# A Comparison of Two Prosecution Policies in Cases of Intimate Partner Violence

## Mandatory Case Filing vs. Following the Victim's Lead

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# Abstract

## Purpose

Whether or not to file domestic violence cases when the victim does not support prosecution is a difficult decision. Previous research provides contradictory evidence regarding the effects on victim safety, empowerment, and official measures of recidivism of prosecuting despite victim opposition. This study compared a jurisdiction that tends not to file cases if the victim opposes prosecution (the Bronx), with a jurisdiction that files all domestic violence cases (Brooklyn).

## Method

We sampled 272 cases involving intimate partners that were declined for prosecution in the Bronx and 211 cases that were filed in Brooklyn but probably would have been declined in the Bronx. These cases were analyzed in regard to re-arrests using state criminal justice data. We also conducted either in-depth individual or group interviews with a total of 35 victims from the Bronx and Brooklyn, and performed a cost analysis of differential resources required by the two policies.

## Findings

The primary determinants of the decision to decline prosecution in the Bronx were the victim's opposition to prosecution or inability to locate her, and the absence of prior domestic violence offenses by the defendant. In Brooklyn, the cases filed without victim support were typically dismissed after three months. We found no significant differences in re-arrest rates under each policy in a six month follow-up, although new arrests were more likely to be charged as felonies under Brooklyn's universal filing policy. That policy was also more costly, requiring greater resources of the district attorney's office to conduct outreach to victims, investigate the cases and attempt to develop evidence, and in staff court appearances. One might conclude that the universal filing policy was more costly without producing the benefit of reducing recidivism. Victims, however, mostly favored the mandatory filing policy: many wanted the temporary order of protection that the Brooklyn Criminal Court issued on all pending cases. Many victims also wanted a longer time after the arrest to decide about prosecution than the 24-hour period that the Bronx case screening policy allowed. We therefore recommend an intermediate policy, with initial filing and a period of a few weeks for the prosecutor and victim to decide whether to proceed or drop the case. Given the low probability of conviction without victim support, we also recommend that investigative resources be conserved.

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The New York State Division of Criminal Justice Services (DCJS) provided criminal history for the recidivism analysis. These data were provided in de-identified form.[1] DCJS is not responsible for the methods of statistical analysis or any conclusions derived there from.

## Project Staff

Rob Davis conceived and designed the study as a follow-up to his work in Milwaukee, in collaboration with Dr. Heike Thiel de Bocanegra, formerly Vice President for Research and Evaluation at Safe Horizon. Dr. Chris O'Sullivan, formerly Senior Research Associate at Safe Horizon, served as PI and Project Director. Dr. Cecilia Castelino-Pinto, formerly Research Associate at Safe Horizon, conducted the victim interview component of the study and performed the qualitative analysis. Dr. Donald Farole, Senior Research Associate at the Center for Court Innovation, designed and executed the cost analysis. Michael Rempel, Research Director at the Center for Court Innovation, conducted the analysis of the recidivism data. For correspondence, please contact Chris O'Sullivan (New York City, chris.osullivan@verizon.net) or Rob Davis (Arlington, VA, robertd@rand.org).

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[1] We provided case identifiers to DCJS. They matched up the identified case information in our files with recidivism data, then returned the augmented case records to us without identifiers.

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Chapter One

# Introduction: Background and Purpose

## Overview

Prosecutors have widely different policies guiding decisions about how to handle domestic violence arrests when the victim has expressed opposition to proceeding with the case. The policies vary in regard to victim input into the decision of whether to prosecute, whether victims should be compelled to testify, whether cases should be prosecuted when relying on evidence other than victim testimony, and whether the decision about proceeding with the prosecution should be made following arrest but before the case is filed (case screening) or after filing. There is little empirical evidence to guide decisions about how aggressively cases should be prosecuted when victims oppose prosecution. In the absence of evidence, policies in each jurisdiction may be determined by political, philosophical, social and economic considerations.

The purpose of the study presented here was to compare two policies, one that most often accedes to the victim's preference not to prosecute and does not file charges with the court in such cases and one that most often files cases regardless of the victim's preference. The research took advantage of naturally occurring differences in two boroughs of New York City. The policies vary because prosecutors in each of the two boroughs are independently elected officials. However, many other factors – police practices, state statutes, and rules of evidence – are identical between the boroughs. We hoped that our work would provide prosecutors nationally with information to help inform decisions about how extensively they should screen arrests and how aggressively they should pursue cases when the victim opposes prosecution.

## Background

Historically, the decision to prosecute depended in large part on the interests of the victim. Beginning in the 1980s, however, prosecutors began to modify that practice, due to pressure from battered women's advocates, socio-political events, and research findings. Activists in the "battered women's movement" urged the criminal justice system to treat domestic violence as a serious crime, comparable to those committed by non-intimates. The first focus of advocacy efforts was law enforcement, who had often regarded domestic disturbances as non-criminal disputes between husband and wife (Buzawa & Buzawa, 2003). Two developments changed that response. One was the successful lawsuit by Tracy Thurman against the town of Torrington, Connecticut and its police department (Kappeler, 1997). The police not only failed to arrest Thurman's husband when he violated probation and came to her home, they witnessed his prolonged murder attempt, failing to intervene as he repeatedly stabbed and kicked her until she was nearly dead. Following the highly-publicized two million dollar judgment against the town in 1985, it became politically and financially necessary for police to arrest domestic violence offenders and to enforce protection orders.

Also influential in states and police departments adopting pro-arrest or mandatory arrest policies was the dissemination of Sherman and Berk's (1984) finding that arrest was an effective

deterrent to future violence. States began to pass laws that allowed exceptions to hearsay rules and specifically required or allowed police to arrest on the basis of "excited utterances" heard by police when they arrived at the scene and tapes of 911 calls, as well as physical evidence of violence, including injuries and destruction of property. These arrest policies resulted in many cases being brought to prosecutors when the victim opposed the arrest, refused to sign the complaint, or denied that there had been intentional violence.

Following progress in the police response to domestic violence, advocates turned to promoting reform of prosecution practices. In parallel with the message to police, advocates argued that one way to demonstrate that domestic violence offenses were taken seriously was to file cases with the court on the most serious charges available and to prosecute to the fullest extent possible. Hanna (1996) also suggests that the increasing number of female district attorneys in the 1980's brought a new perspective and more aggressive prosecution of domestic violence offenders.

## Prosecutors' Dilemma

From a practical standpoint, with mandatory and pro-arrest policies bringing an influx of cases involving victims who did not support arrest (much less prosecution), prosecutors faced a dilemma. One problem was determining what was safest for the victim. On the one hand, if one assumes that prosecution, like arrest, is a deterrent and preventive measure for recidivism, then it is in the victim's best interest to prosecute even if that is not what she says she wants. On the other hand, if one takes the position that victims are the experts on their own situation and better understand the risks in any course of action than strangers, then it is in the victim's best interest to allow her to decide whether the case should be prosecuted, because only she knows whether prosecution will protect her or put her at greater risk.

Prosecutors may have had experiences that made them inclined to prosecute: at the most extreme, dropping a case at the victim's request and releasing an offender who then returned home and murdered her. It will take just one such experience – directly or vicariously – to make a prosecutor likely to ignore the victim's preferences and assume that prosecution is the safer alternative, especially since domestic violence homicides are difficult to predict (Dobash, Dobash, Cavanagh & Medina-Ariza, 2007). Hanna (1996) maintains that Nicole Brown Simpson, who was murdered in 1994, would have been better protected if, in 1993, California had had mandatory arrest and prosecution policies like those of Duluth. Despite Ms. Brown's opposition to arrest at that time, police would have photographed the destruction of property, interviewed neighbors who heard the fight, and the 911 tape documenting her fear and his threats would have been introduced to support charges of assault, battery, breaking and entering, and destruction of property. The defendant and defense attorney would have been made aware that there was no point in attempting to intimidate Ms. Simpson or to persuade her to drop charges, because the state would have proceeded regardless of her preference, possibly issuing a subpoena and issuing a warrant to force her to participate in prosecution.

There are also philosophical issues that may make prosecutors inclined either toward prosecuting without the victim's consent or toward allowing the victim to determine the fate of the case, within limits. On the one hand, some argue that prosecuting against the victim's wishes

is to take away the little power she has in the situation, where the abusive partner has already deprived her of autonomy. In this view, the criminal justice system is behaving paternalistically by treating the victim as incapable of making major decisions about her life. On the other hand, the argument has been made that putting the decision in the hands of the victim is to treat the violence as her problem to address and resolve, thereby making her responsible for crimes committed against her. In this view, the criminal justice system should take responsibility for addressing crimes and should not unduly burden victims with making decisions about the appropriate response of the criminal justice system.

Finally, decisions about whether to prosecute despite the victim's opposition can be viewed as pitting individual safety and well-being against the public good and the principle of equal justice. On a case-by-case basis, individual victims might be better off if a case is dropped, but as social policy, prosecuting is preferable because it sends the message that domestic violence is a crime and one that society takes seriously. Similarly, sanctions imposed on offenders might inconvenience or harm victims (for example, financially or by disrupting family life) but be protective of society in general and benefit other potential victims of the same perpetrator.

Prosecutors have responded to these realities and arguments with a range of different policies. In some cases the policies of state and local prosecutors are determined by state laws. While these statutes and their requirements vary, all of the explicit policies and state laws mandate or favor prosecution rather than dropping cases at the victim's request; that is, there do not appear to be statutes that *require* victim cooperation as a precondition for the district attorney to bring charges. The Violence Against Women Act also appears to favor more aggressive prosecution, in that it provides funding to coalitions that, among other activities, promote and adopt a pro-prosecution policy and vertical prosecution.

So far, then, the pro-prosecution position has prevailed as the preferred theoretical stance, although many jurisdictions have not adopted such explicit policies and primarily follow the victim's preference. As will be described in the literature review, this pro-prosecution position has prevailed in the absence of solid evidence that it is actually safer for victims in general, that it empowers victims, or increases victims' sense of safety.

In the absence of compelling evidence, there are additional considerations that may influence prosecutors' preference if there are no state statutes that require operating under a pro-prosecution policy. One consideration is that prosecuting cases is more costly than not prosecuting, and prosecuting without victim cooperation is even more costly. The exact form of the policy will determine the marginal cost. It may simply not be feasible to devote the resources necessary to prosecute effectively in such difficult circumstances. A major argument against mandatory or pro-prosecution policies, therefore, is that they take resources away from other cases, especially those in which the victim supports prosecution and convictions can be more easily won. The way the district attorney's performance is evaluated may also promote one policy or another. When cases are screened out when the victim does not support prosecution, there are likely to be more convictions and fewer dismissals, as it is easier to succeed when the victim is cooperative.

On the other side of scale, there may be intangible benefits to prosecuting, in terms of sending the messages that domestic violence will not be tolerated and that violence against intimate partners is a matter of public interest, not a private concern. There is the as-yet unproven possibility that it is a deterrent and prevents escalation to more serious crimes.

## Range of Pro-Prosecution and Case Screening Policies

Any policy that prohibits dropping, dismissing or not filing a case at the request of the victim is a "no-drop" policy. However, there is currently a range of pro-prosecution and mandatory prosecution policies with different philosophical underpinnings and assumptions. Any single-jurisdiction test will necessarily test the impact of only one or two of these variants. Another consideration in evaluating any variant is the degree to which practice adheres to the policy, a matter that may be determined by resources, staffing, skill and commitment of the various offices or agencies involved. For example, a policy that proceeds on the basis of evidence alone, without involving the victim, requires a high level of performance by the police and investigators in the district attorney's office in collecting evidence at the scene and following up to collect additional evidence. That level of performance may be lacking, and the prosecutor's office may be unable to affect police practices. Prosecution policies may also rely on victim advocacy provided by an outside agency to be implemented effectively.

Below we will lay out the range of policies. They generally differ on three interdependent dimensions: 1) the degree to which they pursue cases based on amassing evidence independent of the victim's testimony; 2) the degree to which they require and possibly coerce victim participation; and 3) the degree to which they screen out cases before filing. On the first dimension, practices range from not assessing the evidence or expending resources to collect it when the victim opposes prosecution to a "no drop" policy of attempting to collect independent evidence in all cases and pursuing those that can be prosecuted without victim support. The latter practice is termed "evidence-based" prosecution, "victimless" prosecution, or "prosecution without active victim participation."

On the victim participation dimension, at one extreme, the prosecution will not file charges unless the victim supports prosecution and signs a complaint, deposition or corroborating affidavit (i.e., prosecution is not mandatory and the policy is not no-drop.) At the other extreme, some mandatory prosecution policies force victim participation in prosecution by issuing subpoenas to order victims to court and warrants for those who do not appear, and threatening to charge them with contempt of court, even detaining them for failing to testify. Ford and Breall (2003) call such policies "hard no-drop." An intermediate policy might file charges despite victim reluctance and then continue to attempt to persuade the victim to cooperate, ultimately dropping the case if the victim continues to oppose prosecution ("soft no-drop"). Some evidence-based policies include mandatory victim participation, but others do not require victim participation.

Where a case falls on these two dimensions largely determines the practice in regard to the third dimension, case screening: the degree to which cases brought in to the District Attorney's Office by the police will be screened before they are filed with the court. Under a strict evidence-based policy, the decision to proceed is based on the strength of the evidence (the

victim's support for prosecution is immaterial). Therefore, many cases with uncooperative victims will be screened out – no charges will be filed because there is insufficient evidence to proceed. Conversely, under a mandatory prosecution policy that instead attempts to persuade the victim to cooperate, charges will be filed in all the domestic violence cases that are brought to the District Attorney's Office. Evidence may or may not be successfully collected later, and victims may or may not be persuaded to support prosecution, but few or no cases will be screened out initially. Prosecution policies that force victim cooperation can fall anywhere between these two extremes. They do not necessarily require sufficient evidence to convict without victim testimony, since they will attempt to compel victim testimony, but they may not file charges in every case where the victim is uncooperative, possibly reserving the extreme step of issuing subpoenas and warrants for severe cases and those in which the prosecutor deems the victim to be in serious danger (Hanna, 1996).

As these policies differ in many ways, which version of the policy is tested will obviously have important implications in regard to costs, effect on recidivism and victim safety, victim empowerment, and effect on public perceptions. For clarity, it is probably best to adopt different terms for these various forms of no-drop prosecution. "Evidence-based prosecution" is an obvious term for the policy that relies on evidence and disregards the victim's willingness or ability to participate; such a policy involves heavy reliance on investigation and documentation of police observations at the scene of the crime, and it involves screening out cases that lack sufficient evidence. The policy that relies on victim participation and compels that participation if necessary is clearly the most disempowering; it has been termed "mandatory victim participation" (Hanna, 1996), and it too may entail case screening to ensure that the victim is not deprived of autonomy and liberty unless deemed necessary. Some evidence-based policies also require victim participation – they are both evidence based and mandatory victim participation policies. Other evidence-based policies do not require victim participation and are sometimes termed "victimless prosecution." Finally, the policy that involves filing all cases and trying to persuade victims to participate over time has been termed by Peterson (2005) "mandatory case filing."

In addition to entailing different levels of case screening, each of the aforementioned policies will result in different levels of conviction and dismissal, and require different levels of resources. Evidence-based prosecution is obviously more resource intensive than policies that rely on the victim's support for prosecution because it requires using detectives to locate and interview witnesses, collecting physical evidence, including photographs, possibly medical records, and 911 tapes. However, heavy case screening will reduce those costs by limiting the number of cases that demand those efforts. Likewise, filing cases on all domestic arrests clearly carries higher costs than filing cases selectively. Moreover, it is likely that (without commitment of serious resources) many of the cases filed where victims have no interest in participating will ultimately be dismissed. Nonetheless, there may still be benefits in filing even cases that are later dismissed if victims gain access to criminal restraining orders and defendants are inhibited from making contact with victims and re-offending while cases are pending, and the threat of more severe consequences (conviction, enhanced charges, revocation of pretrial release) looms.

## Purpose of Study

### Comparison of two policies

New York City offers a good opportunity to study the effects of different prosecutor screening policies. The same state statutes apply, yet no statutes determine prosecution policies statewide. There is a single police department making domestic violence arrests using the same pro-arrest policy. The Legal Aid Society handles most of the indigent defense work in all boroughs. Because each borough is a county, however, each elects its own district attorney who sets his own policies.[2]

As it happens, the policies of the Brooklyn and Bronx district attorneys are quite dissimilar with respect to screening domestic violence arrests. According to a 2002 study by the New York City Criminal Justice Agency (Peterson, 2002), the Kings County (Brooklyn) District Attorney prosecutes more than 99 percent of all domestic violence arrests made by the police. On the other hand, this study found that the Bronx District Attorney declines to prosecute nearly 20 percent of domestic violence arrests made by the NYPD. Interestingly, these policies have been longstanding, spanning several administrations in each borough at least as far back as the mid-1970s.

<u>The Bronx approach</u>

The Bronx policy is described by Peterson as a "first party complaint" process. Victims are asked by the arresting officer to come into the complaint room the day of the arrest. There, they are interviewed by district attorney staff and asked to sign the criminal complaint. If victims fail to show up, efforts are made to reach them by phone. A police car may be dispatched to pick them up if they cannot be reached by phone.

Ideally, victims who come to the complaint room meet with a victim advocate before meeting with the prosecutor. The advocate does a safety assessment, helps the victim draw up a safety plan, and explains the legal process. If the victim signs a written consent, the advocate may communicate an assessment of the case and any concerns to a complaint room assistant district attorney (ADA). When the victim meets with the ADA, if she wants to drop the charges, she is asked to sign a waiver of prosecution that specifies that she will not receive an order of protection and charges cannot be filed later on this case. No charges are filed and the case is sealed.

In addition, if the victim fails to come to the complaint room, cannot be contacted by phone and cannot be found at home, typically no charges are filed and the case is sealed. The average time allowed for locating the victim and for her to speak to an ADA is four hours, but that period can extend to 24 hours.

[2] All the elected district attorneys in New York City's five counties are men, but four of the five assistant district attorneys who head the domestic violence units are women.

According to prosecutors in the Bronx, the most important consideration in deciding whether to file a domestic violence case is whether the victim complies with the police officer's request to come to the complaint room and the prosecutor's request to sign the complaint. If the victim fails to come in, or comes in and declines to cooperate, the prosecutor is unlikely to file the case unless the defendant has a significant history of abuse, or unless there are extenuating circumstances preventing the victim from coming to the complaint room (such as a hospital stay). Since defendants must be arraigned within 24 hours of arrest, the window for the victim to come in is fairly narrow. However, a decision not to prosecute can be reversed: Defendants who are released when their cases are declined may be re-arrested at a later time if the district attorney's office reevaluates the case.[3]

The prosecution policy in the Bronx is based on a belief that victims should have a voice in the decision to prosecute. It is also a practical way to focus the office's efforts on those cases where there is the best chance of securing a conviction since most[4] would argue that domestic violence prosecutions are more likely to succeed when victims are cooperative. Not only is the caseload reduced by 20%, but it is reduced by exactly those cases likely to consume the greatest amount of resources because convictions can be won in the absence of victim participation only if the prosecutor is able to marshal other forms of evidence (eyewitness testimony, medical evidence or testimony, etc.).

The Brooklyn approach

The Brooklyn policy is that an effort should be made to prosecute all domestic violence cases regardless of the victim's preference or support. This approach is viewed by the prosecutor's office as a logical extension of the New York State mandatory arrest law for domestic violence incidents. In part, this policy is based on the belief that not enough information is available shortly after an arrest is made to make an intelligent decision about prosecution.[5] Indeed, victims are not asked to come to the complaint room to be interviewed prior to arraignment and they are not asked to sign the criminal complaint. The district attorney's initial action is therefore not constrained by victim support for prosecution or the prosecutor's ability to locate the victim, because charges will be filed regardless. Since victims are not typically seen by the prosecutor until after arraignment, reluctant victims do not sign a waiver of prosecution prior to arraignment, as they do in the Bronx.[6]

In Brooklyn, paralegals attempt to phone victims from the complaint room to gain information to write the criminal complaint. Paralegals attempt to phone victims again after arraignment to give them information on the case status and obtaining a copy of the order of

[3] This possible but rarely used mechanism for reviving the case appears to contradict the waiver of prosecution signed by the victim. Note, though, that it would require a new arrest and a new case; the victim cannot revive the case on the same arrest.

[4] But not all: Davis, et al. (2003) report that San Diego city attorneys prefer *not* to have the victim involved in prosecution.

[5] One of the key pieces of information missing at the stage of complaint filing is the defendant's statewide criminal history.

[6] There may be an attempt to reach the victim and link her to services by a paralegal or advocate in the complaint room, and the ADA who is rotated into the complaint room may talk to the victim if she comes in, but there is no effort on the part of the Domestic Violence Bureau prosecutors to reach the victim until after the case is filed.

protection usually issued by the court. During the week following arraignment, the victim is scheduled to come in for an interview with a prosecutor from the Domestic Violence Bureau. If she comes in, the prosecutor tries to persuade her to sign a corroborative statement. If she opposes prosecution, she may sign a waiver of prosecution, but the case is still likely to proceed. If the victim does not respond to phone calls, the prosecutor sends a "come see me" letter.

Although charges are filed with the court, initiating prosecution, most cases with reluctant victims are not fully adjudicated. By New York statute, cases brought on misdemeanor charges will be dismissed by the court after 90 days if the prosecutor cannot move the case forward on an A misdemeanor. The time limit for bringing the case to trial or other conclusion is 60 days for a B misdemeanor, and 30 days for a violation level offense. If the victim continues to oppose prosecution or cannot be located, and the DA's Office does not have sufficient evidence to make the case without her cooperation, they will allow the case to be dismissed. During the 2-3 months that a misdemeanor is pending, the DA's Office will make ongoing efforts to find victims who have not been reached, using the resources of the investigators assigned to the DA's Office and repeat phone calls. If the victim has been located but does not support prosecution, there may be continued outreach by the DA's Office to persuade the victim to support prosecution until the case has to be dropped.

There are several rationales for the Brooklyn policy. First, the majority of domestic violence victims are known to be ambivalent about prosecuting the abuser. In filing nearly all cases, the Brooklyn prosecutor keeps open the chance that an initially unsupportive victim will change her mind and be convinced to testify against the defendant. The second rationale is that the policy protects victims. They receive temporary orders of protection at arraignment that stay active for the duration of the case and defendants remain under the jurisdiction of the court for the period of time that the case is open. Defendants who violate the conditions of pretrial release or who fail to appear for a court date may lose their freedom. Since victims remain in contact with district attorney staff over the duration of the case, Brooklyn prosecutors also believe that there is a greater likelihood of convincing victims to use victim service programs such as counseling, civil legal assistance, or relocation assistance, all of which can enhance victim safety. In fact, the prosecutor's office has developed an extensive network of community-based organizations to assist victims of domestic violence. Finally, Brooklyn prosecutors rationalize their policy by noting that a court record is created by filing the case that will be noted if the defendant is arrested again.

The Brooklyn policy is a variant of a no-drop policy. Unlike the more prevalent form of no-drop policies that rely on evidence-based prosecution with or without mandatory victim participation, this mandatory filing policy is applied at the point of case screening rather than after cases are filed with the court. Brooklyn does not appear to have a no-drop policy after cases are filed.

**Motivation for the Study**

Brooklyn and the Bronx present a nearly ideal situation for studying the effects of screening policies that promote either court control or victim empowerment. Not only are their policies different, but past research showed that case outcomes differed radically between the two boroughs as well. According to Peterson (2002), among domestic cases filed with the Bronx Criminal Court, 64% are convicted, 1% are adjourned in contemplation of dismissal (ACD, a form of pretrial diversion), and 35% are dismissed. In contrast, Peterson found that Brooklyn's conviction rate is 18%, with another 23% of cases ACD'd and 59% dismissed. Brooklyn's low conviction rate is, in large part, an inevitable result of the fact that "unwinnable" cases that lack victim support are not being screened out as they are in the Bronx. The low conviction rate may also suggest that cases are not receiving the resources available in jurisdictions that apply a post-filing no-drop policy and proceed with a smaller number of cases (Peterson, 2002), devoting intensive resources to develop evidence and/or engage victims. However, Peterson and Dixon (2005) observed that, although many cases that are filed in Brooklyn are dismissed, they do remain open for several months, victims receive an order of protection, and defendants are held under court control while the cases are pending.

The main question we aimed to address was whether there was a benefit in filing cases with reluctant victims, even knowing that the odds were good that they would not result in a conviction. The policy of filing all domestic arrests is clearly more resource-intensive than a policy of selective prosecution. However, the extra investment of resources could be justified if it reduces the likelihood of recidivism (because abusers are kept under court control as long as possible), increases victim safety (because they have orders of protection until the case is dismissed) or results in more victims accessing services. Our work attempted to examine the cost of the different policies and their impact upon recurrence of domestic violence and victims' use of services, sense of safety and empowerment, and their satisfaction with the criminal justice system.

## Review of the Literature

The publication of the Minneapolis domestic violence arrest experiment (Sherman & Berk, 1984) and the Attorney General's Task Force report in the mid-1980s radically altered the response of the law enforcement community to domestic violence. Statutes governing police protocol in responding to domestic violence incidents changed remarkably. Legal impediments to police officers making warrantless arrests for misdemeanors that they did not witness were removed and replaced by presumptive arrest statutes (under which police were encouraged to make arrests) or statutes making arrest mandatory when probable cause existed (Hirschel, Hutchinson, Dean, & Mills, 1992).

The effect of reforms on law enforcement handling of domestic violence incidents was that many more abusers were arrested and prosecuted than in earlier years (see, for example, Jaffe, Hastings, Reitzel, and Austin, 1993 for a discussion of the impact of mandatory arrest in a single jurisdiction). However, increasing the number of offenders caught in the criminal justice system did not necessarily remedy the problem that advocates had highlighted in the first place: the failure of domestic violence cases to be prosecuted to as full an extent as other cases. In fact, Cahn (1992) argued that pro-arrest policies have resulted in prosecution and court organizations being asked to process more domestic violence cases than they are equipped to handle.

At the same time that the police response to domestic violence was changing, prosecutors began looking into new ways to deal with these cases. The major impediment to successful prosecution of domestic incidents was that victims frequently were unwilling to sign complaints or testify in court (Davis and Smith, 1981). For a variety of reasons – ranging from financial dependence to emotional ties to fear of reprisal – many victims refused to cooperate with authorities initially, and many more refused to cooperate or "recanted" during the course of the criminal justice process (Davis, 1983).

Because domestic violence had been viewed as a private matter rather than a matter of strong societal interest, typically prosecutors allowed the victim to "vote" on prosecution through their willingness to cooperate with authorities in providing testimony and evidence. When the view that domestic violence was a private family matter began to change, and domestic violence came to be seen as a pervasive problem that society ought to take an interest in ameliorating, prosecutors began developing new ways to approach these cases. Jurisdictions facilitated the process of obtaining restraining orders, established special domestic violence courts staffed with personnel specially trained in handling the complications of domestic cases, and created coordinated community response teams to improve cooperation among police, prosecution, judicial, probation and victim assistance agencies (Goldkamp, 1996; Buzawa and Buzawa, 1996; Hart, 1992).

One of the most common changes in prosecution policies was taking discretion out of the hands of victims and placing it with the state. Proponents of this policy change believed that victims would be safer from threats and retaliation by abusers when it was known that it was the state that was prosecuting, without her support (see, for example, Friedman and Schulman, 1990). They also believed that prosecution would make the consequences of domestic violence more serious for offenders and therefore act as a deterrent, which would make victims safer (even though the victims may not have seen it that way). One way in which prosecutors removed discretion was by dropping the requirement that victims sign complaints. Rather, the arresting officer or the state became the complainant. Statutes permitting warrantless arrests also facilitated this change in practice.

The other way in which discretion was removed from victims was through persisting in prosecution in spite of victim reluctance or denial of the factual basis of previous statements. The policy of persisting in prosecution despite an uncooperative victim goes under several names and covers several policies. The phrase "mandatory prosecution" or "no-drop prosecution" is used to mean that the state proceeds with a case based upon considerations of evidence, seriousness of the crime, and/or defendant prior record regardless of what the victim wants (Mills, 1998), with the variants of evidence-based prosecution, mandatory victim participation, and mandatory case filing.

"No-drop" prosecution, in the form of an evidence-based policy, was pioneered by the San Diego City Attorney's Office. In the late 1980s, that office realized that there were other forms of evidence besides the testimony of victims that could be collected and presented in domestic violence cases. The City Attorney became convinced that domestic violence could be treated like other crimes, in that the victim's interest was not the determining factor in deciding whether

to file charges with the court and attempt to convict the offender. Statements made on 911 tapes or to responding police officers were admissible under certain circumstances. Photos of injuries could be taken and the testimony of medical personnel entered into evidence. Physical evidence could be collected from the crime scene. The statements of eyewitnesses could be used. San Diego prosecutors fought hard to convince judges to admit statements on 911 tapes or statements made to officers under exception to hearsay exclusion rules. Over the course of years and with the passage of key statutes on admissibility of evidence, the City Attorney's Office prevailed and was able to win convictions in a large percentage of the cases, even without (or in spite of) the testimony of the victim (Davis, Smith, and Davies, 2001).

A reduction in San Diego's intimate partner homicides has been attributed to the no-drop policy.[7] However, as Fagan (1996) points out, the homicide rate dropped nationally in the same period; more careful research is needed to determine whether no-drop policies contribute to such a decline. Nonetheless, the apparent success of evidence-based prosecution in San Diego, as measured not only by the homicide rate but also the conviction rate, convinced other prosecutors to follow suit. By 1996, mandatory prosecution policies had been adopted in some form by two-thirds of prosecutors' offices nationwide (Rebovich, 1996). These policies varied in the extent to which they rely upon physical evidence and mandating participation (see Hanna, 1996, for a description of the use of legal tactics to force victims to testify). There is also considerable variation in the extent to which offices that profess to have a no-drop policy actually adhere to the policy: Most do not have a strict no-drop policy, but a selective one that is invoked in cases that the prosecutor deems serious based on the instant offense or the defendant's history of abuse (Davis, Smith, and Nickles, 2001).

A number of law review and social science articles have debated the pros and cons of no-drop prosecution (Corsilles, 1994; Hanna, 1996; Mills, 1998; Robbins, 1999). In support of mandatory prosecution policies, Friedman and Schulman (1990, p. 98) argued that, "as a deeper understanding of domestic abuse has been reached, it has become evident….that the victim should not be laden with the burden of stopping the violence; therefore, she should not be responsible for how the case is prosecuted." Bohmer, Brandt, Bronson and Hartnett (2002) note that many victim service providers support mandatory prosecution as in the best interests of victims. Another strong argument in support of mandatory prosecution focuses not on the victim but on the offender, and not on individual cases, but on social policy and justice. Under this argument, it is important that the criminal justice system "send the message" that domestic violence is a serious crime. It is therefore in the public interest to prosecute aggressively with the presumed benefit of reducing domestic violence overall, whether or not prosecution acts as a deterrent in individual cases.

