THE IMPACT OF THE KINGS COUNTY INTEGRATED DOMESTIC VIOLENCE COURT ON CASE PROCESSING

Richard R. Peterson, Ph.D.
Project Director
and
Director, Research Department

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**THE IMPACT OF THE KINGS COUNTY
INTEGRATED DOMESTIC VIOLENCE
COURT ON CASE PROCESSING**

Richard R. Peterson, Ph.D.
Project Director
and
Director, Research Department

Research Assistance:

Raymond P. Caligiure
Graphics and Production Specialist

Maria Annabel Mireles
Research Assistant

Administrative Support:

Annie Su
Administrative Associate

Information Systems Programming:

Wayne Nehwadowich
Senior Programmer/Analyst

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TABLE OF CONTENTS

Table of Contents Continues on Next Page

TABLE OF CONTENTS, *CONTINUED*

LIST OF TABLES

LIST OF FIGURES

List of Figures Continues on Next Page

iv

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EXECUTIVE SUMMARY

THE IMPACT OF THE KINGS COUNTY INTEGRATED DOMESTIC VIOLENCE COURT ON CASE PROCESSING
Richard R. Peterson, Ph.D.

The Kings County Integrated Domestic Violence (IDV) Court parts adjudicate criminal cases of domestic violence involving defendants who also have Family Court custody, visitation, or family offense petitions pending, and/or a concurrent Supreme Court matrimonial case. This "one family-one judge" model is designed to provide judges and attorneys with more complete information about all the related cases, improve efficiency, ensure consistency of court orders, and enhance victim safety and satisfaction.

Although increasing convictions is not an explicit goal of IDV Courts, previous CJA research found that the conviction rate in the Kings County IDV Court in 2007-2009 was considerably higher than in Criminal Court DV cases. The current study follows up on this finding and examines why the conviction rate was higher in IDV Court during this time period.

THE CONVICTION RATE WAS HIGHER IN IDV COURT

● The conviction rate was 21 percentage points higher in IDV Court than in Criminal Court DV cases. Using matched samples to eliminate differences in the types of criminal cases assigned to each court, this study found that the conviction rate was 49% in IDV Court, compared to 28% in Criminal Court DV cases.

Conviction Rates by Court Type
Released Defendants in Matched Samples, Excluding Cross-Complaints

49%	28%
IDV Court Cases	**Criminal Court DV Cases**
N = 191	N = 191
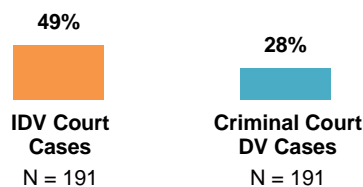
THE WITNESS PARTICIPATION RATE WAS HIGHER IN IDV COURT

● In IDV Court, 59% of victims/witnesses participated with the prosecution of the criminal case, compared to only 27% in Criminal Court DV cases.

Witness Participation in DV Cases by Court Type
Released Defendants in Matched Samples, Excluding Cross-Complaints

59%	27%
IDV Court Cases	**Criminal Court DV Cases**
N = 191	N = 191
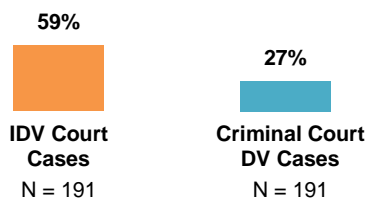
THE HIGHER RATE OF WITNESS PARTICIPATION ACCOUNTED FOR
MOST OF THE DIFFERENCE IN CONVICTION RATES

● The higher victim/witness participation rate in IDV Court accounted for nearly two thirds of the 21-percentage-point difference in conviction rates between the IDV Court and Criminal Court DV cases. After adjusting for differences in witness participation, the conviction rate was only 8 percentage points higher in IDV Court (42%) than in Criminal Court DV cases (34%).

Conviction Rates by Court Type, Adjusting for Witness Participation Status
Released Defendants in Matched Samples, Excluding Cross-Complaints

42%

34%

**IDV Court
Cases**
N = 191

**Criminal Court
DV Cases**
N = 191
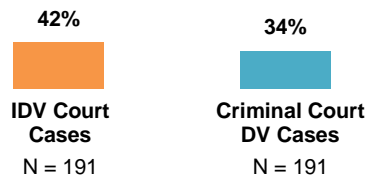
● The primary reason for the higher conviction rate in IDV Court was the higher witness participation rate. If witness participation rates were similar, the difference in conviction rates between IDV Court and Criminal Court DV cases would have been much smaller.

THE IMPACT OF WITNESS PARTICIPATION ON THE CONVICTION RATE
WAS STRONGER IN IDV COURT

● Not only were more victims/witnesses participating with the prosecution in IDV Court, but their participation was also more valuable in obtaining a conviction. When the witness was participating with the prosecution, the conviction rate was 15 percentage points higher in IDV Court (66%) than in Criminal Court DV cases (51%).

Conviction Rates by Court Type When Witness Was Participating with the Prosecution
Released Defendants in Matched Samples, Excluding Cross-Complaints

66%

51%

**IDV Court
Cases**
N = 191

**Criminal Court
DV Cases**
N = 191
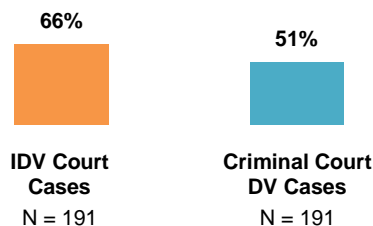
● This finding suggests that the quality of victim/witness participation was higher in IDV Court. The concurrent non-criminal cases may give judges and attorneys an opportunity to hear from each side multiple times and to become familiar with the partners' family situation and history. This may enhance the value of witness participation in IDV Court.

I. INTRODUCTION

Many jurisdictions have established specialized criminal court parts to address the complex issues raised in domestic violence (DV) cases. Judges in DV Court parts receive specialized training to handle these cases, and the courts often have a resource coordinator who may refer victims to services. The complexity of DV cases is compounded when a family has multiple cases in the courts, e.g., criminal, family, and/or matrimonial. To address these issues, some jurisdictions also have established integrated domestic violence (IDV) courts, where one judge hears all of a family's related cases. Each case remains separate and the judge adjudicates each case using the law and procedures of the originating court. This "one family-one judge" model is designed to provide judges and attorneys with more complete information about all the related cases, improve efficiency, ensure consistency of court orders, and enhance victim safety and satisfaction.

New York State established its first specialized DV Court in 1996 and its first IDV Court in 2001. As of May 2013, the state had 33 DV Courts and 42 IDV Courts.[1] In New York jurisdictions that have both DV Courts and an IDV Court, the DV Courts hear most criminal cases of domestic violence. To be eligible for transfer from a DV Court to the IDV Court, a family must have not only a criminal court case but also at least one family court or matrimonial case. Typically, the family court case involves a family offense, or a custody or visitation case. Some IDV Courts also take child support cases, cases of child abuse or neglect, and paternity cases. The IDV Court judge reviews eligible cases and decides whether it is appropriate to transfer them to the jurisdiction of the IDV Court. Any subsequent cases involving that family are also under the jurisdiction of the IDV Court.

In a previous research study, CJA examined data for criminal cases of domestic violence processed in Criminal Court and those processed in IDV Court in Brooklyn (Kings County), New York (Peterson 2012). The CJA study found that in 2007-2009 the conviction rate in IDV Court was considerably higher (51%) than in Criminal Court DV cases (32%). The report discussed some possible reasons for this difference in conviction rates, but did not examine data to explain the difference. The current report follows up on this finding, and evaluates several reasons for the higher conviction rate in IDV Court during this time period. It also examines a variety of other case outcomes to provide a broader overview of the impact of the IDV Court.

A. Specialized DV Courts and IDV Courts

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, some victims may be more concerned about their own safety and less concerned with punishing the defendant. Compared to cases of violence between

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[1] Information obtained from the New York State Office of Court Administration web site at: http://www.nycourts.gov/courts/problem_solving/dv/home.shtml and http://www.nycourts.gov/courts/problem_solving/idv/home.shtml.

strangers, the victim is in greater danger of facing renewed violence in DV cases. The defendant has 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 more difficult to detect and to prevent.

As DV case volume increased over the past 25 years, handling DV cases in criminal courts with mixed dockets became more problematic. Mixed-docket courts may ignore the unique characteristics of DV cases, or may not have the resources to address them. In a mixed-docket setting, 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 (Fritzler and Simon 2000). As a result, the court may not routinely issue orders of protection in DV cases and may not appropriately warn defendants to refrain from intimidating the victims. Furthermore, mixed-docket courts may have difficulty assessing the types of evidence used in domestic violence cases, particularly when the victim is not participating with the prosecution.

Many jurisdictions established specialized DV Courts to respond to the rapid growth of DV cases in mixed-docket criminal courts (Moore 2009). Specialized DV Courts address the unique features of DV cases, and focus on holding offenders accountable and increasing victim safety.   Although there is no standardized model for DV Courts in the U.S., most have specially trained judges and prosecutors, as well as victim advocates (Labriola et al. 2009). Many DV Courts use frequent judicial monitoring and batterer intervention programs to hold defendants accountable. Victim advocates refer victims to services, such as emergency shelter, counseling, and safety planning.

The use of specialized DV Courts has grown as part of a larger movement to use specialized courts to address issues such as substance abuse and mental illness. In New York, for example, the specialized DV Courts 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). Specialized DV Courts seek 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 explicitly recognize the special characteristics of domestic violence cases. Because the defendant's relationship with the victim poses a risk of future violence against the same victim, the specialized DV Courts monitor defendants' behavior closely for any evidence of further violence. To enhance victim safety, these courts 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 courts work to coordinate institutional responses to domestic violence.

As specialized criminal courts address the issues raised in DV cases, they sometimes encounter cases in which the parties have multiple concurrent family court and/or matrimonial cases. These cases impose extra burdens on the court and on the families involved: the potential for conflicting court orders, duplication of effort, frequent

appearances in multiple courts, lengthy delays, etc. (Picard-Fritsche et al. 2011). To address the problems arising when a family's cases are fragmented across multiple courts, some jurisdictions established integrated domestic violence (IDV) courts. IDV Courts use a "one family-one judge" model, which assigns one judge to hear all of a family's related cases. IDV Courts share many of the goals of specialized DV Courts, but they also have additional goals. The IDV judge should understand how the cases relate to each other and take a comprehensive approach while protecting the rights of litigants. The IDV Court staff receives specialized training, and the court provides access to services needed by litigants. The IDV Court should also reduce the number of court appearances, speed up case processing time, and reduce the number of trips to court. Eliminating conflicting orders and decisions should increase victim safety.

New York State has already established over 40 IDV Courts, and continues to introduce them in additional jurisdictions. New York's IDV Courts "handle all related cases pertaining to a single family where the underlying issue is domestic violence" (Cissner et al. 2011, p. 3). The IDV Courts follow a uniform statewide model that outlines how to address planning, staffing, case identification, judicial monitoring, courthouse safety, victim services, and other issues, although local needs may restrict or expand the pool of eligible cases (Picard-Fritsche et al. 2011, pp. 5-6 and Appendix A). The IDV Court hears each family's cases independently, according to the law and procedures governing the originating court. To preserve the integrity of each case, the IDV Court does not consolidate the cases with each other. Although all of a family's cases are heard on the same day, each case is called separately. The New York State model also recommends that the IDV Court hear all of a family's subsequent cases, in order to ensure that the parties return to the same judge.

New York's IDV Courts aim to achieve several goals and benefits for participants and for the court system (Picard-Fritsche et al. 2011, p. 5). Victims in IDV Court should be more likely to receive appropriate court orders, and avoid having conflicting orders issued by different courts, than victims in other courts. Victims in IDV Court should be more likely to receive appropriate services, be satisfied with the court process, be willing to use the courts again, and to participate with the prosecution of the case. The IDV Court should be more likely to mandate defendants/respondents to programs and to monitor them for compliance with court orders. Defendants should be more likely to attend programs and comply with court orders. Litigants should make fewer trips to court, should be more likely to have legal representation in civil cases, and should have the same attorney for all their cases. Judges, attorneys, and litigants should all be more aware of developments in all the cases, and judges should make appropriate and consistent decisions. IDV Courts should be more efficient, with fewer appearances on each case and a shorter time to disposition. Improved decision-making should reduce recidivism and new filings, and the court system should be more efficient.

B. Domestic Violence Courts in Brooklyn

Brooklyn has been at the forefront of New York State's efforts to address domestic violence through specialized courts. In 1996, the New York State Office of

Court Administration (OCA) established the first specialized DV Court in the state in Kings County (Brooklyn) Supreme Court. That court hears felony domestic violence cases, and was used as a statewide model for other specialized DV Courts (Newmark et al. 2001). OCA established an additional Supreme Court part and two specialized Criminal Court (misdemeanor) DV parts in Brooklyn between 1996 and 1998. The Criminal Court DV parts are high-volume courts, hearing thousands of misdemeanor domestic violence cases every year. OCA established Brooklyn's first Supreme Court IDV part in 2005, and added a second IDV part in 2007. The IDV parts hear several hundred criminal DV cases per year, as well as concurrent family court and matrimonial cases. The U.S. Department of Justice recently selected Brooklyn's IDV Courts as "Mentor Courts" for other specialized DV Courts around the country (U.S. Department of Justice 2013). Brooklyn was one of only three sites, and was the only IDV Court site, selected in this nationwide Mentor Court Initiative.

The Integrated Domestic Violence Court parts in Brooklyn adjudicate criminal cases of domestic violence involving defendants who also have Family Court custody, visitation, or family offense petitions pending, and/or a concurrent Supreme Court matrimonial case. All of a defendant's related cases are scheduled for appearances on the same day, and the IDV judge makes decisions in all the cases. Each IDV Court has its own presiding judge. To enable these judges to hear matrimonial cases, OCA established the IDV parts as Supreme Court parts. The IDV parts also have the authority to hear Supreme Court felony cases, however almost all the criminal domestic violence cases heard in the IDV parts are misdemeanor, not felony, cases. These IDV misdemeanor cases would have been transferred to a specialized Criminal Court DV part if there had not been any concurrent cases.

As noted in the introduction, previous CJA research found that in 2007-2009 the conviction rate in Brooklyn's IDV Courts (51%) was considerably higher than in Criminal Court DV cases (32%). The conviction rate in the specialized Supreme Court DV parts was 95% (Peterson 2012). These conviction rates vary significantly because victim participation and other factors that affect conviction vary significantly across the three types of specialized DV Courts. Previous research (Peterson 2012, 2013a) demonstrates that victim participation with the prosecution is the strongest predictor of conviction in DV cases. Assistant District Attorneys (ADAs) file charges in almost all DV arrests in Brooklyn, whether or not the victim wants charges filed, as long as the evidence in the case meets the legal threshold for filing. Recognizing that victims may change their minds and defendants may reoffend, an ADA will keep the case active for as long as allowed by statute and attempt to prosecute it to a disposition, even if the victim requests that the case be dropped. When victims do not participate with the prosecution, the Domestic Violence Bureau of the Kings County District Attorney's Office attempts to proceed with an evidence-based prosecution, using other types of evidence to obtain a conviction (Peterson 2012). Assistant District Attorneys (ADAs) may rely on photographs, police testimony, eyewitness testimony, medical reports, or physical evidence in combination with "hearsay exceptions" (such as "excited utterances" on 911 recordings, calls from jail, and defendants' spontaneous statements

to police officers). However, in many cases, victims do not participate, other evidence is unavailable, and the court ultimately dismisses the case.

Difficulties in obtaining victim participation with the prosecution are a problem in most DV cases and have the potential to reduce conviction rates in all three types of courts. Victims in all courts may have reasons not to participate with the prosecution. Some victims may fear intimidation or retaliation from the defendant. Victims may rely on the defendant for financial support. Other victims may mistrust or fear law enforcement, particularly if their immigration status may be questioned. Some may view the incident as minor, or as an aberration, and do not wish to take further action. Those who wish to continue the relationship with the defendant may view the court case as an obstacle. Some victims may not participate with the prosecution because they are concerned that the court will sentence the defendant to jail. Other victims may not participate because they doubt that the court will sentence the defendant to jail and they fear that the defendant will return to commit further violence.

To address concerns about victim safety and victim participation, each of the specialized DV Court parts has a resource coordinator who can refer victims to a victim advocate or to agencies providing access to services (e.g., counseling, housing, and social services). However, there are fewer opportunities to refer victims to services in the Criminal Court DV parts than in the IDV Court parts. Although the two Criminal Court DV parts share one resource coordinator who can provide victims with referrals, victims rarely attend Criminal Court hearings in DV cases. In IDV Court, victims routinely attend all hearings, and each IDV Court part employs a resource coordinator who is available in the courtroom to assign free legal counsel to victims who qualify. Victim advocates are also available in the IDV courtroom to provide referrals to victim services. The Supreme Court DV parts also have their own resource coordinator.

In all three courts, victims are referred to services provided by Safe Horizon (a victim services agency) and/or other service providers at Brooklyn's Family Justice Center. Through its affiliations with nearly 40 nonprofit service providers, the Center offers on-site assistance with visitation and custody issues, public assistance, job training, education, housing, immigration, legal issues, individual and group counseling and other services (Peterson 2013a; see also Appendix A). Services, referrals, and counseling are also available in the District Attorney's office from the Victim Services Unit.

The IDV Court resource coordinator provides access to a variety of victim services. The IDV Court has specified intake days for processing new cases. On the intake day, the resource coordinator meets privately with each victim outside the courtroom. She explains why the court transferred the victim's cases to the IDV Court, how the court works, and what to expect during the first appearance. The resource coordinator also determines if the victim is eligible for assignment of free legal counsel. About 80% of victims are eligible. Victims whose earnings exceed the threshold for assigned counsel may retain private counsel, but most appear without an attorney.

A victim advocate from the DA's office is available in IDV Court every day. On intake days, the advocate meets with each victim to discuss the cases and the victim's needs. If the victim has not already met with the DA's office and signed a corroborating affidavit supporting the facts of the criminal case as described in the complaint, the advocate asks the victim what s/he would like to see happen in the case. Victims may then decide to sign a corroborating affidavit, or they may sign a waiver indicating that they do not wish to proceed with the case,[2] or they may choose not to sign either document. The victim's attorney also sometimes informs the ADA in the IDV part that his or her client would like to meet with the ADA to discuss how to proceed with the criminal case.

Victim advocates also support victims during court appearances, particularly trials. Depending on the victim's needs, the victim advocate may refer the victim to other appropriate services (counseling, housing resources, information about public assistance, etc.) at Safe Horizon or the Family Justice Center. Although they are now offsite, Safe Horizon and the Family Justice Center each had a victim advocate in the IDV Court during some or all of the period covered by this study. The Family Justice Center advocate was in the court until 2008 or 2009, and the Safe Horizon advocate was in the court until 2011. Since then, the resource coordinator and the victim advocate from the DA's office facilitate contact with victim advocates from the Family Justice Center and Safe Horizon as needed.

Although victims' motivation to participate with the prosecution is likely to be low in many DV cases, there are likely to be significant differences in victim participation across the three types of DV Courts. In Criminal Court, victims may feel they have done their part by calling the police, and may see little incentive to participate in a prosecution that may last several months. Victims are rarely present at Criminal Court hearings. In contrast, victims are routinely present at IDV Court hearings and are represented by a lawyer for their Family Court and/or Supreme Court matrimonial cases. Victims who have actively sought a Family Court order of protection, a divorce, custody of children, and/or a visitation order initiate many of the cases in IDV Court. Because they may benefit from decisions in these concurrent cases, they may be more willing to participate with the prosecution of the criminal case. Easier access to victim services and to free legal counsel in IDV Court also may encourage greater victim participation with the criminal case. In Supreme Court cases, victims may be more willing to participate with the prosecution because the defendant faces charges that are more serious, and is more likely to have seriously threatened or injured the victim.

In addition to differences in victims' motivation to participate with the prosecution, other factors may also account for different conviction rates in different DV Courts. For

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[2] The waiver is not a legal document. It is a statement of the witness's intent and does not bind the witness or the District Attorney's office, nor does it preclude a witness from later deciding to participate with the prosecution. Occasionally, witnesses sign a waiver for safety reasons, i.e., to convince the defendant that they are not responsible for the prosecution of the case, and that the defendant has no reason to retaliate against the witness. ADAs keep all filed cases on the court docket whether or not the witness signs a corroborating affidavit or a waiver.

example, charges and strength of evidence differ across courts. Most defendants in Criminal Court face assault charges, which have a relatively low conviction rate. Defendants in IDV Court and in Supreme Court are more likely to be charged with criminal contempt (usually for violating an order of protection), which has a higher conviction rate. In Supreme Court cases of intimate partner violence, there may be strong evidence (e.g., medical testimony, physical evidence, audio recordings of 911 calls) in addition to victim testimony. The courts also may differ in terms of plea bargaining practices. Defendants in IDV Court may have a greater stake in the concurrent cases, and may be more willing to negotiate a plea in the criminal case. In Supreme Court, many defendants face serious penalties, and they may be more willing to plea bargain to avoid long prison sentences. Finally, the Criminal Court DV parts have significantly higher caseloads, including many cases in which the victim does not participate and other evidence is unavailable. When it becomes clear that further work will not produce sufficient evidence for a conviction, the ADA sets the case file aside but keeps the case active in court as long as legally permissible.[3] In IDV Court and Supreme Court, the caseloads are lower and the criminal cases are less likely to be set aside.

These differences in the factors that affect conviction may explain why the conviction rate for criminal cases of domestic violence heard in IDV Court is higher than for comparable cases heard in specialized misdemeanor DV parts in Criminal Court. They also suggest that unique features of IDV Courts may play an important role. We turn now to a review of the literature on IDV Courts to understand how they affect case processing and case outcomes.

