
Pretrial Rearrests Among Domestic Violence Defendants in New York City

The processing of domestic violence (DV) cases often presents special problems for the criminal justice system. One concern is that a DV defendant released prior to the disposition of a criminal case may harm or threaten the victim while the case is pending. The DV defendant's motivation may be to retaliate against the victim for having the defendant arrested and/or to discourage the victim from participating in the prosecution of the case. While defendants in non-DV cases may also retaliate against or threaten their victims, victims in DV cases are often at greater risk of facing renewed violence. DV defendants have easier access to the victim, since they usually know where the victim lives and works. Because of their emotional ties to the victim, DV defendants may have greater motivation to threaten or retaliate. Emotional and economic ties also may provide defendants with greater leverage against victims in DV cases than in non-DV cases. Furthermore, domestic violence—more so than other types of violence—often occurs in a private location and is therefore difficult to detect and prevent.

Another issue of interest for public safety purposes is whether DV offenders tend to be “specialists,” committing only domestic violence offenses, or “generalists,” committing a variety of types of offenses. If DV defendants are generalists, they pose a risk not only to the victim, but also to the community at large. They may commit both DV and non-DV offenses during the pretrial period. Their DV offenses may be part of a more general pattern of offending, and they may have a long criminal history. Such DV offenders do not “specialize” in DV offenses. Rather, they are “generalists,” high-rate offenders who commit many types of crime, including victimization of intimate partners and family members.

Because of these concerns, many in the criminal justice system are interested in knowing more about pretrial re-arrests in DV cases.

- ◆ **Do DV defendants pose a high risk to their victims during the pretrial period?** Specifically, how often are they rearrested for new DV offenses during the pretrial period?
- ◆ **Are DV defendants typically high-rate offenders involved in a period of frequent criminal activity?** Are they more likely than non-DV defendants to be rearrested during the pretrial period?

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Unfortunately, there is very little research available to answer these questions. Only a handful of studies have been done, and most were based on small samples. This article addresses questions about pretrial re-arrest among DV defendants using data from a large sample of offenders in New York City. This research analyzed data drawn from the New York City Criminal Justice Agency database in the first quarter of 2001 and the third quarter of 2002. (See inset box for a description of the data set; further details are available in Peterson 2006).

Identifying DV and Non-DV cases

To examine differences in release outcomes for DV and non-DV defendants, we compared cases identified by the courts as DV cases to those that were not identified as DV cases. The courts' definition of domestic violence is based on the nature of the relationship between the offender and the victim. For the offense to be classified as a domestic violence case, the offender and victim must be members of the same family or in an intimate relationship.

Per statute, a family relationship is present when the victim and offender are married, formerly married, related by blood or marriage, or have a child in common.

An intimate relationship is considered to be present when the victim and defendant are cohabiting or previously lived together, including common-law marriages and same-sex relationships. This informal definition is used based on an agreement among the New York City Police Department, the district attorneys' offices in each borough, and the Office of Court Administration.

We defined comparable non-DV cases as those where the charges involved interpersonal violence, but the relationship between the offender and the victim was not a family or intimate relationship as defined by the courts.

Offense Patterns of DV and Non-DV Defendants

We began the analysis by examining DV rearrests during the pretrial period. About 9% of DV defendants were re-arrested for at least one new DV offense during the pretrial period, compared to only 1% of non-DV defendants (see Figure 1, page 35). DV defendants therefore pose a much higher risk than non-DV defendants of being re-arrested for a new DV offense during the pretrial period. Since the data include only re-arrests, and data are not available for new DV offenses that did not lead to a re-arrest, the rate of new DV offenses during the pretrial period is presumably even higher than 9%.

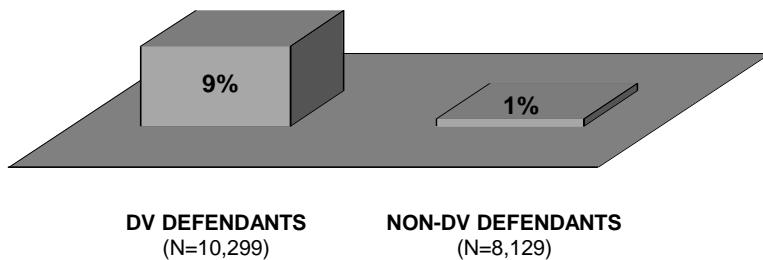
The Combined First Quarter 2001 and Third Quarter 2002 Data Set

The data set includes information about arrests, the court processing of prosecuted arrests, court outcomes, and re-arrests of the offenders. To obtain a large sample of DV cases, we combined data on DV cases in New York City from the first quarter of 2001 and the third quarter of 2002. For comparisons to non-DV cases, we used a sample of non-DV cases drawn only from the first quarter 2001 data set. The sample size of non-DV cases in the first quarter 2001 data set is sufficiently large to allow us to make reliable statistical comparisons with DV cases.

The analyses were limited to cases that were disposed in the lower court (Criminal Court) and excluded felony cases that were disposed in the upper court (Supreme Court). Because few DV cases were disposed in Supreme Court, the analyses provided information on 98% of the DV cases that resulted in criminal prosecution. The analyses of both DV and non-DV cases were further restricted to those with the types of charges that typically occur in cases involving interpersonal violence: assault, criminal contempt (for violating an order of protection), harassment, crimes against children, burglary, larceny, and weapons charges.

The data set analyzed in this study is a defendant-based data file that includes information on the first DV arrest of each defendant. For defendants with no DV arrests, we selected the defendant's first arrest for inclusion in the data set. This procedure enabled us to identify all the defendants who had at least one DV arrest and a comparison group.

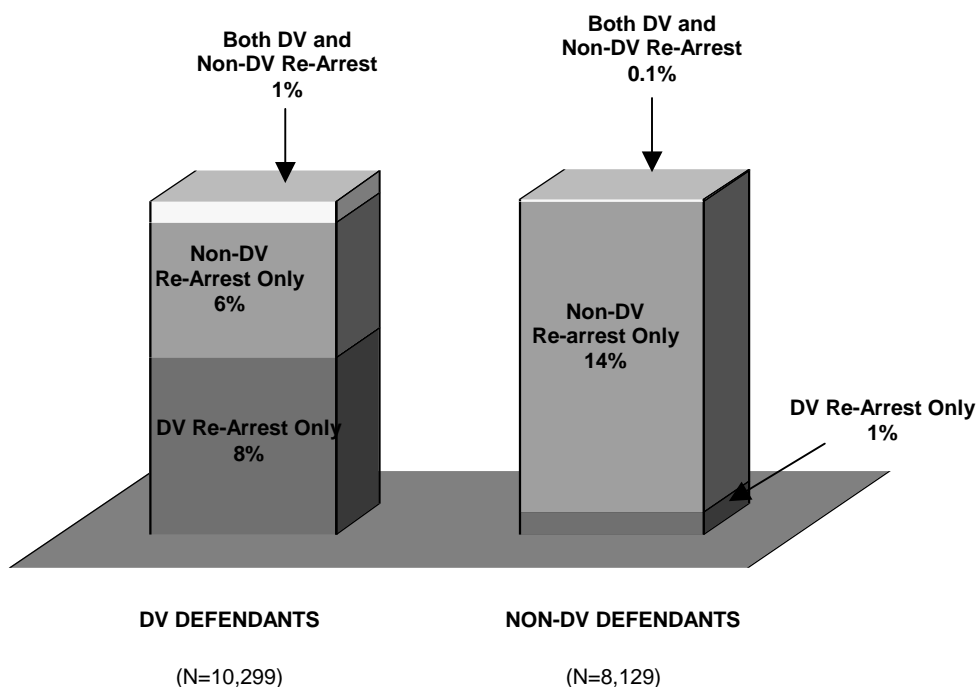
Figure 1. Pretrial Re-Arrests on New Domestic Violence Charges: Domestic Violence and Non-Domestic Violence Defendants



This finding suggests that victims may be at considerable risk of threats, intimidation, or retaliation after a DV offender is arrested. This conclusion is tentative, however, because the re-arrest data do not indicate whether the victim of the new DV offense during the pretrial period was the same as the victim in the original offense.

Next, we considered whether DV offenders are “generalists,” that is, high-rate offenders engaged in a general pattern of criminal behavior. Figure 2 presents data

Figure 2. Charge Types for Pretrial Re-Arrests of Domestic Violence and Non-Domestic Violence Defendants



on the charges brought on re-arrest of pretrial defendants, comparing new charges for those originally charged with DV offenses and non-DV offenses. It shows how many defendants were re-arrested only for DV offenses, only for non-DV offenses, or for both types of offenses during the pretrial period.

- ◆ Among the 15% of DV defendants who were re-arrested during the pretrial period, 8% were rearrested only for a new DV offense, 6% were re-arrested only for a new non-DV offense, and 1% were re-arrested for both DV and non-DV offenses.
- ◆ Among the 15% of non-DV defendants who were re-arrested during the pretrial period, 1% were rearrested only for a new DV offense, 14% were re-arrested only for new non-DV offenses, and only 0.1% were re-arrested for both DV and non-DV offenses.

These findings suggest that about half of DV defendants who were re-arrested were engaged in a general pattern of criminal behavior, including both DV and non-DV offenses. We might therefore consider this portion of the DV defendants to be generalists. The other half of DV defendants who were rearrested can be characterized as specialists, because they were known to engage only in DV offending, not in other criminal offending.

