
Charge Specialty and Revictimization by Defendants Charged with Domestic Violence Offenses

While research on the prevalence and frequency of intimate partner violence and victimization has evolved considerably over the past two decades, little progress has been made in understanding other features of the criminal careers of domestic violence offenders such as the mix of offenses in which they are involved and the progression of offense seriousness against the people they victimize. Limited research indicates that partner abusers do not specialize but engage in violence against non-partners as well as a variety of nonviolent crimes, and that careers in marital and stranger violence tend to converge as violence in either domain becomes more frequent and serious.¹

Coinciding with the current push for evidence based practices (EBP) in community corrections is a resurgence of research on domestic violence.² Over the past 20 years, new literature has examined aspects such as the pervasiveness of domestic violence nationally and within select populations, the socio-cultural contributors to this behavior, and effective treatment for perpetrators and services for victims.³

Much of this research has looked at issues linked to two EBP areas:

- ◆ Risk/need actuarial assessment—such as tools to identify the potential for future assaults,⁴ and
- ◆ Targeted interventions—including strategies to reduce future victimization and effective services for victims of domestic abuse.⁵

1. A. R. Piquero, R. Brame, J. Fagan, and T. E. Moffitt, *Assessing the Offending Activity of Criminal Domestic Violence Suspects: Offense Specialization, Escalation, and De-Escalation Evidence from the Spouse Assault Replication Program* (Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2005).

2. The term “domestic violence” describes physical, sexual, or psychological harm by a current or former intimate partner or spouse (U.S. Department of Justice, National Institute of Justice, <http://www.ojp.usdoj.gov/nij/topics/crime/intimate-partner-violence>). In the District of Columbia, domestic violence charges are defined as any criminal act committed by a person against a relative, domestic partner, or co-habitant (even if no familial or romantic relationship exists); or a former spouse, romantic partner, or co-habitant; or an individual who has a current restraining order against or is or was stalked by the alleged perpetrator (District of Columbia Official Code, 2000 Edition, Title 16, Section 1001).

3. Leora N. Rosen and Jocelyn Fontaine, et al., *Violence and Victimization Research Division’s Compendium of Research on Violence Against Women 1993-2007* (Washington, D.C.: National Institute of Justice, June 2007), http://www.ojp.usdoj.gov/nij/topics/crime/violence-against-women/vaw_portfolio.pdf.

4. J. Roehl, C. O’Sullivan, D. Webster, and J. Campbell, *Intimate Partner Violence Risk Assessment Validation Study* (U.S. Department of Justice, Office of Justice Programs, May 2005).

by
Spurgeon Kennedy,
Director,
Office of Research,
Analysis and Development,
District of Columbia
Pretrial Service Agency,
Washington, D.C.

Of particular interest to some researchers is the idea that persons who commit domestic violence (DV) offenses “specialize” in this behavior and are therefore different from other criminally charged defendants.⁶ However, developing research suggests that DV-charged defendants are essentially similar to other criminally charged individuals and frequently engage in other criminal behaviors, particularly stranger-to-stranger assaults.⁷ Intimate partner and stranger-on-stranger violence may reinforce one another, creating a tendency toward more frequent and increasingly violent behaviors.⁸

To advance evidence-based risk assessments and interventions for DV-charged defendants, it is of critical importance that we investigate the validity of domestic violence “specialization” and the connection between intimate partner and stranger-to-stranger violence. Specialization would justify distinct assessment and supervision strategies for these defendants. However, if this group poses an equal risk to the community as other criminally charged defendants, then strategies targeted at reducing future domestic violence alone may be ineffective in protecting overall public safety. Determining the best strategies for assessing and managing DV-charged defendants requires a careful comparison of this group to other criminally charged persons to identify their similarities and differences in risk factors and behavior while on pretrial supervision.

The District of Columbia Pretrial Service Agency (DCPSA) conducted investigations to test the “non-specialization” assertion and the possible connection between domestic violence and other assaultive and criminal behaviors.