C. Review of the Literature

Four research studies, all published in December 2011, have evaluated the impact of IDV Courts on case outcomes. The Center for Court Innovation, which helped to plan the establishment of IDV Courts throughout New York State, conducted three evaluations. One study examined the Erie County IDV Court, based in Buffalo, NY (Picard-Fritsche et al. 2011) and another examined the Suffolk County IDV Court, based in Central Islip, Long Island (Cissner et al. 2011). The third study examined outcomes for nine counties throughout the state; because of smaller caseloads in these counties, the study pooled the data rather than analyze it separately by county, and examined criminal cases in only six of the nine counties (Katz and Rempel 2011). The Vermont Center for Justice Research conducted an evaluation of outcomes for the Bennington County IDV Court (Schlueter et al. 2011).[4] The four IDV evaluations examined case processing outcomes, family court outcomes, and/or criminal court outcomes in IDV

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[3] Generally, the District Attorney's office can keep cases active up to 90 days if the top charge is an A misdemeanor, 60 days if the top charge is a B misdemeanor, and 30 days if it is a violation.

[4] After the Bennington study was completed, a new judge made significant changes in court procedures, and the State's Attorney withdrew support for the project. Although there is still a specialized IDV docket, court operations have changed significantly (Adler 2013).

Court and compared them to outcomes of similar cases in other courts in the same jurisdiction during the same period.[5]

One of the goals of IDV Courts is to increase efficiency by reducing case processing time and the number of court appearances. However, the effect of the IDV Court on case processing outcomes varied considerably across the jurisdictions (see "Case Processing" outcomes in Table 1-1). Two studies found evidence of more efficient case processing. In Erie County, the number of appearances was lower in IDV criminal and family cases than in the comparison criminal court and family court cases, although case-processing time was the same (Picard-Fritsche et al. 2011). Case processing time was shorter in Bennington's IDV Court than in the comparison District Court (Schlueter et al. 2011). Two studies found that families made fewer trips to court due to same-day scheduling of concurrent cases (Cissner et al. 2011, Picard-Fritsche et al. 2011).

TABLE 1-1: OUTCOMES IN IDV COURT VERSUS COMPARISON COURT

Outcome	Erie County, NY	Suffolk County, NY	Nine NY Counties[*]	Bennington County, VT
Case Processing				
Time to dispo. Fam. Ct.	-0-	+	+	NA
# appearances Fam. Ct.	–	+	+	NA
Time to dispo. Crim. Ct.	-0-	-0-	+	–
# appearances Crim. Ct.	–	+	NA	NA
Trips to court	–	–	NA	NA
Family Court				
Case withdrawn	+	+	+	NA
New filing within 6 mos.	–	–	-0-	NA
Criminal Court				
Conviction	+	-0-	-0-	-0-
V/OP while case pending	+	+	NA	-0-
Re-arrest: V/OP w/i 1 yr.	NA	NA	+	-0-
Re-arrest: DV w/i 1 yr.	NA	NA	-0-	-0-

 + indicates outcome was greater or more common in IDV Court than in the comparison court
-0- indicates outcome was the same in IDV Court and in the comparison court
 – indicates outcome was lower or less common in IDV Court than in the comparison court
NA indicates outcome was not available in this study
▢ indicates the IDV Court had the expected effect on this outcome
▢ indicates the IDV Court had an effect on this outcome opposite of what was expected

[*] Criminal court comparisons in this study were based on data for only six of the nine counties.

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[5] This review ignores outcomes for matrimonial cases because only one study (Cissner et al. 2011) examined results for these cases.

However, two studies reported *less* efficient case processing in IDV Court. In Suffolk County, IDV Court family and criminal cases had more court appearances than comparison family and criminal cases, and case-processing time was longer for IDV family cases (Cissner et al. 2011). In nine New York counties, case-processing time was longer, and the number of appearances was greater, in IDV Court family cases than in the comparison group of family court cases (Katz and Rempel 2011). The criminal case comparisons (limited to six of the nine counties) indicated that case-processing time was longer in IDV Court. Overall, these findings suggest that IDV Courts improved case processing in some jurisdictions, but increased case processing time and court appearances in others. Nevertheless, even when IDV Court cases take longer and require more appearances, families may experience significant benefits because they make fewer trips to court (Cissner et al. 2011).

IDV Courts also seek to improve litigant satisfaction with the court process. In family cases, an increase in withdrawn cases and a reduction in new filings after case disposition may indicate an improvement in litigant satisfaction (Cissner et al. 2011, Picard-Fritsche et al. 2011). Three studies found that family cases were more likely to be withdrawn and less likely to be dismissed in IDV Court than in family court (see "Family Court" outcomes in Table 1-1; Cissner et al. 2011, Katz and Rempel 2011, Picard-Fritsche et al. 2011). In two of the studies, IDV Court litigants also were less likely to have a new family court filing within six months of the resolution of the initial case than family court litigants were (Cissner et al. 2011, Picard-Fritsche et al. 2011). Taken together, these findings may suggest that the parties were more likely to reach a mutually agreeable resolution in IDV Court than in family court. However, Katz and Rempel (2011) found no difference in new family court filings between IDV Court and family court litigants in nine New York counties. (The Bennington IDV evaluation did not compare outcomes for family cases in IDV Court and family court.)

Although increasing convictions is not an explicit goal of IDV Courts, previous studies expected IDV Courts to increase victim participation with the prosecution of the criminal case (Cissner et al. 2011, Picard-Fritsche et al. 2011). Because victim participation is a strong predictor of the likelihood of conviction (Peterson 2012, 2013a), it seems likely that IDV Courts would increase convictions. However, only one study found that IDV Court increased convictions in criminal cases (see "Criminal Court" outcomes in Table 1-1; Picard-Fritsche et al. 2011). Three studies found no significant difference in conviction rates (Cissner et al. 2011, Katz and Rempel 2011, Schlueter et al. 2011).[6]

IDV Courts also seek to increase defendants' compliance with orders of protection and reduce recidivism. However, defendants in two IDV Court studies were *more* likely to violate the order of protection while the case was pending (Cissner et al.

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[6] The three New York studies found that adjournments in contemplation of dismissal (ACD's) were more common in IDV Court than in criminal court, however an ACD is not a conviction. In DV cases, an ACD typically remains open for one year, during which an order of protection is in effect. If the defendant violates the order or is re-arrested for a new offense, the case may be returned to the court calendar for another, possibly more severe, disposition.

2011, Picard-Fritsche et al. 2011), and in another study were *more* likely to be re-arrested for violating an order of protection after case disposition (Katz and Rempel 2011). None of the studies found the expected reductions in recidivism, although two found no difference between IDV Court and the comparison cases on one or more measures (Katz and Rempel 2011, Schlueter et al. 2011). While these results suggest the IDV Courts did not improve defendant compliance, they may also suggest that the IDV Court was more effective at monitoring noncompliance (Cissner et al. 2011, Picard-Fritsche et al. 2011).

Overall, the four evaluations of IDV Courts did not show consistent effects on outcomes. IDV Courts reduced case processing time and court appearances in some courts in some jurisdictions, increased them in others, and in some cases had no impact. Two studies found a reduction in trips to court. IDV Courts seemed to improve the resolution of family court cases in three studies, though in one of those studies it had no effect on subsequent filings. IDV Courts had a higher rate of conviction in criminal cases in one study, but not in three others. Two studies found a higher rate of violations of orders of protection prior to the disposition of the criminal case in IDV Court, while one did not. IDV Courts did not reduce recidivism in the two studies that had recidivism data. These findings suggest that outcomes depend on local variations in the implementation of the IDV Courts as well as on the local context. This conclusion may change as researchers complete additional studies across multiple sites. It is also worth noting that each of the four studies reviewed here examined IDV Courts during their initial start-up period. As researchers conduct outcome studies in long-established IDV Courts, a more consistent pattern of findings may emerge.

Aside from local variations among IDV Courts during their start-up period, differences in research methodology across the four studies may also account for the inconsistent findings. Each study used a different type of comparison group. Three of the four studies used a comparison sample of criminal defendants who had a concurrent family or matrimonial case. These studies also made limited adjustments for differences in case composition and defendant characteristics between the IDV Court and the comparison group. Katz and Rempel (2011) used propensity score matching to compensate for differences between their IDV Court and Criminal Court samples. However, unlike other studies, their comparison sample was not limited to criminal defendants who had concurrent family or matrimonial cases.

Because the current study employs a methodology similar to Katz and Rempel (2011), we briefly describe their comparison group and their methodology for adjusting for differences between IDV Court and criminal court cases. Katz and Rempel (2011) compared IDV Court criminal cases to criminal cases appearing in a specialized DV criminal court (i.e., a specialized DV Court that was not an IDV Court). The families included in the comparison sample of criminal court cases did not necessarily have concurrent family or matrimonial cases, whereas the IDV Court sample did have concurrent family or matrimonial cases. Therefore, cases in the comparison sample of criminal cases did not necessarily have the same complex combination of issues to address in court. To compensate for this and for other differences between the

samples, the study used propensity score matching. The study matched each of the IDV Court cases to the single criminal court case that was most comparable in terms of its demographic characteristics, criminal history, and current arrest charges. The resulting comparison sample did not differ significantly on any of these background characteristics. This similarity between the IDV cases and the comparison cases strengthened the conclusions of the study.

Finally, although not designed as an evaluation of IDV Courts, a previous CJA study (Peterson 2012) examined outcomes in Brooklyn's IDV Courts and specialized criminal court DV parts. That study found that the IDV Court was a more effective venue than the Criminal Court for obtaining convictions. The conviction rate was nearly 20 percentage points higher in IDV Court (51%) than in Criminal Court (32%). Because there were so many differences between the IDV Court setting and the Criminal Court setting, it was not possible to determine why the conviction rate was higher in IDV Court. The current study is designed to examine the reasons for the higher conviction rate.

D. Research Plan

The current study examines the impact of the IDV Court in Brooklyn on case processing and case outcomes in criminal cases of domestic violence from 2007-2009. The current study uses a methodology, propensity score matching, to strengthen the validity of comparisons of IDV Court and Criminal Court DV case outcomes.

The current study addresses three research questions:

1) Did case outcomes in IDV Court differ from case outcomes in Criminal Court DV cases?

2) To what extent did the IDV Court have an impact on case outcomes, especially convictions?

3) What factors accounted for differences in conviction rates between IDV Court and Criminal Court DV cases?

Although the first two research questions may appear to be similar, this report addresses them separately in order to make an important distinction. The first question asks whether case outcomes differ between the two courts, and does not explicitly ask whether these differences are due to the impact of the IDV Court or to other factors. The differences may be due, for example, to differences in the types of criminal cases assigned to each court, or to the impact of the IDV Court on outcomes, or both. The second question asks whether the IDV Court has an impact on case outcomes. To address this question, the study takes data on differences in case outcomes (the differences addressed in the first question) and uses propensity score matching to isolate and identify the differences that are due to the impact of the IDV Court versus those that are due to differences in the types of criminal cases assigned to IDV Court.

The study addresses all three questions by comparing criminal DV cases in IDV Court to Criminal Court DV cases. As noted earlier, almost all criminal cases of domestic violence in Brooklyn's IDV Court are misdemeanor cases that would have been heard in Criminal Court if they had not been transferred to IDV Court. For this reason, the current study compares IDV Court cases to Criminal Court (misdemeanor) DV cases rather than to Supreme Court (felony) DV cases.

We address the research questions by analyzing data on defendants arrested in Brooklyn, New York between November 27, 2007 and December 31, 2009. As described in chapter 2, the study relies on data extracted from the CJA database as well as data obtained from the Kings County District Attorney's office. Chapter 3 addresses the first research question by comparing case outcomes in IDV Court and Criminal Court DV cases. Chapter 4 addresses the second research question by comparing case outcomes in IDV Court cases and Criminal Court DV cases using matched samples of comparable cases. Chapter 5 addresses the third research question by using predictors of conviction to determine whether they account for differences in conviction rates between IDV Court and Criminal Court DV cases. The report concludes with a summary of findings and a discussion of their implications for the IDV Court and for prosecuting defendants in DV cases.

II. METHODOLOGY

This study used data collected by the Kings County District Attorney's office, the New York Police Department, and the New York City Criminal Justice Agency to examine how IDV Courts affected the likelihood of conviction in intimate partner violence and elder abuse cases in Brooklyn. This chapter describes the various datasets we used for the study, how we combined the datasets, and how we selected cases for analysis. It also describes how we identified DV cases, which DV cases were assigned to the District Attorney's DV Bureau, and how the courts processed DV cases.

A. Description of Datasets

To evaluate the impact of the IDV Court, we relied on three datasets, each containing information about the cases of defendants arrested in Brooklyn between November 27, 2007 and December 31, 2009.[7] The first dataset contains information obtained from the CJA database on the processing of all criminal court cases in Brooklyn during that time period, as well as additional data about the arrest and the defendant. The second dataset contains information about all DV Bureau arrests, using information provided by the Kings County District Attorney's office. The third dataset contains information about a sample of DV Bureau cases, using information coded from the case files. Figure 2-1 provides an overview of Brooklyn arrests and the data available for them (next page). Table 2-1 (on page 15) summarizes the information available in each dataset. We provide detailed descriptions of the datasets below.

CJA Brooklyn Dataset. The CJA Brooklyn Dataset includes data collected on all 210,213 summary arrests made in Brooklyn from November 27, 2007 to December 31, 2009, including arrests that were declined for prosecution (DP'd). Summary arrests (also known as "online" arrests), are those in which NYPD held the defendant in custody pending arraignment in Criminal Court.[8] The CJA Brooklyn dataset includes information about the 20,671 arrests assigned to the DV Bureau (see discussion of DV Bureau Dataset below) as well as 189,542 arrests assigned to other Bureaus. We extracted this dataset from the CJA database, which contains information about the arrest, case processing, and case outcomes of most New York City arrestees. It includes data from

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[7] We initially collected this data for another study, and this time period was chosen because the data were used to evaluate a video statement program that began in November 2007 (Peterson 2012). However, the data, and this time period, also are ideally suited for evaluating the impact of the IDV Court parts.

[8] The CJA Brooklyn Dataset excludes arrests in which the police issued a Desk Appearance Ticket (DAT). A DAT is a summons to appear for a scheduled arraignment at a later date, and the arrestee is not held in custody for arraignment. Police officers issue DATs only under certain circumstances depending on the arrest charge, whether the defendant has an outstanding warrant, etc. We excluded 32,871 DAT arrests from the Brooklyn Dataset. Police officers rarely issue DATs in domestic violence cases in New York City. During the time period covered by this study, there were only 174 DATs issued in DV cases in Brooklyn. These arrests are likely to be different from summary DV arrests, and there are not enough of them to analyze separately.

FIGURE 2-1: OVERVIEW OF BROOKLYN ARRESTS AND DATASETS

ALL BROOKLYN SUMMARY ARRESTS
(November 27, 2007 to December 31, 2009)

N = 210,213

CJA Brooklyn Dataset

DV BUREAU ARRESTS
N = 20,671
DV Bureau Dataset

ARRESTS ASSIGNED TO OTHER BUREAUS

N = 189,542

Bureau data not available

CRIMINAL COURT DV CASES

N = 15,059

IDV COURT CASES

N = 1,551

SAMPLE OF CRIMINAL COURT DV CASES

N = 1,349

SAMPLE OF IDV COURT DV CASES

N = 204

DV Bureau Case File Sample
N = 1,553

DV BUREAU ARRESTS DECLINED FOR PROSECUTION, DISPOSED AT ARRAIGNMENT, SENT TO OTHER COURT PARTS, OR CONSOLIDATED

N = 4,061

CRIMINAL COURT DV CASES NOT IN SAMPLE

N = 13,710

DV Bureau case file data not available

IDV COURT DV CASES NOT IN SAMPLE

N = 1,347

DV Bureau case file data not available

TABLE 2-1: SUMMARY OF INFORMATION AVAILABLE IN EACH DATASET

DATASET	INFORMATION AVAILABLE
CJA Brooklyn Dataset (N = 210,213)	CJA Interview ● Demographic characteristics (sex, age, race, etc.) ● Community ties (employment, NYC address, etc.) ● Criminal record (misdemeanor and felony convictions, open cases) NYPD Online Booking System ● Arrest information (charges, date of arrest, etc.) Office of Court Administration ● Case processing (arraignment date, release status, type of release, etc.) ● Case disposition and sentencing (conviction, conviction charge, jail sentence, etc.)
DV Bureau Dataset (N = 20,671)	NYPD Omniform ● Incident information (date, time, location, etc.) ● Arrest information (identity of defendant, arresting officer, and victim(s), weapons used, defendant's oral statements, etc.) DA's Early Case Assessment Bureau (ECAB) Form ● Incident information (injuries, 911 calls, photos, alleged defendant actions, narrative description, etc.) ● Complaint information (charges, evidence available, narrative summary of defendant statement(s), history of domestic violence, etc.) Witness Contact Sheet ● Witness information (names, type of witness, relationship to defendant and victim, etc.)
DV Bureau Case File Sample (N = 1,553)	Case Files ● Evidence (911 recordings, photos, medical records, victim participation with the prosecution, etc.)

three sources: 1) CJA's pre-arraignment interview,[9] 2) NYPD's Omniform data, and 3) the New York State Office of Court Administration's (OCA) case processing data. We used the CJA interview to obtain information concerning defendants' demographic

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[9] CJA conducts pre-arraignment interviews to measure the defendant's community ties. The interviews serve as the basis for making a recommendation as to whether or not the court should release the defendant on recognizance at his or her first court appearance. CJA does not interview defendants arrested on a bench warrant or those given a Desk Appearance Ticket (DAT). However, CJA collects arrest and Criminal Court information for all arrestees, and we included arrestees in the CJA Brooklyn Dataset whether or not CJA interviewed them.

characteristics and community ties. We used the NYPD Omniform data to obtain information about the arrests, including arrest charges, precinct, and date and time of arrest.[10] We used the OCA data to obtain detailed Criminal Court and Supreme Court case processing, disposition, and sentencing data on each of the arrests.

Brooklyn has a 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. The DA's office must bring cases sustained at the felony level to Supreme Court for prosecution. However, the court arraigns most defendants charged with felonies in Criminal Court first, and then transfers indicted cases to Supreme Court for subsequent appearances. If the Grand Jury fails to return an indictment or the ADA decides not to prosecute the case as a felony, the ADA can reduce the charges or take no action. The case may then be disposed in Criminal Court by dismissal, or by a plea to a reduced charge less severe than a felony, or by a transfer to another court's jurisdiction (e.g., IDV Court, Family Court).[11] To be eligible for the IDV Court, a defendant in Criminal Court must also have a concurrent Family Court custody, visitation, or family offense petition pending, and/or a concurrent Supreme Court matrimonial case.

For cases that had multiple dockets, we obtained case-processing information for the **docket that had the most severe arraignment charge** (based on Penal Law severity[12]) in Criminal Court. When the most severe arraignment charges on two or more dockets are of equal Penal Law severity, OCA determines the top charge according to procedures developed by the New York State Division of Criminal Justice Services (see Appendix B). These guidelines provide a consistent set of rules for determining which of two arraignment charges of equal severity is the top arraignment charge. For purposes of examining case dispositions, we examined the **docket that had the most severe disposition**. Disposition severities were ranked from conviction (most severe) to adjournment in contemplation of dismissal (ACD) to dismissal (least severe).

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[10] CJA retains only selected information from NYPD's Omniform, however, as noted below, KCDA provided extensive information from the Omniform for all arrests assigned to the DV Bureau.

[11] The Family Courts 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. CJA does not have access to data on DV cases that are heard in Family Court, and this report draws no conclusions about these cases.

[12] 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 or "Unclassified" misdemeanors. (A misdemeanors are more severe than B misdemeanors, and "Unclassified" misdemeanors are less severe than B misdemeanors.) Violations are less severe than misdemeanors. The Penal Law does not classify violations as crimes, although conviction for a violation can result in a jail sentence. The Penal Law makes no distinctions of severity within the category of violations.

The CJA Brooklyn Dataset includes case processing information through final disposition (and sentencing, if there was a conviction), or until December 5, 2010, when we extracted the data from the CJA database. This cutoff date allowed sufficient time for most (but not all) cases to reach a disposition and sentence. Cases that did not reach a final disposition or sentence in Criminal Court or Supreme Court by this cutoff date were excluded from the dataset.

DV Bureau Dataset. The DV Bureau Dataset contains information about 20,671 arrests of defendants charged with intimate partner violence or elder abuse. These arrests include all those ever deemed eligible for assignment to the DV Bureau, including cases that were declined for prosecution, cases that were prosecuted and initially assigned to the DV Bureau, and cases that were transferred into or out of the DV Bureau after their initial assignment. The dataset includes information about 1,551 DV Bureau arrests that were sent to the IDV Court, and 15,059 DV Bureau arrests that were sent to the Criminal Court specialized DV parts. The remaining 4,061 DV Bureau arrests were declined for prosecution, disposed at arraignment, transferred to other court parts, or consolidated (see discussion in section C below.)

The DV Bureau Dataset includes extensive information from three sources: 1) the NYPD Omniform, 2) the DA's Early Case Assessment Bureau (ECAB) form, and 3) the Witness Contact Sheet. The Omniform contains NYPD's information about the arrest and complaint, such as the date, time, location, and circumstances of the incident and of the arrest, names and identifying information for the defendant and the victim, and information about weapons used. The ECAB form contains information about the case based on the screener's interviews with the arresting officer and witnesses prior to arraignment, including information about the arrest and complaint charges, injuries, photos of injuries and the crime scene, 911 calls, witnesses, statements, any history of domestic violence by the defendant, and a narrative description of the incident. NYPD's Witness Contact Sheet contains identifying information about the witnesses in each case, including victims and other eyewitnesses.