In opposition to mandatory prosecution policies, Ford (1991) maintains that, because abuse often has the effect of stripping victims of control over their lives, prosecution at the request of the victim has the effect of restoring some of their lost power, but prosecution against the victim's wishes deprives her of decision making and compounds her disempowerment. Some opponents of mandatory prosecution argue that such policies are sexist in implying that women

[7] It should be noted that the city attorney does not prosecute homicides. The inference that prosecutors apparently made was that full prosecution of misdemeanors and subsequent intervention with offenders, despite victim opposition to the prosecution, could prevent the abuser from escalating to lethality.

cannot make adult decisions about their well-being and that they drop charges for frivolous reasons. They thereby reinforce the view that the patriarchal criminal justice system "knows better" than victims what is best for them (Robbins, 1999). These opponents suggest that laws requiring no-drop prosecution in effect punish victims for their efforts to seek help (Sengupta, 2001; Corsilles, 1994). On a more practical level, opponents argue that efforts to prosecute with a reluctant victim or without the victim's testimony are often doomed to fail, because of evidentiary requirements and constitutional protections for the defendant (Corsilles, 1994).

Empirical results have shed more light on the debate. Ford and Regoli (1992) reported that cases randomly assigned to a condition in which victims had the opportunity to drop charges after the case was filed had lower rates of pretrial recidivism and post-conviction abuse than cases assigned to a no-drop condition. On the other hand, there is some evidence that no-drop policies can dramatically increase the rate of convictions in domestic cases (Davis, Smith, and Davies, 2001).

However, as mentioned above, to have a chance of conviction without testimony from the victim requires assembling other evidence, such as testimony of other witnesses, weapons, photos of injuries, statements made by the victim to 911 operators or police officers at the time of the crime, testimony of medical personnel, and so forth (Corsilles, 1994; Hanna, 1996). Gathering this additional evidence is expensive, and adds substantially to the total resources that the state must invest in its domestic violence caseload (Davis, et. al., 2001). This task has been made more difficult by the 2004 *Crawford v Washington* U.S. Supreme Court decision that placed stringent requirements on the admission of hearsay evidence in ways that appeared to be detrimental to domestic violence prosecutions. Although prosecutors have developed new strategies, *Crawford* has made it more difficult for prosecutors to establish that excited utterances are admissible under hearsay exceptions in cases where victims are unable or unwilling to testify in court (Leventhal and Aldrich, 2006).

The pressures of increased caseloads and greater resources expended on prosecuting domestic violence cases has placed added stress on district and city attorney budgets, as well as on the court and other criminal justice agencies. According to Ford and Breall (1999):

> *A prosecutor's decision to charge a defendant with a crime of domestic violence sets in motion a system of inter-related decision-making on the part of all actors in the criminal justice process. From the prosecutor's perspective, it represents a commitment to represent the state in yet another of what may be an already heavy domestic violence caseload, and, with it, strained resources and problems of reluctant victims in need of protection (1999, p. 16).*

The greater costs of evidence-based prosecution has pushed prosecutors to be more vigorous in executing their traditional role as the gatekeepers of the criminal justice system (Dill, 1976) by exercising greater discretion in deciding which domestic violence cases to prosecute. On the other hand, merely filing charges in cases with reluctant victims, without devoting the intense effort required for evidence-based prosecution consumes less in terms of resources and does not require case screening. There is wide variation today in the screening policies that prosecutors in different jurisdictions adopt. We have seen some jurisdictions that decline to file as many as 30

percent of domestic violence arrests, while others file virtually all domestic violence arrests (Davis, Smith & Taylor, 2003; Davis, et. al., 2001).

Prosecutors use a number of criteria in deciding which domestic violence cases to file with the court (Kingsworth, MacIntosh, Berdahl, Blades & Rosi, 2001; Schmidt & Steury, 1989). One of the most important criteria in deciding whether or not to prosecute domestic violence cases is interest on the part of the victim (Dawson & Dinovitzer, 2001). Prosecutors are less likely to file cases in which victims fail to sign a complaint or express reluctance to cooperate. Indeed, some prosecutors – in jurisdictions without a mandatory prosecution policy or state statutes – make victim expression of interest a necessary condition to filing a criminal case.

As with no-drop policies, there are arguments for and against liberal and conservative screening policies. The main argument for screening is essentially a resource one: If a substantial number of arrests are screened out up front, there will be more resources to prosecute the remaining cases effectively. Thus, we have observed that jurisdictions that have evidence-based prosecution policies generally screen out more arrests than other jurisdictions, presumably in order to concentrate greater resources on a smaller caseload (Davis et. al., 2001).

When screening is based upon victim expressions of cooperation or reluctance, then the policy – at least in theory – may act to empower victims. Looking at associations between victims' "personal empowerment" (ability to settle differences with partner) or "court empowerment" (expectation of fair treatment by the court) and prosecutor actions, Finn (2003) found a positive association between court empowerment and victims being allowed to withdraw their complaint (which did not necessarily end the prosecution). Being coerced into participating showed a negative association with court empowerment.

Personal empowerment was not affected by prosecutors' actions. Victims who felt more *personally* empowered were less likely at a marginal level of statistical significance ($p>.05$, $n=170$) to report a recurrence of physical violence. Note, however, that personal empowerment was defined as the victim's self-reported willingness and competence to resolve conflicts with her partner, and it was unrelated to prosecution policies. Finn concludes that the rare case (12% of the sample) in which the victim was coerced into participating in prosecution through subpoena and threat of arrest may not be worth the cost.

There are three main arguments *against* screening out a substantial number of domestic violence arrests. First, prosecutors who screen heavily run the risk of criticism from advocacy groups and place themselves in political jeopardy. In Milwaukee, we observed that the prosecutor halved the number of cases rejected at screening after being lobbied by advocacy organizations (Davis, et al., 2003). The second argument for not screening out cases is that there may be a deterrent effect on abusers. Victims often can obtain a criminal restraining order at the initial court hearing, regardless of what happens down the line. Moreover, it has been suggested that when abusers must appear before a judge, they are likely to be more circumspect in their behavior toward the victim. This deterrent effect during a period of high risk for reabuse is the theory behind the Justice Department's current Judicial Oversight Demonstration (JOD) field test (see Harrell, Schafer, DeStefano, & Castro, 2006). It also was the explanation that Safe Horizon gave to its finding that men assigned to a batterer program recidivated at a lower rate than

controls even when the assigned men did not actually attend any program sessions (Davis, Taylor, and Maxwell, 1998). A third argument in favor of prosecuting all arrests rather than screening them out is that victims' ongoing contact with the prosecutor's office may increase their awareness and utilization of domestic violence services.

To date, there has been little empirical research that could support one or the other positions on selective prosecution of domestic violence cases. One major research study we are aware of that addresses this issue is work that one of the principals on this study conducted in Milwaukee. During the course of an evaluation of a domestic violence court, the prosecutor changed his screening policy. Previously, he had accepted cases only if the victim indicated willingness to participate, but he changed that policy and began accepting cases with sufficient evidence to proceed regardless of the victim's wishes. Davis, Smith and Taylor (2003) surveyed victims before and after the policy change and found a significant decrease in the proportion of victims that were satisfied with the prosecutor's handling of their case and the case outcome after the policy change. Thus, proceeding with prosecution without victim support pleased advocates interested in sending a social message about domestic violence, especially to offenders, but displeased victims dealing with their own situation. After the policy change, as well, significantly fewer victims felt that the court's actions made them feel safer.

Nor did the policy change have a positive effect on prosecution. The district attorney realized that successful prosecution in cases with reluctant or hostile witnesses would necessitate more trials because defense attorneys would be less inclined to plea bargain knowing the victim would be likely not to testify or to "recant" on the stand, and convictions would have to rely on such evidence as police officer testimony, photographs of victim injuries, and 911 tapes. With no additional funds available, the district attorney was not, in fact, in a position to try more cases. Instead, there was no increase in the number of trials after the new policy went into effect and overall convictions dropped by 25%. Time from case filing to disposition doubled, effectively increasing caseloads at any given point in time, utilizing more resources and decreasing efficiency, but possibly conferring other benefits if there is a deterrent or suppression effect of having cases pending for a longer period of time.

Yet, the Milwaukee study was in one respect not a good test of screening policies because the district attorney had to prosecute substantially more cases without additional resources. There was never a serious effort to train police officers to collect better evidence to be used in lieu of victim testimony. No additional victim advocates were hired to work with the increased pool of uncooperative victims in ongoing cases.

Despite the many negative effects of the less restrictive screening policy, there appeared to be one major positive effect: There were fewer re-arrests of defendants whose cases were prosecuted than of defendants whose cases had been declined by the prosecutor. This result suggested that there is benefit to prosecuting cases even when victims are unwilling to participate.

A second study came to a different conclusion about the effect on recidivism of filing cases with reluctant victims. Peterson and Dixon (2005) compared re-arrests in cases that the Bronx, NY prosecutor declined to file with Brooklyn cases that were filed but ultimately dismissed.

Both sets of cases were thought to be ones in which victims were unwilling to support prosecution. Like the Milwaukee study, the researchers controlled for defendant and case characteristics in examining rearrests. Unlike the Milwaukee study, however, they found no significant difference in recidivism between cases that were filed and those that were not filed. These results contradict the Milwaukee finding that prosecution does have a protective effect on reducing subsequent abuse in cases with reluctant victims.

## Need for Further Research on Case Screening

The equivocal results of the Milwaukee and New York studies – with the former showing a reduction in recidivism from filing cases without victim support but the latter showing no such benefit – suggested the need for a more extensive investigation of the benefits and costs of different prosecutorial screening policies. Although both studies controlled for defendant and case characteristics when comparing re-arrests among cases not filed with those that were prosecuted, it could still be argued that the two groups of cases are inherently different in ways not accounted for by the control variables that were used. Therefore, we designed the present study as a stronger test of the beneficial effects of case filing vs. case screening in cases where victims are reluctant to participate. The study design and sampling procedures will be described in the next chapter.

# Chapter Two

# Research Design and Implementation

## Research Questions

The design we proposed was intended to address three key questions about the effects of different prosecutor screening policies:

1. Where the policy is *not* to file certain types of domestic violence cases, how much influence on the prosecutor's filing decision does the victim's preference not to proceed have compared with other factors (e.g., severity of the offense, victim injuries, and defendant's criminal history)?

2. Does a policy of filing virtually *all* domestic violence cases lead to different outcomes than a policy of selective prosecution, in regard to:
    - Re-arrest rates?
    - Incidents of re-abuse according to victim self-report?
    - Use of victim services?
    - Victim sense of safety?
    - Victim sense of empowerment?

3. What are the marginal costs of prosecuting cases where victims have expressed an unwillingness to cooperate?

## Design

### Plan

To answer the first question – concerning what factors influence the decision of whether or not to file – we planned to develop a statistical model of the case screening process in the Bronx. The methodology was to sample 100 recent cases that the Bronx DA had declined to prosecute (DP cases) and 100 recent cases that the DA did prosecute. For each sampled case, we would abstract victim attendance in the complaint room and/or other expressions of reluctance to cooperate, abuser's criminal history, the nature of the current offense, and victim injuries. These variables would be used to develop a statistical model predicting which cases in the Bronx would be prosecuted and which would be declined. We expected to find a high likelihood of cases being declined if the victim failed to come to the complaint room or otherwise expressed reluctance to cooperate *and* the arrestee had no previous domestic violence incidents known to the police *and* the victim received no serious injuries.

To answer the second question – concerning the outcomes that result from a nearly universal as opposed to a selective filing policy – we planned to compare the outcomes of cases that were not filed in the Bronx to the outcomes of similar cases that *were* filed in Brooklyn. We planned

to use the predictors of the decision to decline to prosecute in the Bronx to collect our sample of Brooklyn cases. We would compare cases declined by the Bronx prosecutors to a sample of , Brooklyn cases that would have been declined had they occurred in the Bronx, applying the model we developed above. For all sampled cases, we intended to collect information on charges, injuries to victims, criminal history, victim attendance in complaint room, and expressed reluctance to cooperate. Then, we planned to track both sets of cases for six months. At that point, we would collect information on index case outcomes (conviction, dismissal, etc.), new arrests and violations of protection orders using data obtained from official records of the New York State Division of Criminal Justice Services. These outcomes would be compared between the Bronx and Brooklyn samples to determine if there were significant differences between boroughs that might be reasonably attributed to the different prosecution policies.

We originally planned to collect samples of 600 cases in each borough and to conduct a telephone survey with as many victims from these cases as possible. We planned to interview them within one month of arrest and again six months post-arrest, to determine differences between the two samples in new incidents of abuse, victim satisfaction with the court process, victim empowerment, use of services, and willingness to report new domestic violence incidents.

Finally, to answer the third question – concerning the costs of prosecuting cases with reluctant victims – we planned to conduct a cost-effectiveness analysis. This analysis would determine the resource implications of the Brooklyn policy of filing virtually all domestic violence arrests, weighed against possible benefits of that policy in terms of deterring domestic violence incidents and reducing the number of new arrests. We proposed that the analysis would estimate costs to prosecutors and others involved in prosecuting domestic violence cases—judges, court support staff, public defenders, and police. Calculation of these differential costs would be based on hourly rates for each relevant actor as well as a determination of the differential time devoted to cases prosecuted in Brooklyn but not in Bronx. All estimates would be reported as annual rates. The research team would also attempt to determine how the policies affect the relative time expenditure of victim advocates through interviews.

**Implementation Problems**

In Brooklyn, as a result of budget cuts and staff reductions, there had been a gradual erosion of the Brooklyn District Attorney's Office 30-year practice of prosecuting all domestic arrests. As a result of pragmatics rather than a deliberate and preferred policy shift, Brooklyn had jumped from declining less than one percent of domestic violence cases to declining around 13%, still considerably less than the Bronx's decline rate, but not as clearly differentiating the two policies and adding to the complexity of the matching process the need to determine which of the Brooklyn cases were declined for prosecution. Following lengthy discussions with research staff about the possibility of restoring the practice of mandatory filing of domestic violence cases in the largest precincts, the budget was restored, new staff was hired and trained to handle the additional caseload. Thus, the Brooklyn District Attorney was able to return to implementing the policy of filing all domestic violence arrests and we were able to collect our sample as planned with a delay of some months.

Another problem proved to be insoluble. That is, it was very difficult to locate and interview victims even one month after arrest. The proposal set the objective of reaching and completing interviews with victims in 50% of the cases in each borough. However, for the first 70 participants, calling at different times and on different days, we were able to complete just 9 interviews. We then redoubled our efforts to reach victims, including increasing the number of calls per case and maximizing evening and weekend attempts. However, despite intensive efforts, the research staff was not able to approximate a reasonable rate of interviews with victims in the sampled cases in Bronx or Brooklyn. After exhausting all efforts, we eventually came to the conclusion that we would be unable to achieve anything better than a 10-15% success rate.

The low response rate is becoming an increasing problem in studies of domestic violence victims whose contact information is obtained from police or prosecutor files. The primary reasons were that (a) victims could not be reached at the telephone number on the arrest reports (because they changed their number to an unlisted one or the phone was disconnected), (b) no phone number was on the arrest report, or (c) victims used caller ID to answer calls selectively. It is a problem that has been encountered in other recent studies by the co-principal investigators on this study as well as other domestic violence researchers.

**A Revised Design**

Based on interviews with only 10-15% of victims from our sample of cases, any data from victim interviews would have questionable validity because the small proportion of victims reached may differ from those who cannot be reached in some way that cannot be ascertained. Therefore, we reluctantly proposed, and NIJ accepted, a scaled back, slightly different, and less expensive version of the original study. Instead of continuing the futile attempt to conduct surveys with large numbers of victims, the revised design substituted qualitative in-depth interviews with approximately 30 victims, half of whom experienced each of the two prosecution policies. The qualitative interviews queried victims about willingness to prosecute, reaction to prosecutorial decisions, their sense of empowerment under the two prosecution policies, access to and utilization of services, and their perceptions of safety following the decision to prosecute or drop their case.

The revised plan called for individual, in-person interviews to be conducted with 12 victims from the Bronx whose cases were declined and 12 victims from Brooklyn whose cases were filed with the court by the DA's Office despite the victim's preference that it not be prosecuted. In addition, the plan called for focus groups of 3-5 "uncooperative" victims from the Bronx and 3-5 from Brooklyn.

The revised design reduced the case samples from 600 to 200 cases in both Brooklyn and Bronx. The larger samples had been needed only to generate sufficient victim interviews for analysis: Without a quantitative analysis of victim interviews, the smaller samples still yielded sufficient statistical power to detect moderate effect sizes when analyzing differences in official measures of recidivism between the boroughs. The revised design retained the cost analysis of the two prosecution polices.

## Predictors of Decision to Decline to Prosecute

Our first research question was: What determines the decision to decline to prosecute a case in the Bronx, and what is the relative weight of the victim's opposition to prosecution? The answer to this question was also critical to the design, which called for contrasting cases that the Bronx prosecutor declined with Brooklyn cases that probably would have been declined had they occurred in the Bronx. Thus, we needed to identify Brooklyn cases that were filed but that Bronx prosecutors probably would have declined to prosecute. As discussed above, it is the policy of prosecutors in the Bronx to decline to prosecute cases in which victims fail to show up at the complaint room or show up and express serious reluctance to cooperate, unless the abuse is especially severe or the abuser has a history of abuse. We reasoned that, since the Bronx criteria for declining to file cases are quite clear, it ought not to be difficult to apply the same decision rules to Brooklyn. First, however, we needed to assess how practice conformed to policy.

To provide a clear quantitative answer to our first research question concerning which factors influence the decision to prosecute and to verify the Bronx criteria for declining cases, we sampled 102 declined to prosecute (DP) cases and 102 prosecuted intimate partner cases in the Bronx.[8] Cases were drawn from a recent two-month period to ensure that our analysis reflected current screening practices. They were sampled in such a way that cases from different time periods and different days of the week were equally likely to be sampled. For each sampled case, we abstracted the following variables from both prosecutor files and police Domestic Incident Reports (DIRs): whether the victim signed the DIR (as a proxy for victim support for arrest and prosecution), criminal history, nature of current offense, victim/offender relationship, use of a weapon in the offense, victim injuries, whether the victim was hospitalized, whether there was photographic evidence of victim injuries, and whether there was an outstanding order of protection.[9]

In bivariate analyses (see Table 2.1), victim signing of the DIR, order of protection on file, and charge proved to be significantly associated with the decision to file domestic arrests with the court. (Note that the victim injury variable was marginally significant, but in the wrong direction: the case was *less* likely to be filed if the DIR indicated the victim was injured.)

We then used a stepwise logistic regression procedure to develop a statistical model that would predict the screening decision. The list of variables eligible for entry into the model corresponded to the data elements described above that had been abstracted from prosecutor or police files.

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[8] To simplify the analysis. we excluded the rare cases with female offenders or male victims.

[9] There were problems with missing and hard-to-interpret information in the dataset. First, we were missing DIRs for about a quarter of the cases in the sample and therefore did not have access to information on many of the variables in our analysis. Ultimately we had to sample additional cases so that we met our goal of 100 prosecuted and 100 DP cases with complete data for the analysis. Second, information on relationship between victim and offender was hard to interpret: We had information from both police and prosecutor forms, but they often did not agree. Therefore, we omitted information on relationship type (married vs. not married) and status (current versus ex-partner) from the analysis.

**Table 2.1. Bivariate Predictors of Decision to Prosecute**

| | Percent Filed | Significance |
|---|---|---|
| Charge | | .02 |
| Assault | 42% | |
| Intimidation | 63% | |
| Other | 61% | |
| Victim went to hospital | | .76 |
| Yes | 36% | |
| No | 44% | |
| Victim Injured | | .06 |
| Yes | 35% | |
| No | 50% | |
| Order of protection on file | | .01 |
| Yes | 75% | |
| No | 40% | |
| Photos taken of injury | | .36 |
| Yes | 37% | |
| No | 45% | |
| Prior convictions | | .05 |
| Prior DV conviction | 67% | |
| Prior non-DV conviction | 48% | |
| No prior conviction | 45% | |
| Victim signed DIR | | .00 |
| Yes | 63% | |
| No | 18% | |
| Weapon used | | .70 |
| Yes | 50% | |
| No | 43% | |

**Table 2.2. Factors Predicting Decision to Prosecute Bronx Cases (Logistic regression)**

| Variable | Odds Ratio | Wald Statistic | Significance |
|---|---|---|---|
| Signed DIR | 6.54 | 20.84 | .000 |
| Prior DV case | 4.72 | 11.56 | .001 |
| | | | |
| Nagelkerke R-square | 0.28 | | |

In the multivariate stepwise logistic regression procedure, the only variables that were statistically significant in predicting filing of charges vs. declining to prosecute in the Bronx were signing the DIR and prior convictions for domestic violence (see Table 2.2). No other variables came close to significance. The results indicated that the odds of declining a case increased by 6.5 if the DIR was unsigned and by 4.7 if there was no prior conviction for domestic violence.

The answer to our first question, then, is that the victim's support or lack thereof appears to be the primary determinant of the decision whether to file the case. Cases were more than six times more likely to be filed if the victim signed the DIR than if she did not. In addition, cases were almost five times more likely to be filed if the offender had a history of domestic violence offences. The victim's injuries and hospitalization, severity of the offense, use of a weapon, existence of an Order of Protection, and the availability of photographic evidence did not seem to influence the decision to file in the multivariate model. We can infer that, even if the victim were injured and the offense was serious, if it was a first offense and the victim declined to sign the police report, it is likely (but not certain) that the case would not be prosecuted in the Bronx. Note, however, that these cases were brought in as misdemeanors and the rate of severe injuries of victims (requiring hospitalization, for example) was low, making the statistical tests unreliable. A majority of DIR's note some injury, but most are non-serious injuries, such as a scratch or soreness. It is nonetheless surprising that one of the primary criteria that the Bronx DA's Office policy delineates as critical to the decision to prosecute was not significantly predictive of that decision.

## Collection of Samples in Bronx and Brooklyn DA's Offices

### Bronx Procedures

In the Bronx, the data collection procedures were simple. The District Attorney's (DA's) Office generously copied and set aside for the researchers the cases they declined to prosecute from January through August 2006. The researchers merely had to screen the cases to ensure they met our relationship criteria: intimate partner (as opposed to other familial relationships), female victim, and male offender.

Cases that met our criteria were entered directly into an SPSS database that included the following variables: arrest number; arrest date; offender's and victim's age, race and ethnicity; offender's name; relationship between victim and offender and whether they had children in common (taken from DA's records rather than police forms); indicator of non-cooperation, whether the DIR was in the file and, if so, whether it was signed, and presence of a waiver of prosecution signed by the victim; charges at arrest; whether there was an Order of Protection in effect; whether there were any injuries and, if so, severity and type; whether a weapon had been used; whether threats had been reported and, if so, nature of threats; whether there were witnesses; whether there were prior DIRs in the file, and if so, whether there was an arrest and an injury recorded in regard to that incident; and, in the Bronx, if the ADA interviewed the victim and what the DA recorded from that interview in regard to prior abuse reported by the victim that may not have been reflected in official records.

Information collected from each case file for victim interviews was recorded in a separate computer file. This information included the victim's name and contact information: phone number, address and the same information for any alternate contact persons, as well as their relationship with the victim. This file also contained any information that would help us ascertain the safety or risks in our contacting the victim for an interview, such as whether the relationship was ongoing, whether the victim and offender had the same address and whether there was any other indication that they lived together. We also recorded the primary language of the victim based on the police report or prosecutors' notes in order to ascertain our ability to conduct an interview if we reached her.

**Brooklyn Procedures**

According to our statistical model based on Bronx practices, 87 out of 100 cases sampled in Brooklyn should have unsigned DIRs and 82 out of 100 should involve defendants without prior domestic violence convictions. Because these proportions were so close to 100%, we decided, at least initially, to sample only Brooklyn cases that had a reluctant victim and no prior domestic violence convictions. Not signing the DIR was a proxy for victim opposition to prosecution. Once we had the complete case files on the Bronx DP cases when we started collecting the samples (as opposed to the limited information we had on DP cases when we created the model, as the complete files had been shredded), we then had better indicators in the Bronx of opposition to prosecution and information on whether victims came to the complaint room or could not be located.

Because of differences in procedures between the Bronx and Brooklyn DA's Offices, we sometimes had to use somewhat different indicators in the Brooklyn case file to assess victim non-cooperation. The Bronx attempts to have all victims come to the complaint room and meet with an ADA . If the victim cannot be contacted prior to the deadline for arraignment, she is generally deemed unavailable, that fact is indicated in the file, and the case is likely to be declined. If the victim does come to the complaint room or can be reached by telephone and indicates that she does not want the case prosecuted, she can sign a waiver of prosecution. Determining victim non-cooperation in the Bronx was therefore straightforward. In Brooklyn, it is not the policy to contact domestic violence victims after an arrest and before arraignment. Consequently, there will not necessarily be a note in the file that the victim could not be

contacted; in any case, she will not be deemed unavailable at that point if she cannot be immediately reached. Even if a victim does come to the complaint room and speaks to an ADA, she will not be offered the option of signing a waiver of prosecution at that point. Therefore, there was no clear indication of whether the victim came to the complaint room, and there was no waiver of prosecution to indicate that she opposed prosecution. We had to rely on other indicators of victim opposition to prosecution at this early stage. In addition to taking cases with an unsigned DIR, we took cases in which police noted on their report that the victim said she did not want the case prosecuted, or the Safe Horizon caseworker in the complaint room noted on a sheet in the case file that the victim did not support prosecution and cases in which the ADA in the complaint room made a note on the flap of the file that the victim did not support prosecution.

The procedure for actually capturing and selecting cases as they came in was also more difficult in Brooklyn. Under our initial plan of conducting victim surveys within a month of arrest, we needed to capture cases as they came into the Domestic Violence (DV) Bureau and before they were dispersed to the ADAs who would be working on the case. It was determined that the best sampling point would be during the brief interval after the files first came into the DV Bureau and were logged into a database by the data manager and before they disappeared into ADAs' offices, filing cabinets and brief cases. Researchers had to grab a stack of logged files and turn them over quickly. The files were reviewed to determine whether they fell within our sampling frame (intimate partner, female victim, male offender) and whether they met the criteria developed on the Bronx DP cases (uncooperative victim, no prior domestic violence offenses). If the case met the criteria, then it would be entered in the SPSS database and the victim contact database, and returned to the data manager. However, data collection using this method was slow: Data collectors had to be in the office as cases came in, and there had to be a sufficient number of cases being logged to justify sending two research assistants to capture the cases. After five months, we had collected only 124 cases, short of our goal of 200.

Once we redesigned the methods omitting the victim surveys, it was no longer essential to capture cases immediately in order to interview victims within one month of arrest. Instead, we sampled from repositories of cases that were likely to be dismissed because victims continued to oppose prosecution or could not be found. That is, the ADAs had done what they could and the files were returned to central locations, including the file room and a paralegal who made a final attempt to reach out to victims and persuade them to support prosecution. The researchers went through these repositories of files selecting cases based on the identical criteria used in the original data collection procedure. Using this procedure, we were able to collect an additional 165 cases that met our criteria in three months. With the 124 cases collected under the earlier procedure, we had a total of 289 cases, far exceeding our target of 200 cases.

We reviewed the 165 cases collected later in the process to ascertain that the indicator of non-cooperation was given early in case processing and eliminated those cases where we could not ascertain whether opposition to prosecution developed later in case processing. This review reduced the number of cases collected using the second strategy from 165 to 87. That gave us a total of 211 cases, slightly exceeding our target.

The samples collected under the second strategy differed from those collected under the first strategy in some respects.[10] However, as will be described in the next chapter, analysis of recidivism data, when we compared the Bronx and Brooklyn on our primary outcome measures, which Brooklyn sample we used did not significantly affect those results. Therefore, we concluded that the two samples were equally valid comparisons with the Bronx and were probably derived from the same pool of cases.

The next chapter begins our comparisons of the two policies in regard to case outcomes and recidivism, victims' experiences and burden on prosecutors.

[10] Appendix A shows the comparisons between the cases collected under the initial strategy (early sample) and the cases collected under the second strategy (later sample), with the latter retaining only those cases that met our inclusion criteria (early indication of non-cooperation or unable to locate the victim). There is no reason to suppose that the early sample is a better match to the Bronx cases than the later sample, and, in fact, there was no difference between the two samples in regard to the variables of interest.

Chapter Three

# The Impact of Screening Method on Case Outcomes and Recidivism

## Introduction

This chapter assesses the impact of case screening method on official criminal justice outcomes, including conviction and re-arrest rates. We defined the outcomes of interest based on the common hypothesized benefits of Brooklyn's model, under which the prosecution files virtually all cases with the court. To review, Brooklyn's model might achieve the following:

1. *Restraining Orders:* Even in cases headed for dismissal, the Brooklyn model enables complainants to obtain a temporary restraining order, or temporary order of protection (TOP) while their case is pending – thereby offering victims a form of protection that is unavailable when the DA's office declines a case. Also, the existence of the TOP enables the prosecution to file a felony charge of contempt of court in response to further unwanted contact with the victim.
2. *Convictions:* The Brooklyn model might lead to the conviction of some defendants who, in the Bronx, would not have been prosecuted (if there is sufficient evidence without victim testimony or if the victim changes her mind about supporting prosecution while the case is pending) – thereby holding such defendants more accountable for their behavior and providing complainants with a final restraining order (for at least one year post-conviction and often longer).
3. *Sentencing:* The Brooklyn model might lead to heightened surveillance, through probation, or incapacitation, through jail, of the convicted defendants – thereby furthering accountability as well as either: (a) aiding the system's capacity to detect future misbehavior (through probation sentences) or (b) temporarily removing the defendants from their victims (through jail sentences);
4. *Recidivism:* The Brooklyn model might lead to a reduction in recidivism, in particular through the heightened deterrent effects that defendants may experience during the period when their initial case is pending and when they are therefore monitored through ongoing court appearances to address dispositional issues – thereby promoting victim safety.

Of the preceding benefits, the first one is automatic and universal. As explained in Chapter Two, all defendants in domestic violence cases in Brooklyn receive a temporary order of protection (TOP) at their first arraignment court appearance, prohibiting contact with the complainant for as long as the case is pending. (In a small minority of cases, the arraignment judge might impose a "limited" order that merely prohibits violent but not all forms of contact. Also, sometimes but infrequently, the judge who hears the case after arraignment might modify the order from full to limited or vice versa.)

