

Domestic Violence: Court Case Conviction and Recidivism In Toledo



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Foreword

This study has been conducted with continuing support from The University of Toledo Urban Affairs Center, the University of Toledo College of Law, The Criminal Justice Department of The University of Toledo College of Health and Human Service, The Toledo Municipal Clerk of Court's office, and the Lucas County Sheriff's office. We wish to acknowledge our partners in this collective undertaking, and offer this report as one component of a much broader effort to improve the effectiveness of domestic violence interventions in our community.

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Executive Summary

This study examined the relationship between misdemeanor domestic violence convictions and recidivism among alleged batterers¹. It also explored the association between misdemeanor domestic violence convictions and other factors, such as the specific types of battering reported and the batterer's criminal history. Finally, the study analyzed whether demographic characteristics, such as sex, age, race, educational attainment, marital status and/or socioeconomic status, were associated in any way with the final outcome of misdemeanor domestic violence cases.

Major findings of the study include:

- Most accused batterers had a history of prior arrest for domestic violence and/or some other violent offense.
- Batterers who had more prior violent felony charges in their criminal records were more likely to have their most recent domestic violent charge dismissed.
- Batterers who reportedly punched or threw their victims were more likely to be convicted of domestic violence than those who committed other types of violent acts.
- Race and income did not appear to have any influence on recidivism; though batterers who were younger, male, and had multiple prior arrests for domestic violence were more likely to recidivate.
- The most powerful influence on domestic violence recidivism was a history of arrests on domestic violence charges.
- Domestic violence convictions had a moderate deterrent affect on domestic violence recidivism.
- The deterrent value associated with convictions tended to weaken when the sanction imposed was a suspended sentence without probation or merely a fine.

Therefore, given these findings, the researchers recommend that: a) the City develop a triage protocol to alert officials to alleged offenders who have a violent criminal history; b) the City adopt and implement an aggressive prosecution policy to achieve convictions and appropriate sentencing of domestic violence offenders; and c) the City's commitment to evidence-based prosecution should be supported by appropriate training and resources.

¹ The term "batterer" is used throughout this article to refer to persons charged with or convicted of domestic violence, whether male or female, and whether or not engaged in a classic "textbook" battering relationship.

Introduction

Domestic violence is the most common violent crime reported to police (Greenfeld et al., 1998; Sherman, Schmidt & Rogan, 1992; Tjaden and Thoennes, 1998). Recent research shows that over 70% of all victims of domestic violence who sought help had, at some point, turned to the criminal justice system (Goodman, Dutton, Weinfurt & Cook, 2003). Women's rights activists have advocated that batterers be arrested, prosecuted and sentenced in the same manner as other violent offenders (Dobash & Dobash, 1979; Hammer, Radford & Stanko, 1989; Yilo, 1993), though it is important to note that activists do not speak with a single voice on this issue (Mills, 1999). In fact, the effectiveness of criminal justice interventions in domestic violence remains in doubt.

For years, researchers have been asking whether criminal justice interventions, such as arrest and prosecution, deter domestic violence offenders from recidivating. The results of their studies have not been conclusive (Ivoanni & Miller, 2001; Sherman, Schmidt & Rogan, 1992; Buzawa & Buzawa, 2003; Roberts and Kurst-Swanger, 2002). Researchers have also considered whether different types of criminal sanctions and court-ordered treatment programs affect recidivism in domestic violence cases (Payne & Gainey, 2002). Of all criminal justice interventions, the effects of domestic violence convictions and dismissals on recidivism have received the least empirical attention (Belknap, Fleury, Melton, Sullivan & Leisenring, 2001). This study represents a beginning point for that analysis at a local level.

Research Questions

This study investigated two interrelated research questions:

Does a conviction in a misdemeanor domestic violence case have any deterrent effect on recidivism during the one-year period following conviction?

Does the nature of the violence, prior criminal record, or demographic characteristics of the batterer have any bearing upon whether a misdemeanor domestic violence case results in conviction or dismissal?