DV Bureau Case File Sample. The DV Bureau Case File Sample contains information for a sample of DV Bureau cases from the District Attorney's case files for cases disposed in the DV Bureau. The dataset includes a sample of 1,553 of the 20,671 arrests assigned to the DV Bureau, including 204 (13%) of the 1,551 IDV Court cases and 1,349 (9%) of the 15,059 Criminal Court DV cases. We selected only summary arrests for our review of the case files.

For the case file review, CJA researchers coded numerous items of information from the paper records saved in each selected case file. Using a standard coding form, we recorded background information about the defendant and the victim, as well as information about the evidence in the case file: recordings of 911 calls, injuries, photos, weapons, medical records, whether or not the victim was participating with the prosecution, any oral, written, and video statements made by the defendant, and ADA's notes about the strength of the evidence.

We obtained case files of disposed DV Bureau cases in two ways. First, from September 2009 to April 2010, we obtained some case files soon after ADAs sent disposed case files to the DV Bureau's file room. These case files normally remain in the file room for a few days before the file clerk brings them to the archive (located in another building). We set these files aside and reviewed them before the DA's office archived them. Second, we requested other case files that the DA's office had already archived. We reviewed these archived case files during three periods: September 2009 to April 2010, February 2011 to June 2011, and July 2012 to August 2012. We requested these archived files to obtain older files that had been unavailable when we began our case file review. After combining the case files selected in the file room with those selected from the archive, our final DV Bureau arrest sample consisted of 1,553 case files.[13]

After creating the three datasets described above, we merged them into one large data file. The arrest number NYPD assigns to each arrest is available in each of the three datasets, and we used it to match the datasets to each other. The merged dataset contains information about 210,213 arrests. All the arrest, defendant and case processing information from the CJA Brooklyn Dataset, as described above, is available for every case in the file. For the 20,671 arrests that were assigned to the DV Bureau, we have additional information from the DV Bureau Dataset, as described above, including information from the ECAB form, Omniform, and Witness Contact Sheet. Finally, for the sample of 1,553 DV Bureau arrests, including 204 IDV Court cases, we have extensive information about evidence from the DV Bureau Case File Sample, as described above.

B. Identifying Intimate Partner Violence, Elder Abuse, and "Other" Domestic Violence Cases

New York State's statutory definition of domestic violence changed during the time period covered by this study. Prior to July 21, 2008, New York State's Criminal Procedure Law (CPL) §530.11 defined family offenses as offenses committed against a member of the same family or household. The "family or household" included:
(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 ever cohabited.

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[13] Because we initially selected most of the case files for a study of the KCDA video statement program, the sampling strategy we used for selecting case files in 2010 and 2011 oversampled the cases of defendants who were sent for a video statement (see Peterson 2012 for further information on the sampling strategy and on the video statement research results). In 2012, we abandoned this strategy, and selected only the case files of released defendants in IDV cases. Nevertheless, the final sample of 1,553 over-represents video cases among defendants whose cases were processed in Criminal Court. In all analyses in this report that rely on the case file sample, we adjusted for this by weighting the data to represent accurately the proportion of video cases in the full DV Bureau Dataset.

Prior to July 21, 2008 New York State's statutory definition of domestic violence excluded unmarried partners, unless they had a child in common. However, in New York City, NYPD operated with an expanded definition of domestic violence that included individuals who were not married, but who were cohabiting or had previously cohabited. This NYPD definition of "family" expanded on New York State law by including "common-law" marriages, same-sex couples, and registered New York City domestic partners (NYPD 2000). In Brooklyn, the DA's office and the Criminal Courts used NYPD's expanded definition, and also included couples who were dating (or had dated) and never cohabited in their definition of domestic violence cases.

New state legislation, effective July 21, 2008, expanded the definition of "family or household" in 2008. The amended statutory definition of "family or household," CPL §530.11(1e), includes current and former intimate partners, whether or not they have ever cohabited. This statutory change incorporated all the relationships formerly included in NYPD's expanded definition of family or household. It also included couples who are dating or have dated and have never cohabited, who were already included in Brooklyn's definition. In Brooklyn, this legislation produced very little change in the identification or processing of domestic violence cases in the criminal courts, because the police, the District Attorney's Office, and the courts were already using a similar definition.[14]

To identify domestic violence cases, ECAB expediters use information collected by the police about the relationship between the victim and the defendant, if any. When possible, they also interview victims and ask them about their relationship with the defendant. If the victim-offender relationship is consistent with the statutory (or before July 1, 2008, the expanded) definition of domestic violence, the case is flagged as a DV case. At Criminal Court arraignment, court clerks assign an arraignment hearing type of "DV" to domestic violence cases, and OCA enters this designation in its computerized court records.

The District Attorney's office classifies domestic violence cases in several subcategories for purposes of assignment to appropriate Bureaus. Specifically, the Office assigns cases of domestic violence that involve either intimate partner violence or elder abuse to the DV Bureau. Intimate partner violence includes violence between intimate partners and former intimate partners, whether or not they are currently married, whether or not they currently cohabit, and whether or not they are same-sex partners. Elder abuse cases are domestic violence cases in which the victim is at least 60 years old, regardless of the type of relationship between the victim and defendant

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[14] To distinguish them from other case files, ECAB gives beige "backs" (special color-coded back sheets) to DV case files that meet the statutory definition of domestic violence. The number of case files receiving beige "backs" increased significantly after July 21, 2008, when the legislature enacted the expanded definition of "family or household." However, this change did not affect the number of cases flagged as DV cases in Brooklyn, nor did it affect the type or number of cases sent to the DV Bureau.

(intimate partner, parent-child, grandparent-grandchild, sibling, etc.).[15] In this report, the term "DV Bureau cases" refers to intimate partner violence and elder abuse cases assigned to the DV Bureau. Domestic violence cases not classified as intimate partner violence or elder abuse are classified as "other" DV cases, which include violence between parents and children, grandparents and grandchildren, siblings, in-laws, and others related by blood or marriage (e.g., cousins, nieces, nephews, aunts, uncles). The District Attorney's office assigns "other" DV cases to the Trial Division, or if the charges are appropriate, the Crimes Against Children Bureau, Sex Crimes and Special Victims Division, or the Homicide Bureau. In this report, the term "other DV cases" refers to DV cases not involving intimate partner violence or elder abuse that were assigned to bureaus or divisions other than the DV Bureau.

In Brooklyn, the court sent intimate partner violence and elder abuse cases assigned to the DV Bureau to specialized domestic violence court parts for post-arraignment appearances. The court sent "other" DV cases to all-purpose court parts rather than to the specialized domestic violence parts. During the period examined in this study, the specialized domestic violence Criminal Court parts in Brooklyn were DV1 and DV2. The specialized domestic violence Supreme Court Parts were DV, 4, IDV, and IDV2 in Brooklyn.[16] Occasionally the DA's office learned that cases not initially flagged as DV cases actually were DV cases. If these cases involved intimate partner violence or elder abuse, the DA's office then assigned them to the DV Bureau and the court transferred them to the specialized DV parts. Similarly, cases that the DA's office initially flagged as DV cases were sometimes subsequently determined not to be DV cases. When this occurred, the DA's office assigned these cases to the appropriate Bureau and transferred them out of the specialized DV parts.

In this study, we identified and classified domestic violence cases by relying on information from the DA's office and from the courts. The DV Bureau dataset includes all cases ever assigned to the DV Bureau, even if the DA's office initially assigned them to another Bureau, or later transferred them out of the DV Bureau. For docketed arrests, we used two types of information from the CJA Brooklyn Dataset to identify "other" DV cases: whether the case had a domestic violence hearing type at Criminal Court arraignment and/or had one or more appearances in a specialized domestic violence court part. For arrests that were declined for prosecution, we used NYPD's information about the nature of the victim-offender relationship to identify "other" DV cases.

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[15] Crimes against the elderly committed by paid caregivers (e.g., home attendants, nursing home or hospital staff), friends, acquaintances, or strangers were not classified as elder abuse during the period of this study. However, beginning in 2010, the DA's office classified crimes by paid or unpaid caregivers as elder abuse, and assigned them to the DV Bureau.

[16] These specialized court parts are referred to as specialized "domestic violence" court parts even though they only handle a subset of all domestic violence cases, i.e., primarily those domestic violence cases that involve intimate partner violence or elder abuse.

C. Identifying IDV Court and Criminal Court DV Cases

To examine outcomes by type of court, we reclassified certain DV Bureau cases that were disposed in Criminal Court parts or Supreme Court parts other than the specialized DV parts. First, we identified 143 DV Bureau cases disposed at arraignment. Given the standard procedure requiring DV Bureau cases to be continued for additional appearances beyond arraignment, these cases either were not DV Bureau cases (i.e., they were incorrectly flagged as DV Bureau cases) or they were unusual DV Bureau cases. Whatever their reason for being disposed at arraignment, we decided to exclude them from our analysis.

Second, in both Criminal Court and Supreme Court, the specialized DV parts sometimes sent cases to other court parts for a bench trial or a jury trial. We therefore classified cases as disposed in a Criminal Court specialized DV part if they were sent from part DV1 or DV2 to another Criminal Court part for a trial (about 1% (N=138) of all cases in the Criminal Court were sent to trial parts[17]). We also classified cases as disposed in an IDV Court part if they were sent from part IDV or part IDV2 to another Supreme Court part for a trial (there were only 3 such IDV Court cases, sent to part MD1).

Third, there were additional DV cases disposed in the Red Hook Community Court (N=235) and in parts AP1F (N=229) and FD (N=973) in Criminal Court that appeared to be similar to cases disposed in the specialized Criminal Court DV parts. For the analyses presented in this report, we have pooled these cases with the Criminal Court cases disposed in parts DV1 and DV2. Cases disposed in all three parts (Red Hook, AP1F, and FD) are essentially comparable to Criminal Court DV cases. The Red Hook DV cases, although not prosecuted by ADAs in the DV Bureau, are similar to Criminal Court DV cases. Therefore, a complete assessment of Criminal Court DV cases should include these cases. The AP1F/FD cases are cases that were arraigned on felony charges, but these cases either were not brought to the Grand Jury for an indictment or the Grand Jury declined to hand down an indictment. The cases remained in Criminal Court in these two parts pending further action. Although some cases were transferred from AP1F/FD to the specialized DV parts (DV1 and DV2), others remained in AP1F/FD until disposition (those in part FD were usually dismissed). These cases are comparable to DV Bureau cases disposed in the specialized Criminal Court DV parts, and are therefore pooled with them for purposes of our analysis.

Finally, some DV cases (N=1,312) were initially assigned to the DV Bureau but these cases were not disposed in any specialized DV part in either Criminal Court or Supreme Court. Most of these appeared to be cases that did not involve crimes against an intimate partner or elderly person (e.g., cases of crimes against children, siblings, in-laws, friends, etc.) and that were mistakenly assigned to the DV Bureau. It appears that after a closer review of these cases, the DV Bureau transferred them to another Bureau and other court parts. We excluded these cases from our analysis.

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[17] These Criminal Court parts were: Jury1, TP10, TP2, TP3, TP4, TP5 and TP6.

After re-classifying cases disposed in Red Hook, in parts AP1F/FD, and in trial parts, and excluding cases disposed at arraignment and cases that were mistakenly assigned to the DV Bureau, we created two categories of cases based on the court part of disposition: 1) IDV Court cases (N=1,551), and 2) Criminal Court DV cases (N=15,059).

The Criminal Court DV cases in this study were unlikely to have concurrent family court or matrimonial cases, whereas all the IDV Court cases did. As a result, the Criminal Court DV cases were unlikely to have the same complex combination of issues addressed by the IDV Court. This may have been an important difference between the two courts, and may account for some of the differences in outcomes reported in this study. To compensate for this and other differences between the two courts, the current study used propensity score matching to strengthen the court comparisons. Katz and Rempel (2011) employed this methodology in their IDV Court study, which had a comparison sample of Criminal Court DV cases similar to ours.

III. CASE OUTCOMES IN IDV COURT AND CRIMINAL COURT

This chapter compares case processing and case outcomes in IDV Court cases and Criminal Court DV cases. Criminal Court DV cases are the appropriate comparison group because if there were no concurrent Family Court or matrimonial cases, almost all the cases in Brooklyn's IDV Court would have been heard in Criminal Court. It would be inappropriate to compare IDV Court cases to Supreme Court cases because very few defendants in IDV Court were indicted on felony charges.[18] We examined several types of case outcomes:

Case Processing and Pretrial Misconduct
- release status at arraignment
- number of court appearances
- number of days from arraignment to disposition
- defendant ever re-arrested for a new DV offense prior to case disposition
- defendant ever re-arrested for a new Non-DV offense prior to case disposition
- defendant ever re-arrested for a new DV or Non-DV offense prior to case disposition
- defendant ever failed to appear for a scheduled court hearing

Case Dispositions and Sentences
- case disposition
- severity of the most severe conviction charge
- sentenced to jail or prison
- length of jail or prison sentence

In the analyses presented in this chapter, we used data on all summary arrests assigned to the DV Bureau from November 27, 2007 to December 31, 2009, i.e., the cases for which data was available in the DV Bureau Dataset described in chapter 2. Information about these cases came from two sources: the DV Bureau Dataset and the CJA Brooklyn Dataset. We excluded 1,324 cross-complaints from our analysis (94 in IDV Court and 1,230 in Criminal Court).[19] Because each complainant in a cross-complaint is also a defendant, ADAs are usually unable to speak to either of the cross-complainants to develop a case. Case processing characteristics and dispositions in cross-complaints are therefore very different from those in other cases. For example, the conviction rate in cross-complaints is extremely low (Peterson 2012, p. 51). After excluding cross-complaints, there were 1,457 cases in IDV Court and 13,829 DV cases in Criminal Court.

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[18] Of the 1,551 cases in the IDV Court dataset, only 11 defendants (0.7%) were indicted on felony charges.

[19] In a cross-complaint, the police arrest two (or more) parties to an incident, and charge each party with a crime against the other. When possible, Assistant District Attorneys determine whether they should proceed with a case against one of the parties and drop the case against the other. When this is not possible, cross-complaints are difficult to prosecute, and the court usually dismisses them.

All of the comparisons in this chapter are case-based, not defendant-based. The analyses include all IDV Court cases and all Criminal Court DV cases over the period of the study. The same defendant may be counted multiple times because he or she was arrested and arraigned multiple times.[20] Among the 1,457 IDV Court cases, 173 defendants had two or more cases docketed in IDV Court. Among the 13,829 Criminal Court DV cases, 1,289 defendants had two or more cases docketed in Criminal Court. Finally, 46 defendants had both Criminal Court DV cases and IDV Court cases. These defendants had cases docketed two or more times—at least one of their cases was a Criminal Court case and at least one of their other cases was an IDV Court case. Although the case-based results count some defendants more than once, including some who have both Criminal Court and IDV Court cases, this should not affect the basic findings about differences between Criminal Court and IDV Court cases. Furthermore, because defendants in IDV Court generally have subsequent cases heard by the same judge, including defendants with multiple arrests in the data file more accurately reflects the caseload of the court.

This chapter presents results showing the similarities and differences in outcomes in IDV Court and Criminal Court DV cases. The outcomes for each court reflect how the court operates, including differences that may be due to the different types of cases assigned to each court. In the next chapter, we used matched samples that enabled us to isolate the impact of IDV Court on the outcomes, whereas the differences reported in this chapter reflect both the differences in the types of criminal cases in each court and the impact of each court on the outcomes.

A. Case Processing Outcomes and Pretrial Misconduct in IDV Court Cases and Criminal Court DV Cases

Most defendants in both courts were released from detention at some point between arraignment and case disposition. As shown in Figure 3-1 (next page), 96% of defendants in IDV Court and 90% of defendants in Criminal Court DV cases were released; most were released at arraignment (80% in IDV Court and 72% in Criminal Court). These differences in release status between the courts were statistically significant (see explanation in text box below).

TESTS OF STATISTICAL SIGNIFICANCE FOR PERCENTAGE DIFFERENCES

Statistical significance tests assess the likelihood that the percentage differences observed in the sample could have occurred by chance alone. The tests take into account the size of the sample and the magnitude of the differences observed. Larger percentage differences and percentage differences based on larger samples are more likely to be statistically significant. In this report, following standard convention, significance levels less than .05 were considered statistically significant. This means that the statistically significant differences found in this study had less than a 5% chance of being due to chance alone.

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[20] The multiple cases for the same defendant do not include consolidated cases, which were excluded from the sample, as noted in chapter 2.

Figure 3-1: Release Status by Court Type
Excluding Cross-Complaints
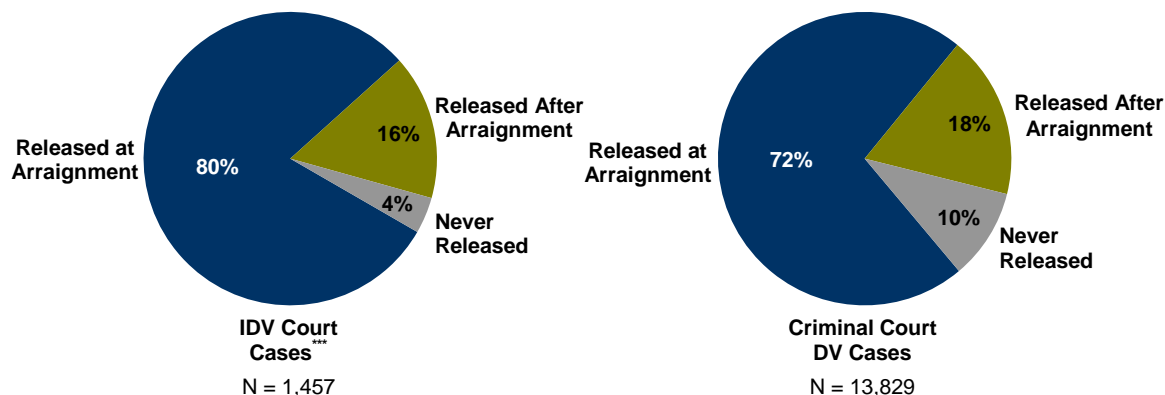
Released at Arraignment 80%
Released After Arraignment 16%
Never Released 4%
IDV Court Cases* N = 1,457

Released at Arraignment 72%
Released After Arraignment 18%
Never Released 10%
Criminal Court DV Cases N = 13,829

*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P<.001).

For the remainder of the analyses in this report, we excluded the cases of defendants who were never released between arraignment and case disposition. This reduced the sample size to 1,400 IDV Court cases and 12,488 Criminal Court DV cases. Case outcomes, particularly convictions, are likely to be very different for defendants who were never released. Prior research indicates that the conviction rate for defendants who were never released is extremely high, and that very few factors influence the likelihood of conviction for these defendants (Peterson 2012). It is unlikely that the IDV Court, or any other intervention, would influence the conviction rate for defendants who were never released. Moreover, most defendants in DV cases in both IDV Court and Criminal Court were released. (For an overview of all DV cases processed in IDV Court and Criminal Court, see Appendix C, which provides data on case outcomes for all defendants, including those who were never released.)

Criminal cases in IDV Court typically required two more appearances than those in Criminal Court to reach a disposition. The median number of appearance dates was 6 in IDV Court, compared to 4 in Criminal Court DV cases (see Figure 3-2). Case processing time was therefore also longer in IDV Court. The median number of days from arraignment to disposition was 142 in IDV Court, but only 106 in Criminal Court (see Figure 3-3, next page).

Figure 3-2: Number of Court Appearances by Court Type
Released Defendants, Excluding Cross-Complaints
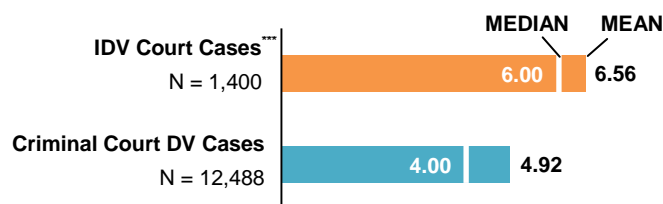
IDV Court Cases*** N = 1,400 — MEDIAN 6.00, MEAN 6.56
Criminal Court DV Cases N = 12,488 — MEDIAN 4.00, MEAN 4.92

*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

Figure 3-3: Number of Days from Arraignment to Disposition by Court Type
Released Defendants, Excluding Cross-Complaints
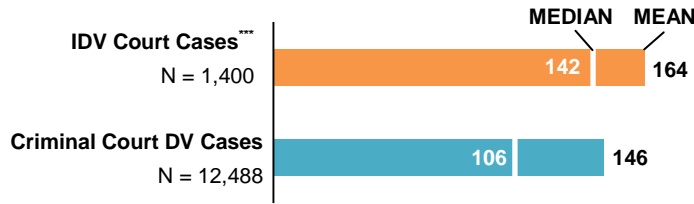
*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

Taken together, these findings suggest that the IDV Court was less efficient in reaching a disposition than Criminal Court. However, this conclusion applies only to the criminal cases heard in IDV Court; we did not have data on family cases heard in IDV Court or on comparable Family Court cases. Nor did we have data on whether litigants in IDV Court made fewer trips to court because of same-day scheduling of court appearances in concurrent cases.

Because most defendants were released prior to case disposition, they were at risk for pretrial misconduct. We examined several types of pretrial misconduct. Released defendants in IDV Court were more likely to be re-arrested for a new DV offense prior to case disposition (19%) than those in Criminal Court DV cases (14%; see Figure 3-4). However, the re-arrest rate for new Non-DV offenses prior to case disposition was lower in IDV Court (10%) than in Criminal Court (13%; see Figure 3-5). Although the types of re-arrests differed significantly between IDV Court and Criminal Court DV cases, the overall re-arrest rates were quite similar (26% and 24%, respectively; see Figure 3-6, next page).