The central questions addressed are:

- 1) How do DV-charged defendants compare to other criminally charged defendants by known risk factors?** Does this comparison suggest that persons who commit domestic violence offenses are a specialized group?
- 2) What differences can be identified between DV-charged defendants who are rearrested during pretrial supervision and those who remain arrest-free?** How often are DV-charged defendants rearrested on other intimate violence-related charges? (In other words, how often does “rearrest”

5. A. Jennings, *The Damaging Consequences of Violence and Trauma: Facts, Discussion Points, Recommendations for the Behavioral Health System*. (Alexandria, Virginia: National Association of State Mental Health Program Directors, 2004).

6. R. J. Gelles and M. A. Strauss, “Determinants of violence in the family: toward a theoretical integration,” in *Contemporary Theories About the Family*, ed. W. Burr, R. Hill, F. I. Nye, and I. L. Triss (New York: Free Press, 1979).

7. J. Fagan and A. Browne, “Violence between spouses and intimates: physical aggression between women and men in intimate relationships,” in *Understanding and Preventing Violence. Volume 3: Social Influences*, ed. A. J. Reiss, Jr., and J. A. Roth (Washington, D.C.: National Academy Press, 1994); M. Gottfredson and T. Hirschi, *A General Theory of Crime* (Stanford, California: Stanford University Press, 1990).

8. Piquero, 2005; J. Fagan, and S. Wexler, “Crime in the home and crime in the streets: The relation between family violence and stranger crime,” *Violence and Victims* 2 (1987):5-21.

equal “revictimization” of the domestic partner?) Can we identify risk factors that distinguish between those who are more likely to revictimize their partners and those who likely will not?

Data available for our comparison come from two sources.

- ◆ The first is a set of 11,809 criminal cases processed by the District of Columbia Superior Court during the first half of Fiscal Year (FY) 2006 (October 2005 to March 2006). All cases in this data set have reached final disposition. Our study used this data set to measure differences in pretrial failure rates between DV-charged defendants and other criminal defendants.
- ◆ The second data set contains 27,740 criminal cases filed in calendar year 2007, and it includes as a separate variable each factor under the DCPSA’s risk assessment scheme.⁹ This allows comparisons of the two populations by individual risk factors.¹⁰

Profile of Domestic Violence Arrestees

We began by examining the offenses with which domestic violence defendants were being charged at arrest, using data from the 6-month, FY 2006 sample.

- ◆ Nearly 70% of identified domestic violence case filings (N=1,212 of 1,744) involved person crimes, such as assault, threats, and cruelty to children.
- ◆ About 12% of cases (N=207) involved property crimes.
- ◆ About 18% (N=325) involved public order offenses—mostly weapons charges, violations of civil protection orders (CPO) and temporary protection orders (TPO), and failures to appear in previous domestic violence cases.

Six charge types accounted for more than 80% of all domestic violence case filings:

- ◆ Simple assault (610 cases, or 34.4%);
- ◆ Assault (347 cases, or 19.9%);
- ◆ Attempted threats (180 cases, or 10.3%);
- ◆ Destruction of property (152 cases, or 8.7%);
- ◆ Violations of CPOs or TPOs (79 cases, or 4.5%); and
- ◆ Attempted weapons possession (55 cases, or 3.1%).

9. A second data set was necessary since information on separate risk assessment elements has only been available since 2007.

10. These databases do not necessarily include all defendants charged with domestic violence and other offenses during these time periods, only those identified as such in DCPSA’s information system.

Risk Factors and DV Specialization

Our study then examined differences in the assessed risk factors of DV-charged defendants and other criminal defendants. We compared these groups based on age, final risk score on the DCPSA risk assessment's safety matrix, and selected factors from that risk assessment.

- ◆ On average, DV-charged defendants were slightly older than other defendants (35.3 years, compared to 34.5 years).
- ◆ DV-charged defendants scored less than a point higher than other defendants on the safety risk matrix (17.23 points, compared to 16.38).
- ◆ A comparison of assessed risk factors for DV-charged and other defendants is presented in Table 1, page 27. Through the data show mostly similarities between the two defendant groups, there are some notable differences.
 - Defendants charged with other criminal offenses were more likely to have a current relationship with the criminal justice system (e.g., a current pending charge) and a prior history of missed court appearances.
 - DV-charged defendants were less likely to be charged with dangerous or violent felonies.
 - DV-charged defendants had a higher average number of prior misdemeanor convictions than did defendants charged with other criminal offenses.
 - DV-charged defendants had a higher level of reported mental health and substance abuse issues.¹¹

11. This finding is consistent with research showing a strong correlation between domestic violence and substance abuse and mental health issues among perpetrators and victims. See, for example, P. A. Fazzino, *Making the Link: Domestic Violence and Alcohol and Other Drugs* (Washington, D.C.: U.S. Department of Health and Human Services, 1997); *Violence Between Intimates: Domestic Violence* (U.S. Department of Justice, Bureau of Justice Statistics, 1994); V. A. Hiday, et al., "Criminal Victimization of Persons with Severe Mental Illness," *Psychiatric Services* 50 (1990):1.