Before testing the effects of the Brooklyn policy on recidivism and other outcomes, we first compared the baseline characteristics of defendants in the two case samples, including data on defendant and complainant demographics, relationship between the parties, defendant criminal history, arrest charges, reported injuries to the complainant, threats to the complainant, and

quality of the evidence on the initial case. We then implemented statistical adjustments to assure the comparability of the final samples. Finally, we compared the samples on all relevant outcomes.

## Baseline Defendant Characteristics

Table 3.1 compares the two original samples on all available baseline characteristics. The results indicate the following:

- *Demographics:* Reflecting the different populations of Brooklyn and the Bronx, the composition of the two samples differed substantially in racial and ethnic identity. The Brooklyn defendants were significantly more likely to be black (63% versus 43%), whereas those in the Bronx were significantly more likely to be Hispanic (49% versus 19%). Comparable differences were evident among complainants as well. On the other hand, the samples did not differ significantly in the average age of either defendants or complainants.
- *Relationship between the parties:* Nearly identical percentages of both samples were married (26% versus 27%) and the same percentage had children in common (55%).
- *Criminal history:* The samples did not differ on most criminal history measures. There were no significant differences on any arrest-based measures, although those in the Bronx were more likely to have a prior felony conviction (35% versus 26%) and a prior misdemeanor conviction (41% vs. 34%) and to average more prior misdemeanor convictions (1.9 versus 1.1).
- *Current charges:* Defendants in the Brooklyn sample were far more likely to have had a felony level top charge (27% as compared to 10%), but the type of charge (e.g., assault, menacing, etc.) did not differ significantly between the samples.
- *Threats and injuries to complainant:* The samples did not differ significantly in the prevalence of threats to the complainant as part of the initial incident, but those in the Brooklyn sample were more likely to have an injury noted in the file (65% versus 55%), a factor probably linked to the higher rate of felony charges.
- *Quality of the evidence:* Photographic evidence was available for more cases in Brooklyn than in the Bronx (31% versus 19%). Such a difference may reflect a sampling strategy bias, but it is at least if not more likely to be a function of different police practices and evidence collection protocols in the two boroughs. The two samples did not differ significantly in the availability of witnesses (14% and 15%).

Of final note, the official Brooklyn policy with respect to cases that are headed for dismissal due to a lack of corroborating information (i.e., complainant non-cooperation) is to keep the cases open for the legally permissible maximum of 90 days.[11] Consistent with this formal policy, we found that more than half (57%) of Brooklyn's cases were pending for the narrow time range of 80 to 100 days, and only 9% were pending for less than 80 days (see last section of Table 3.1). Therefore, Brooklyn does indeed keep open for close to or more than 90 days cases that would have been declined for prosecution in the Bronx. For such cases that are ultimately dismissed,

[11] For the small percent of cases that remain at the felony level after arraignment, the legal maximum that the prosecution can maintain the charges without moving to trial is six months.

the temporary restraining order would still have been in effect for the approximately 90-day pending period.

**Table 3.1. Baseline Sample Characteristics**

| | Brooklyn | Bronx |
|---|---|---|
| Sample Size | N = 211 | N = 272 |
| Percent of Sample | 44% | 56% |
| ***Defendant Demographics*** | | |
| Race/ethnicity | *** | |
| Black | 63% | 43% |
| Hispanic | 19% | 49% |
| White or other[1] | 18% | 8% |
| Place of birth | + | |
| Born in the United States | 72% | 72% |
| Born in Central or South America | 21% | 26% |
| Born in other country | 7% | 3% |
| Age (mean) | 32.8 | 34.5 |
| ***Complainant Demographics*** | | |
| Race/ethnicity | *** | |
| Black | 59% | 38% |
| Hispanic | 25% | 57% |
| White or other[2] | 16% | 5% |
| Age (mean) | 30.7 | 29.6 |
| ***Relationship Between the Parties*** | | |
| Married | 26% | 27% |
| Children in Common | 55% | 55% |
| ***Defendant Criminal History*** | | |
| Prior arrests | | |
| Yes | 67% | 75% |
| Mean | 5.4 | 5.9 |
| Prior felony arrests | | |
| Yes | 55% | 60% |
| Mean | 2.7 | 2.7 |
| Prior misdemeanor arrests | | |
| Yes | 63% | 69% |
| Mean | 2.8 | 3.2 |
| Prior convictions | | |
| Yes | 55%+ | 61% |
| Mean | 2.9 | 3.6 |
| Prior felony convictions | | |
| Yes | 26%* | 35% |
| Mean | 0.5** | 0.7 |
| Prior misdemeanor convictions | | |
| Yes | 34%+ | 41% |
| Mean | 1.1* | 1.9 |
| Prior violation convictions | | |
| Yes | 42% | 44% |
| Mean | 1.3 | 1.0 |

**Table 3.1.** ***(Continued)***

| | Brooklyn | Bronx |
|---|---|---|
| Sample Size | N = 211 | N = 272 |
| Percent of Sample | 44% | 56% |
| ***Current Arrest Charges*** | | |
| Top arrest charge severity: felony (not misdemeanor) | 27%*** | 10% |
| Top charge type | | |
| Assault | 64% | 60% |
| Menacing | 6% | 9% |
| Harassment | 8% | 10% |
| Criminal contempt | 10% | 12% |
| Other charges | 12% | 9% |
| Violation of previous restraining order among charges | 13% | 12% |
| ***Threats to Complainant on Instant Case Arrest*** | | |
| Threats to complainant | 25% | 27% |
| Threat with weapon | 13% | 11% |
| ***Injuries to Complainant on Instant Case Arrest*** | | |
| Injuries | 65%* | 55% |
| Weapon used | 10% | 6% |
| Received medical attention | 18% | 19% |
| Property damage | 13% | 14% |
| ***Quality of the Evidence on the Instant Case Arrest*** | | |
| Photographic evidence | 31%** | 19% |
| Witnesses | 14% | 15% |
| ***Instant Case Processing*** | | |
| Processing time: average days, arrest to disposition | 113 | N/A |
| Percent of cases disposed within each key timeframe | | |
| Less than 80 days | 9% | N/A |
| From 80 days to 100 days | 57% | N/A |
| More than 100 days | 34% | N/A |

+ p < .10  * p < .05  ** p <.01  *** p < .001

*Note 1:* Two-tailed T tests were conducted with dichotomous variables, and chi-square tests were conducted with categorical variables. Where chi-square tests were conducted, any significance denotations (+ or * signs) are placed in the same row where the general name of the categorical variable is given (e.g., the row headed "defendant race/ethnicity").

*Note 2:* The number of missing cases ranges from 0 to 18 on all baseline characteristics, except for whether the complainant needed medical attention (37 missing cases) and whether the parties had children in common (48 missing cases).

[1] This category includes a total of 49 white defendants, and 7 defendants whose race falls into an "other" category (Asian, Pacific Islander, Indian, or Middle Eastern).

[2] This category includes a total of 38 white complainants, and 9 complainants whose race/ethnicity falls into an "other" category (Asian, Pacific Islander, Indian, Pakistani, or Middle Eastern).

## Statistical Adjustments

The results in Table 3.1 indicate that the Brooklyn and Bronx samples differed significantly on several characteristics: racial composition of defendants and complainants; several conviction-based criminal history measures, arrest charge severity; injuries to complainants; and availability of photographic evidence. These variables, which are associated with treatment assignment—that is, being in the Brooklyn or Bronx samples—have also been shown to influence recidivism and other outcomes of interest (e.g., Davis, Maxwell, and Taylor, 2006). This problem, which is known as selection bias, poses challenges when attempting to estimate the causal effect of different case screening methods on criminal justice outcomes. Therefore, before conducting our outcomes analyses, it was necessary to address the selection bias problem by refining the samples to improve their comparability. For this purpose, we implemented a propensity score adjustment (see Rubin, 1973; Rosenbaum & Rubin, 1983, 1984; Luellen, Shadish, & Clark, 2005). A propensity score is a single number from 0 to 1 that can be assigned to each case, reflecting the predicted probability that the case falls into one as opposed to another of two possible groups – in this study, the Brooklyn as opposed to the Bronx sample. The propensity score derives from multiple baseline characteristics and represents the summary effect of all such characteristics in leading some cases to be more statistically likely than others to fall into one of two possible groups. While we are, of course, 100% certain which cases fall into which sample, the point of the propensity score is to establish which cases are, statistically or probabilistically, given their observed set of baseline characteristics, more typical of one or another sample's cases. Once a propensity score is assigned to each case, propensity score adjustments can then be implemented. Such adjustments re-balance the samples, in effect rendering them more comparable in their distribution of propensity scores – and hence in their distribution of the constituent baseline characteristics as well.

In this study, the following steps were taken to render the samples more comparable in order to detect real differences in recidivism. (Major steps are described in the main text, with some of the technical details relegated to footnotes.) First, we examined the p-values for all the bivariate comparisons of defendant characteristics presented above in Table 3.1. Second, we entered all characteristics that differed at the liberal inclusion criterion of $p < .50$ into a backward stepwise logistic regression model, for which the dependent variable was sample membership (0 = Bronx, 1 = Brooklyn).[12] The variables included in the model consisted of those that both differed between samples and also could plausibly influence recidivism and other outcomes of interest. For cases that were missing data in the initial propensity model, propensity scores were computed based on more limited models that eliminated variables with the missing data (as per Rosenbaum and Rubin, 1984). In practice, it was necessary to compute three total propensity models, although the first of these generated propensity scores for the vast majority (80%) of the

[12] A liberal inclusion criterion that is not wedded to the concept of statistical significance is generally preferred in the propensity score literature (e.g., see Rosenbaum 2002; Rubin and Thomas 1996). Such a criterion maximizes the balancing effect of the propensity score, achieved when the score incorporates a wide range of measures that may be anywhere from somewhat to highly correlated with sample selection. Also, a liberal criterion avoids a situation in which variables that are excluded because they do not significantly differ between the initial samples inadvertently becomes significantly different later on, after the propensity score adjustment is implemented. Of note, due to their high inter-correlations, the number of criminal history measures in the final model was limited to four.

sampled cases.[13] At the end of the propensity modeling, it was necessary to delete a total of four original cases (less than 1 percent) from the final sample, three from Brooklyn and one from the Bronx, due to systematic missing data across nearly all background characteristics.

Third, we examined the propensity score distributions in each sample to determine if, in fact, our logistic regression model was an effective one. The typical examination method is to divide the full sample into quintiles (i.e., five strata) based on the propensity score, and then test for sample comparability separately within each quintile. Thus, for each baseline characteristic listed in Table 3.1, we examined whether its distribution significantly differed between the Brooklyn and Bronx samples within each propensity score quintile, as well as overall after controlling for quintile membership. For this purpose, we used a two-way ANOVA. Two initial modeling efforts each produced two statistically significant differences at $p < .05$. After further revisions – insisting that variables with significant differences had to be included in the final models regardless of the stepwise regression results – all significant differences were eliminated. Appendix 3A displays the variables that were entered into the final model and coefficients for those that were retained after stepwise exclusion.[14]

Fourth, we selected a propensity score adjustment method that would preserve most or all of the initial sample sizes – an important consideration given that we began with final samples of 271 cases from the Bronx and 208 from Brooklyn. The most commonly recommended method is stratifying the samples by propensity score quintile, obtaining the difference on each outcome measure separately for those cases falling into each quintile, and then computing the average difference across the five quintiles combined (Rosenbaum and Rubin 1984).[15] A second adjustment method involves simply controlling for the propensity score as a covariate in all outcomes analyses (Rosenbaum & Rubin, 1983; Shadish & Clark, 2007). We employed both of these methods in all of our outcomes analyses to determine whether the results substantively differed. In effect, our simultaneous use of two types of propensity score adjustments comprised a sensitivity analysis, enabling us to determine whether our reported outcomes were more a function of our preferred methodology than of the actual outcomes in our sample. We did not detect any meaningful differences based on propensity score adjustment method and therefore report only the results obtained through stratification into quintiles.

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[13] The first propensity model generated scores for 384 of the total 483 sampled cases (80%), the second model deleted just one variable with missing data and was used to generate scores for 54 cases (11%); and the third model deleted three additional variables and was used to generate scores for 41 cases (9%).

[14] We retained in the final sample 11 cases from the Bronx that had a lower propensity score than any case in Brooklyn, and 12 cases from Brooklyn that had a higher propensity score than any case in the Bronx. Since these 23 cases lack any match from the other sample that falls within the same propensity score range, we cannot, strictly speaking, make any inferences as to the impact on recidivism with regard to those cases. However, this is a relatively small number of cases and we were still able to achieve balance within each quintile taken as a whole. Thus on net, given concerns about loss of statistical power, we decided that the benefits of retaining these cases outweighed the potential downside.

[15] To be more precise, it is typical to compute a *weighted average* of the differences in outcomes across each of the five quintiles. Weighting is based on the number of observations per quintile, which may vary if the total sample size is not divisible by five. However, in our study, we had an identical 96 cases in four of the five quintiles and 95 in one other. Weighting to compensate for this loss of one case in one quintile (95 versus 96) was deemed trivial and unnecessary.

Finally, due to peculiarities in how the Brooklyn sample was collected (see Chapter Two), we performed all of the above steps a second time, but only for those cases sampled in Brooklyn shortly after arraignment (original N = 124) rather than retrospectively after the case had been underway for up to several months (original N = 87). The research team had some concern that cases involved in the retrospective Brooklyn sample might provide an inferior match to the Bronx than those Brooklyn cases that were sampled *initially*, right at the point of case screening. However, we did not detect any differences in the statistical significance ($p < .05$) of any outcome based upon whether we used the full or partial Brooklyn sample, leading to our decision to use the full sample for the results reported below.

**Table 3.2. Impact of Screening Method on Case Outcomes and Sentencing**

| | Brooklyn | Bronx |
|---|---|---|
| Total Sample Size | N = 208 | N = 271 |
| Number of Cases Disposed (Not Still Pending) | N = 191 | N = 271 |
| Percent Disposed of Total Sample | 92% | 100% |
| ***Case Outcomes*** | | |
| Pled guilty/convicted | 5% | 0% |
| Dismissed | 92% | 0% |
| Adjournment in contemplation of dismissal (ACD) | 2% | 0% |
| Declined to prosecute | 0% | 100% |
| ***Sentences*** | | |
| Jail | 3% | 0% |
| Probation | 0% | 0% |
| Time served[1] | <1% | 0% |
| Conditional discharge | 1% | 0% |
| Disposed but sentence pending[2] | 1% | 0% |
| No sentence/not convicted | 95% | 100% |

*Note:* Percentages do not always add up to 100% due to rounding. Results in this table are generated by averaging the results from the five propensity score quintiles (see Appendix 3B).

[1] One case received a time served sentence, whose length was one day.

[2] Three cases were still pending the imposition of sentence at the time that the research team received criminal justice data. A fourth case was consolidated with another, and the sentence is unknown.

## Impact of Screening Method on Initial Case Outcomes and Sentencing

We first investigated the impact of Brooklyn's prosecutorial model on the case outcomes and sentences resulting from the initial court case. For this purpose, we needed to examine the results for the Brooklyn sample only since, by definition, all of the cases in the Bronx ended in a *declined to prosecute* outcome. Results are in Table 3.2. (The results reflect the final averages after first generating results separately for each propensity score quintile. The underlying quintile-based results are in Appendix 3B.)

The results indicate that a large majority of the Brooklyn cases (92%) resulted in dismissal. In addition, 2% resulted in an ACD (adjournment in contemplation of dismissal). An ACD in New York State most frequently leads to a case dismissal after either six or twelve months, sometimes with conditions imposed, such as completion of a batterer program. Finally, 5% of the Brooklyn cases in our sample resulted in convictions. (Reported percentages do not total 100% due to rounding.) Examining the sentences imposed on the defendants that were convicted, we found that half of those sentences involved jail time, all for 90 days or less, and none involved probation. In sum, 5% of the Brooklyn cases ended in a conviction and approximately 2.5% ended in a jail sentence.

## Impact of Screening Method on Recidivism

We next investigated the impact of case screening method on recidivism, as reflected in official re-arrest reports obtained from the New York State Division of Criminal Justice Services (DCJS). After first discussing our recidivism measures, we present six-month re-arrest results as well as results of survival analyses examining the time to first re-arrest.

### Recidivism Measures

The data enabled us to construct recidivism measures for all study offenders within six months following the initial arrest. This timeframe may appear short for a recidivism analysis. However, in this study, our principal hypothesis is that the Brooklyn universal filing policy suppresses recidivism over the short-term, while the initial case is pending, and for that reason offers an advantage over the Bronx policy of heavy case screening. The theory is that, by holding the initial case open for as long as possible (nearly always at least 90 days) and requiring the defendant to report back to court regularly for several pre-dispositional court appearances, Brooklyn puts defendants on notice that adverse consequences will result from further domestic violence. Since the theory does not necessarily presume a continued post-dispositional (usually post-dismissal) deterrent effect, analyzing recidivism over a longer-term timeframe is not essential. As shown above in Table 3.1, the average processing time in Brooklyn from arrest to disposition is 113 days; we also found that 88% are disposed within six months, making six months a reasonable timeframe.

We conducted not only six-month recidivism analyses but also survival analyses, which examine exactly how much crime-free time elapsed before recidivating defendants were re-arrested. For the survival analyses, we could include longer timeframes than six months for some sample members. Specifically, we had nine months of tracking data following the target arrest for over half of our sample (59%), but had one year or more following the arrest for only 3%. We therefore capped the survival analysis timeframe at one year for all cases.

For all timeframes, the data enabled us to isolate several different types of outcome measures: (1) re-arrests on any charge, (2) misdemeanor re-arrests, (3) felony re-arrests, (4) assault, menacing, or harassment re-arrests, and (5) criminal contempt-only re-arrests. Unfortunately, in New York State, it is difficult to separate out domestic violence offenses because there are no specific domestic violence charges, and identifiers of domestic violence

offenses in the DCJS database are unreliable. However, as a best available proxy measure, because assault, menacing, and harassment are the most common charges in domestic violence cases, we constructed a measure capturing re-arrests that had any of those three charges as either the top charge or an accompanying charge on the case.

The rationale for including the fifth category listed above, criminal contempt-only re-arrests, is that such re-arrests needed to be analyzed separately because criminal contempt re-arrests are inherently more likely in Brooklyn, due not to differences in defendant behavior but to differences in the prosecutorial policies of the two jurisdictions. As noted above, Brooklyn obtains a temporary order of protection on all of the cases that it prosecutes, whereas the Bronx obviously does not obtain such orders on the equivalent cases that it declines to prosecute. Since violations of a protection order are charged as criminal contempt, such charges are much more likely in Brooklyn. Depending on the nature of the alleged violation, criminal contempt can be charged either as a misdemeanor or felony, although in practice, felony level contempt charges are far more common than misdemeanor contempt charges in Brooklyn.

To deal with the potential bias in recidivism rates posed by new criminal contempt charges, we took three steps. First, *we eliminated from the main analysis all recidivism cases from both samples in which criminal contempt comprised the sole arrest charge on the case*, i.e., no other accompanying charges were associated with the case. Thus in Table 3.3 below, *none* of the results shown includes re-arrests in which criminal contempt was the sole charge. Second, to determine the impact of the Brooklyn order of protection policy on defendants returning to court on new cases, we then separately compared the two samples on these "criminal contempt-only" re-arrests. For this analysis, a *higher* re-arrest rate might arguably be interpreted to be a positive outcome in the sense of signaling the greater detection and enforcement of continued undesired contact with the complainant. Third, as will become apparent below, in computing felony level re-arrests, we computed additional measures that count felony re-arrests only if some other charge besides criminal contempt made the case a felony. (For example, on this modified felony variable, a docket with a felony level criminal contempt charge and a misdemeanor level harassment charge would be counted as a misdemeanor, *not* as a felony.) Similarly, we computed revised misdemeanor re-arrest measures that count as a misdemeanor those cases in which the only felony level charge is criminal contempt. In effect, the revised felony and misdemeanor re-arrest variables *control for* differences between the boroughs created by the greater prevalence of felony charges in Brooklyn due to Brooklyn's prosecutorial policy related to temporary orders of protection.

**Six-Month Outcomes**

We first computed recidivism outcomes within six months following the initial arrest. Results are shown in Table 3.3. (The results reported in this section reflect the final averages after first generating results separately for each propensity score quintile. The underlying quintile-based results are in Appendix 3C.) Following directly from the preceding discussion of recidivism measures, all of the outcomes represented in Table 3.3 *exclude* re-arrests for which criminal contempt was the *sole* charge on the docket. However, re-arrests that included both a criminal contempt charge *and* some other charge are included but, as indicated below, are treated in distinctive ways on some of the felony and misdemeanor re-arrest measures.

Overall, the results indicate that there were no significant differences between Brooklyn and the Bronx in the probability or prevalence of re-arrest. We found that 28% of the Bronx and 21% of the Brooklyn sample were re-arrested on any charge, a difference that was not significant. Similarly, when examining our proxy measure for domestic violence recidivism, composed of re-arrests that included an assault, menacing, or harassment charge, we also found no significant differences between the two counties (12% in Brooklyn versus 11% in the Bronx re-arrested).

Although the Brooklyn model did not appear to reduce recidivism overall, we did detect several notable patterns when examining felony versus misdemeanor recidivism. At first, the

## Table 3.3. Impact of Screening Method on Re-Arrests Within Six Months[1]

| Sample Size | Brooklyn N = 208 | Bronx N = 271 |
|---|---|---|
| ***1. Re-arrest on any charge*** | | |
| Any re-arrest | 21% | 28% |
| Mean number of re-arrests | 0.32 | 0.40 |
| ***2. Re-arrest with a charge of assault, menacing, or harassment (either top or associated charge)*** | | |
| Any re-arrest | 12% | 11% |
| Mean number of re-arrests | 0.16 | 0.12 |
| ***3. Re-arrest with a felony top charge*** | | |
| Any re-arrest | 15%* | 7% |
| Mean number of re-arrests | 0.21** | 0.08 |
| ***4. Re-arrest with a misdemeanor top charge*** | | |
| Any re-arrest | 8%*** | 22% |
| Mean number of re-arrests | 0.10*** | 0.31 |
| ***5. Re-arrest with a felony top charge, not counting felony criminal contempt charges*** | | |
| Any re-arrest | 10% | 7% |
| Mean number of re-arrests | 0.14 | 0.08 |
| ***6. Re-arrest with a misdemeanor top charge, not counting felony criminal contempt charges*** | | |
| Any re-arrest | 13%* | 22% |
| Mean number of re-arrests | 0.17* | 0.31 |

+ p < .10  * p < .05  ** p <.01  *** p < .001

*Note 1:* Cases with criminal contempt-only charges (no other charge type on the docket) were excluded.

*Note 2:* Statistical significance tests are based on the F statistic from the main effect of county in the two-way ANOVA: re-arrest measure by county by strata.

*Note 3:* Numeric results in this table are generated by averaging the results from the five propensity score quintiles (see Appendix C).

[1] Two of the 271 cases in the Bronx could be tracked for 171 and 172 days respectively, or approximately 10 days less than six months. Five of the 208 cases in Brooklyn could be tracked for 146, 160, 163, 164, and 171 days respectively, or from approximately 10 to, at the most, 25 days less than six months.

results seemed to suggest that felony re-arrests were significantly more prevalent in Brooklyn, whereas misdemeanor re-arrests were significantly more prevalent in the Bronx (see Table 3.3, point numbers 3 and 4). However, these apparent findings stem to a great extent from the more frequent felony level criminal contempt charges that could be applied to new cases in Brooklyn --- resulting not from differences in defendant behavior but from Brooklyn's prosecutorial model. As discussed above, Brooklyn obtains temporary orders of protection on all of its initial cases, whereas the Bronx does not. These orders of protection make the attachment of criminal contempt charges – almost always at the felony level – more common in Brooklyn than in the Bronx whenever new domestic violence cases arise. Therefore, as a result of Brooklyn's universal case filing and temporary order of protection policy, re-arrests in Brooklyn are more

**Table 3.4. Top Charge on First Re-Arrest (Of Those Re-Arrested)**

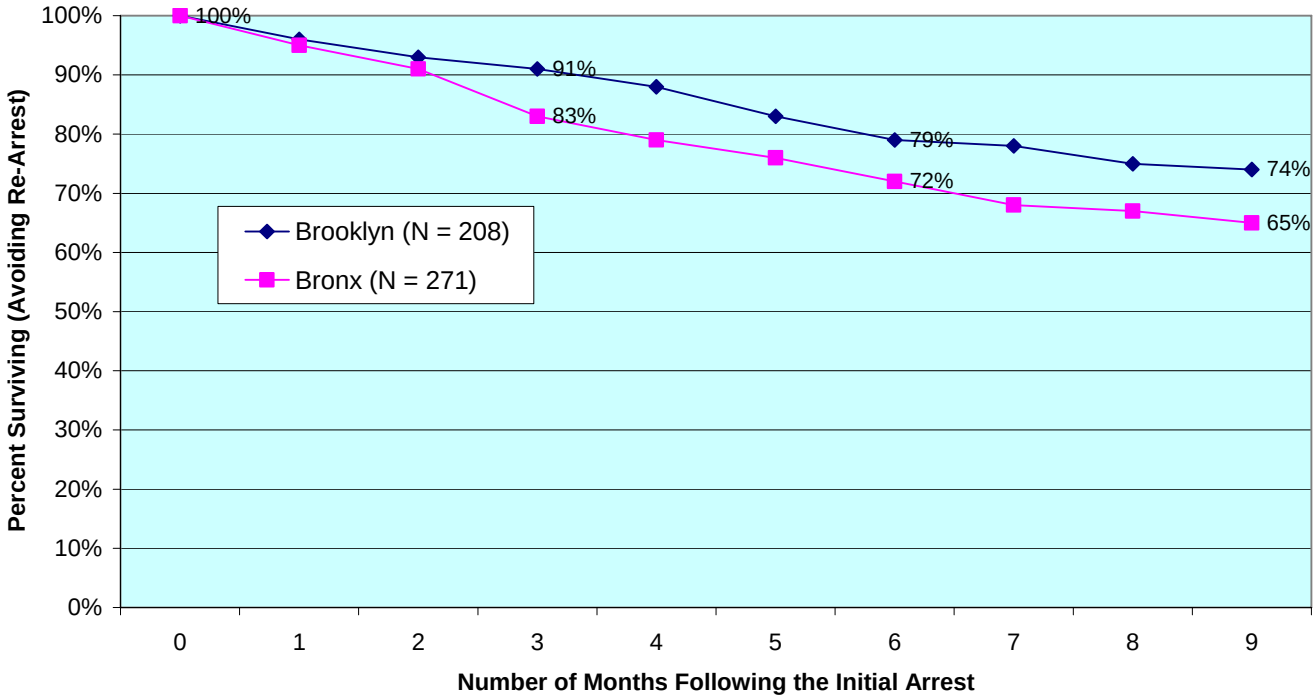
| Sample Size | Brooklyn N = 55 | Bronx N = 93 |
|---|---|---|
| ***Criminal Contempt*** | ***26%*** | ***3%*** |
| Felony criminal contempt | 22% | 0% |
| Misdemeanor criminal contempt | 4% | 3% |
| ***Assault*** | ***18%*** | ***14%*** |
| Felony assault | 7% | 1% |
| Misdemeanor assault | 11% | 13% |
| ***Menacing (misdemeanor)*** | ***0%*** | ***3%*** |
| ***Harassment (misdemeanor)*** | ***4%*** | ***3%*** |
| ***Drug-Related*** | ***26%*** | ***41%*** |
| Felony drug charge | 7% | 11% |
| Misdemeanor drug charge | 15% | 13% |
| Marijuana-related drug charge (misdemeanor) | 4% | 17% |
| ***Property-Related*** | ***16%*** | ***24%*** |
| ***Other Charges*** | ***11%*** | ***12%*** |

*Note:* As with the analyses in Table 4.3, cases with criminal contempt-only charges (no other charge type on the docket) were excluded. Significance tests were not conducted per se, since the small sample sizes made unfeasible the balancing of the samples through the application of propensity score adjustments. First re-arrests were included in this analysis if the re-arrest occurred any time up to one year after the initial arrest; i.e., the analysis was not limited to the first six months.

likely to have a felony criminal contempt top charge; conversely, because felony criminal contempt charges are less frequent in the Bronx, re-arrests in that borough are more likely to have a misdemeanor top charge only. We attempted to control for this phenomenon. When re-arrests were counted as a felony only if there was a felony level charge *other than* criminal contempt on the docket, the difference between Brooklyn and the Bronx disappeared (Table 3.3, point #5). Also, when re-arrests were counted as a misdemeanor if all charges besides criminal contempt were at the misdemeanor level, the raw difference between Brooklyn and the Bronx decreased. However, in this case, the finding that there were significantly more misdemeanor re-arrests in the Bronx sample did *not* disappear altogether, even after controlling for the different policies of each county (Table 3.3, point #6).

Additional descriptive analyses underlined the greater prevalence of criminal contempt charges in Brooklyn as a direct result of its prosecutorial policy. As shown in Table 3.4, of those who were re-arrested, the top charge on the first re-arrest was criminal contempt for 26% of all re-arrested defendants in Brooklyn but only 3% in the Bronx. Also, as expected, the data indicate that criminal contempt was usually charged at the felony level in Brooklyn. Concerning other charges, it is notable that drug charges were especially common in the Bronx; and misdemeanor marijuana charges especially appeared to be almost exclusive to the Bronx (17% of top charges

**Figure 3.1. Survival Curves for Brooklyn and Bronx Defendants**
**Percent Avoiding Re-Arrest After Each Month Following the Initial Arrest**




*Note:* The survival experience was compared statistically for up to one year, but only the first nine months are displayed, since close to half of the cases were censored by the nine-month mark. After adjusting for propensity score quintile, the survival experience was not significantly different at the .05 level, but a difference was suggested a the weaker .10 level (Breslow test).

in the Bronx versus 4% in Brooklyn). The patterns of these drug-related charges explain why, overall, misdemeanor re-arrests were significantly more common in the Bronx.

Finally, we conducted a separate six-month comparison of the "criminal contempt-only" re-arrests that were excluded from the main analysis – re-arrests in which no charge other than criminal contempt was on the docket. This analysis showed that 4% of the Brooklyn and 2% of the Bronx sample had such re-arrests; and the average number of such re-arrests was .05 in Brooklyn and .02 in the Bronx; neither of these differences was significant. Coupled with the preceding findings, the last result indicates that although the Brooklyn prosecutorial model resulted in the *addition* of a criminal contempt charge to a great number of cases that also include other types of charges, cases with criminal contempt-only charges and no other charges are in fact rare in both counties.

**Survival Analysis**

We also conducted a survival analysis, testing whether the Brooklyn policy of filing cases and securing orders of protection delayed the onset of recidivism. For this analysis, we extended the measurement period up to one year, while censoring the tracking period for those cases that were only available for less time. (Since close to half of all cases were censored by the nine-

month mark, the survival curves shown visually in Figure 3.1 extend only to nine months. The data in those curves derive from averaging the results in each propensity score quintile. Quintile-specific survival curves are in Appendix 3D.)