Figure 3-4: Defendant Ever Re-arrested for a New DV Offense Prior to Case Disposition by Court Type
Released Defendants, Excluding Cross-Complaints

*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

Figure 3-5: Defendant Ever Re-arrested for a New Non-DV Offense Prior to Case Disposition by Court Type
Released Defendants, Excluding Cross-Complaints

*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

Figure 3-6: Defendant Ever Re-arrested for a New DV or Non-DV Offense Prior to Case Disposition by Court type
Released Defendants, Excluding Cross-Complaints

26%	24%
IDV Court Cases	**Criminal Court DV Cases**
N = 1,400	N = 12,488

Defendants in IDV Court were much less likely to fail to appear for a scheduled court appearance. Only 6% of defendants in IDV Court missed one or more court appearance dates, compared to 11% in Criminal Court DV cases (see Figure 3-7). This difference is especially notable because defendants in IDV Court typically had 6 appearance dates scheduled, compared to only 4 for defendants in Criminal Court.

Figure 3-7: Defendant Ever Failed to Appear for a Scheduled Court Appearance by Court Type
Released Defendants, Excluding Cross-Complaints

6%	11%
IDV Court Cases[***]	**Criminal Court DV Cases**
N = 1,400	N = 12,488

[***] Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

B. Case Disposition and Sentencing in IDV Court Cases and Criminal Court DV Cases

CJA's previous research found a significantly higher conviction rate in IDV Court than in Criminal Court DV cases. In this section, we provide more detail on differences in case dispositions and sentencing. Among released defendants, the conviction rate in IDV Court was 49%, compared to only 27% in Criminal Court DV cases (see Figure 3-8, next page).[21] ACDs were also more common in IDV Court than in Criminal Court (9% versus 3%; difference was statistically significant). (See text box on case dispositions (next page) for an explanation of ACDs). Only 42% of IDV Court cases ended in dismissal or acquittal, compared to 70% of Criminal Court DV cases.

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[21] These conviction rates are lower than those reported in chapter 1 (51% in IDV Court and 32% in Criminal Court) because the rates reported in chapter 1 included defendants who were never released.

Figure 3-8: Case Disposition by Court Type
Released Defendants, Excluding Cross-Complaints
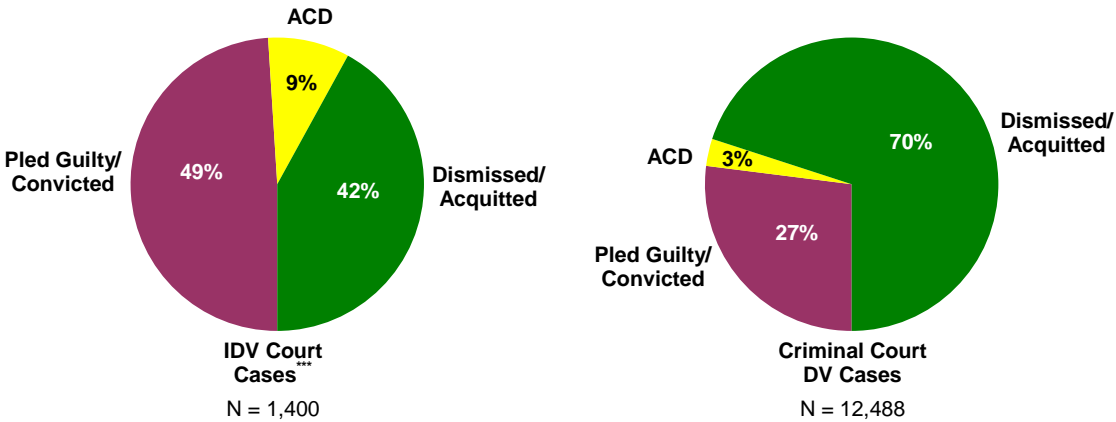
*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

CASE DISPOSITIONS

In New York State, cases disposed in the criminal courts can result in one of several final dispositions: a plea of guilty, a conviction after trial, an acquittal after trial, a dismissal, or an adjournment in contemplation of dismissal (ACD). In DV cases, an ACD typically remains open for one year, during which an order of protection is in effect. If the defendant violates the order or is re-arrested for a new offense, the case may be returned to the court calendar for another, possibly more severe, disposition.

In this report, convictions include pleas of guilty and findings of guilty after trial, including pleas or findings of guilty for violations. (Although violations are not considered crimes under New York State Penal Law, they can result in a jail sentence.) We categorized acquittals, dismissals and ACDs as non-convictions.

Although convictions were significantly more likely in IDV Court, the top conviction charges were only slightly more severe than those in Criminal Court were (see explanation of charge severity in chapter 2). In IDV Court, 80% of the convictions were for violations, compared to 84% in Criminal Court (see Figure 3-9, next page). Convictions for A misdemeanors were equally common in both courts (10%), while convictions for B misdemeanors were slightly more common in IDV Court than in Criminal Court (9% versus 6%). Although IDV Court, unlike Criminal Court, is permitted to adjudicate felony charges, only 1% of the convictions in IDV Court were for felonies.[22]

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[22] When defendants who were never released were included in these analyses, charge severity was *less* severe in IDV Court (where a larger percentage of defendants were released). See Appendix C.

Figure 3-9: Conviction Charge Severity by Court Type
Convicted Released Defendants, Excluding Cross-Complaints
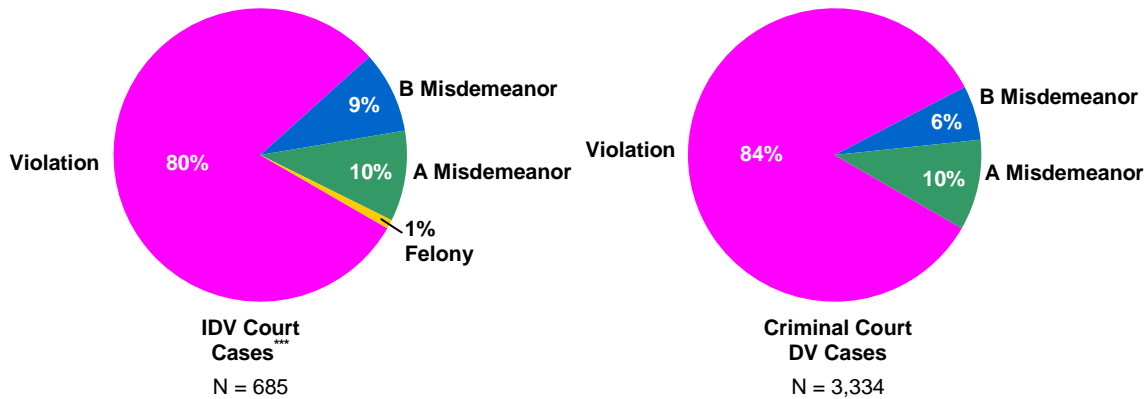
	IDV Court Cases***	Criminal Court DV Cases
	N = 685	N = 3,334

*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

Convicted defendants who were released in IDV Court were less likely to receive incarcerative sentences than those in Criminal Court DV cases. Only 5% of convicted defendants in IDV Court were sentenced to jail or prison, compared to 9% in Criminal Court (see Figure 3-10, next page).[23]

SENTENCE OUTCOMES

In New York State, convicted defendants can receive one or more types of sentences, including jail, prison, conditional discharge, probation, fine, restitution, and other sentences. Jail sentences include both "time served" sentences and definite sentences, i.e., sentences for a specified number of days. Prison sentences include determinate and indeterminate sentences. Conditional discharges and probation sentences may require that the defendant complete a treatment program, such as a batterer intervention program and/or a drug or alcohol treatment program.

The mean sentence length was longer in IDV Court (40 days) than in Criminal Court DV cases (32 days; see Figure 3-11, next page); however, this difference was not statistically significant. Moreover, median IDV Court sentences were 4 days shorter than median Criminal Court sentences (9 days versus 13 days). This finding indicates that most sentences were shorter in IDV Court, with the exception of a small number of particularly long sentences that raised the mean.[24]

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[23] If defendants who were never released were included in these analyses, the incarceration rate would have been considerably higher in Criminal Court DV cases (where a larger percentage of defendants were held in custody until disposition). See Appendix C.
[24] To keep the results comparable, these data exclude incarcerative sentences for six felony convictions in IDV Court, because felony convictions are not possible in Criminal Court DV cases. The mean sentence length for the six felony convictions in IDV Court was 356 days and the median was 212 days (data not shown).

Figure 3-10: Sentence Outcomes by Court Type
Convicted Released Defendants, Excluding Cross-Complaints
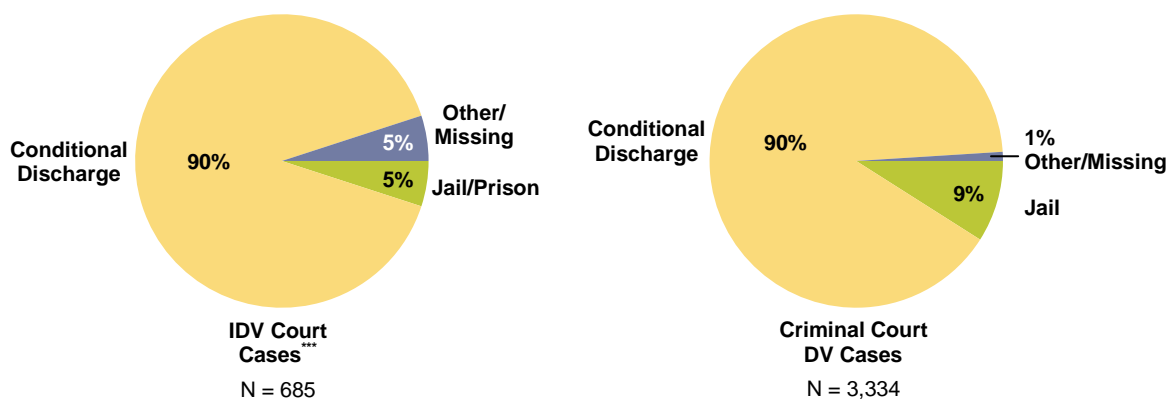
Conditional Discharge 90%
Other/Missing 5%
Jail/Prison 5%

IDV Court Cases ***
N = 685

Conditional Discharge 90%
Other/Missing 1%
Jail 9%

Criminal Court DV Cases
N = 3,334

*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

Figure 3-11: Length of Jail or Prison Sentence by Court Type
Released Defendants Sentenced to Jail or Prison, Excluding Cross-Complaints

MEDIAN   MEAN

IDV Court Cases
N = 34   9   40

Criminal Court DV Cases
N = 309   13   32
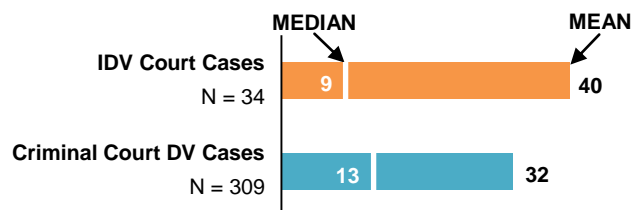
Measuring Length of Jail Sentences

We measured length of sentence by determining how many days the defendant actually spent in jail or prison 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.

C. Summary and Discussion of Findings

This chapter has compared IDV Court and Criminal Court DV cases on case processing outcomes, pretrial misconduct, case disposition, and sentencing.

IDV Court cases took longer to process, in terms of both number of appearances and time to disposition, than Criminal Court DV cases. The typical IDV Court case required two more appearances to reach a disposition than the typical Criminal Court DV case. Defendants in IDV Court were more likely to be released prior to case disposition. Released defendants in IDV Court were more likely to be re-arrested for a new DV offense prior to case disposition. However, they were less likely to be re-arrested for a new Non-DV offense, and less likely to fail to appear for a scheduled court appearance. Considering that IDV cases typically were scheduled for two more court appearance dates, and defendants therefore had a greater risk of failing to appear, the latter finding is particularly remarkable. The scheduling of concurrent cases (custody, visitation, matrimonial, etc.) with the criminal case in IDV Court may encourage defendants to attend court. Defendants in IDV Court may have a greater incentive to make each court appearance because multiple outcomes are at stake.

Not only was the conviction rate higher in IDV Court than in Criminal Court DV cases (49% versus 27%), confirming similar findings from previous research in Brooklyn, but ACD's were also more common in IDV Court (9% versus 3%). Orders of protection generally remain in effect for one year after case disposition for both convictions and ACD's. Therefore, defendants in IDV Court were more likely than defendants in Criminal Court DV cases to be subject to orders of protection after case disposition.

Although the conviction rate was higher in IDV Court, conviction charge severity was only slightly higher, and fewer convicted defendants were sentenced to jail or prison. In the relatively rare cases when defendants in IDV Court received a jail or prison sentence, the median sentence was shorter than in Criminal Court DV cases. However, the mean sentence was longer in IDV Court because there were a few defendants in IDV Court who received particularly long sentences.

Overall, case outcomes in IDV Court were generally different from those in Criminal Court DV cases. The processing of criminal DV cases in IDV Court was not as efficient as in Criminal Court. However, we had no information on the processing of family or matrimonial cases in IDV Court or on the processing of such cases in Family Court or Supreme Court, so we could not evaluate the efficiency of IDV Court in processing multiple types of cases. Pretrial re-arrests for new DV offenses were more common in IDV Court. Although this may suggest that the IDV Court was less successful in preventing pretrial misconduct, it may also suggest that the IDV Court was more vigilant in monitoring and identifying cases of pretrial misconduct. While IDV Courts are not specifically intended to increase convictions, our findings show that the conviction rate was significantly higher in IDV Court than in Criminal Court DV cases.

These findings show that a variety of outcomes differed between IDV Court and Criminal Court DV cases. The results reflect routine court operations, including differences that may be due to the different types of cases assigned to each court.   To what extent do the different outcomes reflect differences in the types of criminal cases sent to each court? To what extent do the differences between courts reflect the impact of the IDV Court on the outcomes? We address these questions in the next chapter.

IV. THE IMPACT OF IDV COURT ON CASE OUTCOMES

Because there are differences in the types of DV cases sent to IDV Court versus Criminal Court, the results presented in chapter 3 are open to multiple interpretations. Some of the observed differences may reflect the different types of cases sent to each court. Other differences may reflect the impact of the different procedures used in IDV Court versus Criminal Court. Because this study is concerned with determining the impact of the IDV Court on case outcomes, it is essential to separate the effect of differences in case composition from the effect of court procedures. This chapter describes the methods used to distinguish between these effects. It then presents results showing the impact of court procedures on case outcomes.

A. Creating Matched Samples of IDV Court and Criminal Court DV Cases

To remove the effects of differences in case composition, we created matched samples of comparable DV cases from IDV Court and Criminal Court. A traditional approach would match IDV Court cases to Criminal Court DV cases with exactly the same combination of characteristics (e.g., demographic background, charges, injuries, relationship characteristics). However, if there are several characteristics, it becomes difficult, and sometimes impossible, to find matches with the same combination of characteristics. A better method is to use propensity score matching (Guo and Fraser 2010). This technique matches each IDV Court case to a Criminal Court DV case that had a similar likelihood (or propensity) of being sent to IDV Court. Propensity score matching enables us to match cases using a larger number of characteristics, even if an IDV Court case does not have an exact match in Criminal Court on all the characteristics.

This section briefly explains how we used propensity score matching to create matched samples of IDV Court and Criminal Court DV cases. It also presents results showing that the matching was successful.

The analyses in this chapter used cases for which data was available from the DV Bureau Case File Sample, described in Chapter 2. The sample included 204 IDV Court case files and 1,349 Criminal Court DV case files. Our analyses were based on the sample, rather than the full DV Bureau Dataset used in the previous chapter, because the case file sample contained detailed information about each case that was not available in the full dataset. The matched sample of case files can be used to assess the impact of the IDV Court on case outcomes.

Before beginning the matching process, we excluded from the sample all defendants who were never released between arraignment and case disposition. As explained in chapter 3, case outcomes, especially convictions, for the relatively small number of defendants who were never released may be very different from those of

released defendants. The exclusion of defendants who were never released reduced the sample size to 199 IDV Court cases and 1,195 Criminal Court cases.[25]

As in chapter 3, we used a case-based, not a defendant-based, file for our analyses. The same defendant may be counted multiple times because he or she was arrested and arraigned multiple times. Among the 199 IDV Court cases, 10 defendants had two cases docketed in IDV Court. Among the 1,195 Criminal Court DV cases, 21 defendants had two or more cases docketed in Criminal Court. Finally, one defendant had both a Criminal Court DV case and an IDV Court case. For purposes of matching, we considered retaining only one case for each defendant in the file, but ultimately decided not to. The matching process begins with the IDV cases, and we did not want to reduce the size of our sample further by excluding 10 cases from consideration. Furthermore, including the defendants with multiple cases reflects the operation of the IDV Court, where defendants return to the same judge for all subsequent DV arrests.[26] We also decided not to exclude defendants with multiple cases from the Criminal Court DV sample for two reasons. First, we wanted the pool of potential matches in Criminal Court to include defendants who have multiple cases, just as the IDV Court cases did. Second, we wanted to retain as large a pool as possible of potential matches to allow us to make the best possible matches.

Propensity score matching involves three basic steps. First, we estimate the propensity for each case in the sample (both IDV Court and Criminal Court DV cases) to be sent to IDV Court, based on case and offender characteristics. Second, we take each IDV Court case and find the Criminal Court case with the closest matching propensity score (among those not already matched) to create a sample of matched pairs of cases. Third, we evaluate the success of the matching process. We discuss each of these basic steps in this section. We describe further technical details of the matching process in Appendix D.

We began by identifying characteristics that might influence whether a DV case was sent to IDV Court or to Criminal Court. We considered a variety of factors, including the following:

Incident Characteristics
- Method of reporting the incident (911 call, who called 911, flag-down, precinct walk-in)
- Statements (Was defendant asked to make a video statement?)

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[25] In the IDV Court case file sample, we intentionally tried to select released cases as part of our sampling strategy. As a result, only five case files were excluded when we dropped cases for defendants who were never released between arraignment and case disposition.

[26] We ran additional analyses to examine the impact of the decision to retain both cases for the IDV defendants who had 2 cases in the sample. We removed the second case and its matching case from the samples and re-ran all the analyses presented in chapters 4 and 5. Although there were small differences in the results (usually less than 2 percentage points), all the tests of statistical significance and all the substantive conclusions were the same as those reported for the complete sample and discussed in the text.

- Injuries (injuries to a complaining witness, the defendant, others; medical treatment received by a complaining witness, photos taken of a complaining witness's injuries)
- Did defendant use force?
- Was defendant and/or victim intoxicated?

Arraignment Charge
- Penal law article of the most severe arraignment charge
- Any charge involving violation of an order of protection?

Defendant Characteristics
- Criminal record (Did defendant have open cases at the time of arrest?)
- Domestic violence history (any prior history reported, any prior arrests for domestic violence, any prior history that did not lead to an arrest, any prior Domestic Incident Reports (DIR's),[27] number of prior DIR's, any current orders of protection, any prior orders of protection)
- Demographic characteristics (sex, age, ethnicity, U.S. citizenship status)

Victim and Relationship Characteristics
- Elder abuse case
- Victim and defendant cohabit

Arrest Characteristics
- Precinct of Arrest
- On-scene arrest
- Year of arrest (2009 versus 2007 or 2008)
- Delay in arrest (more than 9 hours after the incident versus less than 9 hours)

After testing all of these items in a predictive model we found eight variables that had a statistically significant effect: whether the complaining witness or the defendant or both were injured in the incident, Penal Law article of the most severe arraignment charge, defendant gender, age, ethnicity, and U.S. citizenship status, cohabitation history, and year of arrest (see left panel, Table 4-1, next page). Each of these variables had a statistically significant impact on the likelihood that a DV case would be in IDV Court versus Criminal Court. (See the text box below, and Appendix E, for an explanation of tests of statistical significance for predictive models.) Cases in which either the complaining witness or defendant (or both) were injured were more likely to be transferred to Criminal Court. DV cases with assault as the top arraignment charge were much more likely to be sent to Criminal Court than to IDV Court. Criminal contempt and harassment cases were more likely to be sent to IDV Court. Male

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[27] A Domestic Incident Report (DIR) is a form completed by NYPD officers for every domestic incident they respond to, whether or not an arrest is made. The DIR includes a page for the victim to write a statement explaining what happened during the incident. NYPD officers are required to offer the victim the opportunity to write a statement, but victims may refuse to do so.