Table 1: Comparison of Assessed Risk Factors for Domestic Violence and Non-Domestic Violence Defendants

Risk Factor	DV Charge	N	Percent	Significance
Suspected mental health problem	Yes	164	4.6	.030
	No	734	3.0	
Suspected drug abuser	Yes	1,417	40.1	.027
	No	8,759	36.2	
Previous misdemeanor conviction	Yes	1,115	31.6	.023
	No	6,880	28.4	
Previous felony conviction	Yes	843	23.9	.008
	No	6,039	24.9	
Pretrial condition violator	Yes	475	13.4	.006
	No	3,396	14.0	
Unsatisfactory probation/parole	Yes	191	5.4	.004
	No	1,375	5.7	
Current probation/parole status	Yes	621	17.6	.012
	No	4,583	18.9	
Previous dangerous or violent felony conviction	Yes	602	17.0	.022
	No	4,745	19.6	
Pending criminal charge	Yes	1,055	29.9	.036
	No	8,488	35.1	
Current failure to appear	Yes	451	12.8	.036
	No	4,055	16.8	
Pending dangerous/violent felony charge	Yes	135	3.8	.047
	No	1,798	7.4	
Previous failure to appear history	Yes	48	1.4	.032
	No	708	2.9	
Current dangerous felony charge	Yes	245	6.9	.154
	No	6,488	26.8	

N¹ = 3,532 defendants with domestic violence charges

N² = 24,207 defendants with non-domestic violence charges

Comparative Failure Rates

“Pretrial failure” is defined as failing to appear for scheduled court dates, having new charges filed while under pretrial supervision, and/or failing to abide by conditions of pretrial supervision. Data from the FY 2006 sample suggest that DV-charged defendants have comparable FTA and rearrest rates as other defendants, but that DV defendants are more likely to comply with conditions of supervision. (See Figure 1.)

Study data also indicate, however, that DV defendants are almost twice as likely to be rearrested for contempt of court as other defendants. (See Table 2, page 29.) This typically reflects the defendant’s violation of court-ordered release conditions or violations of CPOs or TPOs.

Differences in failure rates may be partially explained by the smaller window of opportunity DV-charged defendants have to fail. According to the FY 2006 data, the D.C. Superior Court processes domestic violence cases within 95.7 days (with an average of 4.54 court dates per case), as compared to 114.8 days for other criminal offenses (with an average of 6.34 court dates).

Despite the shorter case processing times, however, DV-charged defendants tend to be rearrested sooner than other defendants—70.38 days compared to 80.84 days.

Figure 1. Pretrial Failure Rates: Percentage of Failure-to-Appear, Rearrest, and Noncompliance Failures Among Domestic Violence Defendants and Other Defendants