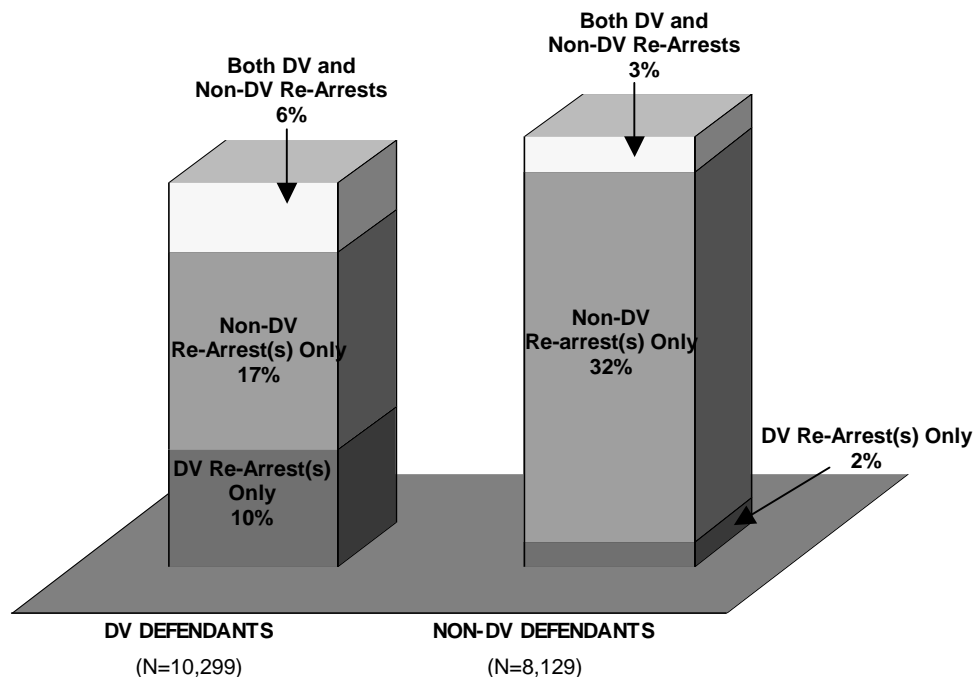
It is worth noting, however, that about 85% of both DV and non-DV defendants were not re-arrested for any new offenses during the pretrial period. Though they may have committed offenses for which they were not rearrested (and for which we therefore have no data), the evidence here suggests that most were not engaged in frequent offending. Of course, the pretrial period only conveys part of the picture of offending patterns. The average time the defendants were at risk for re-arrest (i.e., the average length of the pretrial period) was relatively short (88 days). This abbreviated time period may not be sufficient to determine whether most DV defendants are generalists or specialists.

If we extend our view to examine post-disposition re-arrests, data are available to address the question of specialization over a longer period. We examined re-arrests for each defendant for an 18-month period following disposition of the case (i.e., following the end of the pretrial period). For defendants who were sentenced to jail, the 18-month period began on the day of their release from jail.

As indicated in Figure 3, about 33% of DV defendants were re-arrested in the post-disposition period, while 37% of non-DV defendants were re-arrested. Over this longer time period, the distribution of type of offenses is different than the distribution in the pretrial period.

- ◆ In the post-disposition period, 10% of DV defendants were re-arrested only for DV offenses, 17% only for non-DV offenses, and 6% for both. This evidence indicates that only about one-third of DV defendants (10% of 33%, or 1,064 of 3,396) were “specialists,” committing only DV offenses. The remaining 23% of those rearrested appear to be involved in a general pattern of offending that includes both DV and non-DV offenses.
- ◆ Among the 37% of non-DV defendants who were re-arrested in the post-disposition period, 2% were re-arrested only for DV offenses, 32% only for non-DV offenses, and 3% for both DV and non-DV offenses. This suggests that a small proportion of initially non-DV offenders do cross over and commit DV offenses during the post-disposition period.

Figure 3. Post-Disposition Re-Arrests for Domestic Violence and Non-Domestic Violence Defendants



As observed in the discussion of pretrial re-arrests, most defendants were not re-arrested during the post-disposition period. About 67% of DV defendants and 63% of non-DV defendants were not re-arrested for any new offenses during the 18-month period following disposition.

Conclusions

Two questions frame our findings:

- ◆ What risks do DV defendants pose to their victims during the pretrial period?
- ◆ Are DV defendants more likely to be specialists, committing only DV offenses, or generalists, committing a variety of types of offenses?

Data from New York City show that 9% of DV defendants were re-arrested for a new DV offense during the pretrial period. Because these defendants may also have committed other DV offenses that did not lead to re-arrest, the risk of new DV offenses is likely to be greater than 9%. The conclusion is that victims may be at considerable risk of threats, intimidation, or retaliation during the pretrial period.

Regarding the question of specialization, we found that about half of DV defendants who were re-arrested during the typical 3-month pretrial period were specialists, and half were generalists. However, looking at post-disposition re-arrests over an 18-month period, only one-third of DV defendants appeared to be specialists, and two-thirds showed a more generalist pattern. This makes clear that conclusions about the extent of specialization depend on the time period examined.

It is worth noting that data on the extent of specialization are limited to defendants who were re-arrested. Most DV defendants—about 85%—did not commit any offenses leading to re-arrest during the pretrial period, and 67% were not re-arrested during the 18-month post-disposition period. Of course, determining whether DV defendants actually committed offenses during either period that did not result in re-arrest would shed more light on the issue. Making this determination will require additional research using other data sources, such as interviews with victims. ◆

References

Peterson, Richard R. 2006. *Pretrial Failure to Appear and Pretrial Re-arrest Among Domestic Violence Defendants in New York City*. New York: New York City Criminal Justice Agency, <http://www.cja-reports.org/reports/release60.pdf>.

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