Methodology

a. Study Site

This study was conducted in Toledo, Ohio, a mid-western metropolitan area with a population of approximately 300,000. At the time of the study, the city police were required to conform to a statutory preferred arrest policy. There was one police officer on a force assigned to serve as a designated domestic violence liaison to the city prosecutor's office. That police officer was also assigned to track all felony domestic violence charges handled by the county prosecutor's office. Court advocates were available to assist victims of domestic violence. One city prosecutor was designated to handle domestic violence cases exclusively, while other city prosecutors were assigned to work on domestic violence cases as part of their general caseloads. At the time of the study, city prosecutors had endorsed an evidence-based prosecution policy, though it was not yet routinely practiced. Victim testimony was generally regarded to be necessary to achieve a conviction in domestic violence cases.

b. Sample

The research sample was drawn from the population of a larger study (Davis, 2002) that tracked data from 1,982 domestic violence cases filed in the Toledo Municipal Court between April 1, 2000 and March 31, 2001. Of all 1,982 cases tracked, 67.6% resulted in dismissal. Only 23.8% of the cases resulted in conviction, while 8.6% remained pending as of September 30, 2002.

This study selected random samples from the larger data set. Since additional data had to be collected concerning the batterers' educational and employment background, criminal history, and subsequent criminal record, the sample for this study had to be small enough to make the data collection reasonable, yet large enough to allow for multivariate analysis. The objective was to get two sample groups - one consisting solely of cases that resulted in conviction and the other consisting solely of cases that resulted in dismissal - to jointly approximate 500 cases, with at least 200 cases in each group. A 23% sample of dismissed cases and a 43% sample of convicted cases were randomly selected from the larger data set using the SPSS 10.0 random sample selection program.² This random selection process resulted in a sample of 315 dismissed cases and 204 convicted cases, with a total pool of 519 cases.

c. Data Collection

Most of the data was culled from actual municipal court case files. These records contained specific information about the demographic characteristics of the alleged offender and the victim, the nature of the violence reported, and the outcome of each case. The court records generally included information on the alleged offender's

² Since only 472 cases in the larger study resulted in conviction, a larger random sample of convicted cases had to be generated in order to build a big enough pool to allow for multivariate analysis.

gender, age and race, but did not include information concerning the alleged offender's educational attainment or socioeconomic status.

Criminal histories for all alleged offenders in the sample were collected through the computerized records of the local sheriff's office. Those records were restricted to offenses committed in Lucas County. Consequently, the criminal history data did not include any charges that may have occurred in other jurisdictions. That proved to be a limitation to the study. Another limitation was that the criminal histories in the database listed all prior charges filed against an alleged offender, but did not indicate whether those prior charges resulted in convictions or dismissals.

Information concerning the batterers' educational attainment, employment and marital status was collected from booking records maintained by the local sheriff's office. Information from these records was based on batterer self-reports upon arrest.

d. Follow-Up Period

Each accused batterer was tracked for one year following the disposition of his or her domestic violence case. All arrests and charges filed against that individual within the year were recorded, including any subsequent domestic violence charges. Again, the available data was limited to Lucas County, so subsequent charges that may have occurred in other jurisdictions were not included.

e. Definition of Key Variables

Convictions were operationally defined as pleas to an original charge, pleas to an amended charge, and/or convictions at trial.

Dismissals consisted of concluded cases that did not result in a plea or conviction and were not bound over to felony court.

Criminal history information included those charges filed against an alleged batterer in Lucas County, regardless of whether the charge resulted in conviction or dismissal. All charges were categorized as: (1) violent felonies; (2) non-violent felonies; (3) violent misdemeanors; and (4) non-violent misdemeanors. Domestic violence charges were tracked and reported separately and as part of the appropriate offense category. All domestic violence charges in the sample were classified as violent misdemeanors.

Violent acts described the nature of the harm inflicted by the accused batterer. Information on violent acts was drawn from court records and summarized in the data set from which the samples were drawn. Each description was reviewed. Variables were constructed to reflect the different types of violence reported. Multiple acts of reported violence were recorded separately. For instance, if a victim reported that she had been punched and strangled, her victimization was coded affirmatively in both the "punched" and "strangled" variables.