The survival analysis did not detect a significant difference between Brooklyn and the Bronx at the .05 level after adjusting for propensity score quintile. However, in Brooklyn there was a short delay in the time to first re-arrest when considered at the weaker .10 level (Breslow statistic = 3.19, p = .074).

## Summary

As a result of filing charges in nearly all cases in which there has been an arrest, Brooklyn obtains temporary orders of protection prohibiting or limiting defendant contact with the complainant, while the Bronx does not. These orders apply until the case is disposed – for 80 days or longer on more than 90% of the sampled cases in Brooklyn.

However, we found that Brooklyn was able to obtain a conviction, thus a final order of protection and possibly other criminal sanctions, on only 5% of the sampled cases. Furthermore, we did not find that Brooklyn's policy produces a statistically significant reduction in re-arrests. Hence, overall, prosecuting cases without victim cooperation in Brooklyn did not appear to deter official recidivism. (We did find that there were significantly fewer misdemeanor re-arrests in Brooklyn, explained by the lower rate in Brooklyn of re-arrests on misdemeanor drug and marijuana charges.) Since our sample sizes were modest, and the raw percentages trended just slightly in favor of Brooklyn, it is possible that a small overall effect of Brooklyn's filing policy might have been detected had our statistical power been greater.

We were not able to identify re-arrests specifically for domestic violence with 100% accuracy because of features of New York State's statutes and criminal justice data collection, and we did not have independent reports from victims of re-abuse that may not have been reported to the police, a more accurate measure of re-offending. We did, however, develop a proxy measure for domestic violence recidivism by comparing re-arrests on the common domestic violence charges of assault, menacing, or harassment. This measure did not reveal a significant difference between the two counties, and the raw numbers were nearly identical.

Although we did not find evidence of an overall impact on recidivism, we found that Brooklyn's filing policy has important implications on how future cases are charged. In particular, the fact that the Brooklyn Criminal Court issued temporary orders of protection while the initial cases were pending meant that subsequent domestic violence re-arrests were more likely to have a felony level charge of criminal contempt added. It would be interesting to test the impact of this felony level charge on the outcome of the re-arrest and prosecution. That is, a misdemeanor is more likely than a felony to be declined for prosecution in the Bronx or dismissed in Brooklyn; therefore, the question arises of whether these subsequent cases charged as felonies in Brooklyn because of the violation of a temporary order of protection are more likely to result in full prosecution and conviction. A second question is whether prosecution as a felony carries a higher likelihood of more severe penalties and lower subsequent recidivism. Thus, there is a possible benefit of Brooklyn's policy, which could be tested only with a longer

follow-up period than we had available, of lower repeat recidivism, even though the policy did not lower re-arrest rates initially.

To review, the data generated by this analysis has important limitations, but the data do not lend support to most of the hypothesized official criminal justice benefits of filing all domestic violence cases with the court. The next chapter complements the foregoing by exploring the victim's perspective – do victims perceive advantages to no-drop prosecution that the preceding quantitative measures are inadequate to capture?

Chapter Four

# Victim Interviews

## Objective

We conducted semi-structured in-depth individual interviews with victims from each borough to compare the effects of the two different District Attorneys' (DA's) policies on victim satisfaction with the criminal justice system, victims' preference in regard to prosecution policies, their perceptions of safety, and their willingness to report new offenses. Such qualitative interviews produce narratives about the impact of events and processes on the participants' lives (Arksey & Knight, 1994; Gubrium & Hostein, 2001; Hostein & Gubrium, 1995). In this case, they helped us understand the effects of the abuse, arrest, prosecution policies, and so on, from the victims' perspectives. In addition, the individual interviews captured the complexity and ambiguities of the victims' experiences and shed light on the victims' "logic of practice" – their sometimes seemingly paradoxical choices – under the weight of the abuse they have experienced (Power, 2004).

After we had analyzed the individual interviews, including creating a coding scheme informed by five practitioner experts (see Methodology below), we conducted two group interviews with victims from the Bronx and Brooklyn (i.e., both groups included members who had experienced each prosecution policy). The purpose of the group interviews was to delve into some of the different responses to the same experience found in the individual interviews in order to assess consensus and to have the women reflect on each other's experiences. The group interviews were not coded and analyzed in the same way: they were used to inform interpretation of the coded individual interview data and to obtain responses to the themes identified in the individual interviews.

In summary, the purpose of the *individual interviews* was to obtain information about the quality of victims' experiences with the policy in their respective boroughs. The objective of the *group interviews* was to clarify and refine the knowledge gained from individual interviews through interactive discussion among victims who experienced each policy. Specifically, the group interviews allowed us to determine areas of consensus and to clarify some of the contradictory and ambivalent feelings expressed by victims in individual interviews in regard to the process and outcomes.

The advantage of the qualitative approach we adopted over the quantitative approach of conducting a brief survey with larger numbers of victims is that it allowed us to understand the choices that the victims made in the broader context of their relationships and their day-to day lives (e.g., one participant from the Bronx had a disabled son and her husband's financial and emotional support allowed her to stay home with the child; that support was unwavering and appreciated and led her to prefer that he not be prosecuted). It also added a deeper understanding of the victims' apparently contradictory responses – for example, some participants appreciated the fact that the charges were dropped in their case but thought it would have been better if it had been prosecuted.

# Methodology

## Participant Recruitment

Participants in the individual and group interviews were recruited from the database of cases collected from the Bronx and Brooklyn DA's Office files for the recidivism analysis (see Chapter 2). These cases had arrests between January and July 2006. In addition, we collected cases with arrests in August and September and added them to the database in order to have more recent cases to contact for the victim interviews. We conducted recruitment for individual interviews for a month, approximately 10 months after the first cases had been collected and two months after the last cases had been collected and recruited for the group interviews for another month, approximately 11 months after the first cases had been collected from the DA's Offices and three months after the last cases were collected.

The outreach protocol required intensive effort to contact each participant. First, the primary contact number for the victim was called at three different times of the day for three days a week for two weeks. If there was also an alternate contact number for the victim that was working, the alternate number was called immediately after each call to the primary contact number. If this procedure failed to produce contact with the victim or if the victim's number was not in service, any numbers available for alternate contact persons (friends or relatives listed on the police record) were called according to the same protocol of timing and frequency.

Initially, we attempted to contact a random sample of about 50 victims from each borough from the database of cases in which the offenders had been arrested between January and September 2006. Only a handful of women on this first random list could be reached at the telephone numbers in the database; even fewer (three in Brooklyn and four in the Bronx) consented to participate. Then, beginning with the most recent cases, we phoned all the women whose (ex) partners had been arrested between July 1 and September 12, 2006 (63 in Brooklyn and 68 in the Bronx) for whom we had valid telephone numbers from the police records in the DA's file. We were able to obtain informed consent for individual interviews from nine women from Brooklyn and seven women from the Bronx.

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When a potential participant was reached, telephone and recruitments scripts approved by the IRB were followed for the individual or group interviews respectively. These scripts first ascertained the victim's safety and privacy for the conversation, and then provided simple explanations of our interest in hearing about their experiences and the goal of the study to compare the different prosecution policies in the Bronx and Brooklyn.

## Individual Interviews

Eleven victims from the Bronx and 12 victims from Brooklyn (all of whom opposed prosecution following an arrest between January and September 2006) were interviewed individually by telephone.

Once the interviewer ascertained that the participant felt safe talking and was not being overheard, informed consent was administered. All the individual interviews were audio-recorded with the participants' consent. Each interview lasted between 35 and 55 minutes. The Individual Interview Guide can be found in Appendix 4A.

**Group Interviews**

Two group interviews were conducted with six women in each group. (None of the group interview participants participated in individual interviews.) Equal numbers of women from the Bronx and Brooklyn were recruited for each group and a standby from each borough was recruited in case of no-shows. Despite these precautions, we ended up with unequal representation of each borough in the first group, which had two participants from the Bronx and four from Brooklyn. The second group had three participants from each borough. The interview guides for the first and second groups are presented in Appendix 4B.

The group interviews were conducted by an experienced focus group facilitator who consulted with the researchers prior to each session. The group interviews were conducted in a commercial focus group facility that had a two-way mirror and was wired for sound. With victims, permission, the researchers observed and heard the group session. The researchers were able to send in questions and provide direction to the group interviewer through notes carried by staff of the facility. Both groups were audio-recorded with the participants' informed consent.

**Analysis**

The individual and group interviews were transcribed without pauses and hesitations and the transcripts included expressive details such as laughter and crying. The transcriptions were verified by listening to the audio recording and comparing it to the transcript.

The transcripts of the individual interviews were then coded based on general qualitative analysis methodology (Auerbach & Silverstein, 2003). This method is primarily a systematic way of moving from raw text to interpretations by organizing the material into data units that enable comparison of concepts and themes across interviews. The coding scheme was developed by identifying "repeating ideas" (i.e., similar experiences mentioned by two or more participants; Auerbach & Silverstein, 2003).

To validate the coding scheme, five directors at Safe Horizon were asked to review and discuss reactions of six individual interviews. The issues that surfaced in the discussion among the researchers and these practitioners of these six transcripts narrated a wide range of victim experiences, and helped to validate and elaborate the basic framework for the coding scheme (see Appendix 4C).

The transcripts were coded by the research associate who developed the coding scheme, with assistance of a graduate student intern. One-third of the transcripts were coded by the graduate intern and verified by the research associate. Although each interview was coded according to the original coding scheme, the coders remained alert to other relevant ideas. These new,

relevant ideas were incorporated into the coding scheme throughout the coding and analysis phase.

Another level of analysis was a composite of data units within a theme (e.g., order of protection, impact on the offender, (non)utilization of services). Composite data units are portions of the transcript that relate to a theme but appear in different sections of the interview. In the analysis, they are connected with ellipses […], and are not necessarily in the sequence in which they were mentioned in the interview. These data units are summarized for each participant in Appendix 4C. (Note that the group interviews were not analyzed in this way.)

This chapter extrapolates from the complex findings only those themes (from the extensive coding scheme) that address the research objectives of the study.

## Results of Victim Interviews

This section presents findings from the individual interviews with 23 participants (11 from the Bronx and 12 from Brooklyn) and the two group interviews with 12 participants (5 from the Bronx and 7 from Brooklyn), for a total of 35 participants, 16 from the Bronx and 19 from Brooklyn. Participant ID codes include an X for the Bronx or a K for Brooklyn (King's County). Individual interview participants are further identified by the number of the case in the database. Group interview participants are further identified by the group number (G1 for the noon group and G2 for the 6 pm group) and letters from their name. Whenever results are quantified to draw a contrast between the experiences and reactions of victims from the Bronx and Brooklyn, we are drawing from the individual interviews only, as they were asked systematic questions across the 23 participants. Quotations are brought in from group participants if they reinforce or elucidate response patterns.

The principal investigators observed that the participants' understanding of the process and roles of criminal justice personnel was often sketchy, suggesting that survey results could often be misleading when participants are forced to choose among response options and to rate aspects of their interactions with the criminal justice system. For example, if the victim does not know whether she is speaking to an advocate, ADA or court officer at the courthouse, then ratings of satisfaction with different systems or actors will be based on some misidentifications. Listening to the groups, reading transcripts and reading analysis of the individual interviews shed light on the sometimes baffling responses we had obtained in previous survey research with domestic violence victims.

The results are organized into six major sections:

1) **Victims' perceptions or understanding of the case processing policies** in the Bronx and Brooklyn in regard to proceeding without victim support;
2) **Victims' preferences in regard to prosecution**: the motives behind their decision to oppose prosecution, and their attitudes toward the two policies of declining to prosecute or proceeding without the victim's support, in their own case and hypothetically;
3) **The sense of empowerment** victims derived from the prosecution policies and their ability to maintain resources (e.g., remain in their home, sustain child care, maintain finances and social support);

4) **Victims' feelings of safety** and their perceptions of the impact on the batterer of the case proceeding through arraignment, hearings, and disposition (usually dismissal) vs. the case not being filed;
5) **Access to services;** and, finally,
6) **Intent to prosecute in the case of future abuse by the offender.**

Under each subheading, findings from the Bronx interviews are presented first, followed by the Brooklyn interviews. Four of the 35 participants in the individual or group interviews or 11% felt that the arrest was a mistake to begin with: they maintained that no violence had occurred, just a verbal altercation or an accidental injury, with no pattern of abusiveness from their perspective. (In these cases, someone else had called the police.) These four opposed prosecution and any other intervention or assistance offered or received. Their real objection was to the mandatory arrest policy, or to its application in their case.

**Perceptions of Case Processing**

This section presents victims' understanding and experience of the case processing policies and the consequences of waiving support for prosecution.

The DA's policy in both boroughs states that a signed "corroborating affidavit" constitutes a victim's support for prosecution. With the case screening policy in the Bronx, encouraging the victim to sign a waiver of prosecution or a corroborating affidavit is the objective when the DA's Office tries to encourage the victim to come to the complaint room and meet with a prosecutor following arrest and before the case is filed. If the victim opposes prosecution, the primary goal of the Bronx complaint room ADA in meeting with the victim is to assess whether she is being intimidated or coerced into signing the waiver or whether her opposition expresses her true preference.

With the pro-prosecution policy in Brooklyn, getting the victim to come in and sign "a corrob" is the goal during the weeks after the case has been filed and the defendant arraigned. Although the victim may have expressed opposition to prosecution to the complaint room ADA, she will not be offered a waiver of prosecution at that time. If she comes in and meets with the Domestic Violence (DV) Bureau ADA assigned to the case after arraignment, she may sign a waiver of prosecution but the charges will not be withdrawn unless she can present a compelling reason for the prosecution to be dropped immediately.

This initial meeting with the ADA, both in the Bronx and Brooklyn, whether it occurs within hours or weeks of arrest and whether the victim signs a corroborating affidavit or a waiver of prosecution, can serve as an opportunity for the ADA to link victims with services.

<u>Contact with the Prosecutor</u>

Victims of intimate partner violence in the Bronx are given up to, but often less than, 24 hours after the arrest to decide whether to sign the waiver of prosecution. (The average is four hours, according to the DA's Office.) It is generally up to the arresting officer to produce the victim in the complaint room. Therefore, the Bronx police impress upon victims the importance

of contacting the DA's office. One participant said that the police threatened her with arrest and prosecution to induce her to meet with the prosecutor:

> X346: Officer [name]…told me that I had to go to the District Attorney's office, that he had arrested him and he had [him] in the precinct and in order for me not to proceed with the charges, I had to go sign papers for the prosecutor's office,…even if I was dropping the charges, because if not, I could have been arrested…So I went that night after I got out of work...[waited] approximately…two hours… [to meet with the ADA].

Another participant thought that a victim could be arrested in the Bronx only if she recanted repeatedly:

> G1X-Am: But after a while in the Bronx, once you say you're pressing charges and you don't, you know, you can be arrested…And they call that for a false report. If you say, "Oh, no, he didn't do it," you will be arrested cause I tried.

In Brooklyn, there would be no reason for the arresting officer to exert pressure on the victim to meet with the prosecutor because the DA's policy is not to interview the victim following the arrest nor the DA's Office rely upon the arresting officer to produce the victim. The DA's Office initiates the contact and there is a much longer interval before the ADA reaches out to the victim. If the victim cannot be reached by phone:

> K282: They sent me a letter in the mail with an appointment, and I went to the appointment …Maybe [it was] two or three weeks between the arrest and the DA's office.

Although the Bronx victims may feel the police are being coercive in trying to get them to come to the complaint room and meet with a prosecutor, the meeting with the Assistant District Attorney (ADA) is typically more satisfactory in the Bronx than in Brooklyn for victims who want the case dropped. One Bronx participant described her interaction at the DA's office.

> X346: She asked me if I was threatened or if anybody had called me and asked to drop the charges and I said, "No," and then I just signed the papers stating that I wasn't going to keep on with the case…They told me that if he did try to approach me even after I didn't proceed with the charges that I could always go to the precinct and start a new case against him.

Conversely, victims in Brooklyn may not feel pressured by the police but they may experience the prosecutor as coercive, because the Brooklyn ADA tries to persuade the victim to support prosecution, plus the ADA informs the victim that the case will probably be filed regardless of her preference. A Brooklyn participant described the initial interview with the ADA:

> K273: When I spoke to the DA she was very nasty. That was to begin with. I signed papers saying I didn't want to press charges…She let me know that I couldn't drop the charges because the State would be picking it up now…I hung up on her and that was it.
>
> G1K-Ken: I just thought it was my choice and I felt that they were kind of like badgering me to make a decision of to, to continue the case.

The Bronx was not necessarily immune from this sort of resentment: when the Bronx ADA felt that a particular case should be prosecuted, the victim also felt pressured. Like the Brooklyn participant who wanted the case dropped, a woman from the Bronx who had been quite seriously injured called the ADA "nasty." When asked in what way, her answer suggests that the ADA was trying to get her to support prosecution given the severity of the case:

> G1X-Mar: I don't know. She had an attitude and…she was asking me a lot of questions…they took pictures of me at the precinct and she was, "Ay, so why you don't want to press charges?" whatever, whatever. And I told her my reasons. I was pregnant with his baby so I didn't want to press charges… I just didn't want no problems. Everybody was calling my phone, his mother, his father, his family.

This case was declined for prosecution despite the ADA's concern about the injuries revealed in the photographs.

Some victims in Brooklyn were more receptive to the DA's policy of filing charges, however. This victim liked the fact that the case would be prosecuted without her participation because:

> K282:…the case would not be automatically dropped. He would have to keep coming back to court. He would probably have to take anger management. They would keep it active for as long as they could.

**Victims' Preferences for Case Processing**

Answers to the question of victim's preference for dropping the case immediately following the arrest vs. filing charges with the court and limited prosecution were found in the responses to three different questions. First, we review the reasons that the victims opposed prosecution; second, we review how they felt about the prosecution policy in their own borough as it applied to their own case (i.e., were they pleased that the charges were dropped in the Bronx, or pleased that the prosecutor filed charges with the court despite their lack of participation in Brooklyn). The Bronx participants were also asked how they would have felt about if the state had prosecuted without their participation in their own case. Third, we asked the group interview participants to reflect on the two prosecution policies in general.

<u>Reasons for Opposing Prosecution</u>

Each individual interview participant provided from two to eight different reasons for reluctance to have the case prosecuted. (Their reasons are presented in their case profiles in Appendix 4D.) Here, we summarize the common themes.

1) *Arrest was unnecessary in the first place.* Some victims felt that there was no need for an arrest. For example, according to one victim, a visiting relative overreacted to a loud argument; another said her injury was an accident during an argument. Another just wanted the police to warn her husband, not arrest him.

2) *Prosecution was unnecessary.* A primary reason for opposition to prosecution was that the victim felt that the arrest was a sufficient penalty. When it was either the first incident or the first arrest, victims hoped the arrest alone would be a deterrent. In addition, when there was a delay in the arrest (from two weeks to two months after the report was made) and there was no violence in the interim, victims felt that simply making the initial report had accomplished their aims.

> X346: He lives officially three and a half blocks from where I live…I know he has a past criminal record…after a month and a half, then they decided they were going to arrest him…He hadn't really tried to come back and bother me again so I said, "Let things stay the way they are."

3) *Defendant was employed and supporting dependents.* Another reason for opposing prosecution was that the offender was employed and stable. In those cases, the victims generally did not want to disrupt his life and the support he provided to them, their children or other dependents of his. Several mentioned that his dependents would suffer more than he for penalties imposed on him.

> X136: I do want him to get help but he also needs to maintain his job because he has to help pay rent for his mom. If he had to do something where it took him away from work I wouldn't want that.

4) *Prosecution would disrupt or had disrupted the ongoing relationship*. Especially for married couples and couples with children together, having a continuing case with an order of protection was an obstacle to maintaining the relationship.

5) *Just want to move on and don't want any contact.* A very different type of motive for opposing prosecution was to disengage from the ex-partner, avoiding any sort of contact or involvement. For example, several women did not support prosecution because they did not want to see him in court.

> X334: I wish if I had gone through with the process that there's a way I don't need to see him in court…Not to see him face to face. I asked at the precinct and they told me no, that I had to see him…

6) *Protecting the abuser.* The final major reason for not supporting prosecution was the emotional ambivalence that the arrest triggered in the women -- the sense that, although what he did to her was wrong, she did not want to see him suffer. (This ambivalence will come up again, because it was the main reason that the women felt that it might be better if the state prosecuted despite their objection.) One woman vacillated:

> G2K-Kam: At that point when I saw that they arrested him, I felt so bad. My soul was awful. I felt like I did something wrong, and I was hurting because…I saw him in that situation.

She rallied, though, reminding herself about the promise she had made herself "not to let anyone put their hands on me."

Preference for Case Screening vs. Mandatory Filing Policy in Immediate Case

All of the participants from the Bronx were pleased that they could drop the charges. That does not always mean that they wanted the *prosecutor* to drop the case.

*Opposed to prosecutor filing charges.* When asked how they would have felt about the state prosecuting without their participation, six of 11 Bronx participants would not have liked it. They either felt the arrest was a mistake (there had been no violence) or that the arrest was sufficient and further consequences would disrupt his ability to support his family. Only one felt that it would be dangerous to her: he blamed her for the arrest even though it was mandatory and he would probably blame her for the prosecution and might even kill her. Similarly, a few of the women from Brooklyn (20%) were unhappy with the case filing in their own case, either because they felt there had been no violence or because the protection order prohibited the partner's contact with her and their children (more on the order of protection below). One woman, for example, said that, although she supported the arrest, she would not have wanted the case to continue. (She is the sole Brooklyn participant who convinced the DA's Office to drop the case.)

> K246: I wouldn't have been happy about that…He stands a lot to lose – his business and his family. That's a lot for just punching a hole in the wall

*Not opposed to prosecutor filing charges -- without their participation.* Of 11 Bronx participants, five did not oppose prosecution. Two were indifferent:

> X81: Honestly, I wouldn't really care. Whatever happens he deserves it…he's horrible …If you're willing to make your life hard…accept what's coming your way.

Two would have preferred that the state prosecute; an important part of their support, though, was that it be done without their participation.

> X344: If the [State] take it over, I can't get involved and he gonna have to go and fight his case. Maybe that would teach him a lesson.

> X82: I would have felt a little more comfortable…I would have never felt guilty. Because the decision wasn't mine, the decision is someone else's.

Another was ambivalent. She was concerned about consequences (retaliation against her family by his family in their home country), but thought mandatory prosecution might be best in the long run:

> X345: I think sometimes the system needs to be changed and work against you …There are many like me who don't want to press charges…That's why there are so many cases of people killing their husband or wife…If they make a decision against our will, in many cases that would be a good thing, I believe.

Just over half of the Brooklyn participants liked the Brooklyn DA's policy of limited prosecution in their own case, for the same reasons given by the Bronx participants: it might deter future violence and it was just that he be penalized for what he did to her.

> K282: It made me feel good to know that it wouldn't be something that would automatically be dropped…I wanted him to learn that you don't do this and…get away with it with just a slap on the wrist…Hopefully it is a lifelong lesson...this whole situation has drawn us closer…I think it's the most improvement I've seen in the years that we've been together.

> K141: They have to do what they have to do…because of what he did to me...

Forfeiting vs. Maintaining the Order of Protection

An important consequence of the two policies was whether or not the court issued an order of protection enjoining the defendant from contacting the victim. Under the Bronx policy of declining prosecution at the victim's behest, the court did not issue an order of protection; conversely, all of the Brooklyn defendants were issued orders of protection as long as the case was active. This feature of the two policies had the most direct impact on the victims and elicited strong reactions. Nearly half the Bronx victims (five out of 11) did not understand that they would not have an order of protection once the case was dropped; three would have preferred to receive an OP.

> X82: I would have liked to get an order of protection…I don't really think she [the ADA] really explained that part to me...I did feel a little threatened with him…I didn't really want to do anything with him. I didn't want any contact or anything. It would have helped if I would have got an order of protection.

Another Bronx participant apparently wanted both an order of protection and to drop the charges.

> X346: I did go to the courthouse the following day [after the reported incident]…to get an order of protection…[A woman] told me that I wasn't able to get an order of protection because I would have to have him arrested first…they didn't arrest him until

about a month and a half after the incident happened. [Then] they told me that I wasn't able to receive an order of protection because I refused to keep on with the charges.

All of the Brooklyn victims understood that an order of protection would be in effect. Most were pleased with this outcome, even though they did not support prosecution.

K257: I received it in the mail…I was pleased to receive that. I figured with this it would be less of any problems…No contact unless we went through the family court system.

For those cases in Brooklyn that continued beyond three months, the extended OP disrupted family life. This married couple has a six year old child and generally the victim says he is hard working and a good father (although one night he got drunk and punched her in the back; she said it was the first incident of physical abuse).

K25: I am completely unhappy… I don't know why they don't want him at home. I don't know if it is the attorney or the judge…it is almost Christmas [eight months since the arrest]. My son is a little bit sad…Everything already passed and we want him at home.

In summary, the picture is complex in regard to preferences for the prosecutor filing the case without the victim's participation and for the issuance of a protective order. There was a nearly even split overall between support for and opposition to mandatory case filing. A majority, however, would have liked the court to issue an order of protection – even some of those who opposed case filing. There appeared to be some confusion about the fact that the court could not issue a protective order if the case was dropped. On the other side, those who opposed prosecution because they were continuing the relationship and felt safe strenuously objected to the order of protection.

K276: I do not appreciate it [in my own case] because I lost my husband and my son lost his father and my five-year marriage is over…Because one, he is still going to court; and two, we still have a restraining order in place. Every time he goes to court…Three times [so far]…they extend it… When he got arrested, that was it because I couldn't see him any more…there was no more marriage after that.

<u>Debating the Policies: Preferences in the Abstract</u>

In the group interviews, the participants could hear about each others' experiences under the different policies. The exchange allowed them to come to agreement. In a sense, the group participants designed their own idealized policy that accommodated the varied sentiments expressed in the individual interviews.

Three primary points emerged from the group discussion. The first had to do with more effective case screening. The main reservation about the Brooklyn policy of pursuing prosecution was that it should not be applied in all cases. Conversely, there were Bronx cases,

albeit rare, that were dropped that should have been prosecuted under the same logic of pursuing serious cases despite victim opposition.

The second point had to do with timing. The participants felt that the Bronx policy of assessing the victim's preference within 24 hours of arrest (i.e., within the window prescribed by law between arrest and arraignment) gave the victim insufficient time to make a rational decision. On the other hand, the Brooklyn policy may keep cases going too long, at least in some instances.

Finally, there was an overall preference for the mandatory case filing policy, because victims often are torn between protecting the abuser from the consequences of his own actions – that is, they don't want to hurt him – and self-protection.

Prosecutorial Discretion

> G1K-Rey: I think that every situation is different. And I think discretion should be used. And I see where both [policies] have their good points…especially on certain issues like that, it shouldn't be an either or. In the case of getting your jaw broken and letting him go [referring to the case of another woman in her group whose case was dropped at her request], I wouldn't do that. It would have to be prosecuted.

Perhaps overlooking the difficulties of determining the victim's best interest when she opposes prosecution, this participant continued, voicing concern about allocation of resources:

> You know, so as a case by case situation where the persons explain what happened. Do they feel they're in danger? … but I think they also tie up a lot of time in the courts [on] unnecessary cases. And the real ones that need to be prosecuted probably don't get done.

A Longer Window for Victims to Decide about Opposing or Supporting Prosecution

Based on concerns raised by participants in the first group, the second group was asked whether 24 hours was long enough to decide about signing the waiver of prosecution in the Bronx, where that was likely to be the determining factor as to whether the case was filed. A Brooklyn participant was "shocked" to learn of this practice:

> G2K-Li: I'm shocked that the Bronx would have you decide within 24 hours of a complaint to decide whether to drop a charge. In that time he could be calling you, pressuring you, threatening you, you're scared, you can't decide…For the next three weeks, you talk to friends. You think it over…
>
> G2X-Kar: This is what happened to me…like she said, calling, calling from inside Central Bookings… 'Please, I'm sorry. It's not going to happen again.' And before you notice…, the same story over and over again.

She continued that when she met with the ADA, she was still "under his influence and he was going to stop" so she dropped the charges.

The sole participant in this group who wanted the victim to retain control of the decision to prosecute still thought the victim should to have a longer time to decide about supporting prosecution. "Instead of 24 hours, give me two days, three days." She preferred the Bronx policy, but "give me more time." (G2X-Vi)

Preference for Mandatory Filing

Despite the dissatisfaction with the Brooklyn strategy of prolonging the case among those who felt the arrest was a mistake, in both group interviews, the consensus was that the Brooklyn policy was preferable in general. In fact, 10 of 12 women who participated in the groups expressed a preference for the Brooklyn policy. The main reason is that they felt victims do not always know best: they are susceptible to empty promises of the abuser, and love can overwhelm their best judgment.

> G1X-Am:…I think the policy in Brooklyn is good because we still be in love and that's why it happens again and again and sometime we cannot answer for the next time…So I think the policy in Brooklyn is actually good even though I love my [partner] and I stayed with him. But when he did this to my eye and gave me stitches, I loved him too…-if they would've picked it up, I would not have minded...

A Bronx participant preferred the Brooklyn policy because she had had a second incident since the one captured in our data base. In the first incident, she had black eyes and bruises all over. She went to the hospital in an ambulance. Nonetheless, she signed the waiver and the charges were dropped. A few months later, there was another incident. Although it was less violent, she supported prosecution and charges were filed. She thought that if the first case had been prosecuted, the second incident wouldn't have happened.

A participant who supported the Bronx policy of allowing the victim to determine whether the case would be prosecuted still saw the need for exceptions: If the abuse is repeated and serious, then "Somebody needs to help me out." If it is the first incident, "just something that got out of hand," then it is "not fair for the guy and it's not fair for the woman to go through all that" (G2X-Vi).

One Brooklyn participant opposed prosecution and signed the waiver. While the case was still active because of the Brooklyn policy, she changed her mind because of a new incident of harassment and began to support prosecution.

> G2K-Arl: …after I signed the waiver, the girlfriend that he was with…decide that she was going to call ACS on me and say that I beat my kids up…I have to call back the lady that I was speaking to in the DA's office…

**Empowerment**

Giving Control to the State

In studies of prosecution policies, empowerment has sometimes been tautologically defined as having control over case outcomes or processes (e.g., see the definition of "court empowerment" in Finn, 2004). A case screening policy that is responsive to the victim's preference will obviously be more empowering under that operational definition but the question and answer become uninformative.

In the consideration of the policies presented in the preceding section, we found that the victims generally preferred a policy that did *not* give them veto power over prosecution, even though they recognized that it entailed yielding control to the state. As one participant put it, "…when people love each other, the feelings get conflicted…They have to investigate it to make sure that wasn't the case…" Another participant voiced the minority view that victims should have self-determination – "We have to be able as human beings to make our own designs about our lives" – and we should not expect the state to serve as "our mamas and papas."