Table 4-1: Baseline Data for Case File Sample and Matched Sample
Released Defendants, Excluding Cross-Complaints

	Initial Samples		Matched Samples	
	IDV Court (N = 199)	Criminal Court (N = 1,195)	IDV Court (N = 191)	Criminal Court (N = 191)
Injuries	***			
Any injuries to complaining witness or defendant?	33%	60%	34%	36%
Top arraignment charge	***			
Assault	42%	72%	44%	43%
Criminal Contempt	32%	8%	29%	28%
Harassment	18%	7%	19%	19%
Other	8%	13%	8%	10%
Defendant's gender	*			
Female	18%	14%	16%	18%
Defendant's Age	**			
16-20	1%	7%	1%	6%
21-29	35%	37%	35%	32%
30-39	37%	39%	37%	36%
40 and older	27%	27%	27%	26%
Defendant's ethnicity				
Black, Non-Hispanic	58%	65%	58%	60%
White, Non-Hispanic	16%	11%	16%	16%
Hispanic	20%	20%	20%	17%
Other, Non-Hispanic	6%	4%	6%	7%
Defendant's citizenship status	*			
Defendant is U.S. Citizen	88%	84%	88%	90%
Cohabitation History	***			
Never cohabited	22%	29%	23%	25%
Cohabited prior to time of arrest	51%	23%	49%	48%
Cohabiting at time of arrest	27%	48%	28%	27%
Year of arrest	***			
2009 (vs. 2008 or 2007)	81%	54%	80%	80%

*   Difference between Criminal Court and IDV Court is statistically significant at P < .05
** Difference between Criminal Court and IDV Court is statistically significant at P < .01
*** Difference between Criminal Court and IDV Court is statistically significant at P < .001

TESTS OF STATISTICAL SIGNIFICANCE FOR PREDICTIVE MODELS

We used statistical significance tests to determine which predictors to retain in the predictive models. A statistical significance test assesses the probability that the effect of a predictor observed in this sample of cases could have occurred by chance alone. The tests take into account the magnitude of the effect and the size of the sample. Larger effects and effects based on larger samples are more likely to be statistically significant. In this report, following standard convention, we considered significance levels less than .05 to be statistically significant. This means that the statistically significant effects found in this study had less than a 5% probability of being due to chance alone, supporting the hypothesis that the predictor produced the effect. See Appendix E for more information about tests of statistical significance.

defendants, younger defendants, defendants who were non-Hispanic Black, and defendants who were U.S. citizens were more likely to have their cases assigned to Criminal Court. Defendants who were cohabiting with the victim at the time of arrest were more likely to have their cases heard in IDV Court. Finally, because of the sampling procedure used and limitations on the availability of case files, defendants arrested in 2009 were more likely to be sent to IDV Court.[28]

We next used the model to estimate the propensity of each case to be assigned to IDV Court. Using these propensities, we looked for the best match among the Criminal Court DV cases for each of the IDV Court cases. We were able to find successful matches for 191 of the 199 IDV Court cases. After dropping the unmatched IDV Court cases, we had a sample of 382 cases: 191 IDV Court cases and 191 Criminal Court DV cases.[29]

To evaluate the success of the matching process, we compared the characteristics of the matched samples. We found no significant differences in case and offender characteristics between the IDV Court and Criminal Court DV samples after matching (see right panel of Table 4-1). On each of the eight characteristics evaluated, the two matched samples look quite similar. These results indicate that the matching process was successful, and that any differences we observed in the type of criminal cases assigned to each court were eliminated in the matched samples. Any remaining differences between the samples should be attributable to the impact of the court on case outcomes, not to differences in the type of criminal cases assigned to each court.

One difference between the courts could not be addressed in the matching process. The comparison group of DV cases in Criminal Court was not restricted to those that had concurrent Family Court cases or Supreme Court matrimonial cases, as it was in IDV Court. We did not have data on whether defendants in Criminal Court DV cases had concurrent civil cases. Moreover, because of the procedures for assigning cases to IDV Court, it is unlikely that sufficient numbers of matching Criminal Court DV cases with concurrent civil cases were available. Nevertheless, the matching process we used was designed to remove the important differences between the samples.

We also examined data on the court part of the disposition (data not shown). In the matched sample, the IDV Court cases were almost evenly split between the two parts. Nearly 51% were disposed in part IDV and 49% were disposed in part IDV2. The Criminal Court DV cases were disposed in four court parts. About 39% were disposed in part DV1, 48% in part DV2, 12% in part FD and 1% in part Jury1. Although there was less balance among Criminal Court DV parts, this did not have an impact on the results of the analysis.

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[28] Due to the limited availability of case files from 2008, most of the IDV Court files in the case file sample were from 2009.

[29] The sample of 191 IDV Court cases included 8 defendants who had 2 or more cases in the sample. None of the defendants in the matched Criminal Court sample had 2 or more cases in the sample.

B. Case Processing Outcomes and Pretrial Misconduct for Matched Samples

We next examined differences between IDV Court and Criminal Court DV cases using our matched samples. With two exceptions (release status and length of jail sentence), the outcomes we examined here were the same as those examined in chapter 3. The differences in outcomes described in this chapter reflect the impact of the IDV Court because they are based on the matched samples. The propensity score matching process removed the effect of differences in the types of criminal DV cases sent to IDV Court versus Criminal Court.

We began by looking at case processing and pretrial misconduct.[30] Criminal cases in IDV Court typically required two more appearances than those in Criminal Court (see Figure 4-1), just as we found in the previous chapter. IDV cases also took longer to reach a disposition. In the matched sample, the average IDV case took 14 days longer. The difference in medians was a little larger: 23 days longer for IDV Court.

Figure 4-1: Number of Court Appearances by Court Type, Matched Samples
Released Defendants, Excluding Cross-Complaints
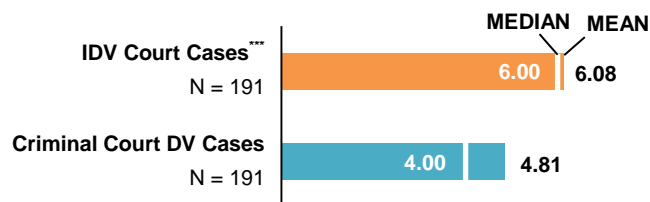
*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

Figure 4-2: Number of Days from Arraignment to Disposition by Court Type, Matched Samples
Released Defendants, Excluding Cross-Complaints
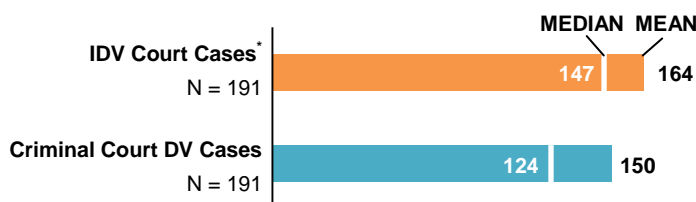
* Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .05).

One of the goals of IDV Courts is to ensure defendants' compliance with orders of protection and to reduce recidivism. In IDV Court, 18% of defendants were re-arrested for a new DV offense prior to case disposition, compared to 12% in Criminal Court (see Figure 4-3, next page). Although this may suggest that IDV Court was less successful at preventing pre-disposition re-arrests for new DV offenses, it seems more likely that

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[30] Because we examined only released cases in this sample, we did not include release status among the case processing outcomes.

the IDV Court was more vigilant about monitoring defendants and identifying new DV offenses. There was no difference between IDV Court and Criminal Court in the rate of re-arrests for new Non-DV offenses. About 13% of defendants in each court were re-arrested for a new Non-DV offense prior to case disposition (see Figure 4-4). The overall re-arrest rate, for either DV or Non-DV offenses, was 4% higher for IDV Court, but this difference was not statistically significant (see Figure 4-5). The failure-to-appear (FTA) rate was considerably lower in IDV Court (5%) than in Criminal Court (11%; see Figure 4-6, next page). As indicated in chapter 3, this statistically significant difference was notable because defendants typically were required to make two more court appearances in IDV Court than in Criminal Court.

Figure 4-3: Defendant Ever Re-arrested for a New DV Offense Prior to Case Disposition by Court Type, Matched Samples
Released Defendants, Excluding Cross-Complaints

18%   12%

IDV Court   Criminal Court
Cases[*]   DV Cases
N = 191   N = 191

[*] Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .05).

Figure 4-4: Defendant Ever Re-arrested for a New Non-DV Offense Prior to Case Disposition by Court Type, Matched Samples
Released Defendants, Excluding Cross-Complaints

13%   13%

IDV Court   Criminal Court
Cases   DV Cases
N = 191   N = 191

Figure 4-5: Defendant Ever Re-arrested for a New DV or Non-DV Offense Prior to Case Disposition by Court Type, Matched Samples
Released Defendants, Excluding Cross-Complaints

26%   22%

IDV Court   Criminal Court
Cases   DV Cases
N = 191   N = 191

Figure 4-6: Defendant Ever Failed to Appear for a Scheduled Court Appearance by Court Type,
Matched Samples
Released Defendants, Excluding Cross-Complaints

5%	11%
IDV Court Cases*	Criminal Court DV Cases
N = 191	N = 191

* Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .05).

C. Case Disposition and Sentencing Outcomes for Matched Samples

Results from the matched samples confirm that the conviction rate was much higher in IDV Court than in Criminal Court DV cases. Nearly half of IDV Court cases ended in conviction (49%), compared to 28% of Criminal Court DV cases, and this difference was statistically significant (see Figure 4-7). These conviction rates were nearly identical to the rates presented in chapter 3. The 21-percentage-point difference in conviction rates between the matched samples represents the impact of the IDV Court on convictions. ACD's were only slightly more common in IDV Court (8% versus 5%) and this difference was not statistically significant (result not shown).

Figure 4-7: Case Disposition by Court Type, Matched Samples
Released Defendants, Excluding Cross-Complaints

IDV Court Cases*
N = 191

- ACD — 8%
- Pled Guilty/Convicted — 49%
- Dismissed/Acquitted — 43%

Criminal Court DV Cases
N = 191

- ACD — 5%
- Dismissed/Acquitted — 67%
- Pled Guilty/Convicted — 28%
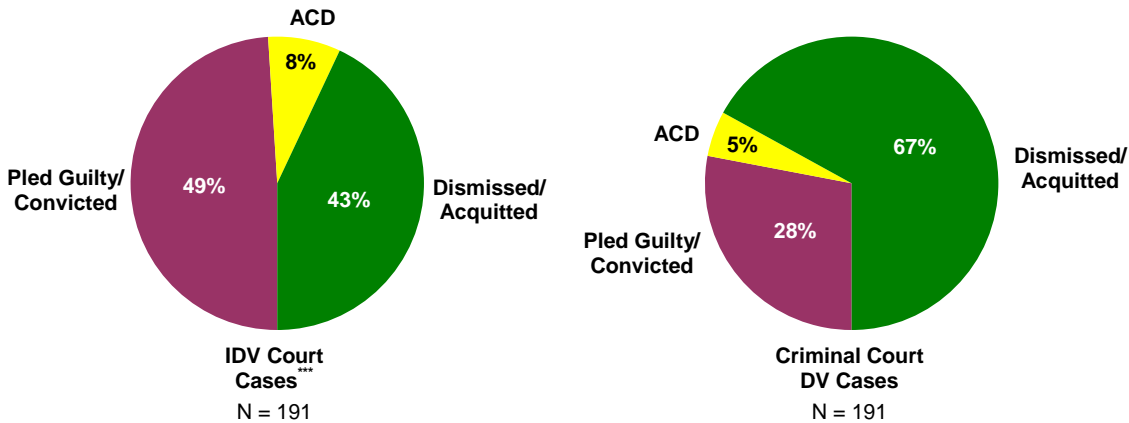
*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

Among convicted cases, conviction charge severity was higher in IDV Court than in Criminal Court DV cases, however the difference was not statistically significant because of the small sample size. About 11% of IDV Court convictions were A misdemeanor convictions, and 12% were B misdemeanor convictions (see Figure 4-8, next page). Comparable percentages in Criminal Court DV cases were 6% and 7%, respectively.

Figure 4-8: Conviction Charge Severity by Court Type, Matched Samples
Convicted Released Defendants, Excluding Cross-Complaints

IDV Court
Cases
N = 93

Criminal Court
DV Cases
N = 54
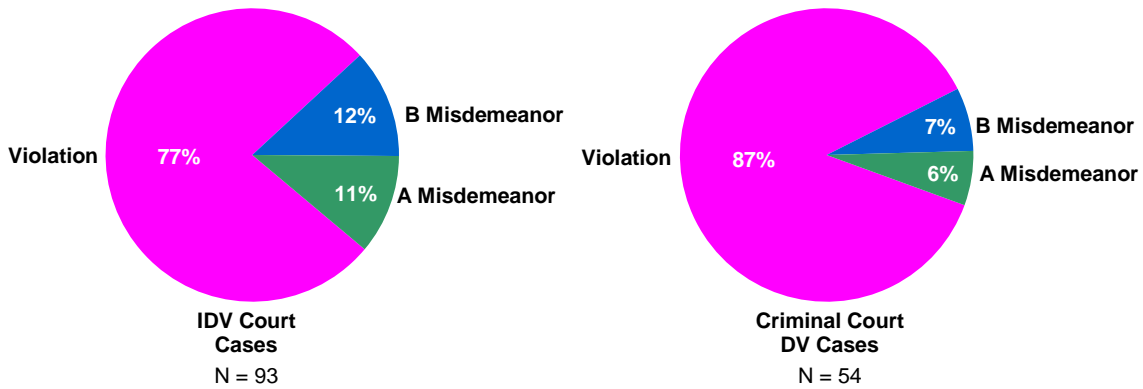
Finally, we examined the sentence outcome. Convicted defendants in IDV Court were slightly less likely to be sentenced to jail[31] (3% versus 7% in Criminal Court; see Figure 4-9); this difference was not statistically significant.

Figure 4-9: Sentence Outcome by Court Type, Matched Samples
Convicted Released Defendants, Excluding Cross-Complaints

IDV Court
Cases
N = 93

Criminal Court
DV Cases
N = 54

D. Summary and Discussion of Findings

This chapter used matched samples of IDV Court and Criminal Court DV cases to examine differences between them on a variety of case outcomes. The matching process identified the Criminal Court DV case most similar to each IDV Court case, after excluding previously matched cases. Our assessment of the matched samples

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[31] There were no felony convictions in the IDV Court matched sample, and therefore no prison sentences.

demonstrated that the IDV and Criminal Court samples had similar characteristics. Because the matching process was successful, any differences in case outcomes in the matched samples can be attributed to the impact of the IDV Court and not to differences between the types of criminal cases sent to IDV Court versus Criminal Court.

The IDV Court did not increase the efficiency of processing criminal cases. In fact, criminal cases in IDV Court typically required two more appearances than those in Criminal Court, and took two to three weeks longer to reach a disposition. Because we did not have comparison data for Family Court cases or Supreme Court matrimonial cases, we do not know whether the IDV Court had an impact on the number of appearances or on case processing time for those types of cases. Nor did we have information about possible reductions in the number of trips to court, which benefit litigants.

Re-arrests for new DV offenses prior to case disposition were more common in IDV Court than in Criminal Court DV cases. One interpretation is that the IDV Court apparently did not achieve its goal of reducing recidivism. However, it seems more likely that IDV Court was more successful than Criminal Court at identifying defendants who committed new DV offenses and at having them re-arrested. There was no difference between IDV Court and Criminal Court in the re-arrest rate for new non-DV offenses. There was a striking difference in the failure-to-appear rates between the two courts. Only 5% of defendants in IDV Court ever missed a court appearance, compared to 11% of defendants in Criminal Court DV cases. The defendants in IDV Court were at greater risk of failing to appear, since they typically had six appearance dates, compared to only four for defendants in Criminal Court DV cases. Although they had more opportunities to miss court appearances, they were less than half as likely to fail to appear. The concurrent appearances for custody, visitation and/or matrimonial cases apparently provided a strong incentive for defendants to attend their IDV Court appearances.

The results for the matched samples confirmed that the conviction rate was considerably higher in IDV Court than in Criminal Court DV cases. The difference in conviction rates was 21 percentage points. This difference represents the impact of the IDV Court on convictions. Because it is based on the matched samples, this difference cannot be explained by differences in the types of criminal cases sent to each court. Although ACDs were slightly more common and conviction charge severity was higher in IDV Court, these differences were not statistically significant.

Overall, after examining a variety of case outcomes, the most notable impact of the IDV Court was its impact on the conviction rate, which was 21 percentage points higher than in Criminal Court DV cases. In the next chapter, we examine this finding in more detail to explain why the IDV Court conviction rate was higher.

V. THE IMPACT OF IDV COURT ON CONVICTIONS IN DV CASES

This chapter examines the reasons for the higher conviction rate for DV cases processed in IDV Court versus in Criminal Court using the data from the matched sample of case files. First, we examine victim/witness participation in IDV Court and Criminal Court DV cases, and the extent to which it accounts for the higher conviction rate in IDV Court. Then we examine whether there are other differences between the courts in the strength of evidence in DV cases. Taking into account a variety of other factors that affect the likelihood of conviction may provide a more complete understanding of how the IDV Court increased the conviction rate.

A. Witness Participation and Conviction Rates

As reported in chapter 4, the IDV Court increased the conviction rate by 21 percentage points in the matched samples. This finding demonstrated that the IDV Court had a strong impact on the conviction rate. To determine why it had this impact, we focused first on the role of victim/witness participation, which is generally the strongest predictor of conviction in DV cases (Peterson 2012, 2013a). Because victims are routinely present at IDV Court hearings and have concurrent civil cases, they may be more likely to participate with the prosecution than victims in Criminal Court DV cases. Their higher participation rate may account for the higher conviction rate in IDV Court.

To understand the role of witness participation, we compared participation rates in the two courts, and then used a statistical model to determine the extent to which witness participation could account for the higher conviction rate in IDV Court.

We classified witness participation in three categories, based on the last known participation status: 1) victim declined to participate with the prosecution of the case, 2) victim participating with the prosecution of the case, or 3) victim participation status unknown or victim never contacted. (See Peterson (2013a, pp. 28-29) for further information about measuring witness participation.) As shown in Figure 5-1 (next page), 59% of witnesses in IDV Court cases were participating with the prosecution. In Criminal Court DV cases, only 27% were participating. This is a large gap, and it is likely to be an important factor accounting for the higher conviction rate in IDV Court. This gap may reflect, in part, victims' involvement in concurrent visitation, custody, or matrimonial cases in IDV Court. Victims who have concurrent cases may be more likely to participate with the prosecution of the criminal case. Furthermore, this gap may be larger in a jurisdiction like Brooklyn, which has a relatively low witness participation rate in Criminal Court because it prosecutes almost all DV cases, than it would be in a jurisdiction that declines to prosecute DV cases when the victim does not want to press charges.

Figure 5-1: Witness Participation in DV Cases by Court Type, Matched Samples
Released Defendants, Excluding Cross-Complaints

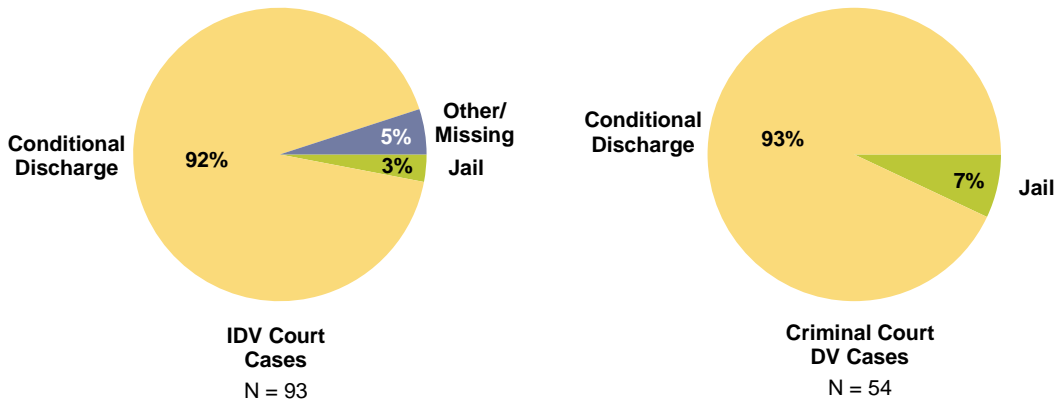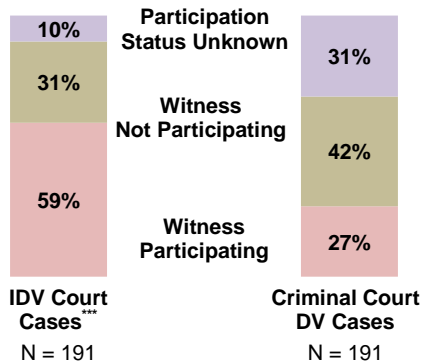*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

To determine how much of the difference in conviction rates can be explained by victim participation status, we developed two predictive models. The models show how the impact of the IDV Court on convictions changes if we take into account the differences in witness participation between IDV Court and Criminal Court DV cases.

The predictive models we developed are logistic regression models (see discussion in text box and in Appendix E). Logistic regression is the appropriate statistical technique for predicting the likelihood of an outcome like conviction, which has two categories: convicted and not convicted.

LOGISTIC REGRESSION MODELS

All the predictive models presented in this report are logistic regression models. The models identify which of the tested predictors affected the likelihood of conviction. The effect of each predictor was evaluated as a net effect, i.e., after the effects of all the other predictors in the model were taken into account. To determine whether a predictor was associated with the likelihood of conviction, we used ***tests of statistical significance***. Statistically significant predictors were predictors that helped to explain which cases ended in conviction and which did not (see detailed discussion of statistical significance in text box below). We measured the *size of a predictor's effect* on the likelihood of conviction by examining the ***change in conviction rate***. The change in conviction rate is the difference between the conviction rates for two types of cases (e.g., cases in which the defendant was male versus cases in which the defendant was female). For example, if the predicted conviction rate for males is 60% and for females is 45%, the change in the conviction rate is an increase of 15% for males. This indicates that the conviction rate is 15 percentage points higher if the defendant was male than if the defendant was female (this example is hypothetical, and does not reflect the findings in any of the models in this report). Appendix E provides a detailed explanation of logistic regression models, as well as further information about how to interpret the findings.

The predictive models show the effect of type of court on the conviction rate before and after taking into account the effect of witness participation status on the conviction rate (see Figure 5-2). Replicating the result reported in chapter 4, the impact of the IDV Court on the conviction rate was 21 percentage points when the model did not take into account the impact of witness participation (see Model 1 in Figure 5-2, left panel). Once we took into account the effect of witness participation status, the impact of the IDV Court on convictions dropped to 8 percentage points (see Model 2 in Figure 5-2, right panel). This means that 13 points of the 21-percentage-point difference in conviction rates was explained by the higher witness participation rate in IDV Court, while 8 percentage points remained unexplained. The 8-percentage-point difference was statistically significant. These results show that nearly two-thirds of the difference in conviction rates was due to witness participation.