Recidivism was operationally defined as an arrest on a subsequent domestic violence charge within one year after the disposition of the domestic violence case being

tracked. The subsequent domestic violence charge may or may not have been against the same victim as the originally tracked charge, and may or may not have resulted in conviction.

Demographic characteristics included the gender, age, race, educational level, employment, and marital status of the batterers.

f. Analyses

Descriptive and comparative information was compiled on all batterers' demographic characteristics, criminal histories, and nature of violence reported on each charge.

Cross tabulations, independent t-test comparisons of the means, chi square tests of significance and multivariate analyses were used to explore the differences among the two sample groups.

Logistic regression was used to examine the influence that specific acts of violence had upon the outcome of each case. Logistic regression was also used to test the effects of convictions and dismissals on recidivism while controlling for and examining the influence of demographics on recidivism (Long, 1997; Menard, 1995; Wright, 2000).

Finally, the criminal sanctions imposed on convicted batterers were described and the associations between specific sanctions and recidivism were analyzed.

Findings

I. Summary of Case Outcomes

The 315 cases that resulted in dismissal were dismissed on the following grounds:

<u>Number</u>	<u>Percentage</u>	<u>Grounds for Dismissal</u>
220	69.8%	"Victim failed to appear" ³
89	28.2%	No explanation given
4	1.3%	Victim recanted
2	0.6%	Anger management

By far the most common reason given for dismissing a domestic violence case was that, at some point in the process, the "victim failed to appear."

³ The phrase, "victim failed to appear" is the court's official characterization of the reason these cases were dismissed and does not reflect the views of the authors. The authors recognize that court action against a batterer can proceed without requiring the victim to appear in court. The implications of the court's characterization of these dismissals are critical, but beyond the scope of this report.

The 204 cases that resulted in conviction were resolved in the following manner:

<u>Number</u>	<u>Percentage</u>	<u>Actual Outcome</u>
120	58.8%	Plea to amended charge
75	36.8%	Plea to original charge
9	4.4%	Conviction at trial

The majority of convicted offenders entered a plea to a lesser-amended charge, as opposed to being found guilty at trial.

a. Gender

Consistent with national statistics, victims of domestic violence were predominantly female (87.1%), while alleged perpetrators of domestic violence were predominantly male (87.5%).

b. Race

More than half (56.9%) of all batterers in the sample were people of color. Considerably less than half (43.1%) of all batterers in the sample were Caucasian. The racial breakdown of batterers was as follows:

<u>Number</u>	<u>Percentage</u>	<u>Offender's Race</u>
272	52.5%	African-American
223	43.1%	Caucasian
22	4.2%	Hispanic
1	.2%	Asian

According to the most recent U.S. Census data, African-Americans make up 23.5% of the general population in Toledo, whereas Caucasians comprise 70.2% of the general population, and Hispanics 5.1% of the City.⁴

c. Age

The average age of the batterers in the sample was 32.7 years. Approximately 42.5% of all batterers in the sample were under the age of 30.

⁴ U.S. Census, 2000. 2000 and 1990 Census tables for the various jurisdictions in Lucas County are easily accessible at: <http://uac.utoledo.edu/Links/census-demog/census-demogs.htm>

II. Marital Status, Educational Attainment, and Employment

Only 28.4% of the batterers in the sample reported being married at the time of their arrest. More than half (57.5%) of the batterers reported being employed. The average educational attainment level of the batterers was 11.86 years. Most of the batterers (69.5%) reported completing high school.

As Table 1 indicates, the demographic characteristics of the batterers were essentially the same among those who were convicted of domestic violence and those whose cases were dismissed. Bi-variate analyses between each of the demographic variables and the case outcomes showed no statistically significant ($p \leq .05$) findings. A logistic regression was conducted with case outcomes as the dependent variable and each demographic characteristic as independent variables. This multivariate analysis showed no statistically significant ($p \leq .05$) differences between any of the demographic variables and case outcomes. Thus, no significant relationship was found to exist between sex, race, age, marital status, educational attainment, employment status, or socioeconomic standing and the final outcome of domestic violence cases in the Toledo Municipal Court.