As noted above, the participants felt that sometimes criminal justice officials know better than they the dangers of the situation; and felt that victims can be *too blinded by love* to see those dangers or to put their well-being first. Some of the victims in Brooklyn felt that the fact that the case was prosecuted indicated that he had a criminal history unknown to them but known to the prosecutor. That is, the prosecutor not only knew better, but knew more.

> G2K-Arl: …They can't tell me but here they are going forward. Why? Going forward because they feel that he is a danger to me and he only verbally harassed me and they are going forward…Now…I'm really nervous. What does he have in his background?…I am giving him my kids…They are little.

**Safety**

Safety emerged as a general theme related to criminal justice procedures, including prosecution policies, in the individual interviews. Therefore, it was a question that was explored in the group interviews. The groups were asked what safety meant to them and what would make them feel safe.

At the time that they were interviewed, 6 of the 11 Bronx individual interview participants and 11 of the 12 Brooklyn individual interview participants felt safe. In part, the greater safety that the Brooklyn participants felt had to do with the prosecution policy.

> K246: He knows what the consequences are…Yes, [I feel safe] because now I think he thinks before he goes there…Right now, I'm happy…If I feel like he is going to physically harm me, then I would have him arrested but I'm trying not to go down that road again. If I feel like he is going to harm me, that's it. He used his "get out of jail free card" already.

Generally, if the couple had ended the relationship but had children in common, resolution of visitation by the father created a sense of safety. However, this factor did not distinguish between the Bronx and Brooklyn participants: Five participants from the Bronx who had ended the intimate relationship but maintained the father's relationship with the child felt safe, and one

felt unsafe; similarly, 5 participants from Brooklyn who had separated and the father was having visits with the child felt safe, one felt unsafe and one was in hiding and had not permitted the father to have any contact with the child.

> K141: I let him see the baby. He comes over, buys him whatever he needs and that's it. He gives me money for the baby and whatever I need to buy for the baby, like pampers or milk…Everything is okay now… I am very satisfied with everything that happen[ed] and all the decision[s] I made during this problem…They [the DA's office] did a good job. Whatever they are doing they should keep it up.

> K260:..he only wanted visitation. [He took her to Family Court to get visitation.] He gets her every other weekend now…his niece…picks her up…Actually it is going well…I don't talk to him or see him.

Participants who remained in the relationship and said it was the first incident and the arrest was a sufficient deterrent also felt safe. One woman felt safer because she had learned about domestic violence. That knowledge helped her avoid the compassion trap that would have brought him back into her life.

Participants raised three points relevant to their safety: first, having an order of protection made them feel safer; second, not being informed of his release from detention made them feel unsafe; and third, follow-up by police and prosecutors made them feel safer.

<u>Order of Protection and safety</u>

On the whole, the victims felt that a longer term order of protection would make them safer and should be more strictly enforced, including one woman who felt that it would not necessarily protect her.

> G1K-Ken: I think if I drop it [the case], [the OP] still should continue at least for a year because you never know what's gonna happen.

> G2X-Bi: I would say like if you have already a reputation, to have like longer [order of protection] time instead of two, three months…

<u>Release from detention</u>

The time when participants were most likely to feel unsafe was immediately after the arrest. Most didn't know whether the defendant was released, and they were afraid he might be enraged and retaliate. None of the interview participants actually was harmed in this period, but they were fearful and concerned. They wanted notice that the defendant had been released, and they wished defendants had been held longer.

> K282: they told me they would call me and let me know when he was going to go before the judge…My biggest fear was that he would get out, I wouldn't know he's out, and he would come here. And I didn't know when he got out because they didn't call me. That's a scary thing.

Follow-up by criminal justice system

The women who received follow-up phone calls or visits from the police or DA's Office appreciated the concern and said it made them feel safer. Even a few women whose cases were dropped in the Bronx experienced such visits.

> X81: They came around two times and he was around. He said, 'What are they here for?'…But I was glad they did it…You know he found out that everything is serious, that it wasn't a little game.

A Brooklyn participant received follow-up calls from the ADA even though she had asked him to drop the case. She appreciated his concern: "…knowing that they care about my safety, so I felt safe."

Several victims who did not receive follow-up calls and visits would have felt safer if someone had checked up on them.

> K139: I think it would have been healthy if someone cared… It could have been from the courthouse. It could have been from the police station where we got arrested. It could have been from anywhere…from anybody who said I care.

**Access to Services**

Both DA's Offices aim to link victims with services, even if they do not support prosecution. In the Bronx, the interview with the ADA preferably begins with the victim meeting with a Safe Horizon advocate, and then proceeds with signing of the waiver. In Brooklyn, a rationale for filing the case is that the three month interval during which the case is pending offers an opportunity to link victims with services.

However, most of the Bronx participants said that they did not receive services (7 out of 11 individual interview participants), although some of them would have liked referrals.

> X344: I would like to know what services they got available, you know, even for him too.

> X346: I didn't get anything… I didn't gain any knowledge to any services that are out there for a woman that has been abused by a male partner.

Two women, one from the Bronx and one from Brooklyn, had not received services related to the instant case but had received services in another case when they supported prosecution. Both found the services useful, one psychologically (below) and another in terms of safety.

> X344: I've been there [to Safe Horizon] twice or three times. I went for counseling, I saw the lady. She interviewed me the first time and the second and she did it the third time I went back. Me and her talk a lot…
>
> Safe Horizon gave me everything…I went to classes there…she talked to me and make me feel okay. Otherwise I don't got nobody to talk to about how I feel being abused especially by my former husband. With her I got [a chance] to talk about it. It's been on my mind and bothering me.

Because we were concerned about potential bias in that Brooklyn has a Family Justice Center with multiple service providers on site and the Bronx does not, we specifically asked in the individual interviews whether Brooklyn participants had received services there. None of the 12 Brooklyn participants recalled being referred to the Family Justice Center. We learned, however, that the participants are often not aware of what services they are receiving or from whom they are receiving them. For example, we infer that one participant did make contact with one of the agencies represented at the Family Justice Center. She said that she met "a lady from the same floor as the DA" who later called her to inform her about child support and food pantries.

The interview participants from Brooklyn were not more likely to receive services. Note, however, that two Brooklyn individual interview participants were arrested on cross complaints and the cases against them were dropped in exchange for dropping the case against their abuser. Therefore, they did not experience the limited prosecution that is Brooklyn's policy and never even spoke to anyone from the DA's Office. In addition, two of the Brooklyn participants thought there had been no crime and opposed prosecution. They were not interested in services. Of the remaining eight, four received services and were pleased with them, including two who, importantly, resolved their visitation/custody cases with free legal assistance from family law practitioners specializing in domestic violence. A Brooklyn participant also highlighted the connection between domestic violence services and her sense of empowerment from feeling she can get her needs met as they arise.

> K246: If something like this were to happen again, I know I can get my locks changed. I know I can get counseling for my children if need be.

Of those who were offered few or no services, three Bronx participants and four Brooklyn participants mentioned the services they would have liked. Two said that phone counseling might have served them well because they could not access in-person counseling, and two mentioned that they would have liked their children to be offered counseling. Several participants wanted "anger management" for their partner. (See Chapter 6 for discussion of this point.)

**Intent to Prosecute Subsequent Abuse**

Seventeen of 23 individual interview participants said unequivocally that they would prosecute in the case of future abuse (nearly evenly divided between Bronx and Brooklyn participants). For those for whom the current incident was the first, another incident would tell them something about him.

> X81: Now if it happens again I will have him arrested, I will prosecute and get an order of protection. I would do everything…I have to show him that I mean business, this is it.

Four would support prosecution *only* if the abuse were very severe or life-threatening.

> K24: After the arrest, it depends on the circumstances…Press charges…if he … beat me up, I mean really bad…

> X315: If it was something that was really threatening my life or my daughter's life I think I would proceed with it.

**Impact of Police Actions**

It was our intent to analyze only the victims' experiences with and reactions to the prosecution policies. Inevitably, however, the elements of the criminal justice response are not distinct – especially from the victims' perspective. In addition to the two aspects of the police response mentioned above, both related to safety – follow-up visits from the police increasing the victim's sense of safety even when she opposed prosecution and informing the victim when the arrestee was being released from detention, two other aspects of the police response interacted with the prosecution policy. Victims who felt they were treated inappropriately by the police gave that as a reason for opposing prosecution, and a few victims noted that the police failed to collect evidence to allow prosecution without the victim's support.

<u>Police Response Influencing Victim's Opposition to Prosecution</u>

The victim's experience with the police at the time of the call can influence the attitude toward prosecution. In cases that would not have been selected for this study, the police response may have led the victim to support prosecution. (One participant said that the police officer talked to her in the precinct, strongly encouraged her to prosecute; although this conversation was uncomfortable for her, she felt he was "doing his job" and educating her.) The only cases that would be included in our sample would be those in which the police response discouraged the victim from supporting prosecution. One victim had a particularly egregious experience in which the police talked reasonably to the perpetrator and removed her from the home. She said they left her on the street at 2 am with a broken cell phone and no money, not even a ride to a relative's home where she could spend the night. She subsequently reported the incident at the precinct and the offender was arrested, but she said she was too upset to support prosecution and he was released.

<u>Limitation on Ability to Execute No-Drop Policy: Police failure to collect evidence</u>

Brooklyn and Bronx participants found shortcomings in evidence collection by the police, precluding prosecution without victims testifying.

> X346:...even if the district attorney wanted to go ahead with their own prosecution without my consent, what evidence would they have really? They never took pictures of me…I had a lump three inches high on the temple of my face. I had ice and I had

> blood all down my face and on my blouse…I took pictures of myself, with my own camera, of the bruises…but they didn't even know that.

Both of the Brooklyn participants who were arrested mentioned the need to utilize evidence to identify the primary aggressor and prosecute the primary aggressor only.

> K240: He [had] threatened to kill me...He went down [to the precinct] and told them a lie. He said I was harassing him and that he was afraid for his life from me, but it was all bogus. I told the police that I have the messages…he left me saying he was going to kill me… The detective said she could clearly see that [the offender's accusation] was bogus. She talked to her superiors…She told them I was seven months pregnant. They let me go six hours later from the precinct…

Despite the fact that the detective did not believe her partner's allegations, the DA filed charges against this participant and she was assigned a public defender.

> K240: When I told the police that I had [evidence], they told me to talk to my lawyer... The court gave me a lawyer …When I told my lawyer he said to tell the police.

## Summary and Conclusions

We remind the reader that our findings about victim experiences and preferences are based on a very small sample of victims in individual interviews and focus groups. The in-depth individual interviews gave us an understanding of the contextual factors influencing each woman's assessment of her situation and her choices. The focus group methodology in particular allowed us to probe victims' thought processes far more deeply than would have been possible through a survey approach. However, because of the small sample size, we have no guarantee that the victims who spoke to us are representative of the overall population of Brooklyn and Bronx domestic violence victims and, in fact, it is likely that one or both samples contained idiosyncrasies not present in the other sample. With this caveat in mind, we turn to major findings from the individual and group interviews:

- Preference for prosecution policies: Victims in the Bronx generally expressed greater satisfaction with the response of the district attorney's office in their own case. Yet, when asked a hypothetical question about the two policies, participants preferred the Brooklyn policy of limited prosecution – including, in most cases, both filing charges, which also provided an order of protection, and dropping the case after three months. However, there were some cases in Brooklyn in which the participant felt that no crime had been committed, the arrest was a mistake, and therefore prosecution perpetuated that mistake.

- Empowerment: a few participants felt the Brooklyn policy of filing charges regardless of the victim's preference was disempowering in that it deprived them of choice, and one felt that it would have endangered her life. Most, however, felt the prosecution should make the decision because the victims are torn between their attachment to the offender and their own sense that they have been wronged – they are too vulnerable to feelings of compassion, pity and guilt; also, they feel they are not the experts on such behavior.

They did feel that the prosecutors under both policies should exercise more discretion, distinguishing between cases of severe or repeat violence and those that were simply verbal altercations and in which no crime was committed.

- Safety: On the whole, victims from Brooklyn whose cases were prosecuted and who received orders of protection felt safer than victims who experienced the Bronx policy of not filing the case.

- Access to Services: We did not find that the victims in Brooklyn necessarily received more services – an important intent of the Brooklyn DA's policy. More victims would have appreciated being able to access services. For some, it was simply a matter of receiving appropriate referrals (not including the woman who lived in the Bronx and was referred to counseling in lower Manhattan that she could not access). Others would have appreciated follow-up by the agencies they reached out to, and others needed phone counseling because their schedule (work, school and childcare) made it difficult to access services.

- Intent to support prosecution in the future: Consistent with past studies, the vast majority of participants believed that they would report subsequent incidents and would definitely support prosecution in the future.

- Instrumental Use of the Criminal Justice System: The interviews with women in this study reinforce the fact that domestic violence victims approach the criminal justice process far differently than most other victims. Their concern for safety and other practical matters leads them to use the criminal justice system in instrumental ways. We and others have noted this difference as far back as 25 years ago (Davis and Smith, 1981). The tendency to use the criminal justice system for their own strategic purposes in controlling and curtailing the abuse can bring domestic violence victims into conflict with prosecutors who maintain policies that do not take victim wishes into account and who have other goals.

Among other findings that we did not set out to investigate but that emerged as important to the participants, one was the strong feeling that the interval following arrest – typically four hours but potentially 24 hours in the Bronx – was simply too brief for victims to make a rational decision about supporting or opposing prosecution. They felt they needed a few days to a few weeks to make the correct decisions.

We also found that when the police don't respond appropriately, or respond inappropriately, it sets off a chain of events that influences the victim's response to the rest of the process. Delayed arrest put victims at risk, most felt. They resented that the perpetrator could have been easily located but no effort was made to find him quickly. On the other hand, the delayed arrest convinced some victims that they had nothing to fear for the time being, because nothing had happened during the interval between the incident and the arrest. One woman saw her family destroyed because she had secretly reported the incident at the precinct, expecting that he would be arrested within a day or two. Over the next weeks, they began to put their family back together and he increased his child support. When he was arrested, he felt betrayed and the

relationship was ruptured. Women who were put out of their homes or who were arrested themselves naturally felt that the case had not been properly investigated or charged, and were therefore less inclined to call the police again or to cooperate with prosecution.

Although a small number of participants found the order of protection a serious burden that was disrupting their family life, half of the participants appreciated it or would have wanted one. We discovered there was a problem in that some participants did not understand that once the case was dropped, they would not be eligible for an order of protection. Some were able to secure an OP from the Family Court (three in the Bronx and two in Brooklyn), but others were not informed of this option, and some were not eligible for a Family Court OP.

Generally, not understanding the process and, moreover, not knowing what was going on with the case in Brooklyn or what was expected of them, was a source of dissatisfaction and disempowerment. In the same category, perhaps, participants were not always able to access services they wanted, including counseling on domestic violence.

These findings can generate recommendations not only in regard to prosecution policies but also in regard to other aspects of the criminal justice system and case processing, as well as to the role and practices of victim advocates. These recommendations will be provided in the final chapter.

Chapter Five

# The Cost Effectiveness of Alternative Case Screening Policies

## Introduction

This chapter provides a preliminary assessment of the cost effectiveness of the two different District Attorneys' (DA's) policies toward case screening. Policymakers are concerned with creating policies that are effective and have the desired effects. They are also concerned with fiscal responsibility. Allocating limited government resources, then, calls for a systematic approach to measuring both the costs and benefits of alternative policies.

Cost effectiveness analysis may provide insight into the evaluation of case screening policies. Clearly, a prosecutorial model of filing all domestic violence cases with the court is more highly resource-intensive than one of heavy case screening. Indeed, a common justification for the latter policy is that it is an effective use of limited prosecutorial resources. To proceed without victim testimony requires gathering witness testimony, photos of injuries, 911 tapes, and other evidence. Gathering this evidence is expensive and adds to the time and total resources the state must invest in its domestic violence caseload (Davis, Smith & Davies, 2001). Filing cases with the court and then letting them lapse after three months, unless the victim changes her mind or there is substantial evidence independent of victim testimony, utilizes district attorney, police and court time, in the interest of keeping the defendant returning to court periodically and providing the victim with a protective order for a period. Cost effectiveness analysis can help to assess whether this greater investment of resources can be justified in terms of producing greater benefits per unit cost.

This chapter focuses on the differential costs and benefits of the Brooklyn and Bronx case screening policies. Costs are evaluated in terms of the time devoted by various government actors—prosecutors, judges and other court staff, police, and public defenders. Benefits are evaluated in terms of reductions in offender recidivism. (Benefits to victims are indicated by the qualitative interviews but cannot be quantified.) Since our analysis did not demonstrate statistically significant differences in recidivism rates (see Chapter 3), a full cost effectiveness analysis cannot, strictly speaking, be conducted, as there is no differential effectiveness in the policies in reducing new domestic violence cases reported to the police. Consequently, our analysis focuses on the differential costs between the Brooklyn and Bronx DA's policies.

It is critical to emphasize that there are significant limitations on what our analysis can achieve. Most important, Brooklyn's case screening policy is not justified solely, or even primarily, in terms of reduced recidivism; we are unable to quantify benefits such as enhanced victim safety, greater willingness to report future instances of abuse, and greater linkages of victims with needed services while their case is pending. There are other limitations, as well, which will be discussed. The analysis should be considered

preliminary and understood to provide only broad guidance in assessing the relative efficacy of different case screening policies. In the concluding section of this chapter, we provide suggestions as to how a more definitive cost effectiveness analysis might be conducted.

## Cost Effectiveness Analysis

The primary purpose of our cost effectiveness analysis is to determine the relative efficacy of the Bronx and Brooklyn District Attorneys' policies in screening domestic violence cases. Cost effectiveness analysis allows one to compare different resource allocation options in like terms. In other words, it allows decision makers to compare "apples to apples" (Levin & McEwan, 2001).

Determining the cost effectiveness of differing case screening policies is a complex undertaking. First it must be determined whether one policy or another is producing the desired benefits. Second, the costs of the implementation of the policies must be determined. An initial step, then, is to select an outcome to represent policy effectiveness. Although most policies aim to achieve multiple benefits, typically one key outcome is chosen for analysis. Here, offender recidivism within six months following the original arrest is the key outcome of interest.[16]

In calculating a policy's costs, one must choose a perspective. Different costs are included in the analysis depending on its perspective. Our analysis focuses on the costs incurred by DA staff, judges, and public defenders, but excluding costs of police officers and victim program advocates. A broader societal perspective could focus on other costs as well. For example, there are costs incurred by defendants and victims traveling to and from DA's offices and court, and/or for lost time and work. Since these costs are not, however, incurred by government, they are not included in our analysis. A more equivocal exclusion in the case of domestic violence is the support services provided to victims. Some advocates actually are employed by the DA's Office and therefore figure in the DA's budget and are government employees. Other services are provided by private non-profit domestic violence agencies; although they may be given space in the DA's Office and/or complaint room, work closely on cases with prosecutors and even figure prominently in the DA's strategy for prosecution, they are not in the budget and are not government employees.

Differences between the policies' costs and their effectiveness are measured by determining the incremental cost effectiveness ratio (ICER). Policies with a lower ICER are considered relatively cost effective. The ICER of the Brooklyn to Bronx case screening policies can be calculated as follows:

$$(C_{Br} - C_{Bx})/(E_{Br} - E_{Bx}) = IC_{BrRx}/IE_{BrBx} = ICER_{BrBx}$$

[16] Note that recidivism is the only policy benefit that can be quantified in this study.

$ICER_{BrBx}$ indicates the marginal cost of achieving one less re-arrest in Brooklyn relative to the Bronx.[17] However, since there is no differential effectiveness between the two boroughs' policies, as measured by offender recidivism, the incremental cost effectiveness ratio cannot be calculated, meaning a full cost effectiveness analysis is not feasible.[18] Consequently, the remainder of this chapter focuses on the differential costs of the Brooklyn and Bronx policies. We examine how much more time is devoted to cases in Brooklyn compared to similar cases in the Bronx, and assess the cost implications of this differential resource allocation.

## Method

The cost analysis is designed to measure, from intake to dismissal with uncooperative victims in Brooklyn and from intake to the decision to decline prosecution (DP) in the Bronx, each of the following:

- Court time and activities;
- ADA time and activities;
- Police time and activities; and
- Public defender time and activities.

We originally hoped for ADAs and other staff to track the time devoted—in and out of the courtroom—to a sample of cases chosen by the research team (particularly in Brooklyn, where cases may be kept open for several months). This approach proved unfeasible, however, as several staff from the DA's offices expressed concern that they would be unable to accurately track time devoted to specific cases. Staff noted that they are often unexpectedly called upon to put in time on a case for short periods (10-15 minutes) while also working on other cases, and that it would prove difficult to record those times. It was also noted that several staff not assigned to a case might still assist in various ways (e.g., filing paperwork, speaking with a victim) and that this would go unrecorded. Since our original approach proved unfeasible, we relied on the following data collection methodology.

To estimate court time and activities, court observations were conducted in Brooklyn. (Since cases of interest were not filed with the court in the Bronx, by definition no court time was expended.). Specifically, a research assistant examined an arraignment part and a domestic violence part in the Brooklyn Criminal Court (all domestic violence cases in Brooklyn are transferred to specialized domestic violence parts after arraignment). The research assistant was present in the courtroom prior to the judge taking the bench and remained until the conclusion of court at the end of the day. During that time, a court observation form was used to record the start and end time of each appearance as well as the adjournment date. We observed each courtroom twice to reduce the possibility of observing an atypical day in each part. (We did not observe a second Domestic Violence Court part with a different dedicated judge or the Integrated Domestic Violence Court,

[17] Unlike cost-benefit analysis, cost effectiveness analysis does not assign a monetary value to recidivism reductions.

[18] Mathematically, because there is no difference in the policies' effectiveness, the denominator of the ICER equation is zero. ICER cannot be calculated, then, as it is impossible to divide by zero.

which has civil and criminal authority.) The court we observed can adjudicate misdemeanors and violations only. Felony cases are transferred to the Supreme Court Domestic Violence Court.

The vast majority of time devoted to domestic violence cases occurs out of the courtroom. Given the difficulty in estimating out-of-court activities, we rely on a strategy of triangulation—drawing on evidence from various methods and sources to overcome the weakness and biases that come from single method approaches (see Yin, 1984). Specifically, evidence is taken from:

- Interviews: Members of the research team interviewed key staff from each borough's DA's office about the case screening process and in Brooklyn about the subsequent prosecution of domestic violence cases. They were asked to describe, in detail, the activities they undertake and to estimate the amount of time devoted to each of these activities in domestic violence cases where the complaining witness is uncooperative. Police officers and public defenders were also interviewed.
- Direct Observation: Researchers observed the complaint room in both the Brooklyn and Bronx Criminal Courts.[19] We were also able to observe, with the complaining witness's permission, an intake interview conducted with a complaining witness in the Brooklyn DA's office.
- Official Data: In some instances, official data were used to calculate measures of interest and/or to corroborate evidence taken from other sources.

While we employ a triangulation strategy whenever possible, estimates of out-of-court time and activities rely heavily on interview data (often, this was the only feasible strategy). Self-reported estimates of time use can be of questionable validity (see, e.g., Juster, Ono and Stafford, 2003) and, as will be seen, vary across individuals and depend on the specific circumstances of a case. Thus, time and therefore cost estimates for various activities vary widely.

[19] Complaint room observations were conducted only during weekday business hours. Since complaint room staffing and case volume can vary (sometimes considerably) between weekdays and evenings and weekends, our ability to make inferences about evenings and weekends is limited.

## Staff Time and Activities

### Court Time

Time spent by officials in court appearances includes arraignment and typically several adjourn dates. At these court dates, time is spent by judges, court clerks and other court officers and to ADAs and defense attorneys. Since a large majority of cases in Brooklyn without complaining witness cooperation were ultimately dismissed—only 5% of our sampled cases resulted in a conviction (see Chapter 3) and no trials were conducted—we assume for this analysis that court time in Brooklyn cases consists of the arraignment as well as subsequent court appearances prior to dismissal.

Based on the court observations, court time devoted to cases on a dismissal track was estimated. The estimates were based on the average number of minutes per court appearance. The average number of appearances per case, post-arraignment and prior to dismissal, is estimated based on adjournment dates.

Because there is no specialized domestic violence arraignment part, observers saw arraignments on both domestic violence and other types of cases. Nevertheless, analysis indicates that court time devoted to domestic violence and other cases does not differ.[20] The mean length of court time expended per arraignment in domestic violence cases (n=15) is 2.67 minutes and the mean length of time devoted to each arraignment in all cases—domestic violence and other (n=78)—is 2.77 minutes. There is no significant difference in these figures; 2.67 minutes was used to calculate mean arraignment length.

To calculate the time devoted to post-arraignment court appearances, we rely on a cross-sectional methodology that integrates data from our sampled cases in Brooklyn with time estimates based on court observation. Our sample of cases indicates that the mean time from arraignment to disposition in Brooklyn is 113 days, or 16.14 weeks (see Chapter 3). In our court observation of Brooklyn domestic violence part, cases (other than those dismissed at the current appearance) were adjourned for, on average, 5.5 weeks from the date of the current appearance.[21] Therefore, the data suggest that, on average, there are 2.2 post-arraignment court appearances prior to dismissal (16.14/5.5)

Court observations also indicated that the mean length of post-arraignment court appearances in the domestic violence part is 2.2 minutes, meaning that post-arraignment court time devoted to cases that ultimately end in dismissal is, on average, 6.49 minutes (2.2 minutes X 2.94 appearances). Therefore, the mean total court time, including both

[20] There are no charges specific to domestic violence in New York State statutes; therefore, charges will be identical to those crimes committed by acquaintances and strangers. Domestic violence cases are identified solely on the basis of the relationship between the victim and offender.

[21] The Brooklyn DA's office's preference is for defendants to appear in court on approximately a monthly basis during the time in which the case is active. Our observations suggest appearances occur slightly less frequently.

arraignment and subsequent appearances, is estimated at 9.16 minutes per case (2.67 minutes at arraignment + 6.49 minutes for other appearances).

Court time represents only a small percentage of the total time devoted to domestic violence cases in Brooklyn. Other out-of-court activities account for the vast majority of the overall time in these cases in Brooklyn and, by definition, the Bronx where there is no court time.

**DA's Office (Out-of-Court)**

The vast majority of the differential between the boroughs in time devoted to domestic violence cases occurs in the DA's office outside of formal court appearances, with considerably more time devoted to each case by the Brooklyn DA's office. This differential naturally reflects Brooklyn's policy of continuing the case as long as possible, with or without victim cooperation, versus the preference in the Bronx DA's Office to decline prosecution at the victim's request as long as the victim is not being coerced, threatened, or intimidated into asking the DA to drop the case. This section describes the DA's Office out-of-court activities, both according to policy and to observed practice. The following discussion relies heavily on interviews with staff in both DAs' offices and on observation of complaint room activities and a victim interview (the last only in Brooklyn).

Both in the Bronx and even more so in Brooklyn staff emphasized that the time and activities undertaken in cases depends to a great extent on the specific circumstances of the case. Therefore, time estimates vary considerably. Circumstances that trigger a greater or lesser investment of time are discussed below.

<u>The Bronx</u>

The Bronx DA's office devotes considerably less time than Brooklyn's to the cases of interest (by definition, since our study focuses on cases that the DA's Office in the Bronx declined to prosecute). The Bronx policy is to decline to prosecute the case at the victim's request, if the victim is not being coerced, threatened or intimidated into dropping the charges. To ensure that the victim is opposing prosecution of her own free will, the Bronx DA's Office —unlike Brooklyn's—requires that victims who wish the DA to drop charges appear in the complaint room in person (the arresting office or detective is also required to appear). Exceptions are made in extenuating circumstances—one ADA gave the example of a victim who had a sick child.

The DA's office attempts to bring in the victim immediately following the arrest. The arresting police officer usually calls the victim (although sometimes the ADA or a victim advocate will make the call)—calls average 10 minutes in length— or brings the victim to the complaint room immediately following the defendant's arrest.[22] The police

[22] In one precinct in the Bronx, the victim can communicate with the ADA via videoconferencing, and there is a Safe Horizon advocate on site in that precinct. The waiver of prosecution is then faxed to the precinct and signed, and then faxed back to the ADA. The waits were often longer at the precinct until a

officer may send a squad car to the home if the victim cannot be reached by phone. Outreach continues for an average of 4 hours after the case comes into intake. If the victim cannot be located, then the ADA may decline to prosecute for that reason. Sometimes, the police officer tells the ADA that the victim will be in on a particular day at a particular time, so the ADA will wait for the victim to come in to decline the case.

When victims do come in, there is an interview in which the ADA attempts to determine whether the victim is in danger, whether she has been intimidated or coerced into dropping charges, and the history of violence.[23] The victim is required to explain why she wishes to drop the charges and is informed that, if the case is not prosecuted, an order of protection will not be issued and the case cannot be brought at a later time.[24] ADAs estimate that interviews last anywhere from 45 to 90 minutes. The interviews may be conducted by either an ADA or other complaint room staff. Who conducts the interview is based completely on practical considerations—which staff are in the complaint room at the time, caseload pressures, and so forth.

All complainants are also required to go to Safe Horizon and speak to an advocate. The arresting officer is required to escort the victim to Safe Horizon's office and to bring the arrest report. The advocate explains the court process and legal remedies to the victim, explores safety issues (sometimes uncovering additional risks or violence not included in the police report that can be communicated to the prosecutor with the victim's signed consent) and provides safety planning information. The goal is also to provide the victim with access to services even if the case is dropped.

In our interviews, several ADAs and other complaint room staff reported that they try not to decline prosecution within 12 hours of the arrest, but of the cases that are declined, most if not all are decline within the 24-hour arrest-to-arraignment period. Decisions to DP require approval of a supervising ADA.

Brooklyn

As noted previously, the policy in Brooklyn is to continue the case as long as possible with or without victim cooperation. Ultimately, if the victim does not support prosecution, the case generally is dismissed, as demonstrated by data presented in Chapter 3. The DA's Office has 90 days after arraignment to indicate readiness to prosecute on a misdemeanor—the most common charge—and they try to keep the case

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system was instituted to prioritize cases by time of arrest, in order to avoid violating the law that requires arraignment or dropping charges within 24 hours of arrest.

[23] Staff report that cases in which the complainant is present are given precedence, and that they attempt to conduct the interview within two hours of the complainant's arrival. Our observation of the complaint room suggests that interviews often, but certainly not always, happen within two hours. Note also that we observed on a light day. Since we observed victims waiting longer than 2 hours to talk to the ADA, we assume that at times of heavier traffic (nights and week-ends) waits may be longer. In our database, we have notes that two victims waited longer than 2 hours then left without speaking to the ADA.