Figure 5-2: Conviction Models Before and After Accounting for Witness Participation Status
Released Defendants, Excluding Cross-Complaints (N = 382)
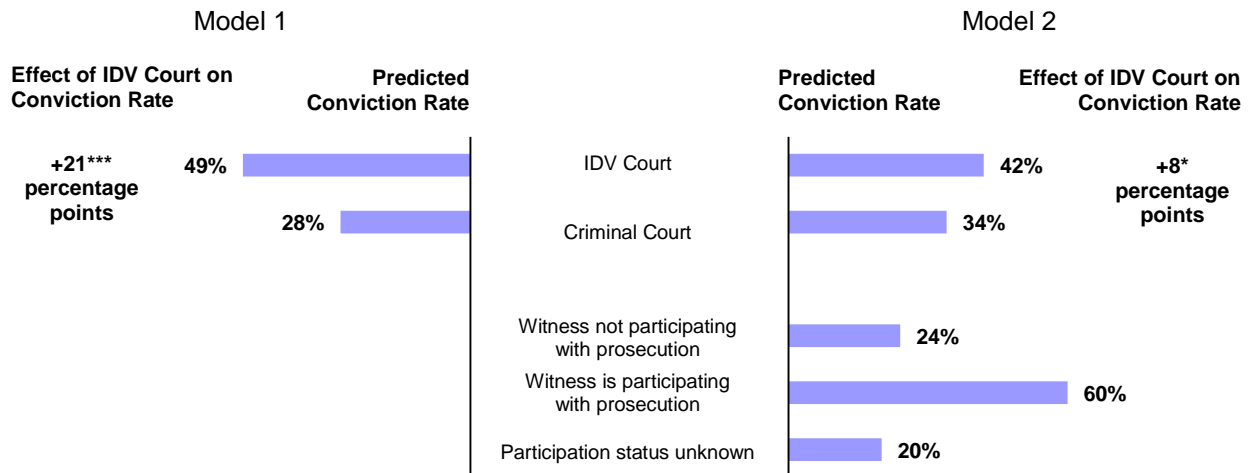
* Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .05).
*** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .001).

It seems clear that the primary factor accounting for the higher conviction rate in IDV Court was witness participation. To explore this further, we divided the sample into two groups: cases in which the witness participated with the prosecution, and those in which the witness did not participate or her/his participation status was unknown. We then developed predictive models to examine the impact of the IDV Court separately for each of these two groups.

When the witness was participating with the prosecution, the conviction rate in IDV Court was 66%, 15 percentage points higher than the 51% conviction rate in Criminal Court DV cases (see Figure 5-3, left panel, next page). The 15-percentage-point difference was statistically significant. This finding shows that witness participation led to a conviction more often in IDV Court than in Criminal Court DV cases. Not only were witnesses more likely to participate with the prosecution in IDV Court, but their participation was also more valuable in obtaining a conviction.

Figure 5-3: Conviction Models by Witness Participation Status
Released Defendants, Excluding Cross-Complaints
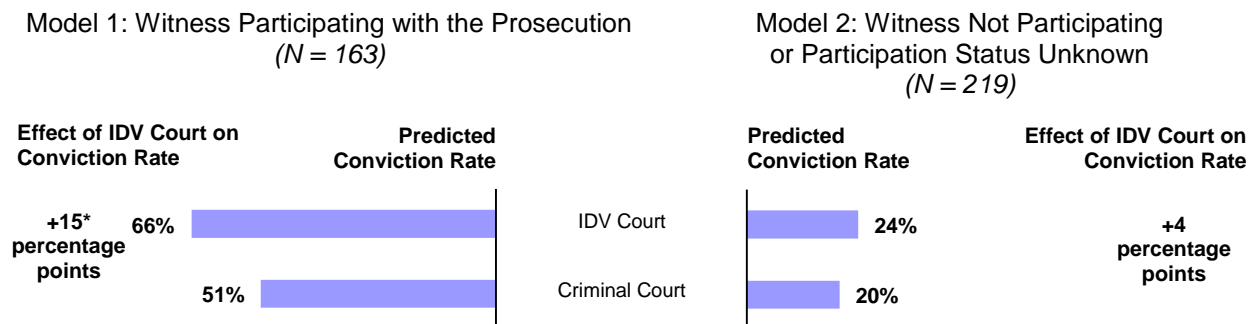
Model 1: Witness Participating with the Prosecution
(N = 163)

Model 2: Witness Not Participating
or Participation Status Unknown
(N = 219)

Effect of IDV Court on Conviction Rate	Predicted Conviction Rate		Predicted Conviction Rate	Effect of IDV Court on Conviction Rate
+15* percentage points	66%	IDV Court	24%	+4 percentage points
	51%	Criminal Court	20%	

* Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .05).

When the witness was not participating, or her/his participation status was unknown, the conviction rate in IDV Court was 24%, only 4 percentage points higher than the 20% conviction rate in Criminal Court DV cases (see Figure 5-3, right panel). The 4-percentage-point difference was not statistically significant. The IDV Court had very little impact on the conviction rate in cases in which the witness was not participating with the prosecution or her/his participation status was unknown.[32]

B. Strength of Evidence and Conviction Rates

An 8-percentage-point difference between the conviction rates in IDV Court and Criminal Court remained unexplained after taking into account the effect of witness participation. Are there any other factors that might explain the remaining 8-percentage-point difference? Our DV Bureau Case File dataset included measures of the strength of evidence, incident characteristics, charge characteristics, pretrial misconduct, and other factors that might vary between the two courts. If IDV Court had cases with stronger evidence, or cases of defendants who had a more serious criminal record, these factors might explain the higher conviction rate. To address this issue, we developed an additional predictive model.

Building on the previous model, which included type of court and witness participation status as predictors of conviction, we considered a variety of additional factors that might affect the likelihood of conviction. Based on previous research (Peterson 2013a), we considered the following list of factors:

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[32] We repeated all the analyses in this chapter after excluding from the sample cases for which victim participation status was unknown. Because the conviction rate for these cases was lower than average (20%, as shown in Figure 5-2, Model 2), the conviction rates presented in Figures 5-2, 5-3, and 5-4 were all slightly higher when we excluded cases with unknown victim participation status. However, the pattern of findings, including differences between IDV Court and Criminal Court DV cases remained the same, and none of the substantive conclusions reported in this chapter would change if these cases were excluded.

Incident Characteristics
- ● Victim statement (Was there a victim statement on the DIR?)
- ● Defendant statement (Was the defendant asked to make a video statement?)
- ● Injuries (injuries to a complaining witness, the defendant, others; any medical records received by the DA's office; any photos of injuries to complaining witness)

Arraignment Charge
- ● Penal law article of the most severe arraignment charge
- ● Any charge involving violation of an order of protection?

Defendant Characteristics
- ● Criminal record (Did defendant have open cases at the time of arrest?)
- ● Demographic characteristics (sex, age, ethnicity, U.S. citizenship status)

Victim and Relationship Characteristics
- ● Victim and defendant cohabit

Arrest Characteristics
- ● Year of arrest (2009 versus 2007 or 2008)

Pretrial Misconduct
- ● Whether the defendant was re-arrested for a DV offense during the pretrial period

Although we considered all of these factors as possible predictors of conviction, we included in our model only those factors that had a statistically significant effect. If a factor did not have a statistically significant effect on conviction, we excluded it from the model.

The predictive model for convictions found two additional factors that had a statistically significant effect on the likelihood of conviction (see Figure 5-4). Having medical records of injuries in the case file increased the conviction rate by 26 percentage points, from 37% to 63%. Having a 911 recording in the case file increased the conviction rate by 13 percentage points, from 36% to 49%. Not only were these factors strong predictors of the likelihood of conviction, but when they were taken into account, the difference in the conviction rate between IDV Court and Criminal Court dropped from 8 percentage points to a statistically insignificant 6 percentage points. These two factors accounted for 2 percentage points of the 21-percentage-point difference in conviction rates between IDV Court and Criminal Court. As we saw in the previous model (Figure 5-2), witness participation accounted for 13 points of the 21-percentage-point difference, so it was clearly a more important factor. However, these two factors (medical records and 911 recordings) also played a role.

Figure 5-4: Conviction Model with Strength of Evidence
Released Defendants, Excluding Cross-Complaints (N = 382)

	Predicted Conviction Rate	Effect of IDV Court on Conviction Rate
Type of Court		
IDV Court	41%	**+6 percentage points**
Criminal Court	35%	
Last Known Status of Witness Participation		
Witness not participating	23%	
Witness is participating	60%	
Participation status unknown	22%	
Any Medical Records of Complaining Witness's Injuries?		
No medical records of injuries in case file	37%	
Medical records of injuries present in case file	63%	
Any 911 Recording Present in Case File?		
No 911 recording in case file	36%	
911 recording present in case file	49%	

To understand why medical records and 911 recordings helped to account for the higher conviction rate in IDV Court, we examined data on how often these types of evidence were present in the files of cases heard in IDV Court and Criminal Court. There were significant differences in the availability of this type of evidence between the two courts (see Figure 5-5). Medical records of injuries were present in the file in 8% of IDV Court cases, but only 4% of Criminal Court DV cases. Recordings of 911 calls were present in 27% of IDV Court cases, but only 17% of Criminal Court DV cases. Because each of these types of evidence increased the likelihood of conviction, their greater prevalence in IDV Court case files increased the likelihood of conviction in IDV Court.

Figure 5-5: Strength of Evidence in DV Cases by Court Type
Released Defendants, Excluding Cross-Complaints
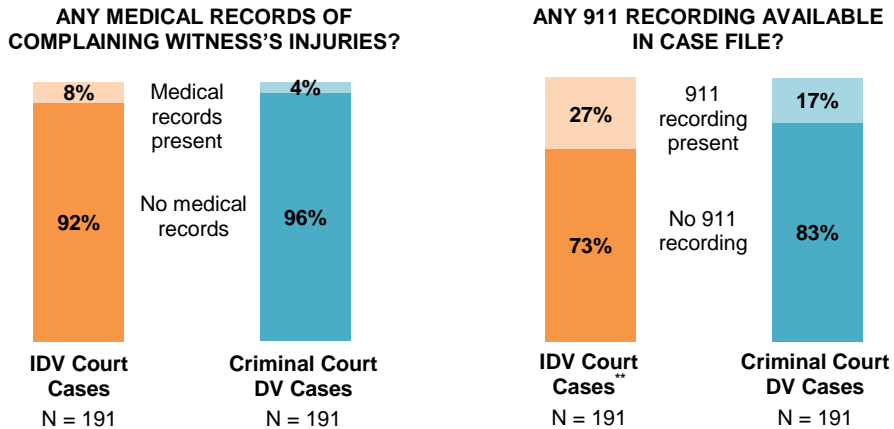
** Difference between IDV Court Cases and Criminal Court DV Cases was statistically significant (P< .01).

C. Summary and Discussion of Findings

The conviction rate in Brooklyn IDV Court cases was 21 percentage points higher than in Criminal Court DV cases. Because this difference was based on our analysis of the matched samples, it represents the impact of the IDV Court on convictions. The matched samples removed observed differences due to the assignment of different types of cases to IDV Court versus Criminal Court.

We conducted several analyses to examine why the conviction rate was higher in IDV Court cases than in Criminal Court DV cases. First, we examined the influence of witness participation. Witnesses were much more likely to participate with the prosecution of IDV Court cases than Criminal Court DV cases. The participation rate was more than twice as high in IDV Court (59%) as in Criminal Court (27%). To determine how much of the higher conviction rate in IDV Court cases was due to witness participation, we developed a statistical model predicting the likelihood of conviction. After taking into account the impact of witness participation on convictions, the IDV Court increased the conviction rate by 8 percentage points. This increase is 13 percentage points lower than the 21-percentage-point increase we found in a model that did not take into account witness participation. These findings demonstrate that nearly two thirds of the impact of the IDV Court on convictions was due to its impact on witness participation with the prosecution.

To explore the effect of witness participation further, we examined the impact of the IDV Court on convictions separately for cases in which the witness was participating and those in which the witness was not participating. When the witness was participating with the prosecution, the IDV Court increased convictions by 15 percentage points. This indicates that witness participation was more valuable in obtaining a conviction in IDV Court than in Criminal Court DV cases. When the witness was not participating with the prosecution or the participation status was unknown, the IDV Court did not have a statistically significant impact on convictions. This finding confirms that the higher witness participation rate in IDV Court was a key reason for the higher conviction rate.

We also examined whether other types of evidence, in addition to witness participation, were responsible for the higher conviction rate in IDV Court. We found two: having medical records of injuries in the case file, and having a 911 recording in the case file. When we added these items as predictors in our model, along with witness participation, the conviction rate was about 6 percentage points higher in IDV Court. The 6-percentage-point difference was statistically insignificant. This shows that witness participation, medical records, and 911 recordings accounted for the impact of the IDV Court on conviction rates.

As we conclude this chapter, we review possible explanations for the higher conviction rate in IDV Court. Nearly two thirds of the 21-percentage-point impact of the IDV Court on the conviction rate was due to witness participation with the prosecution. Witnesses in IDV Court were much more likely to participate with the prosecution than

those in Criminal Court DV cases. Moreover, when they did participate, the impact of witness participation on convictions was stronger in IDV Court. This suggests that both the quantity and quality of witness participation were higher in IDV Court. About 10% (i.e., 2 percentage points) of the 21-percentage-point impact of IDV Court on the conviction rate was due to stronger evidence. In particular, two types of evidence were more likely to be present in the case files in IDV Court: medical records of victim injuries and 911 recordings. Overall, however, the difference in the quality and quantity of witness participation was the primary reason for the higher conviction rate in IDV Court.

VI. CONCLUSION

This report assessed the impact of the IDV Court in Brooklyn on case processing and outcomes in criminal cases of domestic violence. It has highlighted differences between IDV Court and Criminal Court DV cases, and focused special attention on the higher conviction rate in IDV Court in 2007-2009. Until now, little was known about the reasons for the higher conviction rate. One possible reason is that charges differed across courts. Most defendants in Criminal Court faced assault charges, which have a relatively low conviction rate. Defendants in IDV Court were more likely to be charged with criminal contempt (usually for violating an order of protection), which has a higher conviction rate. The conviction rate may also have been higher in IDV Court because victims were more likely to participate with the prosecution of the cases. In Criminal Court cases in Brooklyn, less than one third of victims participated with the prosecution. Another possible explanation for the higher conviction rate is that defendants in IDV Court had a greater stake in the concurrent cases, and may have been more willing to negotiate a plea in the criminal case. The current study examined data on cases prosecuted by the DV Bureau in Brooklyn to determine the adequacy of each of these explanations in accounting for the higher conviction rate in IDV Court.

A. Major Findings

This study addressed three questions:

1) Did case outcomes in IDV Court differ from case outcomes in Criminal Court DV cases?

2) To what extent did the IDV Court have an impact on case outcomes, especially convictions?

3) What factors accounted for differences in conviction rates between IDV Court and Criminal Court DV cases?

We can summarize the answers to these questions as follows.

First, there were significant differences in many case outcomes between IDV Court and Criminal Court DV cases. Defendants in IDV Court cases were more likely to have been released at arraignment, had two more court appearances on average, and their cases took longer to reach a disposition. Released defendants in IDV Court were more likely to be re-arrested for a new DV offense prior to case disposition than those in Criminal Court DV cases. However, IDV Court defendants were less likely to be re-arrested for a new non-DV offense prior to case disposition. In addition, although they had two more court appearances, they were considerably less likely to fail to appear. The conviction rate was 22 percentage points higher in IDV Court than in Criminal Court DV cases (49% versus 27%). ACDs were slightly more common in IDV Court. Conviction charge severity was only slightly higher in IDV Court, and fewer convicted defendants were sentenced to jail or prison.

Second, there were differences in the types of DV cases assigned to IDV Court versus Criminal Court. Cases involving injuries, assault charges, male defendants, defendants under age 20, Black Non-Hispanic defendants, non-U.S. citizens, and defendants who never cohabited with the victim were all less likely to be sent to IDV Court. Because the case outcomes we observed might reflect differences in the types of criminal cases sent there, we did propensity score matching to create matched samples of IDV Court and Criminal Court DV cases. The matched samples enabled us to examine the impact of the IDV Court after removing the effects of differences in the types of criminal cases sent there.

Although the types of DV cases assigned to IDV Court were different from those assigned to Criminal Court, these differences did not affect most of the outcomes examined in this study. The differences in case outcomes found in the matched samples were generally similar to the differences in case outcomes we observed for all cases. Specifically, the number of court appearances was higher and case processing time was longer in IDV Court. Re-arrests for new DV offenses prior to case disposition were higher in IDV Court, and the failure-to-appear rate was lower. The conviction rate was 21 percentage points higher in IDV Court. The results from the matched samples differed from the results for all cases for only one outcome. The re-arrest rate for new non-DV offenses prior to case disposition was the same in IDV Court and Criminal Court DV cases in the matched samples, whereas it had been lower in IDV Court in the samples of all cases.

Finally, we examined the reasons for the impact of the IDV Court on convictions. Witnesses were more than twice as likely to be participating with the prosecution of IDV Court cases (59%) than in Criminal Court DV cases (27%). Greater witness participation with the prosecution accounted for nearly two thirds of the 21-percentage-point impact of IDV Court on convictions. Moreover, when witnesses were participating with the prosecution, the conviction rate was 15 percentage points higher in IDV Court. Witness participation apparently was more valuable in IDV Court cases than in Criminal Court DV cases. Additional analyses showed that strength of evidence also helped to explain the impact of IDV Court on convictions. Medical records of injuries and 911 recordings were present more often in IDV Court case files, and together they accounted for an additional 2 percentage points of the 21-percentage-point impact of IDV Court on convictions.

B. Discussion

This study examined differences in case outcomes between IDV Court and Criminal Court DV cases in Brooklyn, New York from 2007 to 2009. The key difference we identified was the higher conviction rate in IDV Court. In IDV Court, 49% of released defendants were convicted, compared to only 27% in Criminal Court DV cases. Unique features of IDV Courts and the cases heard in them may play a crucial role in explaining the higher conviction rate. Based on previous research, we considered three possible explanations for the higher conviction rate.

First, the types of cases in IDV Court may be different from those in Criminal Court. Criminal contempt charges were more common, and assault charges less common, in IDV Court than in Criminal Court. Because convictions were more likely in criminal contempt cases than in assault cases, this might at least partially account for the higher conviction rate in IDV Court.

Second, victims in IDV Court may be more likely to participate with the prosecution of the criminal case. They are routinely present for hearings in IDV Court and are represented by counsel for their civil cases. Victims rarely attend hearings in the specialized Criminal Court DV parts, rarely have an attorney, and are less likely to participate with the prosecution.

Third, defendants in IDV Court may be more willing to accept a plea in a criminal case as a way to negotiate more favorable outcomes in their concurrent custody, visitation, or divorce cases. In Criminal Court, defendants may have less incentive to plea bargain because there are no concurrent outcomes at stake.

We were able to evaluate each of these explanations in this study.

<u>Case Composition</u>

First, we addressed whether differences in case outcomes reflected differences in the types of criminal cases assigned to each court. The simple *differences* between IDV Court and Criminal Court DV cases reported in chapter 3 reflected not only the impact of the IDV Court on case outcomes, but also the effects of differences in types of cases assigned to IDV Court. Chapter 4 examined case characteristics that distinguished the types of cases assigned to each court. In addition to the differences in arraignment charges that we had anticipated, several other factors helped to predict whether a case was assigned to IDV Court. Cases with injuries to a complaining witness or defendant, and cases with female defendants, older defendants, white non-Hispanic defendants, U.S. citizens, and defendants who cohabited with the victim prior to the arrest were all more likely to be sent to IDV Court. These characteristics, individually or in combination, might account for the higher conviction rate in IDV Court. To remove the effect of these differences, we created matched samples that were similar on all these characteristics.

Using the matched samples, we were able to assess the *impact* of the IDV Court. The conviction rate in IDV Court was 49%, 21 percentage points higher than the 28% conviction rate in Criminal Court. These results were almost identical to the results for all cases (49% and 27%, respectively, a 22-percentage-point difference). Because the results for the matched samples were essentially the same as for all cases, we concluded that ***differences in the types of criminal cases sent to each court played almost no role in accounting for the higher conviction rate in IDV Court***. The IDV Court increased the conviction rate by 21 percentage points.

Witness Participation

To interpret this finding and to develop implications for practice and policy, we next examined why the IDV Court increased convictions. The higher conviction rate in IDV Court was due primarily to higher rates of witness participation. Witnesses were more than twice as likely to participate with the prosecution in IDV Court as in Criminal Court. The higher witness participation rate accounted for nearly two thirds of the 21-percentage-point impact of IDV Court on the conviction rate. The role of witness participation became even clearer when we examined separately cases in which the witness was participating versus those in which the witness was not participating, or her or his participation status was unknown. When the witness was not participating with the prosecution or her/his status was unknown, the IDV Court increased convictions only by a statistically insignificant 4 percentage points. This confirms that the primary reason for the higher conviction rate in IDV Court was the higher witness participation rate. If witness participation rates were similar, the difference in conviction rates between IDV Court and Criminal Court DV cases would have been much smaller. When the witness was participating with the prosecution, the conviction rate was 15 percentage points higher in IDV Court than in Criminal Court DV cases. Not only were more witnesses participating with the prosecution in IDV Court, but also the impact of their participation on convictions was stronger in IDV Court than in Criminal Court DV cases. Finally, we also examined the role of other measures of strength of evidence. Having medical records of injuries and having 911 recordings in the case file helped to account for the higher conviction rate in IDV Court. However, their role was relatively minor. **The main reason for the higher conviction rate in IDV Court was the higher rate of witness participation with the prosecution.**

Although the IDV Court increased convictions primarily because of witness participation with the prosecution, the results do not explain why witness participation was higher in IDV Court. We identified four possible explanations. First, a victim/witness may be more motivated to participate with the prosecution in IDV Court because there are other outcomes at stake in concurrent cases. Second, a victim/witness in IDV Court has access to free counsel for her/his civil cases, and counsel may encourage participation with the prosecution if it would be in the client's interests. Third, the victim/witness generally is present at all hearings in IDV Court, giving the judge a chance to hear her/his version of the incident leading to the criminal charges. Finally, IDV Court may provide easier access to victim services, and victims who avail themselves of services may be more willing to participate with the prosecution. We did not have data to evaluate any of these explanations, but we discuss each briefly.