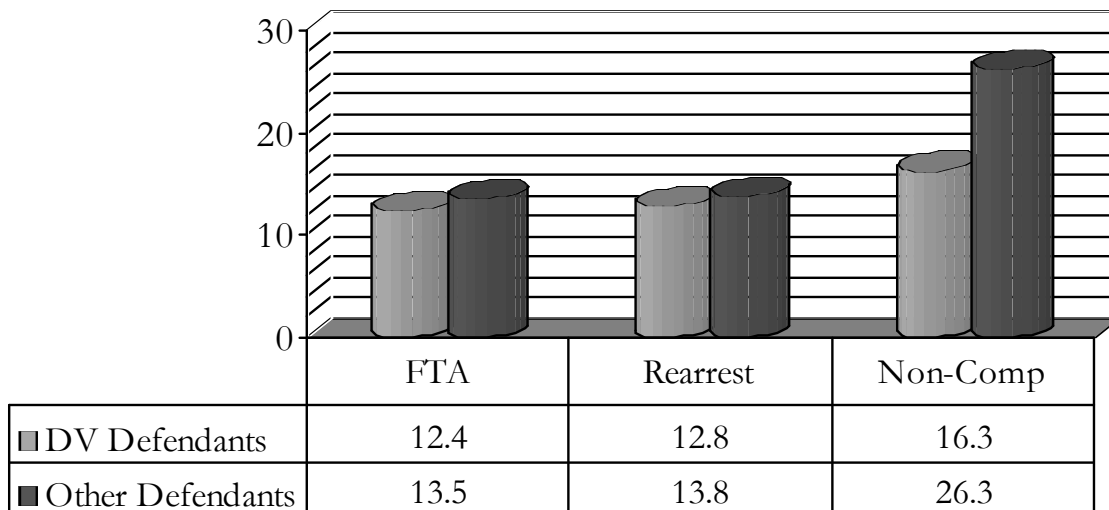


Table 2. Comparison of Rearrest Charge Types for Domestic Violence-Charged Defendants and Others

Rearrest Charge Type	DV-Charged Defendants	Other Defendants
Failure to appear	46 (20.6%)	281 (20.4%)
Simple assault	32 (14.4%)	73 (5.3%)
Contempt	31 (13.9%)	98 (7.1%)
Felony assault	20 (9.0%)	63 (4.6%)
Drug offense	20 (9.0%)	365 (26.5%)
Violation of CPO or TPO	13 (5.8%)	4 (0.3%)
Domestic assault	7 (3.1%)	5 (0.3%)
Escape or fugitive	13 (5.8%)	48 (3.5%)
Traffic or other local ordinance	10 (4.5%)	76 (5.5%)
Property offense	10 (4.5%)	175 (12.7%)
Other misdemeanor	3 (1.3%)	70 (5.0%)
Other felony	N/A	45 (3.3%)

Pretrial rearrest and revictimization. The FY 2006 data set is summarized in Table 2, opposite. The data showed this breakdown of assaultive or DV-related behaviors in rearrests of defendants in the DV sample:

- ◆ Assault charges not involving domestic partners made up 23.3% of total new filings (based on 32 simple assaults and 20 felony assaults).¹²
- ◆ Just one-tenth of rearrests among DV-charged defendants (20 of 223 cases, or 8.9%) involved a new domestic violence charge. Among these rearrests, 63% (N=13) involved violations of CPO and TPOs, and the remainder (N=7) were new domestic assault charges.
- ◆ In all, new domestic violence charges and new non-partner assaultive behaviors accounted for 32.3% (72 of 223) of rearrests.

12. Only one felony charge was designated as a domestic violence charge. DCPSA does not collect victim identifications, so we cannot determine if other assaults involved the same complainant as the original domestic violence charge.

Rearrests of DV defendants without an assaultive or protective order element broke down as follows:

- ◆ Failure to appear (46 cases, or 20.6% of rearrests) was the most common new charge.
- ◆ Thirty-one (31) rearrest cases (13.9%) involved a contempt citation. Contempt charges usually involve a violation of supervision requirements. However, DCPSA does not have information on the facts of specific charges.
- ◆ Twenty (20) rearrest cases (9%) involved drug charges, including nine (9) drug distribution charges.
- ◆ Thirteen (13) other cases (5.8 %) involved escapes from institutions and fugitive charges from other jurisdictions.

Overall, failure to appear, simple assault, and contempt were the most common rearrest charges for defendants in the DV sample. The same charges are also common in rearrests of other criminally charged defendants:

- ◆ Failure to appear (281 of 1,379 new filings, or 20.4%);
- ◆ Contempt (98 new filings, or 7.1%); and
- ◆ Simple assault (73 new filings, or 5.3%).

Other defendants were different from DV rearrestees in three ways:

- ◆ They were more likely than DV-charged defendants to be rearrested on a drug offense (365 or 26.5% of rearrests, as compared with 20 or 9% for DV).
- ◆ They were less likely to have new assault charges filed (141 or 10.2%, compared with 59 or 26.5% for DV).
- ◆ They were more likely to be rearrested on a property charges (175 or 12.7%, compared with 10 or 4.5% for DV).