[24] Charges against the defendant may be refiled, although this technically represents a new case. The current alleged incident of abuse, however, may be included in the new case.

going for the full 90 days.[25] Various things can happen to extend the legal time limit beyond 90 days and, in rare cases, the victim will prevail on the DA's Office to drop sooner than 90 days after arraignment.

Domestic violence cases that arrive in the complaint room are among the most time-consuming, due largely to the reluctance of many victims to pursue prosecution and cooperate with the DA's office. Complaint room staff engages in various activities in these cases:

- Attempting to convince victims not to drop the case and to cooperate with the prosecution. To encourage cooperation, the staff offers victims incentives in the form of services (from the agencies affiliated with the Family Justice Center, which may range from housing help and securing public assistance to civil legal assistance and services in a wide range of languages). Staff use these inducements to focus victims' attention on the benefits of prosecuting.
- Obtaining relevant information from the victim—the nature of the relationship with the defendant, past history including previous DV events, etc.
- Searching databases to obtain criminal history information on the defendant to inform the prosecution strategy.

Cases are rarely, if ever, dismissed in the complaint room. There is a need to identify and track down the arresting officer, speak with supervisors to review the case, find evidence, etc. These efforts are undertaken by the Domestic Violence Bureau, not by the complaint room staff. These activities typically occur after the case is transferred to the Domestic Violence Unit, following arraignment. Any specific action on the case other than filing would not be initiated before the transfer to the Domestic Violence Bureau, unless there is a paralegal or victim advocate specializing in domestic violence in the complaint room. Because they occur later in the process, interviews and information requests are generally conducted by telephone rather than in person. Neither the victim nor arresting officer is required to come to the complaint room.

If the victim is reached from the complaint room, attempts are made to get as much contact information as soon as possible, particularly in domestic violence cases where victims may initially be willing to cooperate with the DA's office, but at a later time become more reluctant. Staff estimate that most complaint room interviews and investigations range anywhere in length from 15 minutes to as long as 2 hours.

As soon as possible after the case reaches the DA's office, Domestic Violence Bureau staff attempts to encourage the victim to sign a supporting deposition. The victim may sign a waiver of prosecution, but the case is unlikely to be dropped just because she signs a waiver. Because Brooklyn does not require the victim to go to the complaint room or police precinct (as is the case in the Bronx) and complaint room staff may not reach the

[25] Misdemeanors are by far the most common arraignment charge, so the 90-day limit in practice is most common. If the charge is an ordinance violation, the DA's Office has 60 days to proceed with the case before the judge will dismiss it. If the charge is a felony, the DA's Office has 6 months to bring the case to trial or dismiss the charges. In practice, under the Brooklyn policy, there is a 60 day window for violations and a six month limit window for felonies for the victim to corroborate the charges.

victim by telephone, the ADA or, more often, a paralegal conducts continued outreach to the victim. This outreach is conducted through phone calls, each lasting 10-30 minutes, in which the goal is to have the victim come to the office to meet with a paralegal and/or ADA and a counselor from the Domestic Violence Bureau. Paralegals reported to us that they attempt to be encouraging, offering programs and services to encourage victims to support prosecution. Because the victim may not be reached or may be reluctant to come in, staff estimate that 3-6 phone calls, on average, are made (total time: 30-180 minutes). Note that, if the paralegal is successful in reaching the victim, the ADA is then able to sign the complaint or deposition, but the complaint or deposition is temporary because it is based on hearsay evidence. Eventually, the victim needs to come in and sign the corroborating affidavit; if not, the DA's office usually will dismiss the case.[26]

If the victim cannot be reached after three phone calls—which take place approximately over the course of a week—an ADA will then attempt to reach the victim by mail, sending a "come see me letter" (most often written by a paralegal). If there is no response to the letter, the paralegal may make one more phone call to the victim before going to the bureau chief to discuss the case. At this point, a detective investigator often takes over the case. Detective investigators often devote as much or more overall time to a case than any others in the DA's office because their typical responsibilities—tracking down victims and other witnesses, conducting home visits, and so forth—are among the most time consuming.

If a victim does not come to the complaint room (as is often the case), the detective investigator (DI) may be the first contact a victim has with a criminal justice agent since the police took the initial report. The DI attempts to reach out to the victim, in most cases initially by phone. If the victim cannot be reached by phone or does not return the call, the DI will then often show up at the victim's home (or a shelter). The DI may need to canvas a building, often for several hours, waiting for an uncooperative witness. When the victim is reached, the DI generally offers services to the victim, and attempts to learn about what services (e.g., drug/alcohol treatment, mental health services) the defendant might need. The goal is to gather relevant information about the case and to break down walls, persuading the victim to open up and cooperate with the investigation. As one detective investigator told us, the DI attempts to find out "what the problem is and what [the victim] is thinking."

In addition to victim outreach, the DI's other responsibilities include speaking to family members, witnesses, and others as well as locating videotapes and other physical evidence that might shed light on the case. These various activities can be very time consuming—estimates ranged from 5-6 to as much as 10-12 hours over the life of the case. The Bronx DA's Office reports that they do not use detective investigators, for whom there would be no role if the case is dropped within a day of arrest.

As for ADA's, estimates are that they devote about 4-5 hours per week during the first two weeks of an investigation (8-10 hours total), which is the most time-intensive period for ADA's. Obviously, if the victim does not come in until several weeks after the

[26] On rare occasion, the arresting officer will sign the complaint.

case begins, an ADA will devote time to the case during the later period. The investigation could entail a variety of activities, although not all are undertaken by ADA's—as noted above, detective investigators or occasionally paralegals may be involved. These activities could include home visits, ordering tapes of 911 calls, contacting the police precinct and speaking to officers who first arrived at the scene or made the arrest, and bringing in the person who called 911 (if not the victim).

Also, as noted above, some cases require more time than others. ADAs and other staff, when pursing a case, look for red flags that may indicate a problem requiring a more in-depth investigation, hence a greater investment of time. These red flags include cases in which the victim is ambivalent about revealing information, those involving vulnerable populations (for example, victims with disabilities or where there is a language barrier), evidence of a weapon used in the crime, a prior criminal record for the defendant, defendants with multiple prior DIR's, and so forth. One ADA suggested that the more serious cases—for example, those involving considerable physical injury—often are dealt with more quickly than less serious ones, because staff can reach decisions about whether to pursue an evidence-based prosecution faster.

**Police Officers**

The Brooklyn and Bronx policies may produce differences in the time devoted by police officers to cases with complaining witnesses. Since few cases go to trial (indeed, there were no trials in our Brooklyn sample and the Bronx sample consisted exclusively of cases that were not prosecuted), time is not accrued through court testimony. However, it does appear that the Bronx policy of requiring the arresting officer to appear in the complaint room, and to locate and bring in the victim, means that officers devote more time to cases ultimately declined for prosecution in the Bronx than do officers in Brooklyn (where the case will be prosecuted) where a complaint room appearance and interview with the ADA are not required. In addition, the arresting officer will send a squad car to the victim's home to look for her if the arresting officer cannot reach her by telephone. It is much more likely that the time in the complaint room following an arrest will result in overtime pay for police officers in the Bronx than in Brooklyn, where follow up is conducted by telephone with the officer during the officer's duty hours. The requirement in the Bronx is related to its overall case screening policy—cases are declined only after it is clear that the victim is not being intimidated and that the abuse is not severe, and this determination requires the arresting officer to bring the victim in, present the arrest report and speak with an ADA.

In the Bronx, the burden is on the arresting officer to find the victim and bring her to the complaint room. Officers in the complaint room often wait several hours for an ADA interview and/or for the complainant to appear. In interviews, several staff told us that the processing time, hence the wait time for police officers, varies considerably depending on several factors, including case volume (which varies by day and is heaviest between Wednesday and Friday), time of day (fewer ADAs typically work evening shifts), and whether the complainant is present at the time. Estimated waiting time for police officers—based on interviews with police officers and complaint room staff, and

corroborated by our observations in the complaint room—varied between 2 and 5 hours.[27]

In Brooklyn, complaint room staff and/or ADAs most often speak with officers by phone, via conference calls which the officer can conduct from the precinct during regular duty hours. While the evidence suggests differences in how long officers devote to cases in the Bronx vs. Brooklyn, the time, and therefore cost, differential between the boroughs cannot be safely estimated. Of particular note is that we lack estimates of the percentage of cases of interest in Brooklyn in which the arresting officer appears in the complaint room. (Such appearances would not be part of the Brooklyn DA's Office policy, and would not necessarily replace the telephone interview with the police officer conducted by the ADA from the Domestic Violence Bureau. In a sense, such visits to the complaint room would be spurious or noise in relation to the Brooklyn policy on domestic violence cases, but presumably notes would be made by the ADA in the complaint room if the officer were interviewed.) These appearances would require additional time of the officers on top of the telephone interview, adding to the time and costs. Unlike in the Bronx, however, arresting officers going to the complaint room in Brooklyn would not have to spend hours waiting for and trying to locate the victim and presumably would rarely be required to stay into overtime hours as they often do in the Bronx. Although we are unable to quantify the differences, the Bronx approach does appear to require a greater investment of police officer time than does the Brooklyn approach. Costs would also be higher because complaint room waits are likely to trigger overtime pay for officers and in some percentage of cases the additional cost of sending two additional officers to the victim's home in a squad car.

**Public Defenders**

Public defenders devote little time to cases declined in the Bronx and similar cases in Brooklyn that would have been declined in the Bronx. In the Bronx, since prosecution is declined prior to arraignment, a public defender would do little more than have a brief conversation with the defendant (assuming the defendant is assigned counsel prior to the decision to DP).

Because similar Brooklyn cases are kept open longer, public defenders in that borough obviously devote more time to cases, although the time investment is limited. Since defence attorneys in Brooklyn, like those in the Bronx, typically have a brief conversation with the defendant prior to arraignment, the differential time investment between the boroughs consists of:

- *In-court time*: Time devoted to arraignment and subsequent court appearances, as estimated above.
- *Post-arraignment out-of-court activities*: Defense attorneys engage in out-of-court activities as well—principally speaking with the defendant (and perhaps the

[27] Staff told us that the caseload was relatively light on the day in which we observed the Bronx complaint room (Wednesday during daytime hours). It would be much higher at night and on week-ends, when there are more cases coming in but fewer ADA's working. Therefore, the wait for officers to present their case will be longer.

victim as well); examining cases files such as police reports; and preparing for court appearances. Interviews with defense attorneys indicate that this time investment, and thus the cost incurred, is minimal, at an estimated 2-3 hours over the life of the case. Because trials are rare, public defenders generally spend little time on the case prior to the dismissal.

## Cost Implications

Brooklyn's prosecutorial model entails a greater investment of time, hence cost, than the Bronx policy of heavy case screening. Table 5.1 summarizes the estimated annual differential in time devoted to cases with uncooperative complaining witnesses by various government actors—ADAs, judges and other court staff, and public defenders—for whom we could quantify the cost implications. For these actors, the additional time devoted to cases under the Brooklyn model results in an overall greater investment of approximately $881,000 per year compared to the Bronx model.

Most of the additional time and costs are accrued in the DA's office, where Brooklyn devotes considerably more time to victim outreach and pursuing prosecution. (We were unable to obtain reliable salary information for several DA's office employees—e.g., paralegals, counselors/advocates, detective investigators—who devote substantial time to cases in Brooklyn and little or no time in the Bronx. Our estimates, then, appear to understate the additional costs of the Brooklyn model to DA's offices.)[28] The costs to judges and other court staff are relatively minimal, since there are few trials and court appearances are quite brief. Recall that our analysis suggests that police officers devote more time under the Bronx than Brooklyn model, however we are unable to quantify the cost implications of this difference.

## Table 5.1: Time and Cost Estimates: Brooklyn and Bronx*

| **Staff** | **Brooklyn Time Estimate (Per Case)** | **Bronx Time Estimate (Per Case)** | **Time Differential (Per Case)** | **Estimated Annual Cost Differential (Brooklyn – Bronx)** |
|---|---|---|---|---|
| | | | | |
| 1. **DA's Office** | | | | |
| Supervising ADA | Few minutes | Few minutes | 0 | 0 |
| ADA<br>In-court time<br>Out-of-court time<br>*Total* | <br>9 minutes<br>7 hours | <br>0<br>1 hour | <br>9 minutes<br>6 hours | <br>$15,106<br>$604, 248<br>*$619,354* |
| Paralegal | 2 hours | 0 | 2 hours | NA |
| Counselor/Advocate | 1 hour | 0 | 1 hour | NA |

[28] Those for whom we were unable to obtain salary information are not line staff and, according to the DA's office staff, salaries for these positions often vary considerably. For this reason, we were unable to produce estimates in which we had confidence, and chose not to attempt to quantify the salary implications for these roles.

| | | | | |
|---|---|---|---|---|
| Detective Investigator | 8 hours | 0 | 8 hours | NA |
| | | | | |
| 2. **Judge and Court Officers** | | | | |
| Judge | 9 minutes | 0 | 9 minutes | $31,990 |
| Senior Court Clerk | 9 minutes | 0 | 9 minutes | $14,218 |
| Court Officers (2)[a] | 9 minutes | 0 | 9 minutes | $19,549 |
| Senior Court Officer | 9 minutes | 0 | 9 minutes | $11,552 |
| *Court Personnel Total* | | | | *$45,319* |
| | | | | |
| 3. **Public Defender** | | | | |
| In-court time | 9 minutes | 0 | 9 minutes | *$15,106* |
| Out-of-court time | 2 hours | 0 | 2 hours | $201,416 |
| *Total* | | | | *$216,522* |
| | | | | |
| **Total Cost Differential** | | | | **$881,195** |

[*]Cost estimates are derived using an estimate of the number of cases with uncooperative complaining witnesses filed in Brooklyn in 2006. This number, and the estimated time devoted per case across boroughs (where a range of time estimates emerged, the average was used in calculations), allowed us to compute an annualized estimate of the differential time per year devoted to cases in Brooklyn that likely would have been dismissed in the Bronx. For each of the government actors in the table above, hourly rates were calculated using annual salary information obtained from various sources. Hourly rate calculations assume a seven-hour work day and 249 day per year calendar (New York State courts are open 249 days per year—365 days in the year minus 104 weekend days and 12 court holidays.)

[a]Two court officers staff each of Brooklyn DV parts.

## Sensitivity Analysis

Time and cost estimates are subject to uncertainty. The possible lack of accuracy in the estimates can be attenuated by the use of a sensitivity analysis, which determines if plausible variations in the time estimates affect the results. While measurement error would not change the overall conclusion of the cost analysis (Brooklyn's policy is clearly more time-intensive than the Bronx's but demonstrates no reduction in recidivism), such error could affect calculation of the precise cost differential across boroughs.

The first step in a sensitivity analysis is to identify parameters that may be subject to error and capable of significantly affecting the cost calculations. Here we focus solely on time (and not salary) estimates, since our estimates of time devoted to cases, particularly among staff in DA's offices, often varied widely. The second step is to select high and low time estimates, and calculate the cost implications of each. We varied the time estimate parameters by +/— 20% for each government actor. The sensitivity analysis indicates that the total annual additional cost devoted to cases under the Brooklyn model ranged from $730,547 to $1,095,821. While the analysis demonstrates that the cost differential is sensitive to variation in time estimates, the variation does not affect the findings to any significant degree.

## Cost Analysis Limitations

There are significant limitations to what this cost analysis can achieve. Most important, we were to quantify potential benefits only in regard to convictions on the initial case and recidivism reductions. Several outcomes central to the justification of Brooklyn's policy to pursue all cases are not quantified (although we have suggestive qualitative data on some of these points), including enhanced victim sense of safety, victim willingness to report instances of future abuse, and a greater opportunity for the victim to access services. While the victim interview findings presented in Chapter 4 speak to these issues, we do not have survey data with a large and representative sample of victims, nor do we have longitudinal data to look at the long term effects on arrests and victim reporting of new incidents.

In addition to examining a limited range of policy benefits, not all costs associated with the two borough's case screening policies could be quantified at this time. There are additional costs associated with domestic violence case screening and prosecution that have not been quantified. These include, for example, court administrative costs to notify attorneys of cases, to notify defendants of attorneys, and transportation costs for detective investigators to make home visits. (In both counties, the police sometimes make follow-up visits to check up on victims who have opposed prosecution; these costs are not relevant to the prosecution policy.) We were unable to quantify the police time per case in each borough, which is probably higher in the Bronx, and we did not include time of advocates whether they worked for the DA's Office or for a private non-profit organization. In domestic violence cases, victim advocacy is a large part of the time spent on cases and the potential benefit.

Finally, there are limits to our data collection methodology. Save for in-court time estimates, there was heavy reliance on interview data and, in several instances, we were unable to corroborate time estimates from interviews with data from other sources. This lack of confirmation does raise concern about the accuracy of our time and cost estimates. An alternative approach—one we had hoped to employ—would rely on a longitudinal design to examine samples of cases in each borough. Ideally, ADAs and other staff would track the time, both in and out of the courtroom, they devote throughout the life of the cases. While this approach proved infeasible in our study, the possibility remains to adopt such a design in future research.

## Recommendations for Future Research

Beyond improved data collection, we have several other recommendations for future research that could build on our preliminary assessment and provide a definitive analysis of the cost effectiveness of varying case screening policies:

- Evaluate a broader array of policy benefits beyond conviction rates and recidivism reductions. In particular, systematic data collection of victim safety, services received, and satisfaction with case processing can allow for a thorough assessment of many key justifications of a prosecutorial model of filing all domestic violence cases with the court.

- Collect more and a wider array of both cost and outcome information. Linkages could be made with non-criminal justice issues—for example, reduced battering, if demonstrated, may reduce health care and other costs. Non-governmental staff should also be included in cost analysis, since they play an integral role in the prosecution (screening cases in the Bronx, reaching out to victim in Brooklyn, assessing and insuring safety, etc.). In short, future research should reflect the broadest possible perspective.
- Adopt a longer time horizon and examine outcomes, including recidivism reductions, beyond 6 months.
- The six-month results indicate a slightly, although not significantly, lower re-arrest rate in Brooklyn. It is possible that, with a larger sample size and greater statistical power, statistically significant results might emerge (whether such a benefit, if found, would prove cost effective, of course, is another matter).
- Include non-governmental staff time especially that of victim advocates relied upon by the DA's to access victims, screen cases, and ensure safety.
- Compare a wider range of policies, such as evidence-based prosecution and those that compel uncooperative victims to testify.

## Summary

Since Brooklyn's prosecution policy does not produce a statistically significant reduction in recidivism, as measured by 6-month re-arrest rates, it is by definition no more cost effective than the Bronx's policy of heavy case screening. Indeed, our analysis suggests that while recidivism is not reduced under the Brooklyn model, it does impose greater overall costs, in terms of time, for various actors. These differential costs are concentrated in the DA's office, where Brooklyn devotes considerably more time to victim outreach and pursuing prosecution. Costs to judges and other court actors, while greater in Brooklyn, are minimal, given the lack of trials and brevity of arraignments and other court appearances. Only police officers appear to devote more time under the Bronx model, although we were unable to quantify the cost implications of this difference.

At the same time, Brooklyn's costs per case are much lower than they would be under other variants of mandatory prosecution policies where a serious attempt is made to convict the defendant despite continuing opposition of the victim to full prosecution. Under a strict evidence-based policy, there would be additional time required of prosecutors, detective investigators and police officers to issue, serve and enforce subpoenas (e.g., for medical records); police officers and witnesses would be brought in to testify and court costs would increase. Under a mandated victim participation policy costs per case would also be higher, in that police and prosecutor time would be spent subpoenaing the victim and bring her in to participate in prosecution, on top of extensive evidence collection, and there would again be court time for testimony, this time including the victim's. Presumably, however, under both policies, these resources would be expended on a more limited number of cases than under the Brooklyn mandatory filing policy. As well as the costs, the benefits – or absence thereof – from these no-drop policies, in terms of conviction, recidivism and victim safety and empowerment, are likely to be different from those of the mandatory filing policy.

Another relevant point in regard to the relative costs of the Bronx's heavy case screening policy – almost 40% of domestic violence cases in recent years – in comparison to Brooklyn's mandatory case filing policy is that an inevitable consequence of the Bronx policy is that costs in cases that are declined for prosecution fall mostly to outside agencies. These costs are not high, given the rapid processing, but execution of the policy depends on the police producing the victim quickly, at some effort, and the assistance of the victim advocate from the private non-profit victim assistance program to assist in uncovering additional information that might be relevant to the decision to decline the case.

Finally, it must be emphasized that while cost analysis can be important in helping to justify policy decisions, it should not be the sole decision-making criteria. It should be used within a larger decision-making framework that addresses key criminal justice system goals, including those—for example, victim experiences, satisfaction with the criminal justice system and sense of empowerment—that are less tangible and more difficult to assign a monetary value. In the final chapter, we integrate this study's major

findings and assess their implications for prosecutorial policies, victim assistance and resource allocation.

Chapter Six

# Conclusions and Recommendations

## Introduction

Before proceeding to summarize findings of the study and discuss implications, we want to remind the reader of limitations on the comparisons we made between the two prosecutorial policies. First, the two offices studied differed primarily on the type of initial case screening done: They were quite similar in terms of how they dealt with cases once they had been filed with the court. That is, once a case was filed, it was likely to be dismissed for failure to prosecute if victims were reluctant or could not be found. We cannot draw conclusions, therefore, regarding the effects of different case screening policies if major resources could be invested in all filed cases in trying to gather and present admissible evidence when victims are unwilling to testify. Also, we have noted that the ethnicity of victims and defendants differs substantially between the two boroughs. Most importantly, we are basing findings about victim experiences and preferences on a very small sample of victims. We cannot claim that the results of the interview process are either representative of victims in the two boroughs nor can we claim that the findings are statistically reliable – that is, that they are not due to chance or that they would be replicated in another sample. They are better thought of as hypotheses that could inform future empirical efforts with a larger sample.

We designed this study as a strong test of two different approaches to prosecuting domestic violence misdemeanor arrests. Is it better -- in terms of victim safety from future harm, victim empowerment, and cost effectiveness – to prosecute virtually all arrests made by the police even when that is not what victims want and knowing that most such cases will ultimately be dismissed? Or is it better to respect victims' wishes and prosecute only those cases in which victims are willing to participate? In other words, should prosecutors exercise a strong "gatekeeping" function or should they simply file the cases brought to them by the police?

As we discussed in the introduction, the Milwaukee District Attorney in the 1990s made a decision to stop heavy screening of domestic violence arrests and the office doubled literally overnight the number of domestic cases that it filed with the court. The change came partly in response to political pressure brought to bear on the office by advocacy groups but also as a sincere effort to do the right thing. The district attorney was concerned that his office be in compliance with a state statute that stated that the decision to prosecute not be based on the "victim's consent" to prosecution. He further expressed a belief that prosecuting a greater proportion of domestic cases served the interest of children who often suffer in domestic violence situations. Not surprisingly, the sudden policy change – undertaken by the district attorney unilaterally and without additional resources to handle the increase – overwhelmed the courts and led to greatly increased time to case disposition, larger case backlogs, fewer guilty pleas, and lighter sentences. Importantly, though, the Milwaukee natural experiment left unresolved

whether the liberalized screening policy had an effect on recidivism rates. Nor did the Milwaukee experiment examine the victim perspective concerning the possible advantages or disadvantages of filing nearly all arrests. These questions were key motivations for this study in the Bronx and Brooklyn.

We suspected that a policy of filing all arrests – even though cases with unwilling victims would eventually be dismissed – would reduce recidivism. This suspicion was based on evidence that keeping domestic violence offenders under supervision by the courts or a probation agency has a suppressive effect on their propensity to commit new crimes. Moreover, the victims whose cases occurred under Brooklyn's universal filing policy also routinely received temporary orders of protection (for the duration of the case) and, we believed, had a greater opportunity to come into contact with service providers than Bronx victims whose cases were dropped immediately after arraignment at their request. To the extent that orders of protection are effective deterrents to abuse (Zorza, 2004), we expected to see less recidivism in the Brooklyn sample than in the Bronx sample. In addition, we expected that victims whose cases were filed would be more likely to receive assistance from service agencies and these services would make victims safer (Roehl, O'Sullivan & Campbell, 2005).

On the other hand, we anticipated that victims might be more favorable to the Bronx policy since it gave them more control. In the Bronx, victims' wishes – as expressed by their failure to sign a complaint or by their signing a waiver of prosecution – were normally followed by the district attorney's office which typically declines to file misdemeanor cases without victim support for prosecution. The Indianapolis experiment suggested that victims were most satisfied when they had the ability to drop cases when they chose to and were actually safer when they could drop the case (Ford and Regoli, 1992). However, this policy was applied *after* the case was filed.

The results of our investigation are surprising given the previous research and our expectations. We did not see a lower recidivism rate as a result of the universal filing policy in Brooklyn. There was a difference in total misdemeanor arrests in favor of Brooklyn once criminal contempt charges (violations of orders of protection that could only occur in our Brooklyn sample) were eliminated from the analysis. However, when we compared new arrests for assault, menacing, or harassment – the best measure we had of new domestic violence arrests – we found no difference between the two boroughs. Although the finding ran counter to expectation, it is consistent with Peterson and Dixon's (2005) work examining the same two jurisdictions in New York City.

We were also surprised that there was no clear-cut victim preference for the Bronx policy that allowed them to drop cases. When asked about their own case, Bronx victims interviewed were pleased with the fact that the prosecutor had allowed them not to press charges. On the other hand, Brooklyn victims were fairly evenly split about the fact that their case was filed by the district attorney's office in spite of the fact that they did not want to prosecute. This result we expected. Nonetheless, when the focus group participants were asked to compare the two prosecution policies, as opposed to assessing

the possible impact on their own situation, there was overwhelming support for the Brooklyn policy of universal case filing.

We also learned from the interviews with victims about the key role played by the police in influencing victims' responses to later contacts they will have with the criminal justice system. A positive interaction with the police helped convince victims that they should cooperate in prosecution. However, police officers were also sometimes insensitive or took actions that penalized the victim (e.g., arresting her as well as her partner or threatening to involve child protective services) or jeopardized her safety (e.g., making her leave the home she shared with the perpetrator, failing to arrest the perpetrator, and failing to take a report at the scene so that the victim had to go to the precinct to file a complaint). Punitive or negligent actions by the police appeared to create distrust of the criminal justice system and reluctance or inability to participate in prosecution.

The study did not produce a clear-cut picture of which of the two prosecution policies is superior. There was no apparent benefit of the universal prosecution policy, at least not when adopted without sufficient resources to conduct "victimless" prosecutions based on eyewitness, medical, or physical evidence. In this respect, the conclusions of the present study mirror those of the Milwaukee study. On the other hand, victims expressed a preference for being relieved of the responsibility for prosecuting and endorsed an approach that would include at least limited prosecution of their partners based on an objective assessment of the potential benefits and costs to the victims of doing so. Moreover, it was clear from the victims interviewed that the majority wanted orders of protection and access to services regardless of whether their case was to be prosecuted.

## Practice vs. Policy

A policy can never be evaluated concretely without measuring the distance between the policy and practice. A number of issues arose regarding such discrepancies. The heavy case screening policy in the Bronx in theory would have led to filing cases despite victim opposition to prosecution when the defendant had severely injured the victim, but we found that severity of injury (as indicated by hospitalization) was not predictive of the prosecutor's decision, and there were two Bronx victims in our interview sample who suffered severe injuries yet prevailed on the DA's Office not to prosecute.

A matter of concern for the victims was their lack of understanding of the process and lack of information about procedures. Our interview participants in both boroughs particularly wanted information about when the arrestee was being released from detention. When the case was declined for prosecution, some victims did not understand that they would not have an order of protection (although we cannot conclude that they were not informed of this fact: the waiver of prosecution most signed states that fact). With the case proceeding for several months in Brooklyn, there was even more of a need for information. Some of our Brooklyn participants had ongoing contact with the DA's Office and tended to be more satisfied. This finding is similar to Belknap et al.'s (2000): among a sample of 170 victims interviewed, more contact with the DA's Office was

predictive of "court empowerment" and satisfaction with the criminal justice system, *regardless* of whether the prosecutor followed the victim's preference in regard to prosecution. (It should be noted, however, that not all the victims in our study were open to contact with the DA's Office, especially when they opposed prosecution, rather than merely wanting it to proceed without their participation.) When the case was being filed despite their non-participation, victims also wanted information on whether they had to go to court, why the case was being continued, and the likely outcomes.

Under both policies, the DA's Office goal is to link victims to services, whether or not the case is prosecuted. We found that this linkage was not happening as often as the victims (or the DA's Office and service providers) would have liked. The reasons that victims could not or did not access services are unclear.

## Victims' Preferences and Legal Limitations

Many of the participants wanted the perpetrator detained longer following the arrest, even though they did not favor prosecution. The issue of length of detention and release from detention points up two legal constraints in New York that may be problematic in these cases. First, the conditions of pretrial release on one's own recognizance are based primarily on risk of flight. Therefore, it is usually impossible, at least on misdemeanors, to impose conditions on release or to hold defendants past arraignment. Second, defendants must be arraigned within 24 hours of arrest.

Along the same lines, the victims wanted longer to decide about whether to support prosecution than they are allowed under the Bronx policy – but not as long as they have under the Brooklyn policy. A policy of universal filing that did not wait until the legal time limit of 90 days for dismissal of misdemeanors that cannot be fully prosecuted would seem to meet victims' needs. Exceptions could be made for those cases that merit a longer period of scrutiny and court supervision – especially if the victim wants a continued order of protection.

There were also protections and services that victims wanted that are legally impossible or unlikely without prosecution. Many victims wanted orders of protection without prosecution – a legal impossibility in criminal cases. Those who were continuing in the relationship and who felt there had been violence also wanted "anger management" or counseling for the offender. Without a criminal case, there would be no mechanism to enforce an intervention.

## Prosecutors' Dilemma Revisited

In the introduction to this report, we described the dilemma facing prosecutors in regard to proceeding with cases when the victim opposes prosecution. To some extent, this dilemma is inevitable. One reason is that victims' individual situations and therefore motives for opposing prosecution vary, and these different situations might be best handled with different responses. Victims who want to keep the family intact and who feel the violence is not serious or that arrest was a sufficient deterrence, as well as those

who are dependent on the perpetrator in regard to finances and childcare, prefer that the charges be dropped or that prosecution be limited. Dependence generally means that the defendant has a "stake in conformity" and arrest is most likely to be a deterrent in such cases (Fagan, 1996). Other victims wanted to disengage from the offender and avoid all contact. Being notified that they would not have to go to court for hearings on the case and would not have to testify unless the case went to trial would assuage their concerns and might lead to support for limited prosecution. Our participants noted, however, that victims often opposed prosecution because they did not like to see their partner arrested and handcuffed. It is this emotional ambivalence, the push-pull of self-protection versus protection of the loved one and the rending of the bond that involving the criminal justice system entails, that led our participants to prefer a no-drop policy in the abstract. Distinguishing among these motives and responding appropriately is an ongoing challenge for prosecutors.