First, witnesses in IDV Court may be more motivated to participate with the prosecution of the criminal case because they often have initiated actions against the defendant in Family Court (e.g., petition for order of protection, visitation and/or custody) or Supreme Court (e.g., divorce action). This explanation suggests that witnesses who were already motivated to participate were more likely to have criminal cases in IDV Court than in Criminal Court. Victims/witnesses may see participating with the

prosecution of the criminal case as consistent with actions they have already taken. Furthermore, although each case is adjudicated independently in IDV Court, some victims may believe that participating with the prosecution and getting a conviction in the criminal case will lead to favorable judicial decisions in the concurrent cases.

Second, victims/witnesses in IDV Court have easier access to free counsel, who represents them at each hearing. Victims' attorneys may advise victims of the desirability of participating with the prosecution of the criminal case. They may also advise them about information that is appropriate to share with the court. Advice of counsel may therefore increase both the proportion of victims/witnesses who participate with the prosecution and the quality of their participation. In Criminal Court, victims are rarely represented by legal counsel, and may not be as aware of their opportunities for participation, or of the kinds of information about the case that would be relevant to the court.

Third, in IDV Court, unlike in Criminal Court DV cases, the victim/witness generally is present at all hearings. Because the victim is present at each hearing in IDV Court, and because there are concurrent non-criminal cases, the judge and the attorneys have the opportunity to hear from each side multiple times. This familiarity with the case and with the parties may increase the value of witness participation in IDV Court cases, perhaps because the witness statements enable judges and attorneys to evaluate the accuracy of other statements by the defendant and the victim.

Finally, although victims in both IDV Court and Criminal Court DV cases can receive referrals to victim services through resource coordinators affiliated with each court, and through Brooklyn's Family Justice Center, it may be easier to access services through IDV Court. Victims rarely appear in Criminal Court for DV cases, whereas they are present at all IDV Court hearings. At IDV Court, the resource coordinator and the victim advocate from the DA's office meet the victim in each case, recommend appropriate services, and refer them to providers. Victims who are receiving the services they need, such as housing, financial support, counseling, etc., may feel more able to participate with the prosecution, and more confident of their ability to cope with their needs after the prosecution is over.

The first explanation suggests that criminal cases with witnesses who are motivated to participate with the prosecution are more likely to be transferred to IDV Court. The other three explanations suggest that IDV Court has an impact on witness participation. Although we were unable to test these explanations for the impact of witness participation on convictions in IDV Court, further research might be able to assess whether one or more of them is credible, or whether other explanations are relevant.

<u>Plea Bargaining</u>

A third explanation for the higher conviction rate in IDV Court concerns its effect on plea bargaining. In IDV Court the defendant's interest in reaching a settlement of

concurrent custody and visitation cases may increase his or her willingness to plead guilty in the criminal case. Although the court adjudicates each of the concurrent cases independently, the defendant and her/his attorney may know at the time that the defendant pleads guilty in the criminal case that the court's disposition of concurrent visitation or custody cases will be satisfactory to the defendant. Defendants might be especially willing to plead guilty if the negotiated plea is to a violation, which is not a criminal conviction, or if they receive a non-incarcerative sentence as part of the plea. The maximum criminal penalties for violation convictions are much less severe than the penalties for misdemeanor convictions (15 days in jail for a violation, 90 days for a B misdemeanor and 1 year for an A misdemeanor).[33] Unlike misdemeanors, New York State Penal Law does not classify violations as crimes. Violation convictions usually are sealed and removed from a defendant's rap sheet one year after the conviction date if the defendant has not been re-arrested during the year.[34] Without direct access to information about plea negotiations, it is difficult to know if this kind of plea bargaining occurred in IDV Court. It is also difficult to know how plea bargaining in IDV Court differs from plea bargaining in Criminal Court DV cases.

Another factor that may facilitate plea bargaining in the IDV Court is the stability of relationships among those who work there (Currul-Dykeman 2010). The judges, ADAs, and defense attorneys in the IDV Court parts are a relatively small and stable group who have a good working relationship and communicate regularly. In the Criminal Court parts, there are more ADAs and a larger group of defense attorneys. In Criminal Court, the working relationships may not be as strong, and this may make plea bargaining more difficult there than in IDV Court. Although good working relationships may facilitate plea bargaining in IDV Court, this is not by itself adequate to explain why conviction rates were higher there than in Criminal Court. Whether parties work well together or not, a weak case is still a weak case. However, IDV Court cases are likely to be stronger than Criminal Court cases because victims are more likely to be participating with the prosecution. When the evidence is strong, plea bargaining might be easier if the courtroom work group has good working relationships. In addition, all parties in IDV Court have information about concurrent non-criminal cases. Judges, ADAs, and defense attorneys may all be better able to evaluate a criminal case when they have information about family relationships and history based on information learned from custody, visitation, or matrimonial cases.

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[33] Although jail sentences are relatively rare, violation convictions have other consequences for defendants in cases of intimate partner violence and elder abuse. The court issues an order of protection when a defendant is convicted of a violation, and defendants who violate the order can be re-arrested on new charges.

[34] Effective October 16, 2009, new legislation (Criminal Procedure Law §170.10(8-a(a)) permitted ADAs to file notice within 15 days after arraignment in most DV Bureau cases that if the defendant is convicted of a violation under Penal Law §240.26 (harassment in the 2nd degree) the conviction will not be sealed. Harassment in the 2nd degree is a common conviction charge in DV Bureau cases, and ADAs now routinely file this notice. This unsealing provision affected very few cases in the current study because the legislation only became effective near the end of the time period covered by this study.

Were defendants and their attorneys more willing to plea bargain in IDV Court? Was plea bargaining easier in IDV Court because of good working relationships and/or more comprehensive information about concurrent cases? We did not have any direct evidence to address these questions; however, a few findings from the study were informative.

First, regarding defendants' willingness to plea bargain, we had data on the severity of conviction charges and on sentences. IDV Court increased not only the likelihood of conviction but also the severity of conviction charges. Most convictions in both IDV Court and Criminal Court DV cases were the result of pleas, not trials. In IDV Court, 19% of convicted defendants in the full sample were convicted of misdemeanor-level charges, compared to only 16% in Criminal Court DV cases (see Figure 3-9). This difference was statistically significant.[35] Would defendants in IDV Court be willing to plead guilty to a misdemeanor for a more favorable outcome in a concurrent Family Court or matrimonial case? This might occur if there was an additional incentive in the plea bargain, such as avoiding a jail sentence. When pleading guilty to a misdemeanor in IDV Court, only 16% of defendants in the full sample received jail time, compared to 38% in Criminal Court DV cases (data not shown).[36] Some defendants may have been more willing to plead guilty to a misdemeanor in IDV Court because the offered plea bargain did not require serving jail time and because they were satisfied with the disposition of concurrent Family Court or matrimonial cases. Plea bargaining appeared to increase the severity of the conviction charge (from a violation to a misdemeanor) and to reduce the likelihood of a jail sentence, while having no effect on the likelihood of conviction.

Second, regarding the courtroom work group's relationships and knowledge of concurrent cases, we have data on differences in conviction rates in strong cases. When the victim was participating with the prosecution, the conviction rate was considerably higher in IDV Court (66%) than in Criminal Court DV cases (51%; see Figure 5-3, left panel). This may indicate that the work group in IDV Court was more able to reach a consensus about the strength of cases in which the victim was participating. They may have had greater knowledge about the partners' family situation and history based on information learned from custody, visitation, or matrimonial cases. The work group in Criminal Court DV cases did not have the opportunity to learn about the family situation and history from concurrent cases. In contrast, when the victim was not participating, or the victim's participation status was unknown, the conviction rate was low in both courts (24% in IDV Court and 20% in Criminal Court; see Figure 5-3, right panel), and the difference was not statistically

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[35] In the matched samples, this difference was even larger: 23% of convicted defendants in IDV Court were convicted of misdemeanor-level charges, compared to 13% in Criminal Court DV cases. However, this difference was not statistically significant in the matched samples due to the small sample size.

[36] In the matched samples, 10% of defendants convicted of a misdemeanor in IDV Court received a jail sentence, compared to 29% in Criminal Court DV cases. Again, this difference was not statistically significant in the matched samples due to the small sample size.

significant. This suggests that when the case was weak, strong working relationships and additional information about concurrent cases did not increase plea bargaining.

Assessing plea bargaining and its effects was difficult. This study did not have data on defendants' willingness to plea bargain, the courtroom work group, and information about concurrent cases. Some results suggested that plea bargaining was easier in IDV Court, however we could only speculate about its impact. **We could not draw definitive conclusions about whether plea bargaining contributed to the higher conviction rate in IDV Court.**

In concluding the discussion of the reasons for the higher conviction rate, we should note that there are other potential explanations for the higher conviction rate in IDV Court. For example, caseloads for judges and ADAs were significantly lower in IDV Court than in Criminal Court. This may have enabled ADAs more time to develop viable cases, and allowed judges more time to evaluate the evidence. Alternatively, MacDowell (2011) has suggested that IDV Courts, by hearing cases concurrently, erode the adversarial system in the criminal court case. Although IDV Courts adjudicate the cases separately, hearings on related family or matrimonial cases may inform or affect the criminal case outcome. Finally, Currul-Dykeman (2010) has suggested that how judges and ADAs respond to evidentiary weakness may influence conviction rates in DV cases. She found that judges and prosecutors in a specialized DV Court devoted more time and attention to weak DV cases when compared to those handling DV cases in a mixed docket with a higher caseload. If judges and ADAs in IDV Court devote more time and attention to weak cases than those in the Criminal Court specialized DV part, this might account for the higher conviction rate in IDV Court. We did not have adequate data on caseloads, the adversarial process, or attention devoted to weak cases to address these explanations. Nevertheless, the findings of this study were strong and clear: the primary reason for the higher conviction rate in IDV Court was the higher rate of witness participation with the prosecution.

IDV Court Goals

The current study also sheds light on whether the Brooklyn IDV Court parts achieved some of the goals of New York State's IDV Court program. We were able to examine three of the stated goals.

First, IDV Courts seek to improve victims' experiences with the court and to increase rates of witness participation. The findings of this study, described in detail above, suggest that IDV Court not only increased the rate of witness participation with the prosecution, but also the impact of that participation. Witness participation in IDV Court was associated with considerably higher rates of conviction than in Criminal Court DV cases. The current study is the only one to examine witness participation in IDV Court. While there has been considerable speculation about the role of witness participation, the current study has provided the first detailed data not only about the impact of IDV Court on witness participation, but also about the impact of witness participation on the likelihood of conviction in IDV Court.

Second, IDV Courts aim to increase efficiency by reducing case processing time and the number of court appearances. Criminal cases in IDV Court typically required two more appearances than DV cases in Criminal Court, and took two to three weeks longer to reach a disposition. However, we have no information on the processing of family or matrimonial cases in IDV Court or on the processing of comparable cases in Family Court or Supreme Court. Without this data, we were unable to evaluate the overall efficiency of IDV Court in processing multiple types of cases. The combined number of appearances across all types of cases may be lower in IDV Court, compared to the combined number of appearances for those who have concurrent cases in multiple courts. However, in the context of prior research, this seems unlikely. One study that found longer case processing time for criminal cases in IDV Court than for criminal cases in Criminal Court also found longer case processing time in family cases in IDV Court than in Family Court cases (Katz and Rempel 2011). Furthermore, the only study to evaluate efficiency across all three types of cases in IDV Court (criminal, family, matrimonial) concluded that case processing time and the number of court appearances for all cases combined were greater in IDV Court than for comparable concurrent cases heard in separate courts (Cissner et al. 2011). Only one study found greater efficiency in IDV Court, reflected in fewer appearances although not in shorter case processing time (Picard-Fritsche et al. 2011). Overall, the evidence across all the studies suggests that IDV Court is likely to reduce efficiency, but this varies across jurisdictions. Nevertheless, it is worth noting that although cases in some IDV Courts take longer and require more appearances, families may experience significant benefits because they make fewer trips to court due to same-day scheduling of court appearances in concurrent cases (Cissner et al. 2011).

Third, IDV Courts seek to increase compliance with orders of protection and to reduce recidivism. We found that pretrial re-arrests for new DV offenses were more common in IDV Court than in Criminal Court DV cases. This is consistent with previous research that found more violations of orders of protection while the case was pending in IDV Court than in comparable Criminal Court DV cases (Cissner et al. 2011, Picard-Fritsche et al. 2011). These findings may suggest that the IDV Court was less successful in preventing pretrial DV offenses or they may suggest that the IDV Court was more successful at identifying defendants who committed new DV offenses and in having them re-arrested. Reducing another type of pretrial misconduct—failure to appear (FTA)—is not an explicit goal of IDV Court, however we found that FTA rates were considerably lower in IDV Court than in Criminal Court DV cases. Although they had more court appearances, and therefore more opportunities to miss court, defendants in IDV Court were less likely to fail to appear. The concurrent appearances for custody, visitation and/or matrimonial cases seemed to provide a strong incentive for defendants to attend their IDV Court appearances.

IDV Courts have many other goals (see Cissner et al. 2011 and Picard-Fritsche et al. 2011 for an expanded discussion of these goals). Further information about the success of IDV Courts in achieving these goals, including the goals not addressed in the current study, is available in several previous studies (Cissner et al. 2011, Katz and Rempel 2011, Picard-Fritsche et al. 2011, Schlueter et al. 2011).

<u>Strengths and Limitations of the Study</u>

Before concluding this discussion, we examine the strengths and limitations of the current study. This study is the first to examine a large jurisdiction that has two IDV Court parts. The findings are therefore not dependent on practices or procedures unique to a particular judge (see Adler 2013 for a discussion of the impact of changed practices introduced by a new IDV Court judge). The current study, as just noted, is also the first to provide any information about witness participation in IDV Court, and the findings highlight the importance of understanding the role of witness participation. Not only did higher rates of witness participation in IDV Court increase the conviction rate, but also even among witnesses who were participating, the conviction rate was higher in IDV Court. Finally, the current study has used propensity score matching to control for differences in case composition between IDV Court and Criminal Court DV cases.

The current study also has several limitations compared to previous studies. The current study has only presented an evaluation of the impact of the IDV Court. Process evaluations, describing planning, implementation, and court operations, are available in Adler (2013), Cissner et al. (2011), and Picard-Fritsche et al. (2011). The impact evaluation of the IDV Court in the current study also has examined only the impact of IDV Court on outcomes in criminal cases. Several previous studies (Cissner et al. 2011, Picard-Fritsche 2011, Katz and Rempel 2011) provided an evaluation of the impact of IDV Court on Family Court or Supreme Court matrimonial cases. Moreover, the comparison group of DV cases in Criminal Court in the current study was not restricted to those that had concurrent Family Court or Supreme Court matrimonial cases. Two previous studies have used such comparison groups (Cissner et al. 2011, Picard-Fritsche 2011). Previous studies, unlike the current one, also have included cross-complaints in their analyses of case outcomes. This may explain why conviction rates were lower in IDV Court in two of the previous studies (37% in Cissner et al. 2011, p. 40, and 36% in Picard-Fritsche et al. 2011, p. 31) than in the current study (49%), although another study that included cross-complaints found a higher conviction rate (55% in Katz and Rempel 2011).[37] Finally, changes in the Brooklyn IDV Court since 2009 may have affected key outcomes, including the conviction rate. Further research would be needed to determine whether the IDV Court sustained a higher conviction rate than the Criminal Court in subsequent years.

C. Best Practices for Adjudicating and Prosecuting Domestic Violence Cases

This study has produced valuable information about case outcomes in IDV Court, and in particular about the impact of IDV Court on the conviction rate. In this concluding section of the report, we summarize what we have learned about best practices for the adjudication and prosecution of intimate partner violence and elder abuse cases.

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[37] Comparing the conviction rate in this study to the three previous studies is further complicated because the other studies also included detained defendants. We expect including detained defendants to increase the conviction rates in those studies, compared to the results reported here in chapters 3 and 4. Including detained defendants, the conviction rate in IDV Court in the current study was 51% (see Appendix C).

First, an IDV Court can significantly increase convictions in criminal cases of domestic violence. In 2007-2009, the Brooklyn IDV Court increased the conviction rate among released defendants by about 21 percentage points, compared to similar Criminal Court DV cases. Jurisdictions that have sufficient case volume and, like Brooklyn, file charges in almost all DV arrests, may wish to establish an IDV Court. Because criminal cases in IDV Courts must meet eligibility criteria requiring concurrent non-criminal cases, these courts are necessarily limited to processing only a small fraction of all criminal cases of domestic violence. However, for the eligible cases in Brooklyn during the period of this study, the IDV Court increased the conviction rate.

Second, this study also highlighted the impact of IDV Court on witness participation in DV cases. Witness participation, a key factor in obtaining convictions in DV cases, was considerably higher in IDV Court than in Criminal Court DV cases. Moreover, when witnesses participated with the prosecution, the conviction rate was higher in IDV Court than in Criminal Court DV cases. Two previous studies (Peterson 2012, 2013a) also examined the role of witness participation in considerable detail. Taken together, the studies suggest that efforts to increase the rate of witness participation as well as efforts to increase the quality of witness participation are likely to have a significant impact on the conviction rate. Moreover, as suggested in previous studies, engaging victims provides many ancillary benefits, even when they do not participate with the prosecution (Peterson 2013b). For example, the Early Victim Engagement Project encouraged victims to come to the Family Justice Center to obtain services and counseling (Peterson 2013a). A dual focus on victim engagement and witness participation is especially important. Linking victims to services, such as economic and housing assistance and counseling, through the IDV Court, the Family Justice Center, and the District Attorney's office may increase victim safety. Most importantly, in the event of another incident, the victim will have already established a connection to services that can be a valuable resource in a time of crisis.

Finally, recidivism, as measured by re-arrests for new DV offenses during the pretrial period, was higher in IDV Court. Whether IDV Court was less successful at preventing new DV offenses or was more successful at monitoring defendants could not be determined. However, prior research (Peterson 2004) shows that when new DV interventions monitor defendants more closely, re-arrest rates for new DV offenses increase. This suggests that IDV Courts should continue to monitor defendants closely and should not necessarily be concerned about higher re-arrest rates. However, IDV Courts should carefully examine re-arrest rates and patterns to verify that court monitoring is ensuring victim safety. If the volume and nature of re-arrests suggests that victims are at greater risk, IDV Courts should change relevant policies and practices.

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APPENDIX A: FAMILY JUSTICE CENTER BROCHURE

New York City
Family Justice Center

350 JAY STREET, 15TH FLOOR
BROOKLYN, NEW YORK 11201

BROOKLYN

NYC
Michael R. Bloomberg
Mayor

If you or someone you know is a
victim of domestic violence, help is available.

In case of emergency, call 911
For other City services, call 311
NYC Domestic Violence Hotline
1-800-621-HOPE (4673)
1-866-604-5350 (TDD)

All of the above offer 24-hour
assistance in all languages.

OTHER RESOURCES:

Child Abuse and Maltreatment Hotline
(New York State Central Register)
1-800-342-3720

Elderly Crime Victims Resource Center
(NYC Department for the Aging)
212-442-3103

New York Immigration Hotline
1-800-566-7636

NYPD Sex Crime Report Hotline
212-267-RAPE (7273)

Victim Notification Everyday (VINE) Program
(NYC Department of Correction)
1-888-VINE-4NY (8463-469)

Youthline
(NYC Dept. of Youth and Community Development)
1-800-246-4646

NYC
Michael R. Bloomberg
Mayor

**Mayor's Office to
Combat Domestic
Violence**

Yolanda B. Jimenz
Commissioner

Charles J. Hynes
District Attorney
Kings County
District Attorney's Office

PARTNERS:

- Arab American Family Support Center, Inc.
- Association of Hispanic Ministers
- Barrier Free Living
- Catholic Charities
- Center Against Domestic Violence
- Christian Cultural Center
- Church Avenue Merchants Block Association
- Department for the Aging
- Department of Information Technology and Telecommunications
- Department of Probation
- Dwa Fanm
- Good Shepherd Services Safe Homes Project
- Health and Hospitals Corporation
- Help Roads/Help USA
- Human Resources Administration
- Jewish Association for Services for the Aged
- Jewish Board of Family and Children's Services
- Kings County District Attorney's Office
- Long Island College Hospital Chaplaincy Program
- Long Island College Hospital
- Metropolitan Council on Jewish Poverty
- New Destiny Housing Corporation
- New York Asian Women's Center
- New York Board of Rabbis
- New York City Housing Authority
- New York City Police Department
- New York Legal Assistance Group
- New York State Crime Victims Board
- New York State Division of Parole
- New York City Anti-Violence Project
- Ohel Children's Home and Family Services
- Puerto Rican Family Institute
- Safe Horizon
- Sanctuary for Families
- South Brooklyn Legal Services
- STEPS to End Family Violence
- TAMKEEN – The Center for Arab American Empowerment
- Urban Justice Center
- Women Working for a Better Community/Hope Gardens

What is the Family Justice Center? The New

York City Family Justice Center in Brooklyn is a walk-in center for all domestic violence victims and their children. To make it easier for you to get help, many agencies are located at the Center. Services are free and available to all victims. We can help you regardless of what language you speak.