Table 1
Batterers' Characteristics by Case Dispositions

Batterers' Characteristics	Case Dismissed (N=315)		Case Convicted (N=204)	
	Number	Percent	Number	Percent
Gender (N=519)				
Male	276	87.6%	178	87.3%
Female	39	12.4%	26	12.7%
Race (N=519)				
White	127	40.4%	96	47.1%
Non-White	187	59.6%	108	52.9%
Age (N=519)				
19 years and under	14	4.5%	4	2.0%
20 to 29 years	125	39.8%	77	37.7%
30 to 39 years	104	33.1%	69	33.8%
40 to 49 years	55	17.5%	47	23.0%
50 years and over	16	5.1%	7	4.4%
Marital Status (N=503) ^a				
Married	85	28.0%	58	29.1%
Not Married	219	72.0%	141	70.9%
Employment Status (N=503) ^a				
Employed	165	54.3%	124	37.7%
Unemployed	139	45.7%	75	62.3%
Educational Level (N=502) ^a				
< High School Completion	91	30.0%	62	31.2%
High School Completion	162	53.5%	104	52.3%
> High School Completion	49	16.5%	33	16.6%
Representation (N=519)				
Public Defender	149	52.1%	103	57.2%
Private Attorney	137	47.9%	77	42.8%

^a: Missing data on some cases reduced N in these categories

Note: Bivariate and multivariate analyses showed no statistically significant differences between any of the variables in Table 1 and court case disposition.

III. *Prior Criminal History*

More than half of the batterers in the sample (59.3%) had a history of one or more prior arrests for domestic violence. In addition, many of the batterers had been arrested for other types of crime. For instance, 26.4% of the batterers had been arrested for at least one violent felony. Nearly half of the batterers (48.9%) had been arrested for at least one non-violent felony. A majority of batterers (69%) had been arrested for at least one violent misdemeanor, including and in addition to domestic violence. And nearly every batterer (89%) had been arrested for one or more non-violent misdemeanor.

Table 2 shows the results of the independent t-test comparisons of the means for the number of prior arrests per offense category by whether the domestic violence case being tracked resulted in a conviction or dismissal.

Table 2
Batterers' Criminal Histories and Case Dispositions (N= 519)
Independent T-Test Results for the Differences in the Means
Criminal History Variables

	Mean Both	Mean Convicted Samples	Mean Dismissed Sample	t-value Sample
Violent Felonies	.817	.618	.946	-.034*
Non-Violent Felonies	1.971	1.6324	2.1905	-1.887
Violent Misdemeanors	3.166	3.1961	3.1460	.138
Domestic Violence	2.037	2.0539	2.0254	.109
Non-Violent Misdemeanors	14.064	13.2647	14.5810	-.948

* $p < .05$

Violent felonies were the only types of offenses which showed a statistically significant association to case outcome. Specifically, batterers whose domestic violence cases were dismissed had, on average, more violent felony arrests than did batterers who were convicted of domestic violence.

IV. Nature of Violence Reported

The most common types of violence reported in the sample were as follows:

<u>Number</u>	<u>Percentage</u>	<u>Nature of Violence</u>
124	25.0%	Punching
93	17.0%	Slapping
88	17.7%	Throwing
59	11.9%	Strangling
54	10.9%	Pushing or pulling
53	10.7%	Threatening to kill
42	8.5%	Being hit with objects

A logistic regression analysis was used to assess the relationship between the nature of violence and the outcome of the criminal case (Long, 1997; Menard, 1995; Wright 2000). As indicated on Table 3, three acts of violence were associated with case outcome. Specifically, punching and throwing were positively related to conviction, whereas pushing or pulling was negatively associated with conviction. Thus, batterers who punched or threw their victims were slightly more likely to be convicted of domestic violence, whereas batterers who pushed or pulled their victims were slightly more likely to have their cases dismissed.