The second reason that prosecutors still face a dilemma, even if implementation and resource issues can be resolved, is that we may be expecting prosecution to accomplish disparate goals. Is the goal of prosecution justice or to protect the victim? Any single prosecution policy may be unable to attain the goals of victim safety, offender accountability, and serving the needs of society and individuals at the same time (Fagan, 1996). The universal filing policy would seem to serve what Fagan terms the symbolic function of sending the message that domestic violence is a crime that is taken seriously, which message may serve as a deterrent at the societal level, but it did not, in our study, actually deter individual abusers from committing new crimes resulting in arrest as compared to declining to prosecute a large percentage of cases. On the other hand, limited prosecution did appear to increase victims' sense of safety, although this finding would have to be confirmed with quantitative survey data.

## Policy and Practice Recommendations

There are never easy answers when the state intervenes in family matters. Still, there can be better approximations to satisfactory solutions that accommodate victims' needs and perceptions as much as possible while still taking into account the state's interest in decreasing recidivism. Such interventions require a coordinated response across systems.

Concerning the costs entailed by the mandatory filing prosecutorial model, we found that they are often incurred as a result of efforts designed to improve the chances of obtaining a conviction, such as having assistant district attorneys or detective investigators spend many hours seeking to reach the victim or to acquire other kinds of corroborative evidence. Since such efforts were most often unproductive – only 5% of our sample of cases in Brooklyn in which the victim did not support prosecution resulted in a conviction – the DA's Office could conserve resources by targeting these efforts to a small subset of cases, either those with a chance of success given the strength of the case and available evidence, or those that the DA's Office deems serious and meriting greater effort regardless of the cost and probability of success.

In greatly curtailing the investigation for the majority of cases, Brooklyn prosecutors could still retain most of the perceived advantages of their policy that both they and the victims we interviewed enumerated (e.g., keeping the defendant under court control for a limited period of time after the arrest; obtaining a temporary order of protection; avoiding forcing victims to make an irrevocable decision about whether or not to support prosecution within 24 hours of the incident). A related implication for other jurisdictions is to think through carefully the real intended benefits of their choice of prosecutorial policy and be sure not to expend resources seeking other benefits (e.g., conviction) that are less central and less attainable.

These observations begin to suggest an intermediate case screening policy. Such a policy might prescribe prosecuting cases with reluctant victims selectively based on the prosecutor's assessment not only of the societal interest in prosecuting but also of the victim's interests and safety. Charges might be filed in the majority of cases, to give victims a longer period to assess their own situation and to provide a temporary order of protection in the immediate aftermath of the arrest to more victims. Charges might be dismissed sooner than under statutory limits in cases where the prosecutors' and victims' assessment concur that it is safe, or extended to the full 90 days where there is reason to continue the case despite the victim's reluctance. Full prosecution would be undertaken only when there was evidence available that could be used in lieu of the victim's testimony.

## Recommendations for Further Research

A prerequisite for future research on prosecution policies is finer distinctions among "no-drop" or mandatory prosecution policies, particularly in regard to the stage of case processing at which the policy is applied, and whether or not it requires victim participation. These policies have different potential benefits and costs and implications. Similarly "empowerment" is a catch-all phrase that requires clarification; attention needs to be paid to the operational definition. As we found here, and consistent with other research, empowerment does not necessarily entail the victim's control over the prosecutorial decision; rather it may come from full understanding of the procedures and the rationale behind the prosecutor's decision, and ongoing information about the case (knowledge is power, in essence).

The picture we derived from the discussions with victims was a complex one: not only are there individual differences in situations and preferences, victims also have contradictory feelings about state interventions. In addition, we found that victims often did not know with whom they were speaking and thought they had not received services when they had talked to an advocate and received assistance. We recommend, therefore, that researchers begin with qualitative victim interviews that identify the domains of victims' concerns and their terminology when they encounter the criminal justice system and then proceed with quantitative surveys.

Another recommendation we would make is to compare a wider range of policies and include multiple sites. For example, it would be good to include a site conducting heavy

case screening in combination with evidence based prosecution. There are other variants on universal filing that could be examined, if cooperation of the DA's Office can be secured.

A related recommendation is to pay close attention to available resources and how they can affect or undermine the implementation of policies. These resources should include the availability and quality of domestic violence law enforcement units or officers, victim assistance programs, and specialized courts. Cost analyses need to include the ancillary agencies that are essential to an effective prosecution response. Comparison of sites with similar policies but different levels of resources would also be extremely informative, to determine whether it is the policy or the resources to implement the policy that makes it beneficial or not.

Finally, re-arrest rates did not differ as a result of the prosecution policies, but with the mandatory filing policy in Brooklyn, the new incidents were more likely to be charged as felonies because the new offense also constituted violation of the order of protection issued in all cases. The question, then, is whether victims are safer under the Brooklyn policy not for the first new incident but in regard to subsequent incidents. The felony charges that are more likely in Brooklyn because of violation of a court order have a number of important implications for case processing and consequences. With felony charges, the new case is less likely to be dropped, there will be a new order of protection, and if the case is fully prosecuted in, there may be a higher likelihood of conviction and more severe penalties. Future research should follow cases for a longer period in order to determine the impact of the policies on subsequent prosecution. Similarly, it would be useful to know, for the victims who opposed prosecution, whether it was the first incident or whether there were additional incidents and their response to repeat offenses.

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# Appendix 3A

## Final Propensity Models:
## Logistic Regressions Predicting the Impact of Case Characteristics on the Probability of Sample Membership (0 = Bronx, 1 = Brooklyn)

| | Model 1 | Model 2 | Model 3 |
|---|---|---|---|
| Total Original Sample | 483 | 483 | 483 |
| Bronx | 272 | 272 | 272 |
| Brooklyn | 211 | 211 | 211 |
| Sample with Non-Missing Data in the Given Model | 384 | 438 | 479 |
| Bronx | 212 | 242 | 271 |
| Brooklyn | 172 | 196 | 208 |
| Sample with Propensity Scores Obtained from the Given Model | 384 | 54 | 41 |
| Bronx | 212 | 30 | 29 |
| Brooklyn | 172 | 24 | 12 |
| Defendant race | | | |
| Black | -.245 | .080 | -.216 |
| Hispanic | -1.114* | -.836$^{+}$ | -1.591*** |
| Complainant race | | | |
| Black | -.304 | -.537 | Removed[2] |
| Hispanic | -1.435** | -1.404** | Removed[2] |
| Defendant born in Central or South American country | .391 | Removed[1] | Removed[1] |
| Defendant age | -.016 | -.013 | .009 |
| Complainant age | .040* | .038* | Removed[2] |
| Defendant prior criminal history | | | |
| Any prior conviction? | -.736* | -.591* | -.611* |
| Number of prior felony convictions | -.195 | -.207 | -.207$^{+}$ |
| Number of prior misdemeanor convictions | -.103* | -.100* | -.093* |
| Number of prior violation convictions | .229** | .181* | .199** |
| Instant case details | | | |
| Arrest charge severity = felony (not misdemeanor) | .930** | .973** | 1.047*** |
| Injuries to complianant on instant case | .042 | .146 | .289 |
| Weapon used on instant case | .399 | .107 | Removed[2] |
| Photographic evidence available on instant case | .531$^{+}$ | .602* | Removed[2] |
| *Constant* | *-1.389* | -1.730$^{+}$ | -1.911* |

+ p<.10 *p<.05 **p<.01 ***p<.001

*Note:* Logistic regression coeficients (B) are presented next to each covariate.

[1] Removal was to enable generating propensity scores for 54 cases for which data was missing on Model 1.

[2] Removal was to enable generatiang propensity scores for 41 cases for which data was missing on Model 2.

Appendix 3B

## Impact of Screening Method on Case Outcomes and Sentencing by Propensity Score Quintile

| | Brooklyn | | | | | | Bronx |
|---|---|---|---|---|---|---|---|
| | Quintile 1 | Quintile 2 | Quintile 3 | Quintile 4 | Quintile 5 | Average | All Cases |
| Total Sample Size | 15 | 25 | 38 | 50 | 80 | 208 | 271 |
| Number of Cases Disposed (Not Still Pending) | 14 | 24 | 36 | 42 | 75 | 191 | 271 |
| Percent Disposed of Total Sample | 93% | 96% | 95% | 84% | 94% | 92% | 100% |
| ***Case Outcomes*** | | | | | | | |
| Pled guilty/convicted | 0% | 4% | 8% | 2% | 12% | 5% | 0% |
| Dismissed | 100% | 96% | 83% | 95% | 87% | 92% | 0% |
| Adjournment in contemplation of dismissal (ACD) | 0% | 0% | 8% | 2% | 1% | 2% | 0% |
| Declined to prosecute | 0% | 0% | 0% | 0% | 0% | 0% | 100% |
| ***Sentences*** | | | | | | | |
| Jail | 0% | 4% | 6% | 0% | 4% | 3% | 0% |
| Probation | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Time served[1] | 0% | 0% | 0% | 0% | 1% | <1% | 0% |
| Conditional discharge | 0% | 0% | 3% | 0% | 4% | 1% | 0% |
| Disposed but sentence pending[2] | 0% | 0% | 0% | 2% | 5% | 1% | 0% |
| No sentence/not convicted | 100% | 96% | 92% | 98% | 88% | 95% | 100% |

*Note:* Percentages do not always add up to 100% due to rounding.

[1] One case received a time served sentence, whose length was one day.

[2] Three cases were still pending the imposition of sentence at the time that the research team received criminal justice data. A fourth case was consolidated with another, and the sentence is unknown.

Impact of Screening Method on Six-Month Re-Arrest Outcomes by Propensity Score Quintile[1]

| | Brooklyn | | | | | | Bronx | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Quintile 1 | Quintile 2 | Quintile 3 | Quintile 4 | Quintile 5 | Aver-age | Quintile 1 | Quintile 2 | Quintile 3 | Quintile 4 | Quintile 5 | Aver-age |
| Sample Size | 15 | 25 | 38 | 50 | 80 | 208 | 81 | 71 | 58 | 45 | 16 | 271 |
| ***1. Re-arrest on any charge*** | | | | | | | | | | | | |
| Any re-arrest | 27% | 20% | 16% | 22% | 19% | 21% | 35% | 14% | 26% | 29% | 38% | 28% |
| Mean number of re-arrests | 0.4 | 0.4 | 0.29 | 0.28 | 0.24 | 0.32 | 0.51 | 0.21 | 0.34 | 0.4 | 0.56 | 0.40 |
| ***2. Re-arrest with a charge of assault, menacing, or harassment (either top or associated charge)*** | | | | | | | | | | | | |
| Any re-arrest | 7% | 16% | 5% | 18% | 14% | 12% | 17% | 7% | 10% | 16% | 6% | 11% |
| Mean number of re-arrests | 0.07 | 0.28 | 0.05 | 0.22 | 0.18 | 0.16 | 0.19 | 0.08 | 0.12 | 0.16 | 0.06 | 0.12 |
| ***3. Re-arrest with a felony top charge*** | | | | | | | | | | | | |
| Any re-arrest | 20% | 16% | 13% | 14% | 13% | 15%* | 12% | 6% | 7% | 4% | 6% | 7% |
| Mean number of re-arrests | 0.33 | 0.2 | 0.16 | 0.2 | 0.15 | 0.21** | 0.15 | 0.07 | 0.07 | 0.04 | 0.06 | 0.08 |
| ***4. Re-arrest with a misdemeanor top charge*** | | | | | | | | | | | | |
| Any re-arrest | 7% | 12% | 5% | 8% | 9% | 8%*** | 23% | 10% | 22% | 24% | 31% | 22% |
| Mean number of re-arrests | 0.07 | 0.16 | 0.11 | 0.08 | 0.09 | 0.10*** | 0.33 | 0.14 | 0.28 | 0.31 | 0.5 | 0.31 |
| ***5. Re-arrest with a felony top charge, not counting felony criminal contempt charges*** | | | | | | | | | | | | |
| Any re-arrest | 13% | 8% | 11% | 10% | 8% | 10% | 12% | 6% | 7% | 4% | 6% | 7% |
| Mean number of re-arrests | 0.27 | 0.08 | 0.13 | 0.12 | 0.09 | 0.14 | 0.15 | 0.07 | 0.07 | 0.04 | 0.06 | 0.08 |
| ***6. Re-arrest with a misdemeanor top charge, not counting felony criminal contempt charges*** | | | | | | | | | | | | |
| Any re-arrest | 13% | 16% | 8% | 14% | 13% | 13%* | 23% | 10% | 22% | 24% | 31% | 22% |
| Mean number of re-arrests | 0.13 | 0.28 | 0.13 | 0.16 | 0.15 | 0.17* | 0.33 | 0.14 | 0.28 | 0.31 | 0.5 | 0.31 |

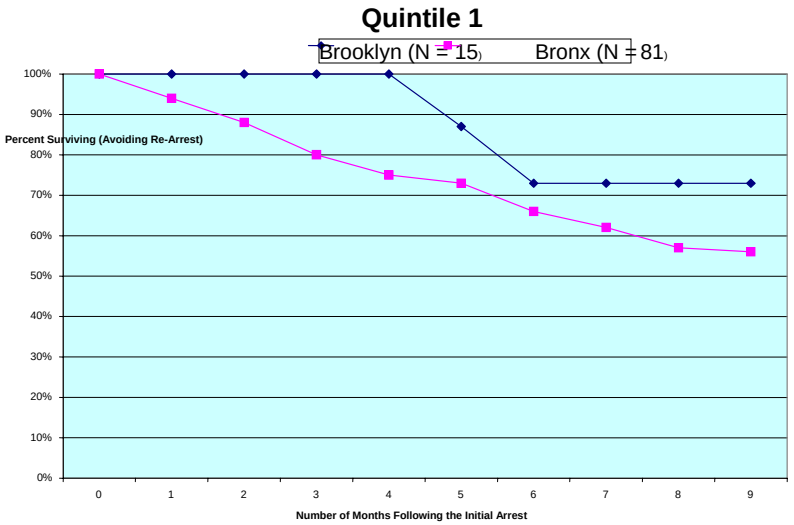
+ p < .10  * p < .05  ** p <.01  *** p < .001

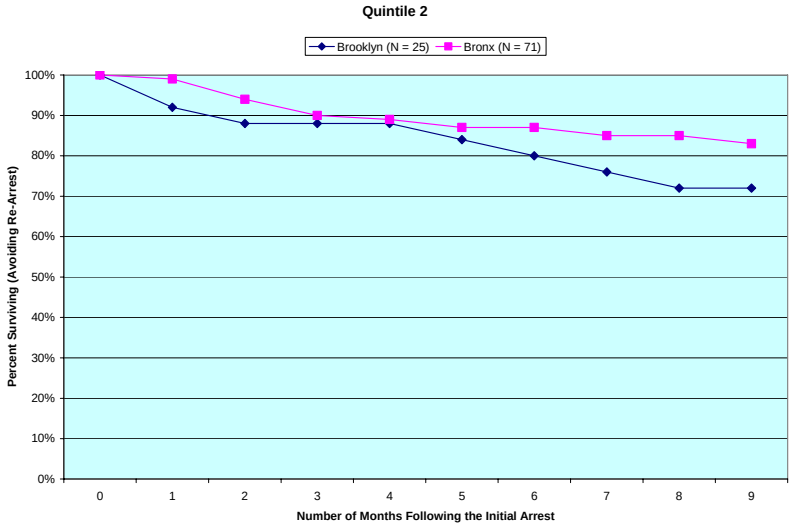
*Note 1:* Cases with criminal contempt-only charges (no other charge type on the docket) were excluded.

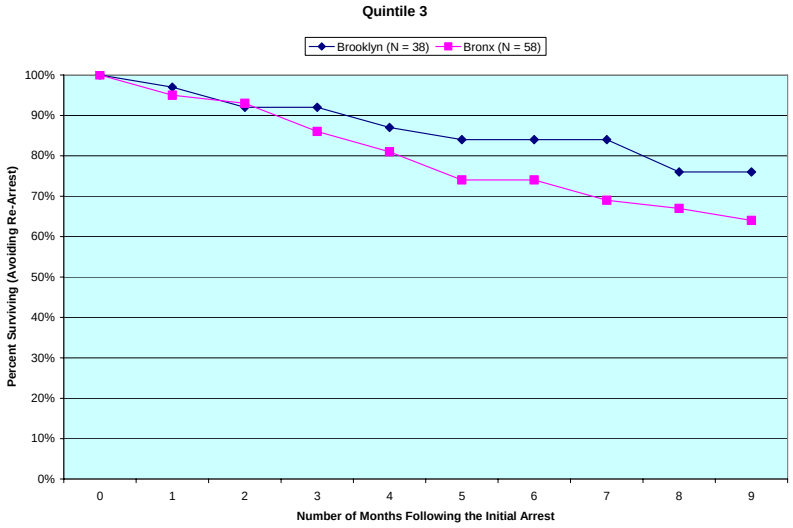
[1] Two of the 271 cases in the Bronx could be tracked for 171 and 172 days respectively, or approximately 10 days less than six months. Five of the 208 cases in Brooklyn could be tracked for 146, 160, 163, 164, and 171 days respectively, or from approximately 10 to, at the most, 25 days less than six months.

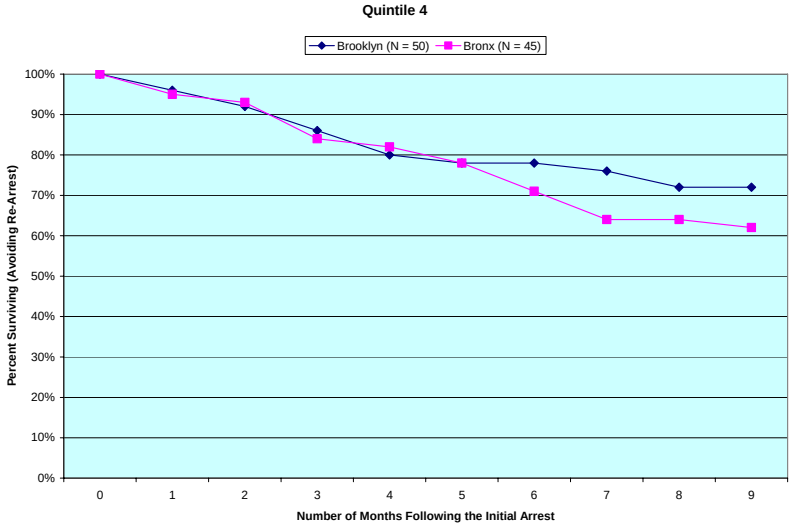
# Appendix 3D

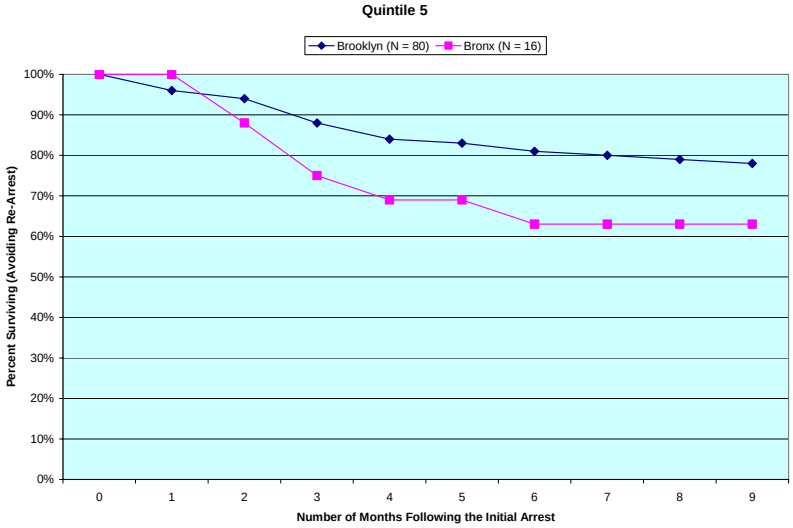
## Survival Curves for Brooklyn and Bronx Defendants by Quintile




Quintile 3
Brooklyn (N = 38)
Bronx (N = 58)
Percent Surviving (Avoiding Re-Arrest)
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
0
1
2
3
4
5
6
7
8
9
Number of Months Following the Initial Arrest


Quintile 4
Brooklyn (N = 50)
Bronx (N = 45)
Percent Surviving (Avoiding Re-Arrest)
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
0
1
2
3
4
5
6
7
8
9
Number of Months Following the Initial Arrest


Quintile 5
Brooklyn (N = 80)
Bronx (N = 16)
Percent Surviving (Avoiding Re-Arrest)
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
0
1
2
3
4
5
6
7
8
9
Number of Months Following the Initial Arrest

**APPENDIX 4A**
**Individual Interview Guide**
Bronx-Brooklyn Case Processing
***Note: These are areas to be explored in a structured but open-ended conversation***

Date: ___/___/___

Interviewer name: _____

Respondent ID: _____

Victim's date of birth: ___/____/____ *(OK if born in or before Oct 1988).*

## As a reminder:

- The interview is confidential and will not be shared with anyone outside the study.
- If you are uncomfortable at any time, you are free not to answer any particular questions.
- If at any time during the interview, you need to hang up the phone for safety reasons, please do so. Say "No, thank you" before hanging up so that I know not to call you back.

Our toll free Research number to call me back, it is 1-800-470-0690. If you would like to take down the Domestic Violence hotline number, it is 1-800-621-HOPE (4673)

**Throughout the interview, I will be referring to "the arrest." Just to be clear, I am referring to _____'s arrest on _____ (date) for an assault on you. If there have been other arrests, I will ask you about those, too.**

## Relationship & Background Info Of Offender

1. As far as you can remember? What is his age: _____

**2. What was your relationship to him?**

3. How long has this relationship been?

**4. Did you live together?**

5. Do you have any children in common with him? What are their ages? Does he have contact with them?

6. Are you currently intimately involved with him?

7. Are you currently living together?

8. What kind of support, if any, does he provide you or your children?

Background re. Incident that led to Arrest

9. What happened in (give month)? How did the police become involved?

10. In what kind of housing or location did it happen?

11. Were you surprised, pleased or displeased that neighbors/bystanders were (un)responsive to the incident?

Police

12. Did you want him arrested at that time? Why or why not? Did you expressly request the police not to arrest him?

13. Did you go to the precinct?

14. Which precinct was it?

15. Did you fear losing custody of your children -- to the defendant? to ACS?

16. Did the police fill out a DIR (Domestic Incident Report)?

17. Did you get a copy of the DIR?

Prosecution Preference

18. Did you go to intake after he was arrested, at the court/District Attorney's Office?

19. What were the charges?

20. Were they what you expected?

21. Did anyone explain to you the consequences of proceeding with prosecution versus signing the waiver?

22. Did you talk to someone that night/day about whether you wanted the case to go forward?

23. When did you tell someone you did not want the case prosecuted?

24. Did you sign a waiver? (A document stating that you decline to cooperate with prosecution understanding clearly that you will not receive an order of protection, and no charges can be brought on the case at a later date.)?

25. What was the procedure by which you signed the waiver (fax, phone, walk-in)?

26. Were you informed that you would not be eligible for an order of protection?

27. What was your reaction to that information? Did that surprise you?

28. What did you think would happen to <u>you</u> if you supported prosecution?

29. What did you think would happen to <u>him</u> if you supported prosecution?

30. Do you know if the DA proceeded with prosecution?

<u>If so</u>

31. How do you know?

32. What effect did the DA's decision to proceed with prosecution have on <u>you</u>?

33. What effect did the DA's decision to proceed with prosecution have on <u>him</u>?

34. How did you feel about the DA proceeding with the case against your wishes?

<u>Consequences of Preference</u>

35. Did you get a temporary order of protection? If so, has it been helpful or not so helpful?

36. What actually has happened between you since the arrest?

37. Have you seen him <u>at all</u> since the arrest, <u>in person</u>, even if it was only in passing or during exchange of child(ren) for visits?

38. Has he threatened you or do you feel threatened by him?

39. Has he been arrested for anything else since _____ ? For what? In which borough?

Past and Future

40. In the past, did you agree to him being prosecuted after any previous arrest?

If so,

41. What happened in that case?

42. What actual consequences did he face after that?

43. In the past, did you decline to cooperate with prosecution after any previous arrest?

If so,

44. Why did you not want him to be prosecuted after a previous arrest?

45. What happened in that case?

46. In the future, if there is another incident like the one that happened in (month), will you call the police again? Why or why not?

47. If he is arrested again for something he does to you, do you think you would support prosecution or would you prefer that the case end with the arrest?

Access to Services

48. Have you sought any domestic violence services, help with housing, child custody, or other services since the arrest?

| | YES | # of times? | In person | On phone |
|---|---|---|---|---|
| ***An advocate from DA's office*** | | | | |
| Lawyer (private attorney, family court lawyer) | | | | |
| ***Advocate from DV Agency – even if located in DA's Office (Safe Horizon, Sanctuary, other)*** | | | | |
| ***Counselor or therapist*** | | | | |
| **Bklyn:** ***Someone from the Family Justice Center*** | | | | |
| *Other:* | | | | |

49. What services have been offered to you? (Did you receive a referral to family court, counseling, "safety planning," or were other services offered?)

| | Yes | No |
|---|---|---|
| ***Information about the case*** | | |
| Help with housing (housing transfer, help with shelter, etc.) | | |
| ***Advice about custody or child support*** | | |
| ***Referral to family court*** | | |
| ***Referrals to other agencies or people*** | | |
| ***Counseling, support*** | | |
| ***Safety planning (if needed, say "advice about things you might do to protect yourself or your home.")*** | | |
| ***Other: _____*** | | |

50. Do you feel safer because of the services you received?

51. Do you feel that you have more knowledge because of the services you received?

52. Do you feel that you have more options because of the services you received?

53. What was your response to the services that were being offered to you?

54. Which services, if any, have been most helpful to you after you asked that the case be dropped?

55. Since the arrest have you received help from the community? From religious organization?

56. Would you like/welcome follow up calls after the arrest?

57. Who would you like calls from? DA? Police? Victim assistance organizations such as Safe Horizon?

58. Are you willing to keep them informed of any change in your tel # or address?

Social Support

59. *If she made police report:* Did your family and friends support you?

60. *If someone else reported to police:* Did your family and friends agree with you or the neighbor/bystander who reported the incident?

61. What kind of support if any are you receiving from your family and friends?

62. Are you receiving any support from his family and friends?

63. On a scale of 1 to 7, how satisfied are you with your life as a whole these days?

| Very unsatisfied | | | | | | Very satisfied |
|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |

Recommendations

64. How would you have felt if it was going to be a case of "Brooklyn/Bronx vs. Him" rather than "You vs. Him?"

65. What recommendation(s), if any, do you have for the DA and Police?

66. Any suggestions to other women re. navigating the system?

67. Any suggestions to other women re. maintaining health and well-being?

68. Any suggestions to other women re. protecting themselves from intimate partner abuse?

Basic Demographic Variables

**I'm going to end the interview by asking you a few questions about yourself and your (ex)partner who was arrested:**

70. What is your current employment situation?
71. And his?

72. What is the highest level of education you have completed?
73. And his highest level of education?

***74. Do you consider yourself Latina/Hispanic?***
***75. And he?***

***76. What race do you identify with?***
77. And he?

78. Which country were you born in?
79. And he?

***Thank you very much. We will send you a money order within 2 weeks.***

***Is it okay if we call you back in a month, to find out how you are?***

**Thank you again. We realize that some of these questions may be upsetting.** Would you like me to request that someone from Safe Horizon's *Court and Community Programs* contact you to see if s/he could be of assistance with…..? If you would like that, I will give your contact information to name of the *Director of* Safe Horizon's *Court and Community Programs* Bronx (or Brooklyn).

## APPENDIX 4B
## GROUP INTERVIEW GUIDES

### First Group Interview Guide

The issues to be discussed in the group interviews pertain to the victim's perspectives regarding:

- Safety
- Empowerment
- Service needs, services received, and satisfaction with services

People behind the glass are researchers interested in your experience with the recent case against your partner or ex-partner. I will explain in a minute specifically what they are interested in learning from you today. They will send me notes from time to time about what they want us to follow-up on.

### Warm up

Intro question on experience

- When a crime is committed, it is the responsibility of the District Attorney to prosecute. All crimes against people are considered crimes against the state.
- What if the victim doesn't want the case prosecuted? It is still the DA's decision whether to proceed.
- In the case of domestic violence, people are very concerned about victims dropping out of the process, because they have been forced to or threatened to, by the offender. Or the victim thinks the incident is over, everything is okay – and then he does something really serious to her, and the DA feels that she should have gone ahead with the case to keep the victim safe.
- The Brooklyn DA has decided to play it safe, in a way, by going ahead with all cases, at least for a while, and see what happens over three months. During that time there is a protection order.
- The Bronx DA has decided to go with the victim's preference – unless the case is really serious, or the defendant has a bad criminal record, or there have been a lot of incidents.

Some of you here had an arrest in the Bronx; some of you had an arrest in Brooklyn. You all wanted the DA to drop the case.

This is a study about the two DA's policies. We are trying to find out which policy is best from your perspective, in your experience.

Any questions? Is everyone clear, should I go over something again? I can't answer questions about your case specifically, I just mean are you clear on the two policies and what we are going to be talking about today. At the end of this group, we will give you information about how to get help with your case or anything else you might need help with related to problems with your partner or ex-partner.

So the first thing we want to know is…what happened? What was your experience with, first, the police, and then with the DA? Did your experience match the Brooklyn policy of maintaining the case? The Bronx policy of dropping the case because you asked?

*Themes to hit here, to draw out in answers*

- Did you sign a waiver of prosecution?
- If yes, at the courthouse or the precinct?
- If not, did you go to court? - Why or why not?
- In Bronx, were you aware that you would not have an order of protection once you signed the waiver or otherwise indicated that you did not support prosecution? -- Did the Assistant DA tell you, or did you read that in the waiver document that you signed?
- Would knowing that you could (not) have an order of protection if the case is not prosecuted make a difference in your preference to drop charges? [This applies to Bronx and Brooklyn]
- Did you meet with the DA?
- Did you talk to a counselor?
- Did you get a letter from the DA?
- Did you get follow-up phone calls? From whom?
- In general, whom did you have contact with, and how was that – good, bad, indifferent?
    - Police, precinct #, police follow up
    - Counselor or advocate
    - ADA

## Thematic questions

<u>DA</u>

2a. Have you reported him before? Did you support prosecution any time before?

2b. Why didn't you want to prosecute this time?

2c. What would have had to be different for you to want to prosecute this time?

2d. What didn't you like (Brooklyn) or wouldn't you like (Bronx) about having the case prosecuted?