When you visit the Center you can expect a safe and caring environment with one-on-one services and support. On your first visit to the Center you will meet with a client specialist who will speak with you about what services you might need. The client specialist will then link you to a case manager, who will be your guide at the Center.

The Center is located in a building with security to ensure your safety. You should go to the special Family Justice Center security desk in the lobby to check in. You will then be asked to go through a metal detector before entering the Center. Please bring picture identification.

EVERYONE has the right to live in a home where they feel safe. You are not alone. The New York City Family Justice Center is here to help you.

LOCATION & DIRECTIONS:

360 Jay Street in downtown Brooklyn
SUBWAY: Take the A, C, or F train to Jay Street; the 2, 3, 4, or 5 train to Borough Hall; or the M or R train to Lawrence Street.
BUS: The B25, B26, B38, B51, B54, B57, B61, B65, B67, and B75 buses all stop near the Center.
HOURS OF OPERATION:
Monday through Friday 9:00 a.m. to 5:00 p.m.

The Family Justice Center is a walk-in center. If you are returning for continued services, you should schedule a follow-up appointment, (718) 250-5111.

How can the Family Justice Center help me?

CASE MANAGEMENT You can meet with a case manager to discuss how to stay safe and learn about what services at the Center can help you.

COUNSELING Counseling is available for you and your children. Both one-on-one counseling and support groups are available at the Center.

LEGAL INFORMATION Lawyers and paralegals are available to speak with you about legal issues such as custody, visitation, and immigration.

POLICE Domestic Violence Prevention Officers from the New York City Police Department at the Center will assist you with reporting a crime or give information to you about how the police can help you to stay safe.

PROBATION A Probation Officer can help you if the person hurting you is currently on probation.

PROSECUTION The Domestic Violence Bureau of the District Attorney's Office is located in the Center and will work with you because domestic violence is a crime and can answer any questions you may have about the criminal justice system.

CHILDREN'S ROOM, MARGARET'S PLACE Your children, age 3 or older, can play in the Children's Room while you get help at the Center.

ELDER ABUSE SERVICES Social workers, lawyers, and district attorneys are here to help you if you are experiencing elder abuse.

SELF-SUFFICIENCY SERVICES The Self-Sufficiency Coordinator can help you with public assistance information, job training, and educational programs.

SPIRITUAL SUPPORT Faith leaders volunteer at the Center to provide you with support.

Staying Safe

If you are being abused these steps may help you stay safe:

- Call 911 if you are in danger or have been hurt by your partner.

- Teach your children to use the telephone to call the police and go to a safe place during a violent incident.

- Identify a safe place to go in case of an emergency, such as your local police precinct.

- Look all windows and doors at night and when you leave your home.

- Inform your children's school/daycare about who has permission to pick them up.

- Request to have your telephone number changed to an unlisted number.

- Keep your home address confidential and, if possible, do not tell the abuser where you live.

- Avoid going out alone.

- Change your route to and from work often.

- If possible, have someone screen your calls at work, request that your office telephone number and email address be changed, and vary your schedule.

- In case you need to leave quickly, you should:
  Gather important documents:
  -- Passports/Green cards/Work permits
  -- Social Security cards/Birth certificates
  -- Bank account details/House deed/Lease
  -- Order of protection
  -- Custody/Visitation orders
  -- Marriage license
  -- Children's immunization/school records
  -- Address book and a calling card
  Pack a bag with money, extra keys, clothes, medicine, and important documents -- leave it in a safe place or with someone you trust.

APPENDIX B: DETERMINING THE TOP CHARGE

To determine the top charge among a list of charges, CJA uses the charge designated by the Office of Court Administration (OCA) as the top charge. OCA bases its determination, in turn, on an algorithm developed by the New York State Division of Criminal Justice Services (DCJS). The algorithm is too complex to describe completely, but it proceeds sequentially through a series of steps as it compares pairs of charges to determine which one ranks as the top charge. If there are more than two charges in a list (e.g., four arrest charges), the algorithm compares all possible pairs to rank the charges and determine their rank order.

First, the two charges being compared are ranked according to class and category, as shown in the table below:

Class	Category	Rank
A1	Felony	High
A2	Felony	
A3	Felony	
B	Felony	
C	Felony	
D	Felony	
E	Felony	
A	Misdemeanor	
B	Misdemeanor	
U	Misdemeanor (unclassified)	
	Violation	
	Infraction	
	Unspecified offenses	Low

Second, if the two charges are in the same class and category, the algorithm next uses type of law to assign a rank.

Type of Law	Rank
Penal Law	High
Vehicle and Traffic Law	
All other laws	Low

Third, if the two charges are in the same type of non-Penal Law, no further ranking is applied. The charges are listed in the order in which they were recorded.

Fourth, if the two charges are in the same class and category and both are Penal Law charges, DCJS uses Penal Law section and subsection to determine the ranking. The ranks are too complex to describe in detail here, but they are applied within the following categories:

Class A-1 Felonies
Class A-2 Felonies
Class A-3 Felonies
Penal Law 220 charges (drug charges, excluding marihuana)
Penal Law 221 charges (marihuana charges)
Penal Law 265 charges (weapons charges)

Fifth, if the two charges being compared are Penal Law charges that cannot be ranked using any of the above methods, and one of the charges is a violent felony and the other is not, the violent felony is designated as the top charge.

Sixth, if the two charges being compared are Penal Law charges that cannot be ranked using any of the above methods, and both are violent felonies, then section and subsection are used to rank them with an algorithm too complex to describe here.

Finally, if none of the above comparisons have determined which is the top charge, Penal Law article is used to rank the charges, according to the following table.

Penal Law Article	Nature of Offense	Rank
125	Murder	High
130	Sex Offenses	
263	Sex Performance by Child	
160	Robbery	
120	Assault	
135	Kidnapping	
105	Conspiracy	
140	Burglary	
155	Larceny	
150	Arson	
220	Drugs	
221	Marihuana	
265	Weapons	
200	Bribery	
170	Forgery	
230	Prostitution	
205	Escape	
210	Perjury	
215	Judicial Proceedings Violation	Low

If one of the charges being compared is not in the article table, the other charge is considered the top charge.

If the two charges being compared cannot be ranked after all the above steps, no further ranking is done and the charges are listed in the order in which they were recorded.

APPENDIX C: CASE OUTCOMES FOR ALL DEFENDANTS BY COURT TYPE
Includes Defendants Who Were Ever Released and Those Never Released
Excluding Cross-Complaints

Case Outcome*	IDV Court	Criminal Court
Number of court appearances		
Mean	6.51	4.84
Median	6.00	4.00
	(N = 1,457)	(N = 13,829)
Number of days from arraignment to disposition		
Mean	159	136
Median	138	100
	(N = 1,457)	(N = 13,829)
Case Disposition		
Dismissed/Acquitted	40%	65%
ACD	9%	3%
Pled Guilty/Convicted	51%	32%
Total, all dispositions	100%	100%
	(N = 1,457)	(N = 13,829)
Conviction Charge Severity		
Felony	1%	0%
A misdemeanor	13%	19%
B misdemeanor	10%	9%
Violation	76%	71%
Missing/other	0%	1%
Total, all severities	100%	100%
	(N = 740)	(N = 4,462)
Most Severe Sentence		
Jail/Prison	11%	23%
Conditional Discharge	85%	76%
Other/Missing	4%	1%
Total, all sentences	100%	100%
	(N = 740)	(N = 4,462)
Length of Jail/Prison Sentence *(Excludes 6 felony convictions in IDV Court)*		
Mean number of days	46	35
Median number of days	26	20
	(N = 72)	(N = 1,014)

*Data on pretrial misconduct are not included in these tables because defendants who were never released are not at risk for such misconduct. Data for released defendants are presented in chapter 3, Figures 3-4 through 3-7.

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APPENDIX D: PROPENSITY SCORE MATCHING

Propensity score matching is a statistical procedure used to evaluate treatment effects in observational data (Guo and Fraser 2010). Experimental designs, involving random assignment to treatment and control groups, are the "gold standard" for evaluating treatment effects. However, many treatments cannot be, or have not been, tested in an experiment. For ethical, legal, budgetary, or programmatic reasons, program administrators may be unwilling or unable to deny treatment to individuals by randomly assigning them to a control group. When an experiment is not possible, but observational data on outcomes for a treatment and a comparison group are available, propensity score matching provides a rigorous method for evaluating the impact of treatment.

A. Selection Effects in Observational Data

Observational data on differences in outcomes between a treatment group and a comparison group are fundamentally flawed for drawing inferences about the effect of treatment. When a program selects individuals for treatment, the treatment and comparison groups may differ in ways that affect the outcomes being studied (Rosenbaum 2002). This problem, usually referred to as selection bias, may arise for a variety of reasons, including self-selection, administrative selection, geographic selection, etc. (Guo and Fraser 2010). For example, a study assessing the impact of prison on subsequent recidivism must address the problem that courts sentence convicted defendants to prison (the treatment group), as opposed to some other sentence such as probation (the comparison group), as the result of an administrative selection process. It is not only possible, but also likely, that those sentenced to prison have a higher risk of recidivism even before beginning their prison sentence. Under this circumstance, observational data on recidivism outcomes measure not only the impact of treatment (a prison sentence) but also the effects of selection bias (the assignment of higher-risk defendants to the treatment group). Recidivism rates for the treatment and comparison groups reflect both the treatment effect and selection bias, and therefore comparing the rates does not directly address whether the treatment has an impact, and if so, how large that impact is.

Statisticians have developed a variety of statistical methods to address the problem of selection bias. Each of these methods seeks to remove the selection effects, allowing inferences about the existence and size of the treatment effect. One common approach is to estimate the treatment effect in a model that controls for factors that cause the selection bias (e.g. in a multiple regression model). Another approach is to find comparison cases that exactly match treated cases on a variety of characteristics that cause the selection bias. Comparing outcomes for the matched cases provides an estimate of the treatment effect. However, if there are several characteristics used in the matching process, it becomes difficult, and sometimes impossible, to find matches with the exact same combination of characteristics. This is particularly likely if the potential pool of comparison cases is small. Propensity score matching overcomes this problem by using characteristics associated with selection to estimate a propensity

score for each case in the treatment and comparison groups. For each treated case, the technique uses these propensity scores to identify a comparison case that has a similar propensity for selection into treatment. Because the procedure matches cases based on their propensity scores, and not on the individual combination of characteristics of each case, it is much easier to find an appropriate match.

B. Using Propensity Score Matching to Address Selection Effects in the IDV Study

The current study was designed to assess the impact of the Brooklyn IDV Court on a variety of case outcomes, particularly conviction. The study viewed the IDV Court as a treatment, and identified Criminal Court DV cases as the appropriate comparison group. Chapter 3 presented observational data on differences in outcomes between these two groups. As described above, these outcomes reflect both the effects of selection bias and of treatment. The court system does not randomly assign criminal cases of domestic violence to IDV Court. Rather, only criminal cases in which the defendant has concurrent visitation, custody, or matrimonial cases are assigned to IDV Court. It is likely that the characteristics of IDV Court cases differ from those of Criminal Court DV cases in multiple ways in addition to the existence or absence of concurrent non-criminal cases. The data presented in chapter 4 (Table 4-1, left panel) confirmed this and demonstrated that the observational data may be affected by selection bias.

To remove the effects of selection bias, this study used propensity score matching. First, the study estimated a model that could generate propensity scores for each case. We used a logistic regression model predicting the likelihood that a case was in IDV Court versus Criminal Court.[38] The predictors tested were limited to those that might simultaneously influence both treatment status (i.e., assignment to IDV Court) and the outcome we wish to assess (i.e., conviction). Predictors that affect treatment status but not the outcome (or vice versa) would not help to address selection bias, and were not included in the model (Grilli and Rampichini 2011). Although we could have chosen any of several case outcomes to help us identify appropriate predictors, we used conviction because it is the main outcome of interest in the study. The predictors tested also were limited to those that could not have been affected by treatment. Including predictors that could be affected by treatment could bias the estimated effects of treatment in the final matched samples. Chapter 4 provides the complete list of potential predictors considered for inclusion in the model, and identifies the eight predictors that were retained in the final model.

Second, we used this model to create the propensity scores. The propensity score estimates the relative likelihood that the case would be assigned to the IDV Court. The propensity score is the predicted probability of treatment, varying from 0 to 1. Although we could use the predicted probability of treatment as the propensity score, it is actually better for matching purposes to use the predicted logit (log odds) of treatment. The predicted logit is approximately normally distributed (Guo and Fraser

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[38] Although our sampling procedure required us to use weights to adjust our results (see note 11 in chapter 2), we did not use weights to estimate this model, following the advice of Leuven and Sianesi (2012).

2010, p. 134 and p. 176). Technically, the predicted logit is referred to as the estimated propensity score, while the predicted probability of treatment is referred to as the propensity score. However, for ease of presentation, and following common convention, we use the term propensity score to refer to the logit of the predicted probability of treatment.

Third, using our sample of IDV Court cases, we attempted to find a matching Criminal Court DV case with a similar propensity score. To perform the matching, we used the psmatch2 module available for STATA (Leuven and Sianesi 2012). A variety of matching processes are available (Guo and Fraser 2010). We chose to use nearest neighbor pair matching within calipers and without replacement. This matching process identifies the comparison group case that has the closest propensity score to each treatment case among those not already matched. By using pair matching, we selected only one matching case for each treatment case. By using calipers, we limited the pool of potential matches to those that fell within a narrow range of propensity scores. The calipers prevented the matching process from finding a comparison case with a distant propensity score, even if that case was the nearest neighbor. Using calipers also enabled us to conduct multivariate analyses of the matched sample, as we did in chapter 5. The caliper we used, following standard convention, was one quarter of a standard deviation (Guo and Fraser 2010, p. 147). We did not lose any treatment cases from the matching process by imposing the caliper restriction. By matching without replacement, we ensured that the matching process chose a comparison group case as a match for only one of the treatment cases. Finally, we imposed a common support restriction on the matching process. The common support restriction removed treatment cases that had a predicted logit higher than the largest (or lower than the smallest) predicted logit among the comparison cases. We lost 8 of 199 treatment cases from the matching process by using the common support restriction. Our final sample size for the matched samples was 191 treatment (IDV Court) cases and 191 comparison (Criminal Court DV) cases.

Fourth, we evaluated the success of the matching process. As described in chapter 4, we compared the characteristics of the matched samples on the predictors used in the propensity score model. We found no significant differences between the IDV Court and the Criminal Court DV samples after matching (see Table 4-1, right panel). The results of this balance check demonstrate that the samples are properly balanced, and that the effects of the selection factors have been removed from the matched samples. As a second way to evaluate the success of the matching process, we used a stratification test (Guo and Fraser 2010, pp. 155-156). This test sorts the treatment sample into five strata based on the estimated propensity score, and calculates the average treatment effect within each stratum. The results for the five strata are combined, and an overall test of statistical significance is conducted. The results of this test confirmed the finding reported in the basic model for the treatment effect in chapter 5 (Figure 5-2, left panel): the IDV Court had a statistically significant effect on the likelihood of conviction in DV cases.

Finally, we tested the sensitivity of the results to our choice of matching procedures. To address concerns about comparison cases with identical propensity scores, we tested the use of several seeds to sort the cases in random order. In paired matching, the matching process chooses the first comparison case in the file among those that have identical propensity scores. We tested five different seeds and found that the results of the stratification test were similar regardless of which seed we used. We also tested three different calipers, and found that the best results on the balance test were for the recommended caliper: one quarter of a standard deviation.

We next used 1-to-n matching instead of pair matching. Under this procedure, we allowed up to 5 matches from the comparison group for each treated case, as long as they fell within the calipers (plus or minus one quarter of a standard deviation) and the treated case had common support. This method requires that replacement be permitted, i.e., that a comparison case can be used as a match for more than one treated case. This procedure found 452 matches for 196 treated cases. Although the increased sample size of the comparison group would be beneficial for the estimation of treatment effects, the results of the balance test for the 1-to-n matched samples were poor when compared to the results for pair matching. Presumably, the 1-to-n matching incorporated weaker matches for each case. As a result, although it was larger, this sample was less effective in removing the effects of selection bias.

We then used a radius matching procedure, which is a variation of 1-to-n matching that includes all matches from the comparison group for each treated case, as long as the match falls within the calipers (Caliendo and Kopeinig 2005). (Radius matching removes the numerical limit on the number of matches imposed by 1-to-n matching with calipers). The radius matching procedure used all 1,195 comparison (i.e., Criminal Court DV) cases as matches for 195 of the treated (i.e., IDV Court) cases; four treated cases were excluded for lack of common support. As we found with our test of 1-to-n matching with calipers, radius matching incorporated weaker matches and the results of the balance test were poor when compared to the results for pair matching.

Although we elected to use nearest neighbor pair matching for the analyses included in this report, it is worth noting that the results of the 1-to-n matching with calipers and the radius matching both confirmed a strong treatment effect for IDV Court similar to the 21-percentage-point increase in the conviction rate we reported for pair matching.

APPENDIX E: LOGISTIC REGRESSION ANALYSIS

This report used logistic regression to develop statistical models that predict the likelihood of conviction. Statisticians use logistic regression models when the outcome to be explained (the *dependent variable*) has two categories. In the models presented in this report, the dependent variable was conviction. We coded each disposed case in one of two categories: *not convicted* (coded 0), including dismissals, acquittals, and ACD's, or *convicted* (coded 1), including pleas of guilty and findings of guilty after a trial.

The models predicted the likelihood of conviction using information about a variety of defendant and case characteristics (the *independent variables*). Logistic regression models produce several statistical measures to evaluate the effect of the independent variables. The current study examined two statistical measures to evaluate the effect of the independent variables on the dependent variable.

Statistical Significance. First, we report the *statistical significance* of each independent variable. A statistical significance test takes into account the size of the sample as well as the magnitude of the effect of the independent variable on the outcome. Effects estimated from larger samples are more likely to be statistically significant, and larger effects are more likely to be statistically significant. By considering the size of the sample and the size of the effect, the statistical significance test assesses the probability that the effect of the independent variable observed in the sample could have occurred by chance alone. In this report, following standard convention, we considered significance levels of less than .05 as statistically significant. In other words, when the effect that we observed had less than a 5% probability of having occurred by chance alone, we concluded that the independent variable was a statistically significant predictor of the likelihood of the outcome.

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 have statistically significant effects even when the size of their effects is small. For example, in a very large sample, we may find that whether an arrest is made on-scene has a statistically significant positive effect on the likelihood of conviction, even though the conviction rate for on-scene arrests is only one percentage point higher than for off-scene arrests. In this hypothetical example, we can say that the positive effect of an on-scene arrest on the likelihood of conviction is unlikely to be due to chance. However, it is also clear that knowing whether an arrest was made on-scene does not explain much of the variation in likelihood of conviction.

Change in the Conviction Rate. The second statistical measure we used to evaluate the effect of the independent variables is the *change in conviction rate*. The change in conviction rate supplements information about statistical significance by evaluating the magnitude of the effect of the independent variable on the outcome. Specifically, it tells us how much the conviction rate changes 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 change in conviction rate tells us how much the predicted conviction

rate differs between the two categories of the independent variable.[39] A change in conviction rate greater than zero indicates an increase in the likelihood of the outcome occurring, while a change in conviction rate less than zero indicates a decrease in the likelihood of the outcome occurring. A change in conviction rate of zero, or close to zero, indicates that the independent variable does not affect the conviction rate.

To return to our previous example, if the change in conviction rate for the effect of an on-scene arrest on the likelihood of conviction was 1.0%, this would mean that in cases in which the defendant was arrested on-scene, the conviction rate was 1.0% higher than in cases in which the defendant was arrested off-scene. In contrast, if we examined the impact of whether the defendant was female, we might find a change in conviction rate less than zero. For example, if the change in conviction rate was -8.5%, this would mean that in cases in which the defendant was female, the conviction rate was 8.5 percentage points lower than when the defendant was male. (These examples are hypothetical and do not necessarily reflect our expectations about the findings.)

In logistic regression analyses, results may be 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. When a categorical independent variable has two categories, the change in conviction rate measures the change in the likelihood of conviction when cases are in one category versus the other (e.g., the defendant was arrested on-scene versus off-scene). When a categorical independent variable has more than two categories, one of the categories is chosen as a **reference** category, and the change in conviction rate for each category measures the effect of being in that category versus being in the reference category. For example, defendants cohabiting at the time of arrest (category 1) and defendants who cohabited previously (category 2) are each separately compared to defendants who never cohabited (category 3), which is used as the reference category. Finally, when the independent variable is continuous, the change in conviction rate measures the change in the likelihood of conviction associated with an increase of one unit of the continuous independent variable (e.g., for number of arrest charges, the change in conviction rate measures the effect of having one additional arrest charge). Because this change in conviction rate may be different at different numbers of arrest charges, we measure the effect at the mean (average) number of arrest charges, to represent a typical case.

In the current study, we used the statistical significance level to distinguish those independent variables that had a detectable[40] effect on the dependent variable from those that did not. We used the change in conviction rate to evaluate the size of the

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[39] The predicted conviction rates are the average predicted probabilities for each category, calculated using StataCorp's (2011) marginals procedure.

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

effect of the independent variable, and we used the standardized *beta* to evaluate the ability of the independent variable to account for variation in the dependent variable.

Net effects. The models we discuss include multiple predictors of the dependent variable. In these models, the measures of the effect of each independent variable (statistical significance, change in conviction rate, 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 model takes into account the effect of all the other independent variables. This net effect differs from the *total effect* of the independent variable, which is the effect of the independent variable when it is the only predictor of the dependent variable.