Table 3:
Batterers' Acts of Violence and Convictions

<u>Logistic Regression</u>			
<u>Acts of Violence Against Victims</u>	<u>B</u>	<u>Exp (B)</u>	<u>Significance</u>
Punched	.621	1.861	.010 **
Thrown	.625	1.869	.014*
Struck	.166	1.180	.531
Strangled	-.200	.819	.511
Threatened to harm	.423	1.526	.204
Pushed or pulled	-.674	.510	.049*
Threaten to kill	.555	1.742	.090
Hit with object	-.035	.966	.925
Cox & Snell R-Squared	.037		
Nagelkerke R-Squared	.050		

* $p < 0.05$ ** $p < 0.01$ *** $p < 0.001$

V. Case Outcome and Recidivism

This study explored the relationship between case outcome and recidivism by considering whether batterers were arrested on subsequent domestic violence charges within a year of the conviction or dismissal of the charge being tracked. The study shows that approximately one-third (32.6%) of the batterers in the sample were, in fact, arrested on a subsequent domestic violence charge within a year after the earlier charge was concluded.

A logistic regression analysis was conducted to determine the affect of convictions on recidivism while controlling for and assessing the possible influence of other variables (Long, 1997; Menard 1995; Wright 2000). In this case, the study controls for and examines the potential influence of the following variables: (1) batterers' history of

domestic violence arrests; (2) batterers' demographic characteristics; and (3) batterers' educational attainment, marital status and employment.

Table 4 shows four logistic regression models. In order to examine the variance explained by conviction alone and in combination with other variables, multiple models are presented rather than introducing all the variables into one model. Each model builds on the next.

Model I shows the effect of conviction alone on recidivism. It reveals that conviction is significant ($p \leq .05$), though alone it accounts for less than 2% of the variance in domestic violence recidivism.

Model II adds the batterers' history of domestic violence arrests. Both conviction and history of domestic violence arrest are significant in this model. The addition of the batterers' history of domestic violence increases the variance explained by the model from 10.8% to 15.1%.

Model III adds the batterers' age, gender and race. Conviction, domestic violence history, age and gender are all significant in this model. Race ($p = .075$) approached, but did not attain, significance. Model III explains 11.7% to 16.4% of the variance.

Finally, Model IV adds the batterers' educational level, employment, and marital status. None of these added variables attained significance in this model. Nevertheless, conviction, domestic violence history, age and gender remained significant Model IV.

Table 4
Effects of Convictions and Batterers' Backgrounds on Domestic Violence
Recidivism / Logistic Regression Models

Variables ⁵	Model I		Model II		Model III		Model IV	
	Exp(B)	B	Exp (B)	B	Exp (B)	B	Exp (B)	B
Conviction	-.468	.626*	-.515	.597*	-.482	.617*	-.467	.627*
Batterers' History of D V Charges	.264	1.302***	.248	.281***	.241	.272***		
Batterer's Age					-.023	.978*	-.025	.976*
Batterer's Gender 2.573*					.830	2.293*		.945
Batterer's Race 1.471						.377	1.459	.386
Batterer's Education							-.010	.991
Batterer's Employment Status							-.145	.865
Batterer's Marital Status							.266	1.308
Cox & Snell R-Squared	.011		.108		.133		.135	
Nagelkerke R-Squared	.015		.151		.185		.188	

* $p < 0.05$ ** $p < 0.01$ *** $p < 0.001$

⁵ Coding: Domestic Violence Recidivism (yes = 1 no=0); Conviction (yes = 1 no=0); History of Domestic Violence (number of domestic violence charges in abusers criminal history); Gender (male =1 female = 0); Age (age in years); Race (white =1 non-white =0); Education (year of education completed); Employment Status (employed=1 unemployed=0) Marital Status (married =1 not married=0)

This statistical technique suggests that conviction, domestic violence history, age and gender exert an influence on whether a batterer recidivates in only about one-sixth of the cases.