2e. Tell me about whether it is stressful to have a court case.

Safety

3a. Which policy would make you feel safe? – Would dropping or the DA proceeding without your participation make you feel safe?

3b. Which policy would put you at greater risk?

3d. Under what conditions or circumstances would you not be offended if the ADA ignored your request to drop the charges? That is, when would it be okay with you if the DA ignored your request to drop the charges?

3e. Did you change your mind about whether it was a good idea to prosecute or not during the three months after the arrest? Did anything happen that made you rethink that decision?

3f. What are some recommendations you would make to improve police response?

Services

4b How open would you have been to receiving professional [some participants used the word "unprofessional behavior" in the individual interviews] help from a victim assistance organization with risk assessment and safety planning based on your own personal knowledge and experience of your partner's past and current behavior?

4c. Did you receive a copy of the DIR [Domestic Incident Report]? Did you get referrals from the police? From the ADA? Did you talk to a counselor, receive the hotline number, talk to anyone at the Family Justice Center (Brooklyn) or the DA's office from Safe Horizon?

4 d. Did anyone discuss with you whether you were eligible to get an order of protection from Family Court, if the DA agreed to drop the criminal charges?

Did you get a referral to family court? Do you have custody or visitation issues?

Overall appraisal

5. If someone were going through this process of their partner being arrested and the case is being prosecuted against their will or dropped. What recommendations would you suggest to make the process better; to make that person more comfortable and confident? – in terms of police, DA's office, court, victim assistance

5a. Of the two policies (Bronx and Brooklyn) which do you think is best? Why?

## 6 PM group questions

Ground Rules:

- We want to hear from everyone
- We don't have a lot of time
- Respectful listening
- Confidentiality
- Say your name every time you speak

Policies

**Brooklyn:**

- **DA files the case whether or not the victim wants the case to go forward.**
- **This keeps the case going for three months**
- **The victim gets an order of protection**

**Bronx:**

- **DA drops the case if you don't want to proceed**
- **You just have to talk to them within 24 hours and sign waiver of prosecution**

Begin:

This is the case we are talking about (give each one her date). Ask about current situation:

- Still with him
- Children with him
- New incidents

    - In your experience, which prosecution policy would be better for you?
    - Which prosecution policy is better in general?
    - Is 24 hours too soon for you to decide whether you want to drop or proceed?
    - Did you change your mind about whether it would be a good idea to proceed with the case over the three months after the arrest (BK)?
    - What does safety mean to you? What would make you feel safe? How do you know you are safe?
    - Would you feel safer with an order of protection? Did you feel safe with an order of protection (BK)?

# Appendix 4C

**Case Processing Study Coding Scheme**
**(used for individual interviews only)**

Purpose of the interviews: To learn about issues of victim decision-making, and the impact of law enforcement, case processing, and support services on victim safety and empowerment.

Abbreviations:
CW = Complaining witness
D = Defendant
OP = Order of Protection
P = Police Officer
DA = District Attorney
ADA = Assistant District Attorney

Victim Preference

1) Arrest
   A) Pleased with Arrest
      i) Victim reported incident [K24, X81: went next day, K139, X82: went two days later because police failed to take a report at the time of the incident, X345: same day twice in quick succession because first team that responded took no action, X349: went two days later instead of leaving it unreported like she did two years prior; K141; K260; K246: first call they refused to arrest him, second call arrested him because he kicked door in; K257; X159: but an anonymous neighbor had already called 911; X315: visited precinct to report stalking; K25: went to neighbors for support and called 911 from there ]
      ii) Logical consequence of violent behavior [K24, X82, K141: even though two months later; X346: although 1.5 months later]
      iii) Post-separation violence [K24; K139; X345; X346; K257; X159; X344]
      iv) Stalking [X315; K139, K240, K260; K189]
      v) D threatens CW [260: threatening phone messages; K240: death threat]
      vi) Someone else called the police, but CW is pleased [X334; X159; K282; K189: boyfriend]
      vii) CW requested someone to call 911 [X344: daughter age 10; X346: daughter age 33]

   B) Displeased with Arrest
      i) Someone else called the police [K273; K282: 20-yr-old daughter; X136; X307]
      ii) No crime committed [K273: Injury was accidental during a heated altercation; X307: loud argument was misconstrued by CW's sister]
      iii) CW was also arrested [K139: for injuring D in self-defense; K240: on false charge by D]
      iv) CW report incident at precinct [K276: report was made in confidence, arrest occurred two weeks later even though D had improved his behavior a lot without knowing about the report]

2) Prosecution
   A) Favors Mandatory Prosecution
      i) After identifying primary aggressor (because offenders do file false charges) [K24]
      ii) So that D learns the logical consequence of violent behavior [K24, K282, X136, K139: for primary aggressor only; K240: for primary aggressor only; X81, X82,

X346: but must collect good evidence; X344; X334; K189: if severe abuse; K: 273: if severe abuse; K276: if severe abuse; K260: if CW kept informed]

iii) If that's the law, they got to do it [K24, K141; K257]
iv) If the reason is explained and I feel it makes good sense [X315]
v) Only if it is battering [X315: if really threatens CW's or daughter's life; K273: not for a misunderstanding or an accidental injury during a heated altercation; K276]
vi) I would not feel guilty [X82: because the decision is not mine but someone else's]
vii) They must know something I don't know/have a good reason to prosecute [K260]

B) Willing to Cooperate
i) When arrest is timely [K24, X82; X346: would have supported prosecution this time if arrest had been immediate]
ii) After next arrest [X136: will confirm that he won't change; K139, X82: will confirm he has no remorse; X345: taking no more chances; X334, K240, X349: son collects social security and CW would look for part-time work while other children are able to take care of son with medical issues; K141; K260: gave D two chances already; X346: one chance is enough; K282: if it happens again it lets me know something; K246: D used his "get out of jail free card" already; K189; X344; X159: will not continue to let it slide; K25: if D does not learn from first arrest; X81]
iii) If severe physical abuse [X315: if really threatens my life or my daughter's life; K24: if beat up really bad; K257: if it is serious; X81: if he threatens my life again; K276: if he hurt me really bad]
iv) CW would have cooperated this time too [K240: if ADA had identified primary aggressor and dropped the case based on false charges against her; X82: if police had initially arrested him and let her stay in the apartment; ]
v) D used up his "out of jail free" ticket [consolidated this code with (ii)]

3) Extent/kind of Contradictions re. Mandatory Prosecution
i) Victims have valid fears, so State should proceed after ruling out cases of false charges [K24]
ii) Victims have valid fears, so State should proceed with something that will be good for CW [X345; K276]
iii) CW is clearly against State pursuing the case [X307:"would have hated it"; X349: would feel guilty about making police report; K260: would hate being out of the loop since her name is on the initial report, but if kept informed then OK]

4) Reasons for Opposing Prosecution
A) To Maintain Status Quo
i) CW is financially dependent on D [K273; K240; X349; X344: on maternity leave; X307]
ii) CW wants reconciliation: this was the first incident [K25]
iii) CW wants reconciliation: has child(ren) with D [K24, K25; K276]
iv) CW and D have obligations [K273: engaged to be married; X136: must attend a family wedding together; K246: own business together with offender husband]

B) To Prevent Escalation/Retaliation
i) D is financially dependent on CW [X81; X 345]
ii) To avoid contact with D in court [K24, X81, X82, K240, X349, K141]
iii) CW just wants to be left alone in peace; suspects prosecution will escalate violence [X81: D has no stake in conformity; K240: to prevent verbal abuse; X159; X334, K141: I didn't want anymore problems, I don't want to be bothered with him]

iv) CW afraid D's family might retaliate [X159: by not helping her with childcare when she needs; X345; X349]
v) CW afraid to antagonize D [X315: D would stop supporting and visiting child; X349: would file for child custody]
vi) Police released D after initial arrest of one night [X334: CW preferred D to be remanded]

C) To Incur Benefit
i) D claims he is job-seeking [K24: raises CW's hopes of getting child support]
ii) D promised to pay for damages [K24]
iii) D promised to stay away [K24]
iv) Mutual abuse [K273: most of the time I hit him, he could have had me arrested too; K282: CW felt guilty because she kept arguing with him even when he tried to sleep]
v) Child support/Babysitting/childcare [K260: D's been paying child support for over eight years, but CW did not fear losing this support; X159; X345, X349: unable to support his kids while in jail, and CW can't work because of medical issues of a son; K141: money for newborn baby products; X344: D is a childcare resource although he does not live with CW, and is financially supportive]
vi) D would drop false charges against CW [K240: which he did to create problems with her non-DV, non-drug related probation]

D) To Prevent Destroying D's future (Giving D another chance)
i) D is young, has a good job with bright future, and is the sole support of his mother [X136]
ii) CW is young wants young D to gain "anger management" skills from a sensitive counselor [X136]
iii) D has new girlfriend [K24]
iv) To avoid sentencing him [X82: he has two children with another woman who would have suffered if he served time; X345, X349: did not want to see him in jail because he works, has a house, a vehicle, does not do drugs, is not constantly abusive (second time in 8 years); K141: he would still be in prison; X307]
v) Arrest and detention was mal-consequence enough [X81; X159; X315; X344; X345; X346; K24; K282; K139; K189; K141; K25; K276; K260; K246]

E) Children do not want daddy in prison
i) Grown children promise to take care of CW [X81]
ii) Grown children ripped and discarded police papers [X81]
iii) Have kid(s) together [X81; X315; X159; X307; X334; K273; K240; K189; X349; X344; X345; K273; K24; K276; K282; K141; K25; K260; K257; K246]

F) D demonstrated restraint; CW did not feel threatened any more
i) Police delayed arrest; and he was not abusive in the interim [K24; X82; K141: two months; X346: 1.5months although he lives 3 blocks from CW; K276: D improved in many aspects]
ii) D only wanted child visitation [K260; K189: wanted child custody]
iii) D left CW's apartment and didn't come back with further threats [K139; K257; X349; K141]
iv) D has a good family; they berated him [X81; X344: his brother scolded him; K25]
v) CW trusts her judgment about risk & safety [X81: I'm old enough (51 yrs) to know when things are really bad; been in relationship 22 years]

vi) CW talked with D after police report [X315: D stopped stalking and talked non-threateningly with CW only in regard to daughter]

G) Dual arrest (CW and D were arrested)
   i) Both lawyers advised the charges be dropped to avoid police record [K139; K240]
   ii) CW had just delivered a baby and could not cope with the monthly court dates [K240]

H) No Crime was committed
   i) Injury to CW was accidental during a heated altercation [K273]

I) Poor police response
   i) CW wanted to support prosecution but D demonstrated restraint during police delay [X82: Four officers responded but none took report nor arrested offender. Instead they put CW (rather than the offender) out of co-habited apartment and abandoned CW on the street at 2am; X346: delayed arrest although he lived three blocks always; K276: two weeks delay during which time CW and D lived together and D improved a lot without knowing a report had been filed]
   ii) Police were not accepting evidence CW was providing [K240]

<u>Police</u>

1) Initial Facilitative Police Action
   A) Victim-related
      i) Took report [X315; K24, K25; X136, X81; X159; X345: only on 2nd call when D had injured CW; K141: police "told me to write what happened"; K260; K246; K346; K273, K282; K189; K257; X344]
      ii) Immediate arrest [K25; K282; K189; K257; X344; X159]
      iii) Drives with victim to offender's location [K139]
      iv) Gave CW copy of report [K25; X315; X81; X345; X349; X346; K260, K282; K189; K257; X344]
      v) Gave CW two officers' phone #s and encouraged her to phone if trouble ensues [X81]
      vi) Kept in touch with CW till the arrest was made [X349: 48th Precinct, CW left for [Sate name] to hide out at her sister's place till he was arrested; X346: 40th Precinct, made first home visit two weeks after arrest and then every few days until arrest was made one and half month later]
      vii) CW was not asked if she was given a copy of DIR [X159; K273]
      viii) CW was asked if there was any delay in arrest [X315]
      ix) Detective answered CW's query [K260: illegal summons serving]

2) Initial Detractive Police Action
   A) Victim-related
      i) Police officer misinforms CW [K273: just come to the precinct talk to DA and leave together; K276: husband needs to come to precinct to let us know everything is OK]
      ii) Police officer does not take report [X82: four officers responded to anonymous call; X345: because D lives here; K240]
      iii) Police officer does not make arrest [X82: although 4 officers respond to anon call; X345: D had only been verbally abusive; K246: although police saw that his

temper was escalating, he had broken things, and had punched a hole into the kitchen wall]

iv) Police officer gives CW personal opinion, and thereby is judgmental and victim-blaming [moved to (4)(xx)]

v) Police officer gives victim no support [X136: had no quarters for phone call; X82: abandon victim on street at 2am with no phone, no money, a dog, and a suitcase; ]

vi) Police officer gives victim no information re. the procedure of case processing [X136]

vii) Is the lack of police support due to victim's age, demeanor, "hysterical woman" syndrome? [K246: "I was crying and upset. They were screaming at me, telling me to be quiet and that there was nothing they could do;" X82: "they were just looking at me like if I was a crazy lunatic"]

viii) Police officer lacks understanding of victim's distress [X82; K246: police screamed at CW telling her to be quiet because there was nothing they could do; X136]

ix) Police officer angry with victim because she did not want to support prosecution [X136]

x) No medical assistance offered to victim [X136, X82]

xi) Indifference and callousness toward victim [X136, X82; K240; K246]

xii) Arrests victim as well [K139, K240]

xiii) CW's expectation that female police officer would be more responsive [X82: wondered if report and arrest would be made if one of the four cops was female; X136: approached woman behind the desk at the precinct thinking she would be more "understanding."]

xiv) Delayed report number [X346: Police said somebody would call with report number but no one did till CW called herself few days later for that information]

xv) Police does not keep in touch with CW although arrest was pending [K141: D was arrested two months later]

B) Offender-related

i) Police officer takes cues from the calm-and-collected aggressor [X82]

ii) Police officer minimizes the offense [K246: nothing can be done; X82: take no report, make no arrest]

iii) Police officer bonds with offender [X82: leaves him in co-habited apartment, escorts victim out and abandons victim on street]

iv) Delayed arrest [K24: D lives in another borough; K141: D left the scene; K346: made no attempt to look for him on the street or around the corner; X334: could not find the first report made at the hospital; X82: four police officers acted like they were on his side]

v) D defied police in his neighborhood since he had troubles with them before [X136]

vi) Did not remove D from home because he lived there [X345; K246: as if they took D's side;]

C) Incident-related

i) Police officers not gathering/documenting injury/destruction evidence [K24, X82: did not photograph broken cell phone, scar on her back; K240: did not take her phone recordings of his death threats]

ii) Police officers do not identify primary aggressor; arrest victim and offender [K139; K240]

iii) "It is not possible to find out which police officers responded inappropriately, so it is not possible to hold them accountable for misconduct." [X82]
iv) Delayed arrest because of the nature of the case [X346: a detective had to handle the case (one and half month delay because detective was busy with more important cases); K276: two incidents (one recent and an earlier one) were reported at the same time by victim visiting the precinct; ]
v) Police report misquotes CW [K276: police secretary exaggerated incident report, CW realized this only two weeks later when D was unexpectedly arrested]
vi) CW not asked to read entire report to verify information [K276].

D) Environmental Constraints
i) No private room for victim in police precinct [X136]

3) Post-Arrest Facilitative Police Action
i) Follow-up home visits by police (procedurally required in the Bronx) [K24: three consecutive days after incident, X81: weekly for one month after arrest]
ii) Detective phoned victim to inform of the arrest [X81; K260]
iii) Detective phoned victim to inform her when D was being released [X81]
iv) Bronx: (Mis)informs "noncooperative" victim she can be arrested for not formally signing waiver [X346]
v) P asked CW if she wanted an ambulance [X345; X159: EMT arrived on the heels of the police but CW refused to go to hospital for fear of ACS case if she left infant with someone else.]
vi) P gave CW first aid for her injury [X345]
vii) P urges victim to file a new report when initial report is not found [X334]
viii) P provides referral info to CW [K24, K273, K141: shelter & counseling, X349: family court for OP; X82: Safe Horizon tel #; X159: showed CW Safe Horizon office in the courthouse which was closed after regular hours]
ix) P phoned to find out if CW was okay [K25]

4) Post-Arrest Detractive Police Action (includes Victims' recommendations for the police)
i) Police transport cross-complainants together in the same car [K139]
ii) CW waits long in the precinct (do police often forget CW is waiting?) [three hours: X136, X82: two-three hours, X307; K240: 6+ hours]
iii) Long wait during which no professional/procedural information is forthcoming [X136, X82]
iv) Desk clerk misquotes CW [moved to 2 (C)(v)]
v) CW not asked to read entire report to verify information [moved to 2 (C)(vi)].
vi) CW not given copy of the DIR [X82; X136, K139: dual arrest, K141]
vii) Police did not offer to escort victim to bring her belongings [X82: Is it because she did not have an OP?]
viii) CW not informed when offender is being released [K246, K282]
ix) Bronx police does not ask CW to visit DA's office to file a waiver [X136]
x) Police officers made victim feel like a nobody [X136] or a "bad guy" [K240]
xi) Give me what I am supposed to be given [X136: referrals and professional info re. process, charges, risk, and safety]
xii) No follow-up call from detective nor from police DV Unit about the case [X82: received call only from D's probation officer; X136; X345; K240; K260: does not have answering machine nor caller ID; X344]

xiii) Tailored interventions are required, not just one set of responses for everyone [K273; K276; X345: history of DV]
xiv) CW was detained for one entire weekend and not asked if she needed medical attention either before or after detention [K139]
xv) Police had no concern for victim's kids, when they arrested and jailed her 3 days [K139]
xvi) Recommendation: P must remove offender from apt. even if married, lives with CW, no injury as yet [X345; X82]
xvii) Recommendation: P must provide referrals for CW
xviii) Recommendation: P must make an arrest soon if they are given D's address [X346]
xix) Police tells CW that D is a good guy because he has no past record [X344]
xx) Police officer gives CW personal opinion about domestic violence and thereby judgmental and victim-blaming [X136: "…you'll probably be in here again. But it's going to be ten times worse;" K276: "She said I might not be so lucky next time and I might wind up dead."]

<u>DA</u>

1) Procedural Fidelity

i) Bronx Limited Arrest Processing: Tele/video-conferencing from precinct to DA's office [X82: 43rd; X334: 49th]
ii) Brooklyn ADA invites CW to ask her to come in [K246: for CW's choice to proceed as misdemeanor or felony; K260; K24: phones CW; K25: come see me letter; K141: counselor from DA's office phones to inform CW of arrest; K282: come see me letter]
iii) Brooklyn drops case after three months [K24; K282; K189: after inviting CW to consider dropping the case; K260: after resolving visitation case]
iv) Brooklyn: Order of Protection made CW feel safe [K24; K282; K257; K246; K189; K141; K260; K257; K246]
v) Brooklyn: OP permits child visitation [K25; K273; K260]
vi) Brooklyn: Due to recent arrest date unable to tell how long case will be active [K276: arrested in August '06; K273: arrested in August '06]
vii) ADA explains to victim the consequence of an OP violation [K273: must prosecute]
viii) Bronx: Police misinforms "noncooperative" victim [moved to (2) xvi]
ix) Bronx: ADA explained to CW her rights [X345; X307]
x) Bronx: ADA gave CW extra time needed to feel better from her injury [X345]
xi) Bronx: ADA explained disadvantages of dropping the charges [X159: can get OP through Family Court; X315: no OP; X345: no OP; X307: no OP; X346: no OP; X349: told by police no OP; X81: told by police no OP]
xii) Bronx: ADA inquired about history of DV abuse [X345]
xiii) Bronx: ADA suggested safety precautions [X307; X345; X346: visit precinct and start new case]
xiv) Brooklyn: In cross-complaint cases CW provided with legal representation [K139; K240]
xv) Bronx: ADA asked CW if she was pressured/threatened by anyone to drop charges [X82: teleconferenced ADA from the precinct; X346: visited ADA]
xvi) Brooklyn: ADA follows-up with CW [K246: "come see me" letter even though previously teleconferenced from precinct; K260: they combined family and criminal case in Integrated DV Court; K282: to see if I was okay]

2) Procedural Deviations

i) Brooklyn ADA does not ask CW to come in to determine reasons for "noncooperation" [K24: waived from home front door not fixed for one month; K141: waived from home phone, did not sign waiver; K257: waived from home phone]
ii) Brooklyn ADA/counselor phones CW to ask her preference over the phone [K24, K141]
iii) Brooklyn: Counselor from DAs office is not assigned to the case
iv) Brooklyn: OP: CW received first OP after 2-3 months or never received one [K273: received 2-3 months after arrest; K141: never received]
v) Bronx: CW not informed about consequences of dropping charges [X82: that she would not get OP; X344: contact ADA from home phone; X307]
vi) Brooklyn extends case longer than three months [K276: still active, past three months; K25: still active, 8 months; K273: still active, almost four months]
vii) Brooklyn: Tele/video-conferencing from precinct to DA's office [K189: 37th; K273; K246: 81st]
viii) Bronx: ADA does not call CW to ask her to visit DA's office [X81; X136]
ix) Bronx: ADA does not explain consequences of dropping charges [consolidate with (v)]
x) CW signed a waiver, but it was not explained to her [X82; X307]
xi) Brooklyn: No follow up phone call from DA's office [K276; K260: no answering machine or caller ID; K257: no answering machine or caller ID]
xii) Brooklyn: Did not provide CW an OP [K189: referred her to Family Court for an OP]
xiii) Brooklyn: OP does not permit child visitation [K276]
xiv) Brooklyn: ADA informs CW of court dates [K260: never asked CW to attend court]
xv) Brooklyn: ADA closes case prior to three months [K246: after one month upon request from CW since D and CW run a business together]
xvi) Bronx: Police misinforms "noncooperative" victim [X346: she can be arrested for not formally signing waiver]

3) Procedural Gaps (includes victims' recommendations for DA)
i) Brooklyn's emphasis on signing a waiver is misleading [K273]
ii) ADA does not explain that CW may never need to come to court [X82]
iii) In cross-complaints the primary aggressor is not identified [K139, K240: for a previous non-DV offense CW had to now see someone each time instead of the simple palm-scan]
iv) In cross-complaint cases, inappropriateness of charges against CW in cross-complaints [K139; K240]
v) In cross-complaint cases, when it is not a felony case, DA urges both parties to drop charges [K139; K240]
vi) ADA does not ask about & address victim's concern re. the impact of prosecution on the offender [X82]
vii) CW would like victimless prosecution, but officers did not gather evidence [X346]
viii) Brooklyn: No reason provided by DA for proceeding with prosecution [K276: for extending prosecution; K273]
ix) Brooklyn: Victim is not kept informed of court dates or how long the case will proceed [K276; K273; K260]
x) Give me what I am supposed to be given [X136: referrals, info about case processing]

xi) In cross-complaint cases, be more considerate of victim, identify primary aggressor if both have injuries [K139]
xii) Infuse politics and law with emotion [K139]
xiii) Bronx: D's attack on CW occurred while he was on probation for assaulting his children's mother, yet he was not automatically prosecuted [X82]
xiv) In cross-complaint cases, CW and D are given different court dates and/or courtrooms; inconveniences CW [K139: CW given date one day before D and only at the end of that day was she told to return the next day because she had been given the wrong date, K240: in mid-Aug CW and D on two different floors, in mid-Sept CW in DV1 and D in DV2]
xv) Brooklyn: OP mailed to CW, never received, CW unsure of OP status [K246]
xvi) Brooklyn: D's attack on CW occurred while he was on parole, yet he was not automatically prosecuted [K189]

<u>Support Services</u>

1) Restorative/Remedial/Referral Service
   i) Lock change [K24; K246]
   ii) Door fixed/replaced [K24]
   iii) Police made home visits [K24: three consecutive days after incident; X81: weekly for one month after arrest]
   iv) Police gave victim a referral list including DV counseling [K24: "all type of stuff," "lot of things;" K246; K282: a list of a whole bunch of things]
   v) D's probation officer called CW to ask if she was OK and safe [X82]
   vi) None [X82: no phone, no medical attention; K139: van, child care, medical attention; K240: no help with obtaining housing, with registering child who had to be delivered at home; X334]
   vii) Police offered medical assistance [X345: asked if she wanted an ambulance; X346: asked if she wanted to go to the hospital; X159: EMT arrived on the heels of the police]
   viii) Police gave CW first aid tip for her injury [X345]
   ix) CW's probation officer called CW to ask if she was OK and safe [K240]
   x) CW's lawyer documented her false-charge claim [K240: lawyer was provided by judge but was not court-appointed]
   xi) Impressed upon CW the need to report any future harassment/incident [K240: lawyer; X349: police; K141: police]
   xii) Received limited information [X349: safe relocation; X159: police showed her the Safe Horizon office in the courthouse which was closed at the time, and responded to her question about anger management course for D; X82: Safe Horizon telephone number; X334: not pleased that shelter referral was offered even though she rents her own apartment in which the offender is permitted to live; X349: police mentioned DV shelters & counseling but not about facilities in her borough and police referred her to family court for an OP; K141: police mentioned DV shelters & counseling; K260: counseling and housing; K273: safe relocation; K25: counseling and housing; K276: child support and food pantries]
   xiii) CW feels more knowledge about resources and options [X349: K25: counseling and housing; K141: you can go to a shelter if anything happens; K282: a list of a whole bunch of things]
   xiv) Satisfactorily resolved child visitation/custody case in IDV Court [K189; K260: was offered legal representative]
   xv) Police phoned to inquire if CW felt safe [K25]

xvi) Brooklyn: Family Justice Center mentioned services [K276: “a lady from the same floor as the DA” called about child support and food pantries; K240]
xvii) Detective offered CW legal information [K260: on illegal summons serving]

2) DV services lacking
i) Order of protection is not received by CW [K240: it was mailed to D’s address]
ii) In cross-complaint cases DV organizations typically do not outreach [K139, K240]
iii) No follow-up letter or phone call [X82; X345; K240; X307; K141; K257]
iv) No phone call about offenders release date [K282]
v) NYCHA denied request for emergency housing transfer [K24]
vi) No referrals for DV services were given [X136; X307; X315: would have like information about child support and domestic violence services; X345; X346; K189; K240; K257, X344: would have liked family counseling, and anger management for D]
vii) CW would like mandatory batterers program only if it did not jeopardize D’s job [X136]
viii) D needs “anger management” course [X136; X159; X344; X345; K139; K246; K282]
ix) CW would have liked counseling [K139: to make sure she was okay after trauma of being arrested and being jailed three days; X82: Safe Horizon did not return phone call; K257: to be able to discuss with her children]
x) Police had no concern for victim’s kids, when they arrested and jailed her 3 days [K139]
xi) CW was jailed for one entire weekend and not asked if she needed medical attention either before or after that [K139]
xii) CW still fearful of future incident [moved to Victim Safety and Risk Assessment (5)(i)]
xiii) CW received info on shelters [consolidated with (1)(xii)]
xiv) Received limited information [moved to (1)(xii)]
xv) CW needs furniture for the confidential apartment she found with much difficulty [K240]
xvi) P promised to make home visits, but did not visit CW [K141]
xvii) CW needs divorce lawyer [X349]
xviii) CW needs phone counseling [X349: claustrophobic in subway, parking space is scarce]
xix) CW’s application for OP was not accepted [X346: initially because arrest was not made and later because CW dropped charges, and was ineligible for OP through family court].
xx) CW incurred a lot of expense maintaining safety while arrest was delayed [X346: took cabs to and from work]
xxi) CW would like limited OP [K246: after case-closing and D returned home, forbidding him to break things]
xxii) Bronx: OP would have made CW feel safer [X349; X346; X334; X82; X81]

3) Need for youth services
i) Child is grown does not need childcare, but needs counseling [K24; K257: for ten-year-old]

4) Need for intense intervention
i) Mal-health or learning disability [X81: SH program directors suspect this]

5) Time-frame of restorative service
    i) One month to fix door [K24]
    ii) OP arrived two months after arrest [K273: soon after D missed a court date]
    iii) OP delayed because sent to the wrong address [K240: went to D's address]

6) OP provisions
    i) Automatically allows child visitation [K273]
    ii) Automatically excludes D from co-habited home of victim for duration of the case [K273: even though victim asked judge to let D continue staying with her; K282]

7) Extent and outcome of Safe Horizon involvement.
    i) Before the arrest [K240: SH had space in the shelter but 5:30 p.m. curfew did not work since CW's pregnancy checkups were after 6:15, so they just gave CW some numbers to call; K276: used shelter for one month because of verbal and financial abuse]
    ii) After the arrest [K246: lock change; K260: It might have been Safe Horizon that introduced me to a lawyer for the child visitation case; X82: had set up appointment with Safe Horizon staff who canceled due to vacation and did not resume contact with CW]

<u>Social Support</u>

1) Diminishing social support
    i) Victim's parents tired of constant bickering [X136]
    ii) Victim's friends don't want her to be with D [X136]
    iii) Victim not receiving social support from family or friends [X307]

2) Consistently good social support system
    A) Family support
        i. D's mother/siblings urging victim to break up with D [X136: D's father battered and D physically & verbally abuses his mother; X81: they say his mind is not 100 percent; X82: "his father used to put his hands on his mother;" K282: her family does not like him.]
        ii. D's mother/siblings continue to house victim even after D got "stay-away OP" [K276]
        iii. D's mother/siblings rebuke him [K25: his aunt and brother; X81]
        iv. D's mother/siblings ensure D stays away from victim [K273]
        v. CW's mother/siblings supportive [K25: her brother ferries child for visitation; X159: lives with her mother; X315: lives with her mother; K139; X345; K260; X344: aunt]
        vi. CW's mother suggests stop drinking at night [X136]
        vii. D's mother ferries D's child for visitation [X159; K273]
        viii. Victim's mother/siblings took care of her children when she was arrested & jailed 3 days [K139]
        ix. CW's mother is strong and her five sisters are her best friends [[K139]
        x. D's family does not threaten victim, but neither do they care about victim [K139, X345, X349: CW does not contact them; K141; K246; K282]
        xi. D's family loves victim [X81; K25: D's aunt and brother; K189; K257]
        xii. D's family minimizes the abuse [X81: don't pay mind to him
        xiii. CW moving often [X82: from aunt to cousin to friend to mom to another aunt.]
        xiv. D's family/friend ferries child [X345: friend ferries & child support also; K260: niece]

xv. D's friends support CW and talk to D [X159; X345]
xvi. D's friends recently informed CW he used to hit his previous wife [X345]
xvii. CW's employer is supportive [X345; X346: offered her leave, but she didn't need it]
xviii. CW's co-workers and friends are supportive [X345; X349]
xix. CW's family discourages her from using medication for depression [X345]
xx. CW's mother helps out [X334; K141: housed CW for 2 weeks after police report]
xxi. CW's family probably would injure D