctance of some victims to sign the complaint. We also expect to find that the conviction rate was higher in the Bronx, since many cases with reluctant victims were dropped. The conviction rate in Brooklyn and Manhattan is expected to be lower than in the Bronx, since the DA's offices in these two boroughs did not screen out some of the weak cases prior to arraignment. Many of these weak cases were likely to end in a dismissal rather than a conviction. We do not expect to find that case screening policies affected the likelihood that convicted defendants were sentenced to jail. Nor do we expect to find that case screening policies affected the length of the sentence for those sentenced to jail.

As we address the second question, we will consider whether there were differences in DV case outcomes between Brooklyn and the Bronx, where DV cases were processed in specialized DV court parts, and Manhattan, where DV cases were processed

in court parts with mixed dockets. We do not expect to find that the use of specialized DV parts affected conviction rates. Although Fritzler and Simon (2000) argue that judges in specialized parts are better able to address the evidentiary problems of prosecuting DV cases, most studies have found no change in conviction rates when specialized DV parts are established. We do expect to find that jail sentences were imposed less often, and were of shorter duration, in Brooklyn and the Bronx than in Manhattan. Specialized parts focus more on requiring convicted DV offenders to complete a batterer intervention program, usually as an alternative to incarceration. Several studies have found that in mixed dockets, convicted DV offenders were more likely to receive jail sentences. Furthermore, in court parts with mixed dockets, it may be more difficult to identify appropriate programs and to enroll defendants in them.

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## II. METHODOLOGY

### A. Overview of the CJA Database and the Third Quarter 1998 Dataset

The data for this study were drawn primarily from the CJA database. This database contains information about the arrest, case processing and case outcomes of most New York City arrestees. The CJA Database includes data from three sources: CJA's pre-arraignment interview,[4] the New York City Police Department's Online Booking System (OLBS) Database, and the New York State Office of Court Administration (OCA). Information concerning demographic characteristics and the community ties of the offenders is taken from the CJA pre-arraignment interview. Information about the arrests is based on the OLBS data. Detailed Criminal Court and Supreme Court processing and outcome data on each of the arrests are drawn from the OCA data.

This report is based on analyses of the Third Quarter 1998 Dataset, which consists of data collected on a three-month cohort of arrests made from July 1, 1998 through September 30, 1998 (Eckert and Curbelo 2000). The dataset includes information on 89,524 arrests where the district attorney elected to bring charges and where a docket number was assigned.[5]

In addition to information in the CJA database, the Third Quarter 1998 dataset also includes information provided by the New York State Division of Criminal Justice Services (DCJS).[6] DCJS data were used to supplement and check the reliability of criminal history information that was collected routinely by CJA interviewers.[7]

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[4] CJA conducts pre-arraignment interviews to measure the defendant's community ties and to serve as the basis for making a recommendation as to whether or not the defendant should be released on recognizance at his or her first court appearance. Defendants who are arrested on a bench warrant, given a Desk Appearance Ticket (DAT), or who are held for arraignment on prostitution charges in the downtown Manhattan Criminal Court, are not interviewed by CJA. CJA collects police arrest and Criminal Court information for all arrestees, and they are included in the Third Quarter 1998 Dataset whether or not they were interviewed (Siddiqi 1999).

[5] For a more detailed discussion of how the sample was drawn, see Eckert and Curbelo 2000, Appendix A. The sample includes both Summary Arrests and DAT's. Arrests that had no docket number were retained in the sample if they appeared to be either "A" docket cases in Manhattan (the designation used in Manhattan for a court case that has a docket number with the suffix "A" to distinguish it from a court case that has the same docket number without the suffix "A") or direct indictments. Arrest information for these two types of cases was supplemented with defendant information and court processing information when available.

[6] DCJS, OCA, and the NYPD are not responsible for the methods or conclusions of this report.

[7] CJA provided fingerprint identification numbers (known as New York State Identification, or "NYSID," numbers) to DCJS for all printable offenses in the third quarter of 1998—approximately 81,000 of 89,524 arrests. NYSID numbers for the remainder of the arrests were not available in CJA's database, since the arrests were for nonprintable offenses. DCJS returned information on the defendant's criminal history for 46,000 of the 81,000 cases. In the remaining

For cases that had multiple dockets, case processing information in this study is based on the docket that had the most severe arraignment charge (based on Penal Law severity) in Criminal Court.[8] When the most severe arraignment charges on 2 or more dockets are of equal Penal Law severity, the top charge is determined according to guidelines developed by OCA. These guidelines provide a consistent set of rules for determining which of two arraignment charges of equal severity will be identified as the top arraignment charge.

In New York State's two-tiered court system for handling criminal cases, the Criminal Courts only have trial jurisdiction over cases having a most serious charge of misdemeanor or lesser severity. Most defendants charged with felonies are first arraigned in Criminal Court. Cases sustained at the felony level must be brought for prosecution in Supreme Court. In felony cases where the District Attorney decides not to prosecute the case in Supreme Court or the Grand Jury fails to return an indictment, the case may be disposed in Criminal Court by dismissal, by a plea to a reduced charge less severe than a felony, or by a transfer to another court's jurisdiction (e.g., Family Court).

The analyses described in subsequent sections of this report are based entirely on ***cases that reached a final disposition in Criminal Court***. Our research was originally designed to examine both Supreme Court and Criminal Court cases.[9] However, the overwhelming majority (about 97%) of domestic violence cases reached a final disposition in Criminal Court. The Third Quarter 1998 Dataset includes case processing information in Criminal Court through final disposition (and sentencing, if there was a conviction), or until August 6, 1999, if the case was not yet disposed. Information about the final disposition in Criminal Court beyond this cutoff date was not included in the dataset.

To inform our discussion of the statistical results, we also conducted field research in New York City criminal courts and interviews with representatives of the District Attorney's offices in Brooklyn, Manhattan and the Bronx. We observed the operation of a specialized DV Criminal Court part in Brooklyn to develop an understanding of the problems posed by domestic violence cases and the strategies used

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cases, the defendant had no prior convictions on his/her record, or the court had sealed the current case.

[8] New York State Penal Law categorizes most offenses according to their severity. The most serious crimes are A felonies, followed by felonies classified as being of severity B through E. Misdemeanors are less severe than felonies, and are classified as A or B misdemeanors (A misdemeanors are more severe). Violations are less severe than misdemeanors, and are not considered crimes, although they can result in jail sentences. No distinctions of severity are made within the category of violations.

[9] The Family Courts also have concurrent jurisdiction over certain domestic violence cases (Aldrich and Domonkos 2000). Some DV cases are heard only in Criminal Court, some are heard in both Criminal Court and Family Court, and others are heard only in Family Court. We do not have access to data on DV cases that are heard only in Family Court, and our report draws no conclusions about these cases.

by DA's and judges to overcome these problems. We also observed the operation of Brooklyn's two specialized DV Supreme Court parts. We consulted with judges as well as other key court personnel, including assistant district attorneys, defense attorneys, domestic violence resource coordinators, and probation officers. Our field research and interviews provided valuable information about the special features and problems of domestic violence cases, and the prosecution and adjudication of these cases.

B. Identifying Domestic Violence Cases

Social scientific and legal definitions of domestic violence have changed over the last 30 years. We reviewed the history of these changes in our first report (Peterson 2001, p. 11). In the current report, we limit ourselves to a review of how New York City courts identified DV cases in 1998, and of differences in how DV cases were handled in each borough.

In New York State the statutory definition of domestic violence approximates what has come to be known in the social scientific literature as "family violence." Under New York State's Criminal Procedure Law (CPL) §530.11 (as amended by the 1994 Family Protection and Domestic Violence Intervention Act), family offenses are defined as offenses committed against a member of the same family or household, where "family or household" are defined as: (1) persons related by consanguinity or affinity; (2) persons legally married to each other; (3) persons who were formerly married, and; (4) persons who have a child in common, whether or not they have ever been married or lived together.

New York State's statutory definition of domestic violence excludes unmarried partners, unless they have a child in common. However, the New York City Police Department (NYPD) operates with an expanded definition of domestic violence that includes individuals who are not married, but who are cohabiting or have previously lived together. This NYPD definition of "family" expands on New York State law by including "common-law" marriages, same-sex couples, and registered New York City domestic partners (NYPD 2000). By citywide agreement, the DA's offices and the Criminal Courts in all five boroughs also use this expanded definition to identify DV cases, whether or not the relationship between the victim and defendant meets the New York State statutory requirements contained in CPL §530.11.[10]

To identify domestic violence cases, Assistant District Attorneys (ADA's) use information collected by the police about the relationship between the victim and the defendant, if any. ADA's also often ask victims about their relationship with the defendant. If the relationship qualifies under the expanded definition, the case is

[10] Occasionally, cases that did not fit the NYPD expanded definition were nevertheless treated as DV cases. In Brooklyn, cases where the couple never lived together and had no children in common were processed as DV cases if the couple had a long-term relationship and the charges included assault or harassment. In the Bronx, cases where the couple never lived together and had no children in common were processed as DV cases if there was a long history of abuse.

identified as a DV case. Information about the type of offense is *not* used to determine whether a case is a DV case. As long as the relationship between the victim and defendant meets the definition, any criminal act can be considered domestic violence. DV case files in all 5 boroughs are then given a beige "back" (a special color-coded back sheet) to distinguish them from other case files. At Criminal Court arraignment, Court Clerks assign an arraignment hearing type of "DV" to domestic violence cases, and this designation is entered in OCA's computerized court records.

At the time the defendants in the Third Quarter 1998 Dataset were arrested, cases identified at arraignment as DV cases were processed in different ways depending on the borough. In Manhattan, all cases with a DV hearing type were sent to all-purpose parts for post-arraignment appearances. (Manhattan now has specialized DV parts, but they were not yet in operation in 1998.) In all boroughs except Manhattan, most cases with a DV hearing type were sent to a specialized Criminal Court Domestic Violence part for post-arraignment appearances. However, there were exceptions. In Brooklyn and the Bronx, cases with a DV hearing type that involved physical or sexual abuse of children or other types of non-intimate partner violence (e.g., violence between siblings) were not sent to the specialized domestic violence parts. Finally, some cases that did *not* have a DV hearing type at arraignment were also sent to the specialized DV parts, presumably because information that these cases involve domestic violence became available only after arraignment.

In this study, we identify domestic violence cases by relying on the court's identification of these cases. We use information about both hearing type and court part, since not all DV cases are assigned a DV hearing type. **We identified cases as domestic violence cases if the Office of Court Administration reported that: (1) the case had a domestic violence hearing type at Criminal Court arraignment, *and/or,* (2) the case had one or more appearances in a specialized domestic violence Criminal Court part.**[11]

Using these criteria, we identified 7,591 domestic violence cases in the Third Quarter 1998 Dataset, about 8.5% of the total sample of 89,524 cases. Of the 7,591 cases identified by the courts as involving domestic violence, 4,192 cases (55% of 7,591) had both a domestic violence hearing type at arraignment and at least one appearance in a specialized domestic violence court part. An additional 2,036 cases (27%) had a domestic violence hearing type at arraignment, but no appearance in a specialized domestic violence part. These included cases in Manhattan where there was no specialized DV part (N=1,147), DV cases in other boroughs that were disposed at arraignment (N=198), as well as DV cases in the other boroughs that were sent to Non-

[11] In the Third Quarter of 1998, the specialized domestic violence Criminal Court parts were AP-12 and AP-15 in Brooklyn, AP-10 and TAP-2 in the Bronx, AP-4 in Queens, and AP2-DV in Staten Island. Although AP2-DV in Staten Island was identified as a separate court part in our data, it was actually a specialized DV calendar. DV cases on this calendar were heard in an all-purpose part two days a week. We identified cases as DV cases if they had one or more appearances on this calendar.

DV parts (N=691). There were also 1,363 cases (18%) that had at least one appearance in a specialized domestic violence part, but did not have a domestic violence hearing type at Criminal Court arraignment.

Our method of identifying domestic violence cases is appropriate for the purposes of this study. The cases that we identified as DV cases were clearly known to the courts as DV cases. Since this report focuses on policies and practices used for processing DV cases, it is important that we examine only cases where the DA's, judges and other key personnel were aware that the case was a DV case.

As we noted in our first report, the measure identifying DV cases does have some limitations. First, there may be instances where a DV case was not identified as such in court records (i.e., it did not receive a DV hearing type at Criminal Court arraignment and did not appear in a specialized domestic violence part). Our measure did not identify these as DV cases but instead categorized them as Non-DV cases. In the current study, the main effect of this limitation is to reduce the sample size of DV cases we report on. We believe we have identified most of the DV cases in the sample, and included them in our analyses in this report. To the extent that we have missed some cases, our total sample size may be slightly lower than it should be. Nevertheless, we have an adequate sample size for our analyses, and will be able to draw valid conclusions about DV cases from our sample.

A second problem with our measure identifying DV cases is that it relies, in part, on identifying cases that appeared in specialized domestic violence courts. At the time of this study, Manhattan had no specialized domestic violence parts. Each of the other boroughs had at least one specialized DV Criminal Court part, and Brooklyn also had two specialized DV Supreme Court parts. In our Criminal Court sample, we identified 990 DV cases in Manhattan, based solely on DV hearing type at arraignment. Since not every domestic violence case receives a DV hearing type at arraignment, we are almost certainly failing to identify some domestic violence cases in Manhattan. It is difficult to gauge the magnitude of the problem, but it is possible to generate a rough estimate. Specifically, by examining DV cases that we identified in Brooklyn, the Bronx, Queens and Staten Island, we can determine what proportion of these cases had one or more appearances in a specialized domestic violence part but did not have a DV hearing type at arraignment. About 21% of the DV cases in Brooklyn, the Bronx, Queens and Staten Island were identified as having an appearance in a specialized DV part, but did not have a DV hearing type at arraignment. Assuming that the same pattern holds for Manhattan, about 21% of DV cases in Manhattan are not identified by our measure. Stated another way, we have identified almost 80% of the actual number of DV cases in Manhattan during the third quarter of 1998. We believe we can provide a reliable description of the processing of DV cases in Manhattan with this sample.[12]

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[12] The under-identification of DV cases in Manhattan could, however, make it more difficult for us to detect statistical differences between Manhattan and the other boroughs. To the extent that we find differences between Manhattan and the other boroughs in spite of this limitation, we can be confident in our results. If we fail to find statistically significant differences between

C. Victim-Defendant Relationship

To provide additional information about the DV cases, we also used data from the NYPD about the nature of the relationship between the defendant and the victim. Unfortunately, information about the relationship was missing for about 24% of the DV cases included in our analysis. At the time of the arrest, the police may not have been aware that there was a relationship between the parties. In 61% of the cases, the relationship was categorized as an "intimate partner" relationship (boyfriend-girlfriend, "common-law" spouse, married). In the remaining cases (14%), the relationship was a family relationship that did not involve intimate partners (parent-child, sibling, uncle-niece, etc.). Because we did not have information about the age of the victim, we were unable to clearly identify cases of child abuse or elder abuse using the NYPD data.[13] Nevertheless, we were able to distinguish between "intimate partner" violence and other types of domestic violence, a distinction that has been important in the social science literature.

For our analyses of cases that were declined for prosecution, we used the information about the victim-defendant relationship to determine whether or not the case was a DV case. Since these cases were never arraigned, and never had any court appearances, we could not rely on DV hearing type at arraignment or court appearances in a DV part to determine which were DV cases. The NYPD information about the victim-defendant relationship was the only information available to determine whether cases declined for prosecution were DV cases. To be consistent with the NYPD expanded definition of domestic violence described above, we categorized both intimate partner and other family relationships as DV cases.

D. Selection of the Crimes against Persons and Property Subsample

This study uses data from the Crimes Against Persons and Property (CAPP) Subsample described in our previous report (Peterson 2001).[14] This subsample was

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Manhattan and the other boroughs, it is possible that this result is due to small sample size rather than a lack of a statistically significant difference. Nevertheless, we believe the sample size for Manhattan is sufficiently large to enable us to identify differences between Manhattan and the other boroughs for all the analyses in this report.

[13] For example, when the defendant is identified as the parent of the victim, we do not know if the child was a minor under the age of 18, or an adult. Similarly, when the defendant is identified as the son or daughter of the victim, we do not know if the victim was elderly or not.

[14] In our earlier report, we also discussed results for an Assaults Subsample, which included all cases where the top arraignment charge was assault (PL 120). We used the Assaults Subsample to provide a more focused comparison of DV cases to similar Non-DV cases. In this report, we focus almost exclusively on comparing DV cases across boroughs, and make only a few comparisons of DV to Non-DV cases. We therefore use only the Crimes Against Persons and Property Subsample for our analyses. This Subsample includes information about the full range of DV offenses, including assaults as well as violations of orders of protection, crimes against children, etc.

selected so that we could examine domestic violence cases across a wide range of charges. We began by selecting cases for this subsample where there was an alleged attempt to cause injury or where an overt threat of injury was made (Weis 1989). We used the most severe arraignment charge (based on Penal Law severity) to determine the nature of the offense, since this charge determines how the case is handled in the court system. We did not use the most severe arrest charge, which reflects charging decisions made by the police. We initially selected all cases that had a top (i.e., most severe) arraignment charge from any of the following New York State Penal Law articles: PL 120 (Assault), PL 130 (Sex Offense), PL 160 (Robbery), PL 260 (Crimes Against Children), or PL 265 (Weapons). Unfortunately, we were not able to include cases disposed in Criminal Court that had top arraignment charges from PL 125 (Homicide), PL 150 (Arson) and PL 135 (Kidnapping).[15] Cases charged with offenses in these Penal Law articles were excluded since there were less than 50 domestic violence cases with top arraignment charges in each of these Penal Law articles—too few cases for reliable multivariate analysis. Recognizing that domestic violence often includes offenses that result in financial and psychological harm, rather than just physical harm, we also selected cases if they had a top arraignment charge from one of the following Penal Law articles: PL 140 (Burglary), PL 145 (Criminal Mischief), PL 155 (Larceny), PL 205 (Escape and Resisting Arrest), PL 215 (Criminal Contempt),[16] and PL 240 (Public Order Offenses).

Within each Penal Law article, we selected only those cases that had charges that could plausibly include elements comparable to those found in domestic violence cases. For example, cases with a top arraignment charge of Assault in the Third Degree (PL §120.00) were included in the subsample. However cases of Gang Assault in the First Degree (PL §120.07) or Gang Assault in the Second Degree (PL §120.06) were excluded, since it is unlikely that a domestic violence case would include a gang assault charge. Similarly, in PL 240, prostitution charges (PL §240.37) were excluded. These restrictions yielded a subsample of 32,299 cases, including 7,383 domestic violence cases.

We then narrowed the subsample further to identify an appropriate group of cases for the analysis. First, we limited the sample to Summary Arrests (i.e., cases in which the defendant was held in custody pending Criminal Court arraignment), excluding cases where the defendant was issued a Desk Appearance Ticket (DAT) and released by the arresting officer. DAT's are rarely issued in DV cases. We also excluded cases with juvenile defendants (under age 16), cases that did not reach a final disposition by the cutoff date, and cases that were missing data on defendant's criminal history or sex. Finally, we excluded cases that were disposed in Criminal Court on Vehicle and Traffic Law (VTL) or Administrative Code (AC) charges. After these exclusions, the Crimes

[15] Most, but not all, cases charged in these Penal Law articles are sustained as felonies and are disposed in Supreme Court.

[16] Penal Law article 215 includes violations of orders of protection.

Against Persons and Property Subsample included 28,110 cases, of which 6,989 (about 25%) were domestic violence cases.[17]

E. Analytic Issues

1. Cross-Borough Comparisons of DV Cases

The current report expands on our previous research by focusing on cross-borough differences in the processing of DV cases. Whereas our previous research compared DV cases to Non-DV cases, we make only a few such comparisons in this report (see discussion of Table 3-1 in Section III below). Most of the analyses in the current report examine cross-borough differences for DV cases only. This allows us to focus attention on the borough differences rather than dividing our attention between borough differences and differences between DV and Non-DV cases.