VI. Criminal Sanctions and Recidivism

This study also examined the relationship between criminal sanctions and recidivism. The sanctions imposed on convicted batterers in the sample included some combination of jail time, work release, electronic monitoring, probation, and/or fines and court costs. In a small number of cases, convicted batterers received only a suspended jail sentence and/or a fine. The most common sanction for a convicted batterer was probation with all or part of a jail term suspended. Only 35.8% of the convicted batterers actually spent time in jail. Jail terms ranged from 5 to 180 days. The average time served by convicted batterers in the sample was 58.42 days.

A series of bivariate and multivariate analyses were conducted to explore whether any specific type of sanction or combination of sanctions had an effect on recidivism. Length of jail time did not have an effect on recidivism when tested alone or in combination with probation. Probation alone or in combination with jail time did not have a statistically significant effect.

The only sanction found to be significantly ($p=.001$) associated with recidivism was a suspended sentence and/or fine. Two-thirds (66.7%) of the 15 convicted batterers who received only a suspended sentence and/or fine were arrested at least once on a subsequent domestic violence charge during the one-year follow-up period. By comparison, only 23.3% of the batterers who received jail time, work release, electronic monitoring and/or probation were rearrested on a domestic violence charge during the one-year follow-up period. Consequently, while punishment does not seem to reduce the tendency toward recidivism, the absence of a meaningful sanction tends to increase the likelihood that a convicted batterer may recidivate.

A multivariate analysis was conducted to determine if the association between criminal sanctions and recidivism would sustain when the batterers' criminal history, socioeconomic status, and demographic characteristics were considered. In fact, the criminal sanction variable retained significance when the batterers' criminal history and employment were taken into account. However, as shown on Table 5, no other variables proved to be statistically significant in this multivariate analysis.

Table 5
Effects of Sanctions and Background Variable on Convicted Batterers' Recidivism Logistic Regression

<u>Variables⁶</u>	<u>B</u>	<u>Exp (B)</u>
Suspended Sentence and /or Fine	1.653	5.217 **
Batterers'		
History of D V Charges	.230	1.259 ***
Batterer's Age	-.008	.992
Batterer's Gender	.113	1.120
Batterer's Race	.568	1.765
Batterer's Education	.046	1.047
Batterer's Employment Status	-.753	.471 *
Batterer's Marital Status	.257	1.293
Cox & Snell R-Squared	.169	
Nagelkerke R-Squared	.245	

* $p < \leq 0.05$ ** $p < \leq 0.01$ *** $p \leq 0.001$

⁶ Coding: Domestic Violence Recidivism (yes = 1 no=0); Sentence Suspended and/or fine (yes = 1 no=0); History of Domestic Violence (number of domestic violence charges in abusers criminal history); Gender (male =1 female = 0); Age (age in years): Race (white =1 non-white =0); Education (year of education completed); Employment Status (employed=1 unemployed=0); Marital Status (married =1 not married=0)

Policy Implications and Recommendations

One of the significant findings of this study is that most accused batterers in the sample had a history of prior arrest for domestic violence and/or some other violent offense. Strikingly, those batterers who had *more* violent felony charges in their criminal records were *less* likely to be convicted of domestic violence. The implications of these findings are chilling, not only for victims of domestic violence but, for the community at large.

The researchers recommend that the City develop a triage protocol in domestic violence cases that: (1) alerts police, prosecutors and judges to those cases that involve batterers who have multiple violent felony charges in their criminal records; and (2) encourages a more aggressive and deliberate prosecution strategy in those cases.

Another major finding of this study is that misdemeanor domestic violence convictions had a modest, but significant, impact on recidivism among batterers. Consequently, the researchers believe that aggressive, evidence-based prosecution should continue to be one alternative tool within a comprehensive strategy of intervention in local domestic violence cases.

Finally, this study shows that the deterrent value associated with misdemeanor domestic violence convictions tended to weaken when the sanction imposed was a suspended sentence and/or fine without probation. Consequently, the researchers recommend that the city impose such sanctions in only rare circumstances, when the risk of re-offense is virtually non-existent.

Conclusion

This study reveals a great deal about the tendencies and conditions underlying domestic violence recidivism in Toledo. Perhaps most importantly, this study provides a benchmark against which subsequent progress towards increasing victim safety and batterer accountability in domestic violence cases can be measured.

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