Potential risk factors to identify domestic violence failures. The calendar year 2007 data set did not include enough disposed cases to correlate specific risk factors with pretrial failure. Data from the FY 2006 sample show that DV-charged defendants who are rearrested are slightly older (35.5 years to 34.3 years) and received higher risk assessment scores (19.2 points to 16.8 points) than defendants in this category who were rearrest-free.¹³

However, rearrested DV-charged defendants tended to have been supervised longer (123.8 days compared to 90.7 days) and had had more court appearances filed (6.2 to 4.25). (Differences in risk scores, supervision time, and number of court appearances were significant at the .05 level.) This greater exposure to potential risk also may contribute to the differences in failure rates.

Conclusions

More information is needed about DV-charged defendants to answer the “specialization” question more definitively. For example, though we know that less than one-third of this population had prior misdemeanors (the filing type for most domestic violence offenses), a breakdown of prior offenses by specific misdemeanor charge has not yet become available for this study. Also, because DCPSA data do not include information on the identity of the victim, we could not examine to what extent victim-related rearrest charges involved the original DV complainant.

The data, though limited, suggest some differences between DV-charged defendants and other criminal defendants, but not enough to label the former as a “specialized” group.

- ◆ Other criminal defendants were more likely to have current pending charges, current probation or parole supervision status, and histories of failure to appear. DV-charged defendants had histories of more misdemeanor convictions and a higher probability of drug use and reported mental health problems. Both groups were similar in most other risk assessment factors as well as age and overall risk scores. However, based on rearrest data from the FY 2006 sample, DV-charged defendants appeared to pose a substantially greater risk for assaultive behavior than non DV-defendants (26.5% compared with 10.2%)
- ◆ DV-charged defendants who were rearrested while under supervision were more similar to other criminal defendants than were DV-charged defendants who remained free from rearrest. They were particularly similar to other criminal defendants in age (35.5 years compared with 34.5 years), safety-related risk assessment score (19.2 points compared with 17.2 points), length of pretrial supervision, and number of court appearances. This suggests that

13. On these points, domestic violence-charged defendants who were not rearrested while under pretrial supervision are closer in appearance to the general pretrial defendant population.

DV-charged defendants—who warrant the most attention while supervised—require similar levels and degrees of supervision as other criminal defendants, with the caveat that DV-charged defendants appear to have a higher potential for assaultive behavior.

- ◆ Less than 10% of rearrests among DV-charged defendants involved a new domestic violence offense—and only 37% of new domestic violence rearrests involved assaultive behavior. The relatively small percentage of new domestic violence charges supports the theory of a non-specialized population.

However, these data also highlight the enhanced potential for assaultive behavior by rearrested DV-charged defendants. For example, other non-domestic assault charges made up nearly 25% of rearrests for this group, compared to only 9.9% of rearrests for other criminally charged defendants. This appears to validate the idea that intimate partner and stranger-to-stranger violence have a reinforcing relationship.

Further, the high number of DV-charged defendants identified by PSA’s risk assessment as drug users and the number of drug-related rearrests for DV-charged defendants reinforce previous literature showing strong substance use and abuse by persons who commit intimate partner violence.

Rearrests for DV-charged defendants occurred significantly sooner—by 10 days—than rearrests for other criminal defendants. Most rearrests happened during the first half of the pretrial supervision period, suggesting the need for enhanced monitoring of this group at the beginning of supervision.

Domestic violence continues to be a critical issue within American communities, and persons who commit these offenses are a potentially sensitive defendant population for pretrial practitioners. Developing a better sense of who these defendants are—and who within this population is most likely to fail while under pretrial supervision—is the first step to identifying effective, research-based responses.

It is hoped that the renewed interest in domestic violence research will give practitioners a better profile of DV-charged defendants. This will help us develop responses that are sensitive to each defendant’s right to reasonable pretrial release but also appropriate for victim and community safety. ◆

For more information:

*Spurgeon Kennedy
Director of Research,
Analysis and Development
District of Columbia
Pretrial Services Agency
633 Indiana Avenue, N.W.,
Room 1144
Washington, D.C. 20004
(202) 220-5654
Spurgeon.Kennedy@psa.gov*