We have excluded DV cases from the boroughs of Staten Island and Queens from our cross-borough comparisons. Unfortunately, the sample size of 320 DV cases in Staten Island in the third quarter of 1998 is too small for reliable statistical analysis. Queens is excluded from our analysis because of problems identifying and tracking DV cases arraigned on felony charges that were disposed in the Criminal Court. These felony DV cases were not identified as DV cases at arraignment and were not sent to the specialized Criminal Court DV part for subsequent hearings, as they were in Brooklyn and the Bronx. Instead, these cases were sent to a part that handled unindicted felonies, including drug and other cases, as well as DV cases. This practice was used from sometime before the third quarter of 1998 (when the cases in our dataset were arraigned) until January, 2001. Since these cases had neither a DV hearing type at arraignment nor an appearance in the specialized part, they are categorized in our data as Non-DV cases. We are currently unable to identify these cases accurately among the Non-DV cases, and therefore are unable to re-classify them as DV cases. Furthermore, since their absence from our sample of DV cases results in the systematic exclusion of most of the felony DV cases disposed in Criminal Court in Queens, our data do not allow us to describe adequately the processing of DV cases in Queens in comparison to the other boroughs.

Our analyses in this report focus on comparisons of DV cases in Brooklyn, the Bronx and Manhattan. As noted earlier, Brooklyn and the Bronx had specialized Criminal Court DV parts in operation in the third quarter of 1998, while Manhattan did not. One of the key questions in our study is whether DV cases heard in specialized parts are processed differently than DV cases heard in all-purpose parts. Throughout the

[17] Following are the numbers of cases excluded by each restriction (number of DV cases shown in parentheses). Beginning with 32,299 cases (7,383), we excluded 1,861 DAT's (39), 198 juveniles (7), 1,781 cases that did not reach a disposition by the cutoff date (323), 134 cases missing data on criminal history (12), 15 cases missing data on sex (5), and 200 cases that were disposed on VTL or AC charges in Criminal Court (8). Some cases were excluded on multiple grounds (e.g., missing data on criminal history and disposed on VTL charges). These cases are counted only once in this tally.

study, we address this issue by comparing results for Manhattan to results for the other two boroughs. In Manhattan, all DV cases were heard in all-purpose parts. In Brooklyn and the Bronx most, but not all, DV cases were heard in the specialized Criminal Court DV parts. We examined data for these boroughs and found that 92% of the DV cases in Brooklyn and 88% of the DV cases in the Bronx were heard in the specialized DV parts. We considered the possibility of conducting additional analyses limited to cases in Brooklyn and the Bronx that had appearances in the specialized DV parts. Preliminary results indicated that the findings and conclusions from these analyses are substantially the same as those for all DV cases in each of these boroughs. This is not surprising, since the vast majority of DV cases in these boroughs were heard in the specialized parts.

2. Using a Case-based Data File

The dataset analyzed in this study is a *case-based data file* that includes information on all prosecuted arrests that were held for arraignment. Some defendants were arrested two or more times during the Third Quarter of 1998, and information about *each* of their cases is included in the file. This report uses a case-based data file in order to present a comprehensive picture of the processing of all cases that were initiated during
the sample period. While the vast majority of defendants have only one case in the case-based data file,[18] it is important to remember that the descriptions and analyses in this report summarize information about cases, not about defendants.

The use of a case-based file presents some minor problems for statistical analysis. First, the statistical procedures used in this report assume that the units of analysis in the data file are statistically independent of each other. This requires that the characteristics of each case in the data file should not have a fixed relationship to the characteristics of any other case in the data file. When a defendant has two or more cases in the data file, the defendant's ethnicity, sex, age, criminal history, community ties, etc. for one case do have a fixed relationship to that defendant's characteristics in the other case(s). Using a case-based data file therefore violates one of the assumptions of the statistical techniques employed in the report. However, the impact of this violation of assumptions is likely to be minimal. The number of defendants with multiple cases is relatively small, as noted in the previous footnote. Second, when defendants have multiple cases, the outcome of one case may be affected by the outcome of another. For example, a defendant may plead guilty in one case in return for having charges in another case dropped. Prior research suggests that once prior record and case characteristics are controlled for, there is no difference in case outcomes between defendants who had multiple cases and those who did not (Klein et al. 1991). Since our statistical models control for prior record and case characteristics, we expect the impact of this problem on our results to be minimal.

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[18] The Crimes Against Persons and Property Subsample includes information about 5,139 DV cases in Brooklyn, the Bronx and Manhattan for 4,911 defendants. Over 96% of these defendants have only one case in the data file, about 4% had two cases initiated during the Third Quarter of 1998, and less than 1% had 3 or more cases (the maximum was 4 cases).

3. Plan of Analysis

This study will begin with a description of domestic violence cases in Brooklyn, the Bronx and Manhattan. We will compare DV cases in these three boroughs in terms of **three important case outcomes: conviction, whether a jail sentence was imposed, and length of jail sentence (if any)**. We will also examine a variety of defendant and case characteristics: arraignment charges, demographic characteristics, defendant's criminal history, charge characteristics, release recommendation and case processing characteristics. After this overview, we will present statistical models predicting the likelihood of conviction, likelihood of an incarcerative sentence and length of jail sentence. These models will assess the influence of defendant and case characteristics on conviction rates, incarceration rates, and average sentence length.

For each of these outcomes, we begin by examining a pooled sample of cases from the three boroughs to determine whether borough differences in case outcomes are due to differences in defendant characteristics and/or case characteristics. We then analyze DV cases separately by borough to determine whether the influence of these characteristics on case outcomes is different in different boroughs.

The examination of case outcomes focuses on the two major questions posed in the Introduction to this report:

1) What are the effects of prosecutorial case screening policies on case outcomes in DV cases?

2) What are the effects of the use of specialized court parts on case outcomes in DV cases?

To address these questions, this report will begin by providing information on case outcomes and defendant and case characteristics in Section III. In Sections IV, V and VI, we present models predicting the likelihood of conviction, likelihood of incarceration and length of jail sentence, respectively. Section VII summarizes the findings and discusses their implications.

## III. OVERVIEW OF CROSS-BOROUGH DIFFERENCES IN THE PROCESSING OF DOMESTIC VIOLENCE CASES

This section of the report provides an overview of borough differences in the processing of DV cases disposed in New York City Criminal Courts in the third quarter of 1998. As noted earlier, the Crimes Against Persons and Property Subsample includes most of the DV cases we identified in the dataset, and provides a comprehensive picture of the full range of DV cases.

### A. Case Screening

We begin by examining how arrests on DV charges were screened in each of the three boroughs. While our report will focus on case outcomes for cases where the defendant was arraigned in Criminal Court, not every arrest on domestic violence charges results in a criminal prosecution. Some arrests are referred to Family Court, others are "voided" by the police, while in other cases the DA's office declines to prosecute (an outcome referred to as a "DP"). Referrals to Family Court usually occur where the DA believes that a case can be better handled as a dispute rather than a crime.[19] Voided arrests and DP's usually occur because the evidence in the case cannot sustain bringing any charges against the defendant. No DV arrests were referred to Family Court in the third quarter of 1998 in Brooklyn, the Bronx or Manhattan.[20] Voided arrests were quite rare in DV cases, constituting less than 1% of DV cases in each of the three boroughs. DP's were also rare in Brooklyn[21] and Manhattan, occurring in about 1% of the cases. However, in the Bronx, DP's were common. **About 20% of DV cases in the Bronx resulted in a decision by the DA to decline prosecution, whereas virtually all DV arrests resulted in prosecution in Manhattan and Brooklyn**.

To understand these borough differences in case screening, we interviewed representatives of the DA's office in each borough about their approach to prosecuting DV cases. The high rate of declining to prosecute DV cases in the Bronx reflected the DA's policy of focusing primarily on "first-party complaints." When an arrest was made as a result of a domestic violence incident in the Bronx in 1998, the DA would generally

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[19] Cases referred to Family Court by the DA's office are distinct from cases where the victim elects to bring the case in Family Court. As noted earlier, we have no data on the latter type of case.

[20] For these analyses of arrests that were never arraigned in Criminal Court, we identified DV cases on the basis of the NYPD data on defendant-victim relationship.

[21] In November 2001, the Brooklyn DA's office developed a new policy to decline prosecution of certain DV cases. Under the policy, DV cases are declined only when the victim signs a declination in cases that meet all the following conditions: 1) there is no injury to the victim, 2) there is no history of domestic violence by the defendant, 3) the defendant does not have a significant criminal record, 4) the case can not proceed without the cooperation of the victim, and 5) a representative of the DA's office is able to meet with the victim to verify that she or he did not wish to proceed with the case. As a result of this new policy, the proportion of DV cases that are declined for prosecution in Brooklyn has increased. However, this policy was *not* in effect in the third quarter of 1998, and does not affect the results presented in this report.

not pursue the case unless the victim (the "first party") signed the complaint. The Bronx DV Bureau emphasized the importance of speaking to the victim to learn the history of the relationship and details about the facts of the case that were not included in police reports. Because defendants in New York must generally be arraigned within 24 hours of arrest, DV victims in the Bronx usually had less than 24 hours to sign the complaint. If the victim refused to speak to the DA's office or to sign the complaint, the case would be difficult to prosecute. Without victim cooperation, the DV Bureau almost always declined to prosecute DV cases.

The screening policy used in the Bronx was not unique to DV cases. In Non-DV assault cases, the Bronx DA also relied on "first-party complaints," requiring the victim to sign the complaint before pursuing the case. About 6% of Non-DV assaults were declined for prosecution in the Bronx in the third quarter of 1998.

In contrast to the Bronx, Brooklyn and Manhattan routinely prosecuted cases without victim cooperation. During our discussions with representatives from the Brooklyn and Manhattan DA's offices, several reasons for prosecuting these cases were mentioned. First, the DA's were sometimes able to secure the cooperation of the victim even after an initial refusal to cooperate. Second, the DA's office may have tried to develop other evidence in order to prosecute the case without the victim's cooperation. Sometimes, for example, the victim's signed statement on a Domestic Incident Report was sufficient corroborating evidence to sustain the charges. They could also pursue an "evidence-based" prosecution without the victim's cooperation, using "hearsay exceptions" (e.g., statements made by victims and recorded on 911 tapes), photographs, police testimony, medical evidence, etc. Third, the DA's office was able to keep an order of protection in effect while the case against the defendant was pending. This may have prevented further violence, or may have enabled a subsequent prosecution if there was a violation of the order of protection during the pendency of the case. Finally, the DA's office sometimes worked with uncooperative victims to provide services (counseling, housing assistance, etc.) which improved victim safety even if the case was subsequently dismissed.

The two different policies for screening cases reflect different philosophies for prosecuting DV cases. Focusing on first-party complaints enabled the Bronx DA's office to focus its efforts on viable cases where the victim agreed to file a complaint. This policy may have increased the chances of winning a conviction, since the victim indicated an initial willingness to cooperate with the prosecution. The alternative approach, prosecuting virtually all cases that came to their attention, enabled the Brooklyn and Manhattan DA's offices to keep more cases active. During this time, the ADA's tried to develop additional evidence, to encourage the victim to cooperate, and to provide services to the victim. In Brooklyn, even though many weak cases ended in dismissal, they were kept active as long as possible in order to allow the court and the DA's office to monitor the defendants. In Manhattan, the DA's office was not as concerned with monitoring defendants' behavior prior to disposition. Although their goals were somewhat different, the DA's offices' in both Brooklyn and Manhattan prosecuted many DV cases where evidence-based prosecution was not possible and the

victim never cooperated with the prosecution. Presumably, most of these cases were likely to end in dismissal of the charges.

Based on these descriptions of the policies of the DA's offices, the Brooklyn and Manhattan offices had what is generally described in the literature as a ***no-drop policy*** in DV cases. Virtually all DV cases in Brooklyn and Manhattan were prosecuted. In both Brooklyn and Manhattan, charges were *not* dropped at the victim's request except in rare cases. The Bronx relied on a ***first-party complaint policy*** in DV cases. The DA's office did not usually pursue cases where the victim refused to sign the complaint. These different policies in Brooklyn, Manhattan and the Bronx indicate that the goals in each borough were different. In Brooklyn, the DA's office emphasized monitoring the behavior of as many defendants as possible for as long as possible, even when conviction was unlikely. In Manhattan, the DA's office emphasized developing additional evidence to obtain a conviction. In the Bronx, resources were concentrated on cases where the victim indicated an initial willingness to go forward with the case in order to obtain convictions in those cases. Victims rarely had an influence over the prosecutor's decision to file a complaint in Brooklyn or Manhattan, while victims were primarily responsible for deciding whether a prosecutable case would be pursued in the Bronx.

The case screening policies described above were generally applied in most DV cases. However, in Brooklyn and Manhattan, as in most jurisdictions with a no-drop policy, the policy was not absolute. Cases were sometimes declined for prosecution, and cases were also occasionally dropped at the victim's request if the DA's office was satisfied that dropping the case would not endanger the victim. Smith et al. (2001) have suggested that "no-drop" is more accurately described as a philosophy than as a strict policy. While the general policy is to prosecute every case, exceptions are made on occasion. Similarly, there were also exceptions to the first-party complaint policy in the Bronx. Prosecutors sometimes signed the complaint (e.g., if the victim was in the hospital) and later tried to obtain a supporting deposition from the victim. Although there were exceptions to the no-drop policies in Brooklyn and Manhattan, and to the first-party complaint policy in the Bronx, the vast majority of cases in each borough in the third quarter of 1998 were screened according to the policies described above.[22]

As a result of the policy requiring that victims sign the complaint, the volume of DV cases pursued in the Bronx was lower than it otherwise would have been. We estimate that another 271 DV cases would have been docketed in the Bronx in the third quarter of 1998 if arrests there were screened in the same manner as in Brooklyn and Manhattan. The screening policy in the Bronx not only reduced the volume of DV cases that were docketed, but also prevented many weak DV cases from being docketed. DV cases where the victim refuses to cooperate are among the most difficult to prosecute, and often result in a dismissal of the charges. In the Bronx, cases were usually declined for

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[22] The use of the term "policy" in this report to describe how the DA's offices screen DV cases does not necessarily mean that there were written procedures stating how these cases were to be screened. The term "policy" is used here to describe the dominant practices used to screen cases in each of the three boroughs.

prosecution if the victim refused to sign the complaint, whereas in Brooklyn and Manhattan cases where the victim did not wish the prosecution to go forward were usually prosecuted. Because of the screening policy in the Bronx, we expect to find more prosecuted cases that resulted in conviction, and fewer cases that resulted in dismissal, than in the other two boroughs.

B. Case Outcomes: Conviction, Sentence Outcome And Length Of Jail Sentence

We now turn our attention to reviewing data on three major case outcomes: conviction, sentence outcome for those who were convicted, and the length of jail sentence for those who were incarcerated.

In New York State, cases disposed in Criminal Court can result in one of several final dispositions:[23] a plea of guilty, a finding of guilty after trial, an acquittal after trial, dismissal,[24] or an adjournment in contemplation of dismissal (ACD). In this report, convictions are defined to include pleas of guilty and findings of guilty after trial, including pleas or findings of guilty to a violation. (Although violations are not considered crimes under New York State Penal Law, they can result in a jail sentence.) Acquittals, dismissals and ACD's are categorized in this report as non-convictions. Although ACD's are not convictions, they sometimes have conditions attached (e.g., that the defendant successfully complete a program, such as a batterer intervention program). When these conditions are not fulfilled, or if the defendant is re-arrested within 6 months (12 months in the case of a family offense), the case can be re-opened and restored to the calendar for another, possibly more severe, disposition. However ACD's do not result in a conviction unless the defendant violates the conditions of the ACD and subsequently is returned to court and convicted.

In the three boroughs considered in this report, the conviction rate in DV cases was about 31% (see first row of Table 3-1). However, that rate masks wide variation in conviction rates across boroughs. The conviction rate in DV cases was 18% in Brooklyn, 29% in Manhattan and 64% in the Bronx. This pattern of results suggests at least two important conclusions. First, prosecution policies for screening cases appear to have had a strong impact on conviction rates. Focusing primarily on first-party complaints, as the Bronx did, resulted in a relatively high conviction rate. Prosecuting all DV cases under a no-drop policy produced relatively low conviction rates. Second, the use of specialized

[23] Cases whose last disposition in Criminal Court resulted in a transfer to Supreme Court or Family Court were excluded from the analyses because these cases continued in another court. A small number of cases were briefly sent to Supreme Court before being returned to Criminal Court for a final disposition. We count these cases as disposed in Criminal Court.

[24] We include as dismissals cases that are disposed as "sealed" as well as cases that are "dismissed—not sealed" but are never subsequently brought back to court.

**TABLE 3-1**
**CASE OUTCOMES IN CRIMINAL COURT**
**BY BOROUGH AND TYPE OF CASE**

Third Quarter 1998 Dataset
Crimes Against Persons and Property Subsample

| CASE OUTCOMES | Brooklyn | Bronx | Manhattan | Total, All Cases |
|---|---|---|---|---|
| **CONVICTION RATE** | | | | |
| DV cases | 18% | 64% | 29% | 31% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |
| Non-DV cases | 39% | 73% | 65% | 58% |
| (N of cases) | (4,888) | (3,333) | (6,053) | (14,274) |
| **INCARCERATION RATE** | | | | |
| DV cases | 23% | 23% | 31% | 24% |
| (N of cases) | (512) | (797) | (283) | (1,592) |
| Non-DV cases | 40% | 47% | 54% | 49% |
| (N of cases) | (1,888) | (2,445) | (3,911) | (8,244) |
| **MEAN NUMBER OF DAYS SENTENCED TO JAIL** | | | | |
| DV cases | 43 | 72 | 65 | 62 |
| (N of cases) | (116) | (183) | (87) | (386) |
| Non-DV cases | 19 | 18 | 21 | 20 |
| (N of cases) | (762) | (1,142) | (2,103) | (4,007) |

DV parts did not appear to affect conviction rates. The use of specialized DV court parts in Brooklyn and the Bronx did not result in similar conviction rates in those boroughs. Furthermore, there was no clear distinction between Manhattan, which had no specialized DV parts, and the other two boroughs, which did. While the conviction rate was higher in the Bronx (64%) than in Manhattan (29%), it was actually lower in Brooklyn (18%) than in Manhattan. The specialized DV parts were *not* designed to increase the conviction rate and we did not expect to find that conviction rates would be higher in boroughs where they were used. Nevertheless, Fritzler and Simon (2000) have suggested that there is a better understanding of the unique nature of DV cases in specialized parts,

and that this might lead to higher conviction rates in DV parts. Their argument was not supported by our findings.

Because ACD's are sometimes used to impose conditions (such as completion of a treatment program) on a defendant, we also examined dispositions within the "not convicted" category (data not shown). About 16% of DV cases were disposed with an ACD. However, the use of ACD's in DV cases varied widely by borough. In Brooklyn, about 23% of cases resulted in an ACD, compared to 16% in Manhattan and only 1% in the Bronx.

Based on court observation and interviews with the DA's offices, we found that ACD's in Brooklyn and Manhattan sometimes required completion of a batterer intervention program.[25] Defendants who failed to comply may have had their cases restored to the calendar. The use of ACD's was one of a variety of strategies employed to achieve the goal of monitoring defendants in DV cases. In the Bronx, virtually all cases that did not result in conviction resulted in dismissal rather than an ACD. This indicates that the DA's office in the Bronx had a practice of not offering ACD's, and agreeing only to convictions.

For comparison purposes, Table 3-1 also includes conviction rates for Non-DV cases by borough. About 58% of the Non-DV cases resulted in conviction, compared with only 31% of the DV cases. However, the 58% conviction rate for Non-DV cases also masked wide variation in conviction rates across boroughs. The Bronx and Manhattan had higher than average conviction rates (73% and 65%), while Brooklyn had a lower than average conviction rate (39%). These findings for Non-DV cases help us to understand the variation in conviction rates for DV cases by borough. It seems clear that some of the cross-borough variation in conviction rates for DV cases reflected patterns of cross-borough variation in conviction rates for Non-DV cases. Brooklyn had the lowest conviction rates for both DV and Non-DV cases, while the Bronx had the highest rates for both types of cases. As we seek to explain cross-borough variation in conviction rates in DV cases, it is important to know that some of this variation reflected more general borough differences that produced similar variation in Non-DV cases.

Finally, comparing the conviction rates for DV cases and Non-DV cases by borough revealed some interesting patterns. In the Bronx, there was a small difference in conviction rates for DV and Non-DV cases: 64% in DV cases, versus 73% for Non-DV cases. In Brooklyn, DV cases were considerably less likely than Non-DV cases to result in conviction: 18% vs. 39%. The gap in conviction rates between DV and Non-DV cases was largest in Manhattan: 29% versus 65%. These patterns show that Manhattan, the borough without a specialized DV part, had the largest gap in conviction rates between DV and Non-DV cases: a 36 percentage-point difference. This gap was smaller

[25] In cases where the victim did not sign a supporting deposition, a defendant whose case was disposed with an ACD generally could not be required by the court to complete a batterer intervention program.

in the boroughs with specialized DV parts: 9 percentage points in the Bronx and 21 percentage points in Brooklyn.

Taken together, the findings on conviction rates by borough suggest two major conclusions. First, there was significant variation in conviction rates for DV cases across boroughs. In Section IV of this report, we will attempt to account for cross-borough variation in conviction rates. Second, much of this variation apparently was due to prosecution policies for screening DV cases. Focusing primarily on first-party complaints increased conviction rates. The use of specialized DV parts seems to have had little effect on conviction rates in New York City.

Next, we considered differences in sentence outcome for those cases that ended in a conviction. Overall, about 24% of convicted defendants in DV cases received a sentence of incarceration (Table 3-1). We define a jail sentence to include both "time served" sentences and definite sentences (i.e., sentences for a specified number of days). The incarceration rate was highest in Manhattan (31%) and somewhat lower in Brooklyn and the Bronx (23% each). To provide further information about sentencing practices, we looked at data on sentences other than incarceration (data not shown). Defendants classified as "not sentenced to jail" received a variety of sentences, including conditional discharge, probation and fines. The vast majority of convicted defendants who did not receive a jail sentence were given a conditional discharge: 64% in Brooklyn, 68% in the Bronx and 54% in Manhattan. Conditional discharges in DV cases in Brooklyn and the Bronx almost always included a requirement that the defendant complete a batterer intervention program or, in some cases, an alcohol or drug treatment program. In Manhattan, conditional discharges were less likely to include a program requirement than in the Bronx or Brooklyn. The use of these programs in Manhattan often reflected the expressed wishes of the victim.

These findings suggest that the boroughs with specialized DV parts (Brooklyn and the Bronx) were *less* likely to impose incarceration as a sentence in DV cases than Manhattan, where DV cases were heard in mixed-docket court parts. In Brooklyn and the Bronx, there appeared to be greater use of alternatives to incarceration, such as batterer intervention programs. While we do not have data on the use of batterer intervention programs, our observations in the Criminal Courts and conversations with DA's and judges support this explanation. In many DV cases in the specialized parts, DA's and/or the court may view such programs as a more appropriate sentence than jail.

There was also significant cross-borough variation in incarceration rates for Non-DV cases (Table 3-1). Incarceration rates ranged from a high of 54% in Manhattan, to a low of 40% in Brooklyn. As we found when examining conviction rates, some of the cross-borough patterns of variation in incarceration rates for DV cases appeared to reflect more general patterns that affect Non-DV cases as well. Defendants in both DV *and* Non-DV cases were more likely to receive a jail sentence in Manhattan than in the other boroughs.

Finally, we considered the gap in incarceration rates between DV and Non-DV cases. This gap was lowest in Brooklyn (17 percentage points lower for DV cases), and slightly higher in the other two boroughs (23, and 24 percentage points, respectively, in Manhattan and the Bronx).

The pattern of results on incarceration rates suggests two general conclusions. First, courts in the two boroughs with specialized DV parts were less likely to sentence convicted DV defendants to jail than courts in Manhattan. It would appear that one result of using specialized DV parts is less frequent use of incarceration. Second, incarceration is less likely in DV cases than in Non-DV cases in all three boroughs.

The final case outcome we examined was length of jail sentence. We measured length of sentence by determining how many days the defendant actually spent in jail for the sentence in the case. For "time served" sentences, we used information about release status to measure the amount of time the defendant was incarcerated between arrest and final disposition. For definite sentences, we used the number of days of jail imposed by the court. We then subtracted one-third of the length of the definite sentence to account for the time allowance that most defendants receive for "good behavior," as provided by New York State Penal Law §70.30(4b). For example, a 30-day definite sentence was coded as 20 days in jail, after allowing for a 10-day reduction in the sentence. However, if the definite sentence was imposed *after* the defendant had already served more than two-thirds of the sentence, we used the actual time served as the sentence. For example, if a defendant who had been held for 25 days received a 30-day sentence, the sentence was coded as 25 days to indicate the actual time the defendant served.

The average length of jail sentence received by incarcerated defendants in DV cases was 62 days (Table 3-1). However, jail sentences varied widely by borough. Jail sentences were longer on average in the Bronx and Manhattan (72 and 65 days, respectively), and shorter in Brooklyn (43 days).[26] These results suggest again that the use of specialized DV parts in the Bronx and Brooklyn did not result in similar sentences. Brooklyn imposed shorter jail sentences in DV cases than the Bronx.

Sentences in Non-DV cases were, on average, ***shorter*** than for DV cases (20 days vs. 62 days). Moreover, there is little cross-borough variation in sentence length in Non-DV cases. Average sentence length in Non-DV cases was 21 days in Manhattan, 18 days in the Bronx and 19 days in Brooklyn. This suggests that the cross-borough variation in sentence length in DV cases was *not* a reflection of cross-borough patterns in Non-DV cases.

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[26] The sample sizes on which these averages are based are quite small, and estimates of cross-borough variation among DV cases are less reliable than estimates for the larger sample of Non-DV cases.

C. Defendant and Case Characteristics

We now examine borough differences in terms of defendant and case characteristics in DV cases. These characteristics will be used in subsequent sections of the report as predictors of case outcomes. Since we will be using these characteristics to determine if they can account for borough differences in case outcomes, this section of the report will highlight areas where there are differences among the boroughs.

Arraignment Charge

We begin our overview with an examination of a variable that will be used as a control variable in our models: arraignment charge Penal Law article. In the Crimes Against Persons and Property Subsample, the Bronx had fewer cases where assault was the top arraignment charge (55% of DV cases) than Brooklyn or Manhattan (65-69% of DV cases) (Table 3-2).[27] "Other" arraignment charges (primarily burglary) were more common in the Bronx (19%) than in other boroughs. Differences in the distribution of offenses may be important reasons for the borough differences in DV case outcomes reported above. Our models predicting case outcomes will therefore include arraignment charge Penal Law article as a control variable.

Defendant-Victim Relationship

Using data collected by NYPD, we were able in many cases to determine how the defendant was related to the victim at the time of the arrest (see Table 3-3). There were some borough differences in type of relationship. Defendants in DV cases in the Bronx were less likely to be married or in boyfriend-girlfriend relationships, and more likely to be in "other" family relationships (e.g., parent-child), than defendants in Brooklyn or Manhattan. Unfortunately, data on defendant-victim relationship was frequently missing. This indicates that the existence and/or the nature of the relationship was unknown to the police at the time of the arrest, and only became known to the District Attorneys' offices at a later time. Because data was missing more frequently in the Bronx and Manhattan than in Brooklyn, it is not clear whether the borough differences observed for the other categories are real differences between the boroughs, or merely differences in the accuracy of reporting.

To address our concerns about missing data, we conducted preliminary tests using defendant-victim relationship in the models discussed in subsequent sections of this report. Our results indicate that the nature of the relationship had no effect on conviction,

[27] It is important to remember that the results reported here are based on alleged offenses that came to the attention of the police and led to an arrest and prosecution. The distribution of offenses might be quite different if alleged offenses not reported to the police, offenses not leading to arrest, and offenses not leading to prosecution were included in the sample. While we have discussed the decision to decline prosecution above, a discussion of unreported offenses and offenses not leading to arrest is beyond the scope of the current study.

**TABLE 3-2**
**ARRAIGNMENT CHARGE PENAL LAW ARTICLE BY BOROUGH**
**FOR DOMESTIC VIOLENCE CASES**

Third Quarter 1998 Dataset
Crimes Against Persons and Property Subsample

| **ARRAIGNMENT CHARGE PENAL LAW ARTICLE** | Brooklyn | Bronx | Manhattan | Total, All Cases |
|---|---|---|---|---|
| Assault (PL 120) | 69% | 55% | 65% | 65% |
| Criminal Contempt (PL 215) | 13 | 16 | 18 | 15 |
| Harassment (PL 240) | 4 | 4 | 6 | 4 |
| Crimes Against Children (PL 260) | 2 | 5 | 3 | 3 |
| Other | 12 | 19 | 8 | 13 |
| Total, all cases (N of cases) | 100% (2,910) | 100%[1] (1,239) | 100% (990) | 100% (5,139) |

[1] Percentages do not sum to 100% due to rounding error.

incarceration or sentence length in any of the pooled models or any of the tests of interaction effects reported below. It is unclear whether this finding reflected a real absence of an effect of defendant-victim relationship or whether it indicated the weakness of the measure as a result of the large proportion of missing data. For these reasons, we elected **not** to include defendant-victim relationship as a variable in any of the subsequent analyses in this report.

Defendant's Demographic Characteristics

Three demographic variables were included in our analyses: gender, ethnicity and age. About 16% of the defendants in DV cases were women; this percentage did not vary across the three boroughs (see Table 3-4). The distribution of defendants in DV cases by ethnicity varied considerably by borough. In Brooklyn, the majority of defendants were Black (62%), whereas half the defendants in the Bronx were Hispanic and 42% were Black. In Manhattan, there were slightly more Black defendants (45%) than Hispanic defendants (41%). In terms of age, defendants in DV cases in the Bronx were younger, on average, than defendants in other boroughs.

**TABLE 3-3**
**DEFENDANT-VICTIM RELATIONSHIP BY BOROUGH**
**FOR DOMESTIC VIOLENCE CASES**

Third Quarter 1998 Dataset
Crimes Against Persons and Property Subsample

| **DEFENDANT-VICTIM RELATIONSHIP** | Brooklyn | Bronx | Manhattan | Total, All Cases |
|---|---|---|---|---|
| Boyfriend-Girlfriend | 21% | 12% | 16% | 18% |
| Married or Common-law Spouse | 46 | 40 | 43 | 44 |
| Other family relationship[1] | 11 | 17 | 12 | 13 |
| Missing | 22 | 31 | 28 | 25 |
| Total, all cases | 100% | 100% | 100% | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |

[1] Includes parent-child, grandparent-grandchild, sibling and other family relationships.

Defendant's Criminal History

There were some borough differences in the prior criminal record of defendants in DV cases (Table 3-5). About 64% of defendants in DV cases in the Bronx had a prior adult arrest at the time of their arrest in the Third Quarter of 1998. In Manhattan and Brooklyn, just under 60% had a prior adult arrest. These differences in prior arrest record were also reflected in prior convictions. Defendants in DV cases in the Bronx averaged 1.49 prior misdemeanor convictions and 0.41 prior felony convictions, compared to 0.92 prior misdemeanor convictions and 0.34 prior felony convictions for defendants in Brooklyn.[28] Taken together, these findings indicate that defendants in DV cases in the Bronx were more likely to have a serious prior record than defendants in Brooklyn or Manhattan. These criminal history differences may account for some of the differences in DV case outcomes across the boroughs. The models of the likelihood of conviction,

[28] Information about the number of prior misdemeanor convictions and number of prior felony convictions is based on the CJA measures of these variables. However, when CJA data were missing, information from DCJS was substituted (see description of dataset in Section II).

**TABLE 3-4**
**DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS BY BOROUGH FOR DOMESTIC VIOLENCE CASES**

Third Quarter 1998 Dataset
Crimes Against Persons and Property Subsample

| DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS | Brooklyn | Bronx | Manhattan | Total, All Cases |
|---|---|---|---|---|
| **GENDER** | | | | |
| Male | 84% | 85% | 83% | 84% |
| Female | 16 | 15 | 17 | 16 |
| Total, all cases | 100% | 100% | 100% | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |
| **ETHNICITY** | | | | |
| Black | 62% | 42% | 45% | 54% |
| White | 12 | 5 | 10 | 10 |
| Hispanic | 24 | 50 | 41 | 33 |
| Other, non-Hispanic | 2 | 3 | 5 | 3 |
| Total, all cases | 100% | 100% | 100%[1] | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |
| **AGE CATEGORY** | | | | |
| Age 16-20 | 10% | 13% | 10% | 11% |
| Age 21-29 | 31 | 31 | 28 | 30 |
| Age 30-39 | 34 | 37 | 35 | 35 |
| Age 40 and older | 24 | 19 | 27 | 24 |
| Total, all cases | 100%[1] | 100% | 100% | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |

[1] Percentages do not sum to 100% due to rounding error.

**TABLE 3-5**
**DEFENDANT'S CRIMINAL HISTORY BY BOROUGH**
**FOR DOMESTIC VIOLENCE CASES**

Third Quarter 1998 Dataset
Crimes Against Persons and Property Subsample

| **DEFENDANT'S CRIMINAL HISTORY** | Brooklyn | Bronx | Manhattan | Total, All Cases |
|---|---|---|---|---|
| **PRIOR ARREST HISTORY** | | | | |
| First arrest | 42% | 36% | 41% | 41% |
| Has prior arrests | 58 | 64 | 59 | 59 |
| Total, all cases | 100% | 100% | 100% | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |
| **NUMBER OF PRIOR CONVICTIONS** | | | | |
| Mean number of prior Misdemeanor convictions | .92 | 1.49 | 1.10 | 1.09 |
| Mean number of prior felony convictions | .34 | .41 | .41 | .37 |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |

likelihood of incarceration, and length of jail sentence will assess the extent to which criminal history variables account for borough differences in case outcomes.

Arrest and Arraignment Charge Characteristics

In addition to the arraignment charge Penal Law article described above, we examine several additional charge characteristics. The first charge variable considered is the number of arrest charges. (CJA's database includes information on up to 4 arrest charges, whereas we only have information about the top (i.e., most severe) arraignment charge.) The average number of arrest charges was slightly lower in Manhattan (1.58) than in Brooklyn (1.72) or the Bronx (1.84) (see Table 3-6). While the implications of this difference are not entirely clear, we hypothesize that cases with more arrest charges are likely to be more serious cases with stronger evidence.

**TABLE 3-6**

**ARREST AND ARRAIGNMENT CHARGE CHARACTERISTICS BY BOROUGH FOR DOMESTIC VIOLENCE CASES**

Third Quarter 1998 Dataset
Crimes Against Persons and Property Subsample

| ARREST AND ARRAIGNMENT CHARGE CHARACTERISTICS | Brooklyn | Bronx | Manhattan | Total, All Cases |
|---|---|---|---|---|
| **MEAN NUMBER OF ARREST CHARGES** | 1.72 | 1.84 | 1.58 | 1.72 |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |
| **SEVERITY OF ARRAIGNMENT CHARGE** | | | | |
| Misdemeanor | 76% | 73% | 74% | 75% |
| Felony | 24 | 27 | 26 | 25 |
| Total, all cases | 100% | 100% | 100% | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |
| **CHANGE IN CHARGE SEVERITY FROM ARREST TO ARRAIGNMENT** | | | | |
| Charge severity reduced | 26% | 23% | 17% | 24% |
| No change in severity | 68 | 69 | 79 | 70 |
| Charge severity increased | 5 | 9 | 5 | 6 |
| Total, all cases | 100%[1] | 100%[1] | 100%[1] | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |

[1] Percentages do not sum to 100% due to rounding error.

To measure the seriousness of the charges against the defendant, we categorized each case by severity of the top arraignment charge: whether the case was charged as a violation, misdemeanor or felony. Approximately 25% of defendants in DV cases were arraigned on felony charges in each of the three boroughs (Table 3-6). Although we are examining only those cases ultimately disposed as misdemeanors or violations in Criminal Court, very few DV cases were sustained as felonies and disposed in Supreme Court. Only about 3% of the DV cases in these three boroughs were disposed in Supreme Court.

To predict case outcomes, particularly the likelihood of conviction, it is important to know the strength of the evidence in the case. Unfortunately, such data are rarely available in analyses of case processing and were not available for this study. We were, however, able to identify two indirect proxy measures of the strength of evidence. As mentioned above, the number of arrest charges may be an indirect measure of strength of evidence. To evaluate the strength of the evidence presented by the police to the DA, we also examined a measure of the change in charge severity between the top arrest charge and the top Criminal Court arraignment charge. Charge severity was measured on a scale ranging from 1 (violation) to 7 (B felony). If the severity of the top arraignment charge was lower than the severity of the top arrest charge (e.g., a D felony charge at arraignment vs. a C felony charge at arrest, a B misdemeanor charge at arraignment vs. an A misdemeanor charge at arraignment, etc.), then we characterized the case as having had a reduction in charge severity. If, on the other hand, the severity of the top arraignment charge was higher than the severity of the top arrest charge (e.g., an E felony charge at arraignment vs. an A misdemeanor charge at arrest, a B felony charge at arraignment vs. C felony charge at arrest, etc.), we characterized the case as having had an increase in charge severity. Approximately 24% of all cases had a charge reduction between arrest and arraignment, and about 6% had a charge increase (see Table 3-6). Charge reduction between arrest and arraignment was less common in Manhattan than in the other boroughs, while increases in charge severity were somewhat more common in the Bronx (see Table 3-6).

Case Processing Variables

Next, we consider several case processing variables, beginning with the CJA release recommendation. CJA interviews about 96% of the defendants held for arraignment in New York City. Using information from the interviews, CJA assesses the strength of the defendant's New York area community ties and provides a release recommendation to the court at the time of arraignment. Since defendants with strong community ties may be more likely than those with weak ties to gain a favorable case disposition, we included CJA's release recommendation in the analyses. The release recommendation was coded in 4 categories: 1) recommended or qualified recommendation, 2) not recommended due to weak New York City area community ties, 3) bench warrant attached to NYSID[29] and 4) other or missing. The "other" category includes defendants who were charged with bail jumping, whose NYSID's were unavailable, whose interviews were incomplete or conducted for information only (i.e., charged with homicide or attempted homicide), or who were charged as juvenile offenders. The "missing" category includes defendants who were not interviewed by

**TABLE 3-7**
**CASE PROCESSING CHARACTERISTICS BY BOROUGH**
**FOR DOMESTIC VIOLENCE CASES**

[29] As noted earlier, a NYSID number is a New York State Identification number assigned to a defendant's fingerprints.

Third Quarter 1998 Dataset
Crimes Against Persons and Property Subsample

| CASE PROCESSING CHARACTERISTICS | Brooklyn | Bronx | Manhattan | Total, All Cases |
|---|---|---|---|---|
| **RELEASE RECOMMENDATION** | | | | |
| Recommended or qualified recommendation | 63% | 59% | 58% | 61% |
| No recommendation: Weak NYC area ties | 24 | 30 | 30 | 26 |
| Bench Warrant attached to NYSID | 8 | 8 | 7 | 8 |
| Other or missing | 5 | 4 | 4 | 5 |
| Total, all cases | 100% | 100%[1] | 100%[1] | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |
| **CASE DISPOSED AT ARRAIGNMENT** | | | | |
| Case not disposed at Arraignment | 100% | 97% | 99% | 99% |
| Case disposed at Arraignment | 0 | 3 | 1 | 1 |
| Total, all cases | 100% | 100% | 100% | 100% |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |
| **DEFENDANT EVER RELEASED[2]** | | | | |
| Never released | 10% | 27% | 10% | 14% |
| Released | 90 | 73 | 90 | 86 |
| Total, all cases | 100% | 100% | 100% | 100% |
| (N of cases) | (2,900) | (1,201) | (977) | (5,078) |

***Table continues on next page***

**TABLE 3-7, Continued**
**CASE PROCESSING CHARACTERISTICS BY BOROUGH FOR DOMESTIC VIOLENCE CASES**

Third Quarter 1998 Dataset
Crimes Against Persons and Property Subsample

| CASE PROCESSING CHARACTERISTICS | Brooklyn | Bronx | Manhattan | Total, All Cases |
|---|---|---|---|---|
| **CHARGE SEVERITY REDUCED BETWEEN ARRAIGNMENT AND CONVICTION[3]** | | | | |
| Charge severity not reduced | 16% | 20% | 31% | 21% |
| Charge severity reduced | 84 | 80 | 69 | 79 |
| Total, all cases | 100% | 100% | 100% | 100% |
| (N of cases) | (512) | (797) | (283) | (1592) |
| **SEVERITY OF CONVICTION CHARGE[3]** | | | | |
| A Misdemeanor | 26% | 38% | 47% | 36% |
| B Misdemeanor | 22 | 11 | 8 | 14 |
| Violation | 52 | 51 | 45 | 50 |
| Total, all cases | 100% | 100% | 100% | 100% |
| (N of cases) | (512) | (797) | (283) | (1,592) |
| **MEAN NUMBER OF WEEKS FROM ARRAIGNMENT TO DISPOSITION** | 11 | 13 | 18 | 13 |
| (N of cases) | (2,910) | (1,239) | (990) | (5,139) |

[1] Percentages do not sum to 100% due to rounding error.
[2] Data presented only for cases that were not disposed at arraignment.
[3] Data presented only for cases that resulted in conviction.

CJA.[30] Defendants in DV cases were slightly more likely to be recommended for release in Brooklyn (63%) than in the Bronx (59%) or Manhattan (58%) (See Table 3-7).

DV cases were rarely disposed at arraignment (Table 3-7). As a general policy in Brooklyn, the Bronx and Manhattan, ADA's were not permitted to agree to dispositions at arraignment in DV cases.[31] The policy is to gather more information on these cases and to keep them active as a means of preventing the defendant from committing further acts of domestic violence. Because so few DV cases were disposed at arraignment and there is little variation across boroughs, we will *not* include this variable in our models predicting case outcomes.

Among DV cases not disposed at arraignment (i.e., virtually all DV cases), 90% of the cases led to release of the defendant prior to disposition in Manhattan and Brooklyn, compared to 73% in the Bronx. Since defendants with prior records were less likely to be released, this pattern may be largely the result of the greater likelihood that defendants in the Bronx had a prior record than defendants in other boroughs.

For the models predicting likelihood of incarceration and length of jail sentence, we examined the effect of additional case processing variables related to the conviction. As reported in Table 3-7, when cases resulted in conviction, DV cases in Brooklyn and the Bronx were much more likely to have the severity of charges reduced between arraignment and conviction (84% and 80%, respectively) than in Manhattan (69%). As noted earlier, DA's in Manhattan were also least likely to reduce charges between arrest and arraignment. Not surprisingly, the severity of the final conviction charge was highest for DV cases in Manhattan (47% disposed as A Misdemeanors). In the Bronx, 38% of DV cases that resulted in conviction were disposed as A misdemeanors, compared to 26% in Brooklyn.

Our models also include a measure of case processing time. DV cases in Brooklyn and the Bronx reached a final disposition in 11 and 13 weeks, on average, from arraignment to final disposition. Case processing time was longest in Manhattan, where there were no specialized court parts for DV cases (18 weeks, on average) (Table 3-7).

D. Summary and Discussion of Findings

Our review of case outcomes and defendant and case characteristics revealed a number of differences among the boroughs. Some of these differences were apparently related to differences in the way DV cases were screened in each borough, some were

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[30] For further information about these categories, the CJA interview and CJA's release recommendation, see NYC Criminal Justice Agency (2000).

[31] The few DV cases in these boroughs that we identified as disposed at arraignment may have been disposed at that time due to error (e.g., failure to realize the case was a DV case) or to special circumstances involved in the case. It is also possible that these cases were mistakenly identified by the court as DV cases (i.e., given a DV hearing type at arraignment), when they were not in fact DV cases.

apparently related to whether specialized DV parts were used in each borough, and some were apparently related to other borough differences.

As expected, the Bronx declined to prosecute a relatively high percentage of DV cases—about 20%. This reflected their case screening policy in 1998 which relied primarily on first-party complaints. By contrast, Brooklyn and Manhattan, which used a no-drop policy, declined to prosecute less than 1% of DV cases. These borough differences reflected different philosophies underlying the approach to DV cases. In the Bronx, once prosecutors decided that a case was viable, the victim usually decided whether or not the case should go forward. Prosecutorial resources were then concentrated only on those cases where the victim had at least initially agreed to cooperate. In Brooklyn and Manhattan, once prosecutors decided that a case was viable, they decided whether or not to prosecute the case. Under their no-drop policy, prosecutors in these two boroughs prosecuted virtually all DV cases. Prosecutorial resources were devoted to cases even when the victim refused to cooperate, there was little other evidence, and a dismissal was likely.

The conviction rate in DV cases also varied significantly by borough. The conviction rate was highest in the Bronx (64%) and relatively low in Manhattan (29%) and Brooklyn (18%). These results suggest that *screening policies had the largest impact on conviction rates in DV cases*. When most of the prosecuted cases were those where the victim signed the complaint (as in the Bronx), the conviction rate was relatively high. When prosecutors pursued virtually all DV cases (as in Brooklyn and Manhattan), the conviction rate was relatively low. *Conviction rates did not appear to be related to the use of specialized DV parts*. The Bronx and Brooklyn both used specialized DV parts, but the conviction rate was more than three times higher in the Bronx than in Brooklyn. The conviction rate in Manhattan, where specialized parts were not used for post-arraignment appearances, was similar to the conviction rate in Brooklyn, where specialized parts were used.

A closer look at cases that did not end in conviction revealed another cross-borough difference. Brooklyn and Manhattan frequently granted ACD's in DV cases, whereas the Bronx rarely granted an ACD. Both ACD's and convictions in DV cases often required the defendant to complete a batterer intervention program, which was used to monitor the defendant's behavior. It appears that the DA's office in the Bronx focused more on getting a conviction as a means of requiring completion of a batterer intervention program. The DA's offices in Brooklyn and Manhattan were more willing to agree to an ACD, which is not a conviction, as a means of requiring completion of a batterer intervention program. These patterns cannot be explained by the use of specialized DV parts, since Brooklyn and the Bronx, both of which used DV parts, followed different approaches regarding ACD's. The screening policy in the Bronx may explain these patterns. Since the Bronx relied on victim cooperation, it may be that most cases either ended up in a conviction (when a victim cooperated throughout) or a dismissal (when a victim who initially signed a complaint became unwilling to pursue the case later on). Without the victim's continued cooperation, there may have been little leverage to induce the defendant to agree to an ACD. With the victim's cooperation,

there may have been little reason for the DA's office to agree to anything less than a conviction.

Borough differences in the use of jail sentences for convicted defendants in DV cases appear to reflect differences in the use of specialized DV parts. Convicted DV defendants were more likely to receive a jail sentence in Manhattan (31%) than in Brooklyn (23%) and the Bronx (23%). This pattern reflects the greater emphasis on the use of batterer intervention programs in the specialized DV parts in Brooklyn and the Bronx. In Manhattan, where DV cases were heard in mixed dockets, there was a greater tendency to use jail sentences.

Among those sentenced to jail, sentences were longer, on average, in Manhattan and the Bronx (65 and 72 days, respectively) than they were in Brooklyn (43 days). This pattern of results cannot be explained either by the screening policies used or by the use of specialized DV parts. It may simply reflect an effort by the ADA's to hold out for longer jail sentences in Manhattan and the Bronx. Since the number of defendants sentenced to jail is relatively small in each borough, caution should be exercised before over-interpreting these results.

We also found some differences among the boroughs in terms of their defendant and case characteristics. In the Bronx, fewer assault cases were prosecuted, which may reflect the reluctance of victims to sign complaints in these cases. More defendants in the Bronx had a serious record of prior adult criminal convictions, and as a result, fewer defendants were released prior to case disposition than in the other two boroughs. In Manhattan, there was less charge reduction between arraignment and conviction and the conviction charges were more severe than in Brooklyn or the Bronx. This suggests that there was less plea bargaining in Manhattan. In the specialized parts in Brooklyn and the Bronx, there may have been more plea bargaining as a means of inducing defendants to agree to complete batterer intervention programs. In Manhattan, case processing took longer from arraignment to disposition than in the other two boroughs. This may indicate that when DV cases were heard in specialized dockets (i.e., in Brooklyn and the Bronx), case processing was more routinized than when DV cases were heard in mixed dockets (i.e., in Manhattan). On most other defendant and case characteristics, there were no significant borough differences.

The pattern of results we found in defendant and case characteristics may account for some or all of the borough differences in case outcomes. For example, the lower proportion of assault cases and the more serious prior conviction records of defendants in the Bronx may account for the higher conviction rate we found in the Bronx. However, while the results reported in this section are suggestive, they are not sufficient to substantiate the hypothesis that differences in defendant and case characteristics can account for borough differences in case outcomes. In the next three sections of this report, we develop statistical models that directly test this hypothesis.

## IV. MODELS PREDICTING LIKELIHOOD OF CONVICTION

As discussed in the previous section, there is significant variation across boroughs in the outcomes of DV cases. We now develop models to account for this cross-borough variation in case outcomes. In this section of the report, we develop statistical models to examine borough differences in the likelihood of conviction. The models are designed to evaluate whether borough differences remain in the likelihood of conviction after taking into account borough differences in defendant and case characteristics.

To develop models predicting the likelihood of conviction, we reviewed prior research for guidance about what factors to include in our models. Feeney et al. (1983) suggest that strength of evidence is the most important determinant of conviction. Cases with strong evidence result in conviction, while weak cases generally do not. Unfortunately, direct measures of strength of evidence are not available in our dataset. However, we were able to use some indirect measures (number of arrest charges and whether charges were reduced between arrest and arraignment) to assess the strength of evidence in DV. The second factor Feeney et al. (1983) considered to explain the likelihood of conviction was characteristics of the defendant and the case, unrelated to guilt or innocence or strength of evidence. For example, case characteristics such as seriousness of the crime, or demographic characteristics of the defendant such as race, may influence conviction rates. Although Feeney et al. did not find these factors to be influential, we do have these measures available in our dataset and we included them in our models. Finally, Feeney et al. (1983) identified police and prosecutorial practices as factors that influence the likelihood of conviction. For example, some policing and prosecutorial practices may be more effective than others in securing convictions. While we do not examine policing practices in the current report, we do address prosecutorial practices. As discussed in the introduction, borough differences in the processing of DV cases reflect different prosecutorial practices. Our models are designed to determine how prosecutorial case screening policies affect the likelihood of conviction in DV cases by examining differences among the boroughs.

### A. Logistic Regression Analysis

The statistical technique used to predict likelihood of conviction is logistic regression, a technique that is used when the outcome to be explained (i.e., the *dependent variable*) has two categories. In this analysis, all cases were coded on our dependent variable in one of two categories: not convicted (coded 0) and convicted (coded 1). The models we present are structured to predict the likelihood that cases are disposed as convictions. These predictions are made on the basis of information we have about a variety of defendant and case characteristics (i.e., the *independent variables*). Logistic regression techniques provide several ways of evaluating the effect of these independent variables on the likelihood of conviction.

This report examines three statistical measures to evaluate the effect of the independent variables. First, we report the *statistical significance* of each independent

variable. Statistical significance takes into account the size of the sample as well as the magnitude of the effect of the independent variable. Based on this information, statistical significance assesses the probability that the effect observed in the sample could have occurred by chance alone. In this report, following standard convention, significance levels of .05 or less are treated as statistically significant. In other words, when an effect has a 5% or less probability of having occurred by chance, we conclude that the independent variable is a statistically significant predictor of the likelihood of conviction. We use the more conservative "two-tail" test of statistical significance (which makes no assumption about the direction of the effect of the independent variables) rather than the "one-tail" test (which assumes that the effect of the independent variable is in one direction only, either positive or negative).

One weakness of using statistical significance to measure the effect of an independent variable is that when sample sizes are large (e.g., more than several thousand cases), many independent variables will have statistically significant effects even when the magnitude of the effects is small. For example, in a very large sample, we may be able to say that having a prior adult arrest has a statistically significant effect on the likelihood of conviction, even though it increases the likelihood of conviction only from 49% to 51%. In this situation, we can say that this difference in conviction rates is unlikely to be due to chance. However, it is also clear that knowing whether or not a defendant had a prior adult arrest does not explain much of the variation in likelihood of conviction.

The second statistical measure used to evaluate the effect of the independent variables is the *odds ratio*. The odds ratio supplements information about statistical significance by evaluating the magnitude of the effect of the independent variable. Specifically, it tells us how much the odds of an outcome (e.g., conviction) change, for each one unit increase in the independent variable. If an independent variable is coded in two categories (e.g., 0 and 1), then the odds ratio tells us how the odds of the outcome change when cases are coded 1 on the independent variable (vs. cases coded 0). An odds ratio greater than one indicates an increase in the likelihood of the outcome occurring, while an odds ratio less than one indicates a decrease in the likelihood of the outcome occurring. An odds ratio of 1 indicates that the odds of an outcome occurring are not affected by the independent variable.

To return to our previous example, if the odds ratio for the effect of having a prior adult arrest on the likelihood of conviction was 1.12, this would mean that in cases where the defendant had a prior adult arrest the odds of conviction are 1.12 times greater than in cases where the defendant did not have a prior adult arrest. In contrast, if we examined the impact of whether the defendant was ever released from custody while the case was pending, we might find an odds ratio less than 1. For example, if the odds ratio was .83, this would mean that in cases where the defendant was released from custody the odds of conviction are only .83 times as large as the odds when the defendant was not released from custody. To simplify interpretation of odds ratios less than 1, it is common to examine the inverse of the odds ratio (1 divided by the odds ratio). When this is done, the interpretation of the effect of the independent variable is reversed. For example, if

the odds ratio for being released from custody is .83, we can take the inverse of the odds ratio, 1.20 (1 divided by .83), and say that in cases where the defendant was not released from custody, the odds of conviction were 1.20 times greater than in cases where the defendant was released. Finally, if the odds ratio was 1.00, this would mean that whether or not the defendant was released from custody had no impact on the odds of conviction. (These examples are hypothetical and do not necessarily reflect our expectations about the findings).

In the analyses presented in this report, results are presented for independent variables coded in three different ways—categorical variables that have two categories, categorical variables that have more than two categories, and continuous variables that measure the quantity of a defendant or case characteristic (e.g., the number of prior felony convictions for the defendant). When a categorical independent variable has two categories, the odds ratio measures the change in the odds when cases are in one category vs. another (e.g., defendant had a prior adult arrest vs. did not have a prior adult arrest). When a categorical independent variable has more than two categories, one of the categories is chosen as a **reference category**, and the odds ratios measure the effect of being in each of the other categories vs. being in the reference category (e.g., cases in the Bronx and Manhattan are compared to cases in Brooklyn, which is used as the reference category). Finally, when the independent variable is continuous, the odds ratio measures the change in the odds associated with an increase of one unit on the scale of the independent variable (e.g., for number of prior felony convictions, the odds ratio measures the effect of having one additional felony conviction).

The third statistical measure used to assess the effect of the independent variables is the standardized *beta* coefficient (Menard, 1995). Standardized *betas* take into account not only the change in the likelihood of the outcome associated with a change in the independent variable, but also the distribution of the cases among the categories of the independent variable. Being in one category of an independent variable may have a large effect on the likelihood of an outcome (and therefore have a large odds ratio), but if there are relatively few cases in that category, the variable will not help to explain much of the variation in the likelihood of the outcome. For example, a case where the charge severity increased from arrest to arraignment might have a high probability of conviction, and hence a high odds ratio. However, if charge severity increased in only a small number of cases, this variable will not be able to explain much of the variation in likelihood of conviction. Standardized *beta*s measure this overall effect of the independent variable on the dependent variable. Standardized *beta*s vary from -1 to +1; values closer to zero indicate that the effect of the independent variable is relatively small, while values closer to +1 or -1 indicate that the effect of the independent variable is relatively strong. There are no commonly accepted absolute standards to decide whether a standardized *beta* is strong or weak. Consequently, we will discuss the relative strength of variables, describing some as stronger or weaker than others.

In this report, we discuss results for all three of the measures described above. We use the statistical significance level to distinguish those independent variables that

have a detectable[32] effect on the dependent variable from those that do not. We use the odds ratio to evaluate the size of the effect of the independent variable, and we use the standardized *beta* to evaluate the ability of the independent variable to account for variation in the dependent variable.

The models we discuss include a large number of predictors of the dependent variable. In these models, the measures of the effect of each independent variable (statistical significance, odds ratio, and standardized *beta*) evaluate the effect of that independent variable *after controlling for the effects of all the other independent variables in the model*. These effects represent the *net effect* of a given independent variable after the effect of all the other independent variables have been taken into account. This net effect differs from the *total effect* of the independent variable, which is the effect of the independent variable when it is used as the only predictor of the dependent variable. In Section III of this report, we discussed the total effect of borough on conviction, incarceration and sentence length. The logistic regression models presented in this Section and in Sections V and VI below discuss the net effect of borough, i.e., the effect of a case being prosecuted in one borough vs. another, on these outcomes after taking into account a wide variety of defendant and case characteristics.

To evaluate the overall ability of *all* the independent variables in the logistic regression model to predict the dependent variable, we use a statistical measure called Nagelkerke $R^2$ (SPSS, Inc., 1999). This measure varies from 0 to +1. It can be roughly interpreted as indicating what proportion of the variation in the dependent variable is explained by all the independent variables in the model (see Menard 1995 for a full discussion of the $R^2$ statistic in logistic regression models). Low values of $R^2$ (closer to 0) indicate that the model as a whole is relatively weak in accounting for variation in the dependent variable. High values (closer to 1) indicate that the model as a whole is very successful in accounting for variation in the dependent variable.

B. Pooled Model for Brooklyn, the Bronx and Manhattan

As noted earlier, there was substantial variation in the conviction rate for DV cases across boroughs, from a low of 18% in Brooklyn to 64% in the Bronx. In this section of the report, we attempt to account for these borough differences by controlling for differences among DV cases. Specifically, we used logistic regression models to control for defendant and case characteristics that we believe might affect the likelihood of conviction. We first used a model that pools data for DV cases in the three boroughs, and evaluated whether the borough differences in conviction rate could be explained by differences in defendant and case characteristics. We then examined separate models for DV cases in each borough, and evaluated whether the factors predicting likelihood of conviction differed by borough.

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[32] Due to sampling error, and limitations of logistic regression techniques, it is possible that some independent variables that do affect the dependent variable are found to be statistically insignificant in our particular sample of cases. See Mohr (1990) for a further discussion of these issues.

In the logistic regression model that pooled data across the boroughs, we measured the effect of borough differences by comparing the Bronx and Manhattan to the *reference category*: Brooklyn. The logistic regression model predicting likelihood of conviction showed that even after controlling for defendant and case characteristics, statistically significant differences among the boroughs remained (see Table 4-1). While these differences were statistically significant, it is also important to evaluate the substantive significance (i.e., the meaning and impact) of these differences. Therefore, we also examined the odds ratio and the standardized *beta*. The odds ratio for the Bronx was 8.40 (see last column of Table 4-1). The odds that a DV case in the Bronx resulted in conviction were 8.40 times higher than the odds that a DV case in Brooklyn resulted in conviction, even after accounting for differences in defendant and case characteristics between these two boroughs. The standardized *beta* for the Bronx was .62 (recall that standardized *beta*s vary from -1 to +1). This indicates that whether or not a DV case was heard in the Bronx had a relatively large overall impact in explaining variation in likelihood of conviction. The odds that a DV case in Manhattan resulted in conviction were 2.27 times higher than the odds in Brooklyn. The standardized *beta* for Manhattan was .22, indicating that this variable had a moderate effect in explaining variation in the likelihood of conviction.

An examination of the other independent variables in our model indicates that among the statistically significant predictors, the strongest predictors (as measured by standardized *beta*) were whether the defendant was ever released (if the case was not disposed at arraignment), the length of time between arraignment and disposition, and whether the defendant was female (all of which reduced the likelihood of conviction) and whether the defendant had any prior adult arrests (which increased the likelihood of conviction). While these variables were important in their ability to explain variation in the likelihood of conviction, **the strongest predictor of the likelihood of conviction was whether the case was prosecuted in the Bronx**. Our findings suggest that borough differences in the likelihood of conviction were quite strong, and could not be accounted for by other variables in the model. Overall, the model explained 39% of the variation in likelihood of conviction (see Nagelkerke $R^2$ in Table 4-1).

It is interesting to compare the results for the model in Table 4-1 to the results for a model that included borough as the only predictor of likelihood of conviction (model not shown). These results contrast the *net effect* of borough (i.e., after controlling for all the other variables in the model), and the *total effect* of borough (i.e., using borough as the only predictor). When borough was the only predictor in the model, the odds ratios were 8.44 for the Bronx and 1.87 for Manhattan. These total effects can be contrasted with the net effects reported in Table 4-1, where the odds ratios were 8.36 and 2.27 respectively. In other words, the borough differences in the odds of conviction were virtually unchanged even after we accounted for cross-borough differences in defendant

**TABLE 4-1**

**LOGISTIC REGRESSION MODEL PREDICTING LIKELIHOOD OF CONVICTION**
CRIMES AGAINST PERSONS AND PROPERTY SUBSAMPLE[1]
Third Quarter 1998 Dataset

| INDEPENDENT VARIABLES[2] | Standardized β | Odds Ratio |
|---|---|---|
| **BOROUGH** | | |
| *Reference Category: Brooklyn* | | |
| Bronx | 0.62 *** | 8.40 |
| Manhattan | 0.22 *** | 2.27 |
| **CONTROL VARIABLE** | | |
| ARRAIGNMENT CHARGE PENAL LAW ARTICLE: | | |
| *Reference Category: Assault (PL 120)* | | |
| Criminal Contempt (PL 215) | 0.02 | 1.07 |
| Harassment (PL 240) | 0.05 * | 1.44 |
| Crimes Against Children (PL 260) | 0.06 * | 1.63 |
| Other | 0.04 | 1.19 |
| **DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS** | | |
| SEX (Female) | -0.18 *** | 0.50 |
| ETHNICITY: | | |
| *Reference Category: Black* | | |
| White | 0.04 | 1.23 |
| Hispanic | 0.07 * | 1.23 |
| Other | 0.01 | 1.13 |
| AGE: | | |
| *Reference Category: Age 16-20* | | |
| Age 21-29 | -0.06 | 0.82 |
| Age 30-39 | 0.01 | 1.04 |
| Age 40 and over | -0.03 | 0.90 |
| **DEFENDANT'S CRIMINAL HISTORY** | | |
| ANY PRIOR ARRESTS | 0.11 *** | 1.40 |
| NUMBER OF PRIOR MISDEMEANOR CONVICTIONS | 0.03 | 1.01 |
| NUMBER OF PRIOR FELONY CONVICTIONS | -0.07 * | 0.89 |

***Table Continues on Next Page***

**TABLE 4-1**
**(continued)**

| INDEPENDENT VARIABLES[2] | Standardized β | Odds Ratio |
|---|---|---|
| **ARREST AND ARRAIGNMENT CHARGE CHARACTERISTICS** | | |
| NUMBER OF ARREST CHARGES | 0.05 * | 1.09 |
| ARRAIGNMENT CHARGE IS A FELONY | -0.05 | 0.85 |
| CHANGE IN CHARGE SEVERITY FROM ARREST TO ARRAIGNMENT: | | |
| *Reference Category: No Change* | | |
| Charge Severity Reduced from Arrest to Arraignment | -0.08 ** | 0.77 |
| Charge Severity Increased from Arrest to Arraignment | 0.08 ** | 1.62 |
| **CASE PROCESSING CHARACTERISTICS** | | |
| RELEASE RECOMMENDATION: | | |
| *Reference Category: No Recommendation (Weak NYC Ties)* | | |
| Recommended or Qualified Recommendation | -0.02 | 0.95 |
| Open Bench Warrant At Time of Arrest | 0.03 | 1.15 |
| Missing | 0.01 | 1.11 |
| DEFENDANT EVER RELEASED | -0.48 *** | 0.14 |
| NUMBER OF WEEKS FROM ARRAIGNMENT TO DISPOSITION | -0.18 *** | 0.97 |
| Nagelkerke $R^2$ | .39 *** | |
| (N of cases) | (5,139) | |

**NOTES**

[1] See text for a description of the dataset and the subsample.
[2] See Appendix A for information about the measurement and coding of the variables.

* Statistically significant at p < .05
** Statistically significant at p < .01
*** Statistically significant at p < .001

and case characteristics. This finding indicates that the variables in our model were unable to account for borough differences in the likelihood of conviction in domestic violence cases.

C. Tests for Borough Interactions

We next considered whether the factors predicting case outcomes were different in different boroughs. Here, we examined whether certain variables in our model differentially affected the likelihood of conviction in different boroughs. Our analyses indicate whether the influence of defendant or case characteristics on case outcomes depended on which borough the case was heard in. For example, prior criminal history may have had a statistically significant effect on likelihood of conviction in one borough but not in others. Findings such as this would provide information about whether and how DV cases were processed differently in the Criminal Courts of different boroughs in New York City.

To test for differences between the models for different boroughs, we used statistical tests called *interaction* tests. These tests allow us to determine whether the influence of one or more independent variables (e.g., defendant and case characteristics) was stronger in one or more boroughs than it was in other boroughs. If an interaction test was statistically significant, we concluded that the effect of one or more independent variables depended on (interacted with) another variable (borough).

We used two types of interaction tests in our analyses. First, we tested the overall model to determine if there was a statistically significant interaction between borough and the full set of independent variables in the model. We used this test to decide whether we should examine separate models for each borough. If this test ***was not*** statistically significant, we concluded that overall, the influence of the independent variables on likelihood of conviction was the same across boroughs. In this situation, we did not examine separate models for each borough.

If the interaction test for the full model ***was*** statistically significant, we concluded that overall, the effect of the independent variables on likelihood of conviction was different across boroughs. We then examined logistic regression models predicting the likelihood of conviction separately for each of the three boroughs. The independent variables used in these models were the same variables included in the previous model showing results for all the cases (the *pooled* model), except that borough was no longer included as a predictor, since each analysis included only DV cases from one borough. These models allowed us to compare the odds ratio and the standardized *beta* for each variable in the model for each borough. For each independent variable, we conducted a second type of interaction test to determine which variables had a differential effect on likelihood of conviction across boroughs.

Following this strategy, we first tested for an interaction between borough and all the other independent variables in the conviction model. This interaction was statistically significant (data not shown), indicating that the influence of defendant and case

characteristics on likelihood of conviction was different across boroughs. We then analyzed separate models for each borough, and tested for the statistical significance of the interaction of each independent variable with borough (data not shown). While there were several statistically significant interactions, we will not discuss all of them in this report. Instead, we will focus our discussion on one interaction effect that we believe to be the most interesting.

We found that the interaction of borough with prior adult arrest record was statistically significant. An examination of the results of the models for each borough helps us to interpret this result. In Brooklyn, having a prior adult arrest record increased the likelihood of conviction in DV cases. The odds ratio was 1.84 in Brooklyn, and was statistically significant (data not shown). In the Bronx and Manhattan, the effect of prior adult arrest record on likelihood of conviction was not statistically significant, indicating that the odds of conviction were not affected by prior adult arrest record (after controlling for all the other variables in the model). To explore this finding, we examined detailed information about dispositions (data not shown). This analysis showed that in Brooklyn DV cases where the defendant had a prior adult arrest record, the case was more likely to end in conviction and less likely to receive an ACD (a non-conviction). In the Bronx, ACD's were rarely used, and in Manhattan their use was only weakly influenced by prior arrest record. This suggests that in Brooklyn, more than in Manhattan or the Bronx, whether the defendant had a prior adult arrest record or not influenced the willingness of the DA's office and the court to agree to an ACD rather than a conviction.

D. Summary and Discussion of Findings

Even after controlling for defendant and case characteristics, strong borough differences in conviction rates for DV cases remained unaccounted for. These net effects were statistically significant, and borough differences were among the strongest predictors of variation in the likelihood of conviction in DV cases. The odds of conviction for defendants in the Bronx were 8.4 times greater than for defendants in Brooklyn. The odds of conviction for defendants in Manhattan were 2.27 times greater than for defendants in Brooklyn. Differences among the boroughs in case characteristics (e.g., type of charge) and defendant characteristics (e.g., criminal history) did not account for borough differences in conviction rates. These findings suggest that the reliance on first-party complaints in the Bronx had a strong impact on the conviction rate. When most of the cases pursued by the DA's office were those where the victim signed the complaint, victim cooperation throughout the case was much more likely, and many more cases ended with a conviction. Conviction rates were lower in Brooklyn and Manhattan, where no-drop policies were in place, and virtually all DV cases were prosecuted, with or without victim cooperation.

The difference in conviction rates between Manhattan and Brooklyn is difficult to explain. Both boroughs used similar no-drop policies. We can only speculate about the reasons for the higher conviction rate in Manhattan. One possibility is that the police are more likely to make arrests, or more likely to make arrests in weaker cases, in Brooklyn, where there is a specialized DV part. The availability of the specialized part, and of the

specialized prosecution bureau, may act as a catalyst encouraging the police to make more arrests. If police were more likely to make an arrest in Brooklyn than in Manhattan, even in weak cases, we would expect the conviction rate in Brooklyn to be lower than in Manhattan because the higher volume of arrests would produce a larger proportion of weak cases. Further information would be needed to confirm the plausibility of this explanation.

Besides borough, other independent variables also affected the likelihood of conviction. Defendants who were female, who were released prior to disposition, and whose cases took longer to reach a disposition were less likely to be convicted, while those who had prior adult arrests were more likely to be convicted. Nevertheless, the strongest predictor of the likelihood of conviction was whether the case was prosecuted in the Bronx. Whether the case was prosecuted in Manhattan was the third strongest predictor. In short, our models indicate that borough differences were among the strongest predictors of the likelihood of conviction in DV cases.

Our analyses of differences among the boroughs in the way they processed DV cases revealed one interesting pattern. In Brooklyn, whether the defendant had a prior adult arrest was related to whether the defendant received an ACD or a conviction. Defendants with a prior adult arrest were more likely to be convicted than to receive an ACD. In the Bronx or Manhattan, whether the defendant had a prior adult arrest record or not did *not* influence the willingness of the DA and the court to agree to an ACD rather than a conviction. (Recall that ACD's were rarely used in the Bronx). These findings indicate that in the two boroughs with specialized DV parts, consistent (though different) practices were used regarding ACD's. In the Bronx, ACD's were rarely used; in Brooklyn, ACD's were used only when the defendant had no prior arrest. In the borough without a specialized DV part, Manhattan, no consistent practice regarding ACD's in DV cases could be detected using our data. This may suggest that it was difficult to adopt a consistent practice because the DV cases in Manhattan were heard in mixed dockets.

## V. MODELS PREDICTING LIKELIHOOD OF INCARCERATION

We next turn our attention to models predicting the likelihood of incarceration. As discussed in our overview of case outcomes, among cases that lead to a conviction, defendants in DV cases in Manhattan were more likely to be sentenced to jail than defendants in Brooklyn or the Bronx. Our analytic strategy parallels the one we used to examine the likelihood of conviction in the previous section. First, we addressed whether borough differences in the likelihood of incarceration could be accounted for by differences in defendant and case characteristics. Second, we tested whether the predictors of likelihood of incarceration were different in different boroughs. Since our dependent variable was measured in two categories (sentenced to jail vs. not sentenced to jail), we used logistic regression models.

Because our analyses were based only on those cases that ended in a conviction, we were able to use two additional case processing variables as predictors in our models. First, we included a measure of whether the charge severity was reduced between the arraignment charge and the conviction charge. We expected that charge reduction would be associated with a lower likelihood of incarceration. Charge reduction is more likely in cases where the evidence is weaker, and defendants may be induced to plead guilty in return for a promise of a non-incarcerative sentence. Second, we also included the severity of the conviction charge in the model—we expected cases disposed as violations or as B misdemeanors to be less likely to result in a jail sentence than cases disposed as A misdemeanors.

### A. Correcting for Selection Bias

Our models predicting likelihood of incarceration included an additional control variable: a correction for selection bias. Selection bias is a problem that arises in statistical analysis when the group of cases that could have ended up in the sample is restricted to a selected set of respondents (Berk 1983). When selection bias occurs, the statistical estimates of the effects of the independent variables may be biased. These estimates may overstate, or understate, the influence of an independent variable. If problems of selection bias are not addressed, the interpretation of the results may be misleading. In our analysis, the models predicting likelihood of incarceration include only cases that resulted in conviction. The variables that influence whether a case results in conviction also may influence whether the case results in incarceration. For example, number of prior misdemeanor convictions may affect both the likelihood of conviction and the likelihood of incarceration. If a model predicting the likelihood of incarceration among those convicted does not control for selection bias, the estimate of the effect of number of prior misdemeanor convictions will be overstated. Part of its effect on likelihood of incarceration will actually be due to its influence on the likelihood of conviction, i.e., on the likelihood that the case ended up in the sample of convicted cases. The remainder of its effect, if any, will be due to its influence on the likelihood of incarceration.

To control for this kind of selection bias, we included in the models a control variable that measures the predicted probability of conviction. This predicted probability of conviction was created using a model similar to that presented in Table 4-1 (data not shown). To avoid statistical problems[33] the predicted probability of conviction used as a correction for selection bias was created using a somewhat different set of independent variables than the model presented in Table 4-1. The predicted probability of conviction can theoretically vary from a low of 0.00 to a high of 1.00. Of course, the model predicting likelihood of incarceration included only those cases where the defendant actually was convicted. The predicted probability of conviction for convicted cases was skewed toward the higher end of the scale (the mean predicted probability for the DV cases in our analyses was .54). Nevertheless, even among cases that resulted in conviction, there was significant variation: the predicted probability of conviction ranged from .06 to .98. It is this variation that enables the predicted probability of conviction to correct for selection bias. Among convicted cases, those with a low predicted probability of conviction are more similar to those who were not convicted, while those with a high predicted probability of conviction are more representative of those actually in the sample. The influence of the predicted probability of conviction on the likelihood of incarceration measures, and therefore controls for, the influence of variables that affect both outcomes. When the predicted probability of conviction is included as a control variable in models predicting the likelihood of incarceration, the estimates of the effects of the other independent variables in the model are more accurate.[34]

To return to the example discussed above, the number of prior misdemeanor convictions may influence both the likelihood of conviction and the likelihood of incarceration. In our models predicting the likelihood of incarceration, the estimate of the effect of number of prior misdemeanor convictions is more accurate because the models control for the influence of number of prior misdemeanor convictions on the likelihood of conviction.[35] As a result, we have greater confidence in our estimates of the effects of this and other independent variables, as well as in our interpretation of the results of the models. Although we include the predicted probability of conviction as a control variable in all the models presented in this section, we do not discuss the impact

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[33] When the predicted probability of conviction is included in a model predicting the likelihood of incarceration, it is important that the predicted probability of conviction not be highly correlated with other variables in the model. This problem, known as multicollinearity, is particularly likely if the same set of independent variables is used in both the conviction and incarceration models. For this reason, the model creating the predicted probability of conviction uses some different independent variables than those used in the analyses presented in this report.

[34] See Heckman (1979) and Peterson (1989) for a more detailed discussion of selection bias and corrections for it.

[35] The extent to which the estimates are more accurate depends on the ability of the model predicting the probability of conviction to explain a significant portion of the variation in likelihood of conviction. Our models were reasonably successful at explaining variation in likelihood of conviction. The model correcting for selection bias accounted for approximately 35% of the variation in likelihood of conviction.

of this variable since its primary purpose is to enable us to estimate accurately, and to interpret, the effects of the other variables.

B. Pooled Model for Brooklyn, the Bronx and Manhattan

About 23% of defendants convicted in DV cases in Brooklyn and the Bronx received a jail sentence in Criminal Court, compared with 31% in Manhattan. The logistic regression model predicting likelihood of incarceration controlled for a large number of defendant and case characteristics to attempt to account for these borough differences (Table 5-1). We used Brooklyn as the *reference category* in our analysis of borough differences. After controlling for all the other variables in the model, there were no statistically significant differences in the likelihood of incarceration between Manhattan and the Bronx and Brooklyn. The odds ratio for Manhattan was 1.86, indicating that the odds that a defendant convicted in a DV case was incarcerated were 1.86 times higher in Manhattan than in Brooklyn. However, this difference was not statistically significant. The statistically insignificant odds ratio for the Bronx also indicated that there was no difference between Brooklyn and the Bronx in the likelihood of incarceration for DV defendants, after controlling for differences in defendant and case characteristics.

The strongest predictors of incarceration in the model (as measured by standardized *beta*) were whether the case was disposed as a violation, whether the defendant was ever released (both of which reduced the likelihood of incarceration), whether the defendant had a prior adult arrest record and the defendant's number of prior misdemeanor convictions (which increased the likelihood of incarceration). Overall, the model explained 52% of the variation in the likelihood of incarceration (see Nagelkerke $R^2$ in Table 5-1). This indicates that the model was relatively successful in identifying factors that affected the likelihood of an incarcerative sentence for convicted defendants.

To determine the extent to which controlling for defendant and case characteristics accounted for the initial borough differences in incarceration, we examined a model where the borough variables were the only independent variables in the model (data not shown). When borough variables were the only predictors in the model, the odds ratios were 1.02 for the Bronx and 1.52 for Manhattan (data not shown), representing the total effects (see discussion of conviction models above) of borough on incarceration rates. Only the odds ratio for Manhattan was statistically significant. The net effects after controlling for defendant and case characteristics were 1.04 for the Bronx and 1.86 for Manhattan (Table 5-1). While controlling for defendant and case characteristics appears to increase the odds of incarceration in Manhattan, the odds ratio is not statistically significant.[36] To summarize these results, our model shows that after

[36] This result is somewhat puzzling, since we would normally expect a larger odds ratio to be *more* likely to be statistically significant. However, when evaluating the net effect of borough, the larger number of variables in the model raises the statistical standard for any one of the variables to be statistically significant.

**TABLE 5-1**

**LOGISTIC REGRESSION MODEL PREDICTING LIKELIHOOD OF INCARCERATION FOR CONVICTED DEFENDANTS**
CRIMES AGAINST PERSONS AND PROPERTY SUBSAMPLE[1]
Third Quarter 1998 Dataset

| INDEPENDENT VARIABLES[2] | Standardized β | Odds Ratio |
|---|---|---|
| **BOROUGH** | | |
| *Reference Category: Brooklyn* | | |
| Bronx | 0.01 | 1.04 |
| Manhattan | 0.10 | 1.86 |
| **CONTROL VARIABLES** | | |
| SELECTION BIAS CORRECTION: LIKELIHOOD OF CONVICTION | -0.06 | 0.55 |
| ARRAIGNMENT CHARGE PENAL LAW ARTICLE: | | |
| *Reference Category: Assault (PL 120)* | | |
| Criminal Contempt (PL 215) | 0.01 | 1.06 |
| Harassment (PL 240) | 0.04 | 1.51 |
| Crimes Against Children (PL 260) | 0.01 | 1.09 |
| Other | 0.02 | 1.12 |
| **DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS** | | |
| SEX (Female) | -0.06 | 0.63 |
| ETHNICITY: | | |
| *Reference Category: Black* | | |
| White | 0.01 | 1.05 |
| Hispanic | 0.01 | 1.07 |
| Other | 0.05 | 1.99 |
| AGE: | | |
| *Reference Category: Age 16-20* | | |
| Age 21-29 | 0.06 | 1.39 |
| Age 30-39 | -0.04 | 0.85 |
| Age 40 and over | -0.03 | 0.85 |
| **DEFENDANT'S CRIMINAL HISTORY** | | |
| ANY PRIOR ARRESTS | 0.25 *** | 3.50 |
| NUMBER OF PRIOR MISDEMEANOR CONVICTIONS | 0.13 ** | 1.07 |
| NUMBER OF PRIOR FELONY CONVICTIONS | 0.05 | 1.12 |

***Table Continues on Next Page***

**TABLE 5-1**
**(continued)**

| INDEPENDENT VARIABLES[2] | Standardized β | Odds Ratio |
|---|---|---|
| **ARREST AND ARRAIGNMENT CHARGE CHARACTERISTICS** | | |
| NUMBER OF ARREST CHARGES | 0.06 | 1.14 |
| ARRAIGNMENT CHARGE IS A FELONY | -0.01 | 0.96 |
| CHANGE IN CHARGE SEVERITY FROM ARREST TO ARRAIGNMENT: | | |
| *Reference Category: No Change* | | |
| Charge Severity Reduced from Arrest to Arraignment | 0.04 | 1.26 |
| Charge Severity Increased from Arrest to Arraignment | 0.02 | 1.20 |
| **CASE PROCESSING CHARACTERISTICS** | | |
| RELEASE RECOMMENDATION: | | |
| *Reference Category: No Recommendation (Weak NYC Ties)* | | |
| Recommended or Qualified Recommendation | -0.12 ** | 0.58 |
| Open Bench Warrant At Time of Arrest | -0.01 | 0.94 |
| Other or Missing | -0.02 | 0.79 |
| DEFENDANT EVER RELEASED | -0.36 *** | 0.19 |
| CHARGE SEVERITY REDUCED BETWEEN ARRAIGNMENT AND CONVICTION | 0.03 | 1.20 |
| SEVERITY OF CONVICTION CHARGE: | | |
| *Reference Category: Conviction Charge was an A Misdemeanor* | | |
| Conviction Charge was a Violation | -0.57 *** | 0.07 |
| Conviction Charge was a B Misdemeanor | -0.07 | 0.62 |
| NUMBER OF WEEKS FROM ARRAIGNMENT TO CONVICTION | 0.05 | 1.01 |
| Nagelkerke $R^2$ | .52 *** | |
| (N of cases) | (1,592) | |

**NOTES**

[1] See text for a description of the dataset and the subsample.

[2] See Appendix A for information about the measurement and coding of the variables.

* Statistically significant at p < .05
** Statistically significant at p < .01
*** Statistically significant at p < .001

we controlled for defendant and case characteristics, differences between Manhattan and Brooklyn in rates of incarceration for defendants in DV cases became statistically insignificant.

The variable primarily responsible for reducing the odds ratio for Manhattan to statistical insignificance was case processing time: the number of weeks from arraignment to conviction. The likelihood of incarceration increased as case processing time increased. This finding indicates that cases in Manhattan took longer to reach a conviction, and cases that took longer to reach conviction were more likely to result in a jail sentence.

Finally, we also considered whether the factors predicting likelihood of incarceration were different across boroughs. Our test of interactions indicated that overall, the borough differences were not statistically significant (data not shown). This suggests that the factors that influenced the likelihood of incarceration were similar in each of the three boroughs. For this reason, we did not examine separate models for each borough.

C. Summary and Discussion of Findings

After controlling for borough differences in case and defendant characteristics, our models *were* able to account for differences among the boroughs in the likelihood of incarceration for defendants in DV cases. The main factor that accounted for the higher rate of incarceration in Manhattan than in Brooklyn or the Bronx was case processing time. Since virtually all convictions are the result of plea bargains (rather than trials), pleas that result in conviction and incarceration take longer to achieve. Defendants are reluctant to agree to a jail sentence and DA's seeking plea agreements with jail time take more time to negotiate such an agreement. Our findings indicated that cases in Manhattan took longer to reach a conviction, suggesting that ADA's in Manhattan were more likely to hold out for plea agreements that included a jail sentence. In Brooklyn and the Bronx, ADA's reached plea agreements more quickly because they were more likely to offer to reduce the charges and less likely to insist on a jail sentence as part of the agreement. As noted earlier, in these two boroughs with specialized DV bureaus and court parts, more emphasis was placed on monitoring defendants through alternatives to incarceration such as batterer intervention programs.

If borough was not a statistically significant predictor of the likelihood of a jail sentence, what predictors were significant? The strongest predictor was whether the conviction charge was a violation. Although short jail sentences (up to 15 days) are permitted for those convicted of violations, jail sentences were rarely imposed in these cases. Also, defendants who were released prior to conviction were less likely to be sentenced to jail, while those with more serious criminal histories (i.e., a prior adult arrest or a prior misdemeanor conviction) were more likely to be sentenced to jail.

Overall, the results for our model predicting the likelihood of a jail sentence confirm that when specialized DV parts are used, there is a greater emphasis on

monitoring convicted defendants through the use of batterer intervention programs rather than jail. When DV cases are heard in mixed dockets, ADA's are more likely to drive a harder plea bargain, and to hold out for a sentence that includes jail time. As we expected, our results do *not* suggest that the different prosecutorial case screening policies had any impact on the likelihood of incarceration for defendants in DV cases.

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## VI. MODELS PREDICTING LENGTH OF JAIL SENTENCE

The final case outcome we examined in this study was the length of jail sentence. Here, the analyses were restricted to those cases where the defendant was convicted and sentenced to jail (including both "time served" and definite sentences). As reported in Section III, there were significant borough differences in the average length of jail sentence in DV cases, which varied from a low of 43 days in Brooklyn, to 65 days in Manhattan, to a high of 72 days in the Bronx. In this section of the report, we develop statistical models predicting the length of the jail sentence. We continue to follow the analytic strategy used in the analyses of conviction and incarceration. First, we determine whether borough differences in length of jail sentence can be accounted for by differences in defendant and case characteristics. Then we test whether the predictors of sentence length are different in different boroughs.

The models we present include an additional correction for selection bias that was not used previously. The analyses of length of sentence included only cases that resulted in incarceration. The variables that influence whether a case resulted in incarceration also may influence the length of the sentence. For example, number of prior misdemeanor convictions may affect both the likelihood of incarceration and the length of the sentence. As noted earlier in the discussion of selection bias, the estimate of the effect of number of prior misdemeanor convictions will be overstated if it influences both the likelihood of being in the sample and the outcome being analyzed. In this circumstance, part of its effect on length of sentence will be due to its influence on the likelihood of incarceration, i.e., on the likelihood that the case ended up in the sample of cases sentenced to jail. The remainder of its effect, if any, will be due to its influence on the length of jail sentence.

To correct for this kind of selection bias, we included an additional control variable in the models: the predicted probability of incarceration. This predicted probability of incarceration was created using a model similar to that presented in Table 5-1 (data not shown).[37] The predicted probability of incarceration can theoretically vary from a low of 0.00 to a high of 1.00. Since the model predicting length of sentence included only those cases where the defendant was actually sentenced to jail, the predicted probability of incarceration for these cases was skewed toward the higher end of the scale (the mean predicted probability was .59). Nevertheless, even among cases that resulted in incarceration, there was significant variation: the predicted probability of incarceration varied from .02 to .94. When the predicted probability of incarceration is

[37] As before, to avoid statistical problems the predicted probability of incarceration used as a correction for selection bias was created using a somewhat different set of independent variables than the model presented in Table 5-1.

included as a control variable in models predicting the length of sentence, the estimates of the effects of the other independent variables in the model are more accurate.[38]

Our models predicting length of jail sentence also controlled for the severity of the conviction charge. This is important because severity of conviction charge places statutory limits on the length of the jail sentence that may be imposed (New York State Penal Law §70.15). A defendant can be sentenced to a maximum term of 15 days for a violation, 90 days for a B misdemeanor and 365 days for an A misdemeanor.

A. Linear Regression Analysis

The dependent variable in these analyses, length of jail sentence, was measured in days.[39] We used a statistical technique known as linear regression, which is appropriate when the dependent variable measures a quantity, such as the number of days.[40] Length of jail sentence varied from 1 to 350 days, however most sentences (over 93%) were 90 days or less.

Like logistic regression, linear regression results evaluate the effect of each independent variable after controlling for the effects of all the other independent variables in the model. These effects represent the *net effect* of the independent variable, in contrast to the *total effect* (i.e., when the independent variable is used as the only predictor). Also, the linear regression results report the statistical significance of each independent variable, just as the logistic regression results did. The interpretation of statistical significance is the same for both types of regression models.

However, there are some differences between linear regression and logistic regression. The linear regression results include both a *beta* and a standardized *beta* for each predictor (independent variable) in the model. The *beta* measures the magnitude of the effect of the independent variable. Its purpose is similar to that of the odds ratio in logistic regression, but its interpretation is slightly different. In the linear regressions, the *beta* can be interpreted as the change in the number of days sentenced to jail associated with a one-unit change in the independent variable. The interpretation of the standardized *beta* in linear regression is similar to that in logistic regression. It measures the influence of the independent variable in explaining variation in the number of days sentenced to jail, after taking into account the effects of all the other independent variables in the model. Standardized *betas* vary from -1 to +1; a value close to zero

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[38] The extent to which the estimates are more accurate depends on the ability of the model predicting the probability of incarceration to explain a significant portion of the variation in likelihood of incarceration. The model correcting for selection bias accounted for approximately 47% of the variation in likelihood of incarceration. This is a sufficiently large proportion of the variation for the purpose of controlling for selection bias.

[39] See discussion in Section III of this report explaining how length of jail sentence is measured.

[40] In our previous analyses, the dependent variable was dichotomous (i.e., had only two categories) and we used logistic regression techniques.

indicates that the effect of the independent variable is relatively small, while a value closer to +1 or -1 indicates that the effect of the independent variable is relatively strong.

To evaluate the overall ability of *all* of the independent variables in the linear regression model to predict the dependent variable, we use the coefficient of determination, also referred to as $R^2$. $R^2$ varies from 0 to +1. It indicates what proportion of variation in the dependent variable is explained by all the independent variables in the model (see Lewis-Beck 1980 for a full discussion of $R^2$ in linear regression models). Low values of $R^2$ indicate that the model explains only a small proportion of the variation in the dependent variable, while high values indicate that the model explains a large proportion of the variation in the dependent variable.

B. Pooled Model for Brooklyn, the Bronx and Manhattan

The mean jail sentence for DV cases was 43 days in Brooklyn, 65 days in Manhattan and 72 days in the Bronx. The linear regression model predicting length of jail sentence controlled for a large number of defendant and case characteristics to attempt to explain away these borough differences (Table 6-1). As in our previous analyses, we used Brooklyn as the *reference category*. After controlling for all the variables in the model, there were no statistically significant differences in sentence length among the three boroughs. This indicates that the variables included in the model accounted for the borough differences in sentence length.

As expected, the statutory limits associated with the severity of the conviction charge were strong predictors of the length of jail sentence. Defendants convicted of violations or B misdemeanors received shorter sentences than those convicted of A misdemeanors. Other strong predictors of length of jail sentence, as measured by the standardized *beta*, were the selection bias correction for likelihood of incarceration (which had a negative effect on length of jail sentence), and number of weeks from arraignment to conviction (which increased the length of the jail sentence). Overall, the model explained 25% of the variation in length of the jail sentence (see $R^2$ statistic in Table 6-1).

To determine the extent to which controlling for other variables explained away the initial borough differences in sentence length, we examined a model where the borough variables were the only independent variables in the model (data not shown). When borough variables were the only variables in the model, the unstandardized beta for the Bronx was 29, and for Manhattan, 22. These betas were statistically significant. The net effects reported in Table 6-1 were 1.52 for the Bronx and 3.56 for Manhattan; neither was statistically significant. This indicates that the variables in our model were able to account for the borough differences in length of jail sentence.

The independent variable that was most influential in accounting for the borough differences in average sentence length was case processing time: the number of weeks from arraignment to conviction. Our findings indicated that cases in the Bronx and Manhattan took longer than those in Brooklyn to reach a conviction with an incarcerative

**TABLE 6-1**

**LINEAR REGRESSION MODEL PREDICTING LENGTH OF SENTENCE FOR CONVICTED DEFENDANTS SENTENCED TO JAIL**

CRIMES AGAINST PERSONS AND PROPERTY SUBSAMPLE[1]

Third Quarter 1998 Dataset

| INDEPENDENT VARIABLES[2] | Standardized β | β |
|---|---|---|
| **BOROUGH** | | |
| *Reference Category: Brooklyn* | | |
| Bronx | 0.01 | 1.52 |
| Manhattan | 0.02 | 3.56 |
| **CONTROL VARIABLES** | | |
| SELECTION BIAS CORRECTION: LIKELIHOOD OF CONVICTION | 0.15 | 45.32 |
| SELECTION BIAS CORRECTION: LIKELIHOOD OF INCARCERATION | -0.26 * | -67.90 |
| ARRAIGNMENT CHARGE PENAL LAW ARTICLE: | | |
| *Reference Category: Assault (PL 120)* | | |
| Criminal Contempt (PL 215) | 0.00 | -0.26 |
| Harassment (PL 240) | -0.04 | -14.27 |
| Crimes Against Children (PL 260) | -0.02 | -9.25 |
| Other | -0.03 | -4.08 |
| **DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS** | | |
| SEX (Female) | -0.02 | -4.86 |
| ETHNICITY: | | |
| *Reference Category: Black* | | |
| White | 0.04 | 10.51 |
| Hispanic | 0.01 | 1.31 |
| Other | -0.02 | -6.99 |
| AGE: | | |
| *Reference Category: Age 16-20* | | |
| Age 21-29 | 0.04 | 4.96 |
| Age 30-39 | 0.09 | 11.54 |
| Age 40 and over | 0.02 | 3.22 |
| **DEFENDANT'S CRIMINAL HISTORY** | | |
| ANY PRIOR ARRESTS | 0.10 | 26.16 |
| NUMBER OF PRIOR MISDEMEANOR CONVICTIONS | 0.07 | 0.66 |
| NUMBER OF PRIOR FELONY CONVICTIONS | 0.05 | 2.58 |

***Table Continues on Next Page***

**TABLE 6-1**
**(continued)**

| INDEPENDENT VARIABLES[2] | Standardized β | β |
|---|---|---|
| **ARREST AND ARRAIGNMENT CHARGE CHARACTERISTICS** | | |
| NUMBER OF ARREST CHARGES | 0.04 | 2.60 |
| ARRAIGNMENT CHARGE IS A FELONY | 0.10 | 11.66 |
| CHANGE IN CHARGE SEVERITY FROM ARREST TO ARRAIGNMENT: | | |
| *Reference Category: No Change* | | |
| Charge Severity Reduced from Arrest to Arraignment | 0.02 | 2.61 |
| Charge Severity Increased from Arrest to Arraignment | -0.03 | -4.51 |
| **CASE PROCESSING CHARACTERISTICS** | | |
| RELEASE RECOMMENDATION: | | |
| *Reference Category: No Recommendation (Weak NYC Ties)* | | |
| Recommended or Qualified Recommendation | -0.18 ** | -21.61 |
| Open Bench Warrant At Time of Arrest | -0.03 | -5.17 |
| Missing | 0.02 | 4.42 |
| DEFENDANT EVER RELEASED | -0.16 | -23.06 |
| CHARGE SEVERITY REDUCED BETWEEN ARRAIGNMENT AND CONVICTION | 0.11 | 14.27 |
| SEVERITY OF CONVICTION CHARGE: | | |
| *Reference Category: Conviction Charge was an A Misdemeanor* | | |
| Conviction Charge was a Violation | -0.32 *** | -78.63 |
| Conviction Charge was a B Misdemeanor | -0.34 *** | -50.32 |
| NUMBER OF WEEKS FROM ARRAIGNMENT TO CONVICTION | 0.22 ** | 1.58 |
| $R^2$ | .25 *** | |
| (N of cases) | (386) | |

**NOTES**

[1] See text for a description of the dataset and the subsample.
[2] See Appendix A for information about the measurement and coding of the variables.

* Statistically significant at $p < .05$
** Statistically significant at $p < .01$
*** Statistically significant at $p < .001$

sentence. For convicted defendants who received a jail sentence, the longer the time between arraignment and conviction, the longer the jail sentence, on average.

Finally, we considered whether the factors predicting sentence varied across boroughs. Our test of interactions indicated that the differences among boroughs were not statistically significant (data not shown). This conclusion must be viewed as tentative, however. The small sample size (N=386) and the large number of variables (85) in the model make it difficult to detect statistically significant interactions.

C. Summary and Discussion of Findings

After controlling for case and defendant characteristics, our models were able to account for borough differences in length of jail sentence. The main variable responsible for accounting for the longer sentences in Manhattan and the Bronx was case processing time. As discussed earlier, longer case processing time reflects, in part, greater difficulty in reaching a plea agreement. Defendants are reluctant to accept plea agreements that result in incarceration, and are even more reluctant to accept a relatively long jail sentence. When ADA's are resistant to offering shorter jail sentences, cases take longer to reach a plea agreement. Our findings suggest that ADA's in the Bronx and Manhattan were more likely to hold out for plea agreements that included a relatively long jail sentence. In Brooklyn, ADA's reached plea agreements with incarcerative sentences more quickly because they were less likely to insist on a long jail sentence as part of the agreement. Unlike the pattern discussed in the previous section regarding *whether* the defendant was sentenced to jail, this pattern of borough differences regarding *length* of jail sentence does not reflect differences in the use of specialized DV parts vs. mixed dockets. Nor does the pattern reflect differences in prosecutorial case screening policies. Although the Bronx relied primarily on first-party complaints and used specialized DV parts while Manhattan relied on a no-drop policy and did not use specialized DV parts, both DA's offices apparently pursued a similar plea bargaining approach regarding length of jail sentence. This approach apparently reflected their views on the importance of obtaining a relatively long jail sentence, once a decision to seek a jail sentence was made.

Which case and defendant characteristics were most influential in determining the length of the jail sentence? Not surprisingly, the severity of the conviction charge was the most important factor, because the maximum sentence that can be imposed is statutorily determined by the severity of the conviction charge. Defendants convicted of violations and B misdemeanors received shorter sentences than those convicted of A misdemeanors. Case processing time was also a strong predictor of length of sentence. The longer the case took to reach a conviction, the more likely the defendant was to receive a longer sentence. This probably reflects the longer time it takes to obtain a plea bargain involving a longer jail sentence.

## VII. CONCLUSION

### A. Major Findings

This study was designed to address two major questions about the processing of DV cases:

1) What are the effects of prosecutorial case screening policies on case outcomes in DV cases?

2) What are the effects of the use of specialized court parts on case outcomes in DV cases?

To address these questions, we used the Third Quarter 1998 Dataset, which includes CJA data for a three-month cohort of arrests made from July 1, 1998 through September 30, 1998. We analyzed data for 5,139 DV cases disposed in Criminal Court in Brooklyn, the Bronx, and Manhattan. We expected that differences among the boroughs would be explained by one of two factors. Specifically, we expected that some borough differences would reflect differences in the prosecutorial case screening policy used in each borough. The Bronx relied primarily on prosecuting first-party complaints—most cases were declined for prosecution unless the victim signed the complaint. Brooklyn and Manhattan used a no-drop policy, requiring ADA's to prosecute virtually all DV cases. We expected that other borough differences would reflect differences in the use of specialized DV parts. At the time of our study, Manhattan did not have a specialized DV part, while Brooklyn and the Bronx did have specialized DV parts. There are three major findings from our study.

First, prosecutorial case screening policies had a significant impact on the likelihood of prosecution and conviction. In the Bronx, only about 80% of DV arrests resulted in a decision by the DA to prosecute; in the remaining 20% of the cases, the DA declined to prosecute, usually because the victim would not sign the complaint. By contrast, virtually all DV arrests (99%) in Brooklyn and Manhattan resulted in prosecution. DV cases where the victim initially refused to cooperate were likely to be weak and usually were declined for prosecution in the Bronx, while these cases were prosecuted in Brooklyn and Manhattan. As a result, reliance on first-party complaints produced a relatively high conviction rate (64%) in DV cases in the Bronx. Conviction rates were significantly lower in Brooklyn and Manhattan (18% and 29%, respectively), where a no-drop policy was in place, because many cases were pursued without victim cooperation. Indeed, the borough differences were among the strongest predictors of the likelihood of conviction. The odds of conviction were over 8 times higher in the Bronx than in Brooklyn. Clearly conviction rates were strongly affected by prosecutorial case screening policies. Reliance on first-party complaints produced higher conviction rates than reliance on no-drop prosecution policies.

Second, the use of specialized DV parts also affected case outcomes in DV cases. As we expected, convicted DV offenders in the two boroughs with specialized DV parts

(Brooklyn and the Bronx) were less likely to be incarcerated than convicted defendants in Manhattan. This reflects the stronger emphasis on the use of batterer intervention programs to monitor defendants in boroughs with specialized DV parts. This result is consistent with the findings reported in other studies of specialized DV parts (Angene 2000, Davis et al. 2001). To induce defendants to agree to complete a batterer intervention program, the DA's offices in Brooklyn and the Bronx were more willing to reduce charges after arraignment than the DA's office in Manhattan.[41] Furthermore, cases that ended in conviction were processed more quickly in boroughs that used specialized DV parts. In Brooklyn and the Bronx, ADA's reached plea agreements more quickly because they were less likely to insist on a jail sentence as part of the agreement. Instead, they usually sought a sentence of a conditional discharge with a batterer intervention program. These findings suggest that when specialized DV parts are used, the primary goal is to control the defendant through monitoring his or her behavior.

Finally, some of our findings could not be accounted for either by prosecutorial case screening policies or the use of specialized DV parts. For example, incarcerated defendants in Manhattan and the Bronx received longer sentences, on average, than incarcerated defendants in Brooklyn. This pattern of findings suggests that there was a tendency to pursue long jail sentences in Manhattan and the Bronx, perhaps because these were believed to be effective in certain types of DV cases. This approach was apparently not used in Brooklyn, where jail sentences were shorter. As another example of a borough-specific approach, we also found that in Brooklyn, prior arrest record apparently determined whether the DA's office would pursue completion of a batterer intervention program with a conviction or an ACD. In Brooklyn in the third quarter of 1998, defendants with no prior adult arrest record generally were given an ACD, while those with a prior record usually were required to plead guilty. In contrast, the Bronx rarely used ACD's. Manhattan used ACD's but our analysis did not reveal evidence of a consistent practice regarding the influence of prior arrest record.[42]

In summary, some of our findings can be attributed to differences in prosecution screening policies, some can be attributed to differences in the use of specialized DV

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[41] DA's offices may agree to reduce charges in DV cases for other reasons, e.g., to obtain a plea of guilty in a case that would otherwise result in a dismissal. They also may agree to reduce charges to obtain a conviction to a charge that will "bump up" the severity of subsequent convictions. For example, a defendant who has been convicted of an A misdemeanor violation of an order of protection (PL §215.50) within the previous five years can be charged with an E felony (PL §215.51) on a future violation. Although there are other reasons for reducing charges, the pattern of results in this study suggests that the borough differences in DA's offices' willingness to reduce charges reflected differences in their desire to induce defendants to complete a batterer intervention program.

[42] Our interviews with the Manhattan DA's office indicate that their preference was to agree to an ACD rather than a conviction when the defendant had no prior adult arrest record. Our failure to find evidence of this may reflect the influence of other factors on the use of ACD's in Manhattan or the difficulty of adopting a consistent practice because Manhattan DV cases were heard in mixed dockets. It also may indicate that our statistical analysis was not sensitive enough to detect the influence of prior arrest record.

parts, and some can be attributed to borough-specific approaches unrelated to the use of screening policies or specialized parts.

## B. Discussion and Conclusions

Significant changes in the prosecution and adjudication of DV cases have been introduced in the U.S. over the last two decades. While these changes have been designed to improve the criminal justice system's response to domestic violence, there is substantial variation in the types of policies and practices that have been implemented. As reviewed in Section I of this report, there are a variety of policies used by prosecutors to screen DV cases, including reliance on first-party complaints, drop-permitted policies, and no-drop policies. Similarly, some jurisdictions use specialized court parts to process DV cases, while others continue to rely on mixed-docket court parts. Even within New York City, there were differences among the boroughs in the way DV cases were screened and processed in the Criminal Courts in 1998. As this report has demonstrated, these differences had a significant impact on court outcomes in DV cases.

### 1. Borough Differences in Prosecution and Adjudication of Domestic Violence Cases

Which of the three boroughs discussed in this report pursued the best approach to prosecuting and adjudicating DV cases? The answer to this question depends in part on how one believes the criminal justice system should address the challenge of prosecuting DV cases when the victim is uncooperative. Those who favor a "victim empowerment" approach believe that the criminal justice system should allow victims to decide whether the case will be prosecuted and whether to proceed with the case once charges are filed. Victims can then use their control over whether and when charges will be dropped to prevent the defendant from continuing or escalating the violence. Those who favor a no-drop prosecution approach believe that the criminal justice system should prosecute virtually all DV cases. Since the state and not the victim is responsible for deciding to prosecute the case, no-drop prosecution may prevent victims from being subjected to intimidation or retaliation by the defendant.

Deciding which approach is best also depends in part on what one believes the criminal justice system's goal should be in responding to domestic violence offenders. Those who favor a "control" approach believe that the goal is to bring as many DV offenders as possible under the scrutiny of the courts. DV offenders can be closely watched for renewed or escalated violence. Court monitoring is presumed to decrease the frequency and severity of future acts of domestic violence. The specialized DV parts emphasize the use of batterer intervention programs as a means of monitoring convicted defendants. Those who favor a more traditional "incarcerative" approach believe that the goal is to treat DV offenders like comparable Non-DV offenders by convicting them and sentencing them to jail. Under this approach, prosecutors seek to convict and incarcerate as many DV offenders as possible. Incarceration is presumed to deter future violence by the same offender as well as by other offenders.

In New York City's Criminal Courts in 1998, the no-drop prosecution and control approaches were most closely followed in Brooklyn, where there was a no-drop policy and DV cases were processed in specialized court parts. ADA's prosecuted virtually all cases, whether or not the victim was cooperating. The primary goal in the specialized DV parts was to monitor defendants by requiring them to complete a batterer intervention program when possible. When the victim was not cooperating and an evidence-based prosecution was not possible, the offender was monitored by holding the case open as long as possible before dismissing it.[43] Manhattan also used a no-drop prosecution policy, and pursued cases without victim cooperation. However, Manhattan was the borough most likely to use an incarcerative approach. DV cases were processed in mixed dockets rather than in specialized DV parts. Manhattan relied on jail sentences, particularly long jail sentences, more than the other boroughs. The Bronx came closer than the other boroughs to using a "victim empowerment" approach. In the Bronx, most of the prosecuted cases were cases where the victim signed the complaint. The victim generally had to sign the complaint within 24 hours of the arrest, since defendants in New York must generally be arraigned within that time. Once the complaint was signed, however, victims did not have the discretion to have the charges dropped at their request. Since victims were "empowered" for less than 24 hours, this policy did not fully implement the "victim empowerment" approach described by Mills (1999) and others. The Bronx used the control approach to respond to DV offenders, and monitored defendants in specialized DV parts using strategies similar to those used in Brooklyn.

The policies used in each borough in 1998 are summarized in Figure 7-1 below:

**FIGURE 7-1: BOROUGH RESPONSES TO DOMESTIC VIOLENCE, 1998**

| | | **Policy for Responding to DV Victims** | |
|---|---|---|---|
| **Policy for Responding to DV Offenders** | | ***Victim Empowerment*** | ***No-Drop Policy*** |
| | ***Control*** | Bronx[1] | Brooklyn |
| | ***Incarcerative*** | -- | Manhattan[2] |

[1] The Bronx did not fully implement the "victim empowerment" approach, but usually allowed the victim to decide whether or not to sign a complaint in prosecutable cases.

[2] Manhattan did not rely primarily on the "incarcerative" approach, but did so more often than the other boroughs.

The no-drop policy in effect in Brooklyn and Manhattan differed significantly from the no-drop policy in effect in many other jurisdictions throughout the U.S. As noted in the Introduction to this report, most jurisdictions with no-drop policies screen

[43] The Brooklyn DA's office has since modified this policy. Some cases are now dismissed if an ADA has had contact with the victim and the ADA is satisfied that dismissal is appropriate.

out large numbers of cases (often up to 30%) before applying the no-drop policy. In Brooklyn and Manhattan, less then 1% of DV cases were screened out before applying the no-drop policy.

It is beyond the scope of this report to decide which of the three boroughs has the "best" approach to prosecuting and adjudicating DV cases. Nor is it likely that any one approach would be "best" in all jurisdictions. Our analyses do, however, permit us to make some observations about the problems posed by each approach and issues that could be addressed through policy changes.

2. Responding to Domestic Violence Victims

Each of the case screening policies used in New York City had both benefits and costs in addressing issues related to victim cooperation. In the Bronx, reliance on first-party complaints concentrated prosecutorial resources on the most viable cases—those where the victim indicated a willingness to go forward by signing the complaint. This case screening policy also may have empowered victims, enabling them to decide whether to sign the complaint. However, once a victim signed the complaint, the victim's power to drop the case disappeared. A fully-implemented victim empowerment approach would enable victims to drop the case at any time before a final disposition (Mills 1999). This approach might provide victims with greater control over the behavior of offenders and reduce recidivism (Ford and Regoli 1993). Furthermore, reliance on first-party complaints may also pose a risk for some victims. DV offenders may intimidate or re-assault victims in an attempt to induce them to drop charges. Once the charges are dropped, victims may be reluctant to call the police again. A new arrest will repeat the cycle of intimidation as the victim is faced again with a decision about whether to sign the complaint.

The no-drop policy used in Brooklyn and Manhattan presumably reduced the likelihood that the offender would intimidate the victim, since the prosecutor and not the victim decided whether to prosecute the case. This no-drop policy enabled the DA's office to monitor a large number of DV offenders, because defendants were prosecuted in virtually all cases where an arrest was made. However, this policy also resulted in a low conviction rate, since many cases went forward without victim cooperation, which is often essential for a conviction. Prosecutorial resources were devoted to a large number of cases that were unlikely to result in conviction (Kirsch 2001). If the goal of a no-drop policy is to monitor as many DV offenders as possible, a low conviction rate is not necessarily a problem. Conviction may be desirable, but is not necessary to provide monitoring while a case is pending. However, there may also be disadvantages associated with a low conviction rate. Defendants who are not convicted, particularly those whose cases are dismissed, are more difficult to monitor. A conviction enables the court to monitor defendants more closely, and may establish a criminal record that can be introduced in court if the defendant is arrested again for a DV offense. Furthermore, a dismissal may send a message to the offender that there is no real penalty for domestic violence (Belknap and Graham 2000). An arrest without a conviction may increase the

risk of recidivism (Davis et al. 1998). Even if the primary goal in DV cases is to monitor offenders, there are additional advantages to be gained from obtaining a conviction.

One way to increase the conviction rate under a no-drop policy is to devote more time to working with victims. Research in other jurisdictions suggests that victims often view prosecutors as indifferent to their concerns, unprepared for their case and unavailable to discuss the case (Belknap and Graham 2000). Victims' interactions with prosecutors can be intimidating (Wittner 1998), and testifying in court can subject a victim to character attacks (Hartley 2001). Furthermore, the no-drop policies in Brooklyn and Manhattan created larger caseloads for each ADA than a first-party complaint policy would have created. Belknap and Graham (2000) argue that large caseloads make it difficult for ADA's to become familiar with each case and to spend time preparing victims for their case. They recommend increasing the number of prosecutors working on DV cases to reduce the caseload and to enable prosecutors to spend more time working with victims (see also Frisch et al. 2001). Miller's (1999) study in Queens found that the conviction rate in DV cases increased after ADA caseloads were reduced. Because other changes were made simultaneously, we cannot conclude that the reduced caseloads were the sole or primary reason for the increase in the conviction rate. Nevertheless, Miller's findings suggest that reducing ADA caseloads merits serious consideration.

Brooklyn has recently taken two steps to reduce ADA's caseloads in the DV Bureau without increasing the number of ADA's. First, the DA's office developed a new policy to decline to prosecute certain DV cases. Under this policy, victims who did not wish to proceed were asked to sign a declination in cases where there was no injury to the victim, where the defendant had no history of domestic violence and no serious criminal record, and where a statement from the victim would be necessary to prosecute the case. As a result of this policy, more cases are declined for prosecution now than in 1998. Second, the least serious DV cases are now transferred to the regular trial divisions of the Brooklyn DA's office. These two changes have reduced the overall caseload, and enabled the office to assign more experienced attorneys to handle misdemeanor trials. The DV Bureau is now getting more misdemeanor pleas, and there are more trials. There were convictions in 78% of the 36 misdemeanor trials in Brooklyn in 2001 (Bialo-Padin 2002).

The Bronx has also reduced ADA caseloads since 1998. The number of ADA's assigned to work on misdemeanor DV cases has increased from 12-15 in 1998 to 20 in 2002. This increase has more than compensated for the increase in DV arrests over that time period. The average caseload for ADA's handling misdemeanor DV cases in the Bronx has been reduced by about 25% since 1998. In Manhattan, all misdemeanor DV cases have been handled by ADA's who also handle other types of cases. The ADA's in Manhattan have not specialized exclusively in handling DV cases as they have in Brooklyn and the Bronx. As a result, ADA caseloads in Manhattan are influenced primarily by the overall volume of misdemeanor cases. Efforts to reduce the caseloads of the ADA's handling misdemeanor DV cases in Manhattan would probably require the assignment of ADA's to handle DV cases exclusively.

A second way to increase the conviction rate is to use victim advocates. Victim advocates working with the DA's office can provide support services and counseling to reassure victims and to encourage their cooperation (Cahn and Lerman 1991, Jolin et al. 1998, Kirsch 2001, Miller 1999). Brooklyn has recently increased its efforts to encourage victim cooperation through early intervention. Victim advocates are working to obtain supporting depositions from victims in two police precincts. In four precincts, the DA's office now sends detectives to contact victims within 24 hours of arrest to gather information, answer questions and provide information about counseling. The detectives have been very successful at obtaining supporting depositions from victims. Extending these programs throughout the borough would require additional funding.

A third way to increase the conviction rate is to use evidence-based prosecution, which relies on "hearsay exceptions," photographs, and other physical and medical evidence to build the case against a DV offender. This approach avoids the need for victim cooperation. Our field research indicated that evidence-based prosecution was already in use in Brooklyn and Manhattan in 1998 and its use has increased since then. In Brooklyn in 2001, 10 of the 36 misdemeanor trials were evidence-based prosecutions, and convictions were obtained in 7 of the 10 cases (Bialo-Padin 2002). In recent years, particularly in 2000 and 2001, the number of evidence-based prosecutions in the Bronx also has increased significantly. The Bronx DA's office has intensified its efforts to provide training to the police to collect evidence in DV cases. As a result, the Bronx now pursues many cases without victim cooperation. While significant progress has been made over the last few years, each of the three boroughs is planning to make further changes to increase the successful use of evidence-based prosecution.

Finally, cutting case processing time might increase the conviction rate. As Davis et al. (2001) reported, this strategy was successful in Milwaukee's specialized DV part. Cutting the time between arrest and trial (or a potential trial), reduced the opportunities for the victim to withdraw from participating in the case. Fewer court appearances by the victim were needed, and there was less time for the defendant to intimidate the victim into withdrawing support of the prosecution. The Manhattan DA's office reports that it now seeks to try DV cases as quickly as possible to avoid evidence problems that may develop if the case continues for a long time.

3. Responding to Domestic Violence Offenders

Whether the control or incarcerative approach is more appropriate in DV cases remains an open question. However, recent changes in Manhattan suggest that Criminal Courts in all the boroughs now rely more heavily on the control approach. In 1998, Manhattan was the only borough that heard DV cases in mixed dockets; it was also the borough most likely to take an incarcerative approach toward convicted defendants in DV cases. Manhattan established a specialized DV Criminal Court part in June, 2000. The specialized DV part in Manhattan, like those in the other boroughs, uses the control approach. Although the Manhattan DA's office continues to seek jail sentences in DV cases as often now as it did in 1998, the court's control approach relies less on the use of

jail sentences and more on the use of batterer intervention programs. As we noted in our first report (Peterson 2001), there is little evidence that batterer intervention programs rehabilitate defendants (Chalk and King 1998, Harvard Law Review 1993, Pirro 1997, Tsai 2000, Watson 2000a). Many of the court actors we interviewed in New York City expressed skepticism that the programs produced any lasting changes in defendants' behavior. Even some of those who manage the batterer intervention programs do not claim that the programs are effective at deterring future violence. Instead, batterer intervention programs are used primarily as a tool to monitor defendants and to hold them accountable for their behavior (Tsai 2000).

Given the emphasis on holding defendants accountable, it is important to review the effectiveness of the procedures for monitoring defendants' compliance with the conditions of their programs and sentences. The current procedure requires defendants in batterer intervention programs to appear regularly in a DV compliance part. An alternative approach is to monitor compliance by placing defendants on probation (Watson 2000b). Among defendants in DV cases who were eligible for a probation sentence (i.e., those convicted of an A or B misdemeanor) in the third quarter of 1998, less than one-third were placed on probation in Brooklyn and Manhattan, and less than one-fifth in the Bronx. Ames and Dunham (2002) argue that probation can serve as a "timeout" to give DV offenders a chance to change their behavior. When offenders violate probation, more serious penalties can be imposed. Intensive supervision probation combined with judicial monitoring has been an effective deterrent in the felony cases heard in the Brooklyn Supreme Court DV parts (Kaye and Knipps 2000, Newmark et al. 2001). Preliminary research in Clinton County, New York (a predominantly rural county) suggests that probation can also be effective in misdemeanor cases (Ames and Dunham 2002). Since probation caseloads are generally higher in a large urban jurisdiction, a pilot study would be needed to determine whether greater use of probation in misdemeanor cases in New York City would be effective.

## C. Future Research

We believe our analyses and conclusions provide valuable new information about the impact of prosecution screening policies and the operation of specialized DV parts. Our conclusions also raise new questions. How important is it to address the challenges of victim cooperation and defendant accountability? Would proposals for reducing ADA caseloads, increasing the use of victim advocates, reducing case processing time, and increasing the use of probation sentences be effective in addressing these challenges? Our research does not allow us to answer these questions. The policies and proposals for addressing DV cases are relatively new, and research has only begun to evaluate their costs and benefits. Further research is needed to address a number of questions.

First, what are the risks to victims under various case screening policies? When DA's rely on first-party complaints, are recidivism rates higher, lower, or the same for victims whose cases were declined for prosecution than for those whose cases were prosecuted? Under a no-drop policy, are recidivism rates higher, lower, or the same when cases are dismissed than when cases are disposed with an ACD or conviction?

Does evidence-based prosecution without the victim's cooperation increase the risk of recidivism?

Second, what priority should be given to DV cases when the victim is uncooperative? Should cases be given equal priority whether or not the victim is cooperating? Or is this often a waste of valuable resources, as Kirsch (2001) argues? Should cases where the victim refuses to sign the complaint be declined for prosecution? Or are some of these cases high-risk cases that should be pursued? What criteria can be used to assess risk when victims are uncooperative?

Third, how effective are using victim advocates and reducing ADA's caseloads as tools for increasing victim cooperation? What strategies can be used to gain victim cooperation while insuring victim safety? What kinds of training would be most effective to enable victim advocates and ADA's to work with victims? Should DA's be using victim empowerment as a measure of success in DV cases, as several observers have suggested (e.g., Ford & Regoli 1992, Hartley 2001, Mills 1999, Wittner 1998)? Should the criminal justice system focus more on the needs of victims and less on the needs of the system (e.g., prosecuting cases, seeking convictions)? Surveys of victims would be useful to understand how they perceive their role in the prosecution of DV cases and its impact on their safety.

Finally, how do recidivism rates for defendants vary by the type of sentence imposed? Are recidivism rates higher for defendants monitored in DV compliance parts than for those sentenced to probation? Is jail more effective for certain DV offenders? Would more extensive use of probation sentences be cost-effective in misdemeanor cases? How do offenders perceive case disposition and sentences? For example, does dismissal of a DV case lead offenders to believe that there is no real penalty for committing domestic violence offenses?

For the victims of domestic violence, as well as for policy makers and practitioners, the key issue is victim safety. In our next report on domestic violence, we will examine recidivism among DV offenders. A study of recidivism will provide answers to some of the questions raised in this report. We also hope that the current report will encourage other researchers to address some of these questions.

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## VIII. REFERENCES

Aldrich, Liberty and Julie A. Domonkos. 2000. "Navigating the NYPD: A Guide to New York City Police Department Policies and Procedures for Family Court Attorneys Handling Order of Protection Cases." Pp. 279-292 in Julie A. Domonkos and Jill Laurie Goodman, *Lawyer's Manual on Domestic Violence: Representing the Victim*. New York: Supreme Court of the State of New York, Appellate Division, First Department.

Ames, Lynda J. and Katherine T. Dunham. 2002. "Probation as a Criminal Justice Response to Intimate Partner Violence." *Violence Against Women* 8:6-34.

Angene, Lyn. 2000. *Evaluation Report for the San Diego County Domestic Violence Courts*. San Diego, CA: San Diego Superior Court.

Asmus, Mary E., Tineke Ritmeester and Ellen L. Pence. 1991. "Prosecuting Domestic Abuse Cases in Duluth: Developing Effective Prosecution Strategies from Understanding the Dynamics of Abusive Relationships." *Hamline Law Review* 15:115-166.

Belknap, Joanne and Dee L. R. Graham. 2000. *Factors Related to Domestic Violence Court Dispositions in a Large Urban Area: The Role of Victim/Witness Reluctance and Other Variables.* Rockville, MD: National Institute of Justice.

Berk, Richard A. 1983. "An Introduction to Sample Selection Bias in Sociological Data." *American Sociological Review* 48:386-398.

Berman, Greg and John Feinblatt. 2001. "Problem Solving Courts." *Law and Policy* 25:125-140.

Bialo-Padin, Deirdre. 2002. Personal communication, May 9.

Buzawa, Eve, Gerald T. Hotaling, Andrew Klein and James Byrne. 1999. *Response to Domestic Violence in a Pro-Active Court Setting Final Report.* Washington, DC: National Institute of Justice.

Cahn, Naomi R. 1992. "Innovative Approaches to the Prosecution of Domestic Violence Crimes: An Overview." Pp. 161-180 in Eve S. Buzawa and Carl G. Buzawa (eds.), *Domestic Violence: The Changing Criminal Justice Response*. Westport, CT: Greenwood.

Cahn, Naomi R. and Lisa G. Lerman. 1991. "Prosecuting Woman Abuse." Pp. 95-112 in Michael Steinman (ed.), *Woman Battering: Policy Responses.* Cincinnati, OH: Anderson Publishing.

Chalk, Rosemary and Patricia A. King. 1998. "Assessing Prevention and Treatment Programs." Pp. 158-205 in *Violence in Families*. Washington, DC: National Academy Press.

Coker, Donna. 2001. "Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review." *Buffalo Criminal Law Review* 4:801-860.

Corsilles, Angela. 1994. "No-Drop Policies in the Prosecution of Domestic Violence Cases: Guarantee to Action or Dangerous Solution?" *Fordham Law Review* 63:853-881.

Davis, Robert C., Barbara E. Smith and Laura B. Nickles. 1998. "The Deterrent Effect of Prosecuting Domestic Violence Misdemeanors." *Crime and Delinquency* 44:434-442.

Davis, Robert C., Barbara E. Smith and Caitilin R. Rabbitt. 2001. "Increasing Convictions in Domestic Violence Cases: A Field Test in Milwaukee." *The Justice System Journal* 22: 62-72.

Eckert, Mary A., and Mari Curbelo. 2000. *Alternative to Incarceration Information Services: First Half Fiscal Year 2000*. New York: NYC Criminal Justice Agency.

Elliott, Delbert S. 1989. "Criminal Justice Procedures in Family Violence Crimes." Pp. 427-480 in Lloyd Ohlin and Michael Tonry (eds.), *Crime and Justice: A Review of Research, Volume 11: Family Violence.* Chicago: University of Chicago.

Epstein, Deborah. 1999. "Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges, and the Court System." *Yale Journal of Law and Feminism* 11:50.

Feeney, Floyd, Forrest Dill and Adrianne Weir. 1983. *Arrests Without Conviction: How Often They Occur and Why.* Washington, DC: U.S. Department of Justice.

Ford, David A. 1991. "Prosecution as a Victim Power Resource: A Note on Empowering Women in Violent Conjugal Relationships." *Law and Society Review* 25:313-334.

Ford, David A. and Mary Jean Regoli. 1992. "The Preventive Impacts of Policies for Prosecuting Wife Batterers." Pp. 181-208 in Eve S. Buzawa and Carl G. Buzawa (eds.), *Domestic Violence: The Changing Criminal Justice Response.* Westport, CT: Auburn House.

Ford, David A. and Mary Jean Regoli. 1993. "The Criminal Prosecution of Wife Assaulters: Process, Problems, and Effects." Pp. 127-164 in N. Zoe Hilton (ed.), *Legal Responses to Wife Assault: Current Trends and Evaluation*. Newbury Park, CA: Sage.

Frisch, Lisa A. 1992. "Research That Succeeds, Policies That Fail." *The Journal of Criminal Law and Criminology* 83:209-216.

Frisch, Lisa A., Melissa I. Mackey, Donna Hall and Alissa Pollitz Worden. 2001. *Family Protection and Domestic Violence Intervention Act of 1994: Evaluation of the Mandatory Arrest Provisions.* Albany, NY: Division of Criminal Justice Services.

Fritzler, Randal B. and Leonore Simon M. J. 2000. "Creating a Domestic Violence Court: Combat in the Trenches." C*ourt Review* 37:28-39.

Giuliani, Rudolph W. 2001. *The New York City Solution to Combating Family Violence*. New York: City of New York.

Hanna, Cheryl. 1996. "No Right to Choose: Mandated Victim Participation in Domestic Violence Prosecutions." *Harvard Law Review* 109:1849-1908.

Hartley, Carolyn Copps. *A Therapeutic Jurisprudence Approach to the Trial Process in Domestic Violence Felony Trials.* Iowa City: University of Iowa, School of Social Work.

Harvard Law Review. 1993. "Developments in the Law—Legal Responses to Domestic Violence." *Harvard Law Review* 106:1501-1551

Heckman, James. 1979. "Sample Selection Bias as a Specification Error." *Econometrica* 47:153-161.

Herrell, Stephen B. and Meredith Hofford. 1990. "Family Violence: Improving Court Practice." Reno, NV: The National Council of Juvenile and Family Court Judges.

Jolin, Annette, William Feyerherm, Robert Fountain and Sharon Friedman. 1998. *Beyond Arrest: The Portland, Oregon Domestic Violence Experiment: Final Report*.

Kaye, Judith S. 2001. "The State of the Judiciary." Albany, NY: New York State Unified Court System.

Kaye, Judith S. and Susan K. Knipps. 2000. "Judicial Responses to Domestic Violence: The Case for a Problem Solving Approach." *Western State University Law Review* 27:1-13.

Kirsch, Thomas L. 2001. "Problems in Domestic Violence: Should Victims Be Forced to Participate in the Prosecution of Their Abusers?" *William and Mary Journal of Women and the Law* 7:383-444.

Lerman, Lisa. 1986. Prosecution of Wife Beaters: Institutional Obstacles and Innovations." Pp. 250-295 in M. Lystad (ed.), *Violence in the Home: Interdisciplinary Perspectives*. New York: Brunner/Mazel.

Lewis-Beck, Michael S. 1980. *Applied Regression: An Introduction.* Sage Publications: Thousand Oaks, CA.

MacLeod, Dag and Julia F. Weber. 2000. *Domestic Violence Courts: A Descriptive Study.* San Francisco, CA. Judicial Council of California-Administrative Office of the Courts.

McGuire, Linda A. 2000. *Criminal Prosecution of Domestic Violence.* Washington, DC: U.S. Department Of Justice.

Menard, Scott. 1995. *Applied Logistic Regression Analysis*. Sage Publications: Thousand Oaks, CA.

Miethe, Terance D. 1987. "Stereotypical Conceptions and Criminal Processing: The Case of the Victim-Offender Relationship." *Justice Quarterly* 4:571-593.

Miller, Neal. 1999. *Process Evaluation of the Queens County Arrest Policies Project.* Washington, DC: National Institute of Justice.

Mills, Linda G. 1998. "Mandatory Arrest and Prosecution Policies for Domestic Violence: A Critical Literature Review and the Case for More Research to Test Victim Empowerment Approaches." *Criminal Justice and Behavior* 25: 306-318.

Mills, Linda G. 1999. "Killing Her Softly: Intimate Abuse and the Violence of State Intervention." *Harvard Law Review* 113:550-613.

Mohr, Lawrence B. 1990. *Understanding Significance Testing*. Sage Publications: Thousand Oaks, CA.

Newmark, Lisa, Mike Rempel, Kelly Diffily and Kamala Mallik Kane. 2001. *Specialized Felony Domestic Violence Courts: Lessons on Implementation and Impacts from the Kings County Experience.* Washington, DC: Urban Institute Justice Policy Center.

Peterson, Richard R. 1989. *Women, Work and Divorce*. Albany, NY: State University of New York Press.

Peterson, Richard R. 2001. *Comparing the Processing of Domestic Violence Cases to Non-Domestic Violence Cases in New York City Criminal Courts*. New York: NYC Criminal Justice Agency.

Pirro, Jeanine F. 1997. *Commission on Domestic Violence Fatalities: Report to the Governor.* Rensselaer, NY: New York State Office for the Prevention of Domestic Violence.

Pleck, Elizabeth. 1987. *Domestic Tyranny: The Making of American Social Policy Against Family Violence from Colonial Times to the Present.* New York: Oxford University Press.

Schmidt, Janell and Ellen Hochstedler Steury. 1989. "Prosecutorial Discretion in Filing Charges In Domestic Violence Cases." *Criminology* 27:487-510.

Siddiqi, Qudsia. 1999. *Assessing Risk of Pretrial Failure to Appear in New York City: A Research Summary and Implications for Developing Release-Recommendation Schemes*. New York, NY: NYC Criminal Justice Agency.

Smith, Barbara E., Rob Davis, Laura B. Nickles and Heather J. Davies. 2000. *An Evaluation of Efforts to Implement No-Drop Policies: Two Central Values in Conflict*. Chicago, IL: American Bar Association.

*Sorichetti v. City of New York* 65 NY 2d 46 (1985).

Stone, Audrey. 2000. "Gathering Evidence with an Eye Towards Winning the Case: A Prosecutor's Guide to Winning Domestic Violence Cases." Pp. 293-307 in Julie A. Domonkos and Jill Laurie Goodman, *Lawyer's Manual on Domestic Violence: Representing the Victim*. New York: Supreme Court of the State of New York, Appellate Division, First Department.

Tsai, Betsy. 2000. "The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation." *Fordham Law Review* 68:1285-1325.

Watson, Charlotte A. 2000a. "Programs for Men Who Batter: What Have We Learned?" *New York State Office for the Prevention of Domestic Violence Bulletin* 12:8-9.

Watson, Charlotte A. 2000b. "A Close Look at Probation, Batterers Programs and Domestic Violence." *New York State Office for the Prevention of Domestic Violence Bulletin* 12:1,12.

Weis, Joseph G. 1989. "Family Violence Research Methodology and Design." Pp. 117-162 in Lloyd Ohlin and Michael Tonry (eds.), *Crime and Justice: A Review of Research, Volume 11: Family Violence.* Chicago: University of Chicago.

Wexler, David. 2000. "Therapeutic Jurisprudence: An Overview." *Thomas M. Cooley Law Review* 17:125-34.

Winick, Bruce J. 1996. "The Jurisprudence of Therapeutic Jurisprudence." Pp. 645-667 in David B. Wexler and Bruce J. Winick (eds.). *Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence.* Durham, NC: Carolina Academic Press.

Wittner, Judith. 1998. "Reconceptualizing Agency in Domestic Violence Court." Pp. 82-104 in Nancy A. Naples (ed.). *Community Activism and Feminist Politics: Organizing Across Race, Class, and Gender.* Routledge: New York and London.

Worden, Pollitz Alissa. 2000. "The Changing Boundaries of the Criminal Justice System: Redefining the Problem and the Response in Domestic Violence." Pp. 215-266 in U.S. Department of Justice Office of Justice Programs, *Boundary Changes in Criminal Justice Organizations*. Washington, DC: U.S. Department of Justice.

**APPENDIX A: CODING OF VARIABLES FOR REGRESSION MODELS**
Third Quarter 1998 Dataset

| VARIABLES[1] | CODING SCHEME |
|---|---|
| **DEPENDENT VARIABLES** | |
| LIKELIHOOD OF CONVICTION | Convicted = 1, Not convicted = 0 |
| LIKELIHOOD OF INCARCERATION | Sentenced to jail = 1, Not sentenced to jail = 0 |
| LENGTH OF JAIL SENTENCE | Number of days, ranges from 1 to 365 |
| **BOROUGH** | |
| *Reference Category: Brooklyn* | *Brooklyn: Reference Category* |
| Bronx | Bronx = 1, All other categories = 0 |
| Manhattan | Manhattan = 1, All other categories = 0 |
| **CONTROL VARIABLES** | |
| SELECTION BIAS CORRECTIONS: | |
| LIKELIHOOD OF CONVICTION | Continuous, ranges from 0.00 to 1.00 |
| LIKELIHOOD OF INCARCERATION | Continuous, ranges from 0.00 to 1.00 |
| ARRAIGNMENT CHARGE PENAL LAW ARTICLE: | |
| *Reference Category: Assault (PL 120)* | *Assault: Reference Category* |
| Criminal Contempt (PL 215) | Criminal Contempt = 1, All other categories = 0 |
| Harassment (PL 240) | Harassment = 1, All other categories = 0 |
| Crimes Against Children (PL 260) | Crimes Against Children = 1, All other categories = 0 |
| Other | All other categories = 1, Categories listed above = 0 |
| **DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS** | |
| SEX (Female) | Female = 1, Male = 0 |
| ETHNICITY: | |
| *Reference Category: Black* | *Black: Reference Category* |
| White | White = 1, All other categories = 0 |
| Hispanic | Hispanic = 1, All other categories = 0 |
| Other | Other = 1, All other categories = 0 |
| AGE: | |
| *Reference Category: Age 16-20* | *Age 16-20: Reference Category* |
| Age 21-29 | Age 21-29 = 1, All other categories = 0 |
| Age 30-39 | Age 30-39 = 1, All other categories = 0 |
| Age 40 and over | Age 40 and over = 1, All other categories = 0 |
| **DEFENDANT'S CRIMINAL HISTORY** | |
| ANY PRIOR ARRESTS | Any Prior Arrests = 1, All other categories = 0 |
| NUMBER OF PRIOR MISDEMEANOR CONVICTIONS | Number of convictions, ranges from 0 to 67 |
| NUMBER OF PRIOR FELONY CONVICTIONS | Number of convictions, ranges from 0 to 7 |
| **ARREST AND ARRAIGNMENT CHARGE CHARACTERISTICS** | |
| NUMBER OF ARREST CHARGES | Number of charges, ranges from 1 to 4 |
| ARRAIGNMENT CHARGE IS A FELONY | Charged as a Felony = 1, All other categories = 0 |
| CHANGE IN CHARGE SEVERITY FROM ARREST TO ARRAIGNMENT: | |
| *Reference Category: No Change in Charge Severity* | *No change in charge severity: Reference Category* |
| Charge Severity Reduced from Arrest to Arraignment | Charge Severity Reduced = 1, All other categories = 0 |
| Charge Severity Increased from Arrest to Arraignment | Charge Severity Increased = 1, All other categories = 0 |

***Table Continues on Next Page***

**APPENDIX A: CODING OF VARIABLES FOR REGRESSION MODELS**
**(continued)**

| VARIABLES[1] | CODING SCHEME |
|---|---|
| **CASE PROCESSING CHARACTERISTICS** | |
| RELEASE RECOMMENDATION: | |
| *Reference Category: No Recommendation (Weak NYC Ties)* | *No recommendation (weak NYC ties): Reference Category* |
| Recommended or Qualified Recommendation | Recommended or qualified recommendation = 1, All other categories = 0 |
| Open Bench Warrant At Time of Arrest | Open bench warrant = 1, All other categories = 0 |
| Other or Missing | Other or Missing = 1, All other categories = 0 |
| DEFENDANT EVER RELEASED | Defendant ever released = 1, Defendant never released or case was disposed at arraignment = 0 |
| CHARGE SEVERITY REDUCED BETWEEN ARRAIGNMENT AND CONVICTION | Severity reduced between arraignment and conviction = 1, Severity not reduced between arraignment and conviction = 0 |
| SEVERITY OF CONVICTION CHARGE: | |
| *Reference Category: Conviction Charge was an A Misdemeanor* | *Convicted of an A Misdemeanor: Reference Category* |
| Conviction Charge was a Violation | Convicted of a Violation = 1, All other categories = 0 |
| Conviction Charge was a B Misdemeanor | Convicted of a B Misdemeanor = 1, All other categories = 0 |
| NUMBER OF WEEKS FROM ARRAIGNMENT TO DISPOSITION | Number of weeks, ranges from 0 to 56 |

**NOTE**
[1] See text for a description of the variables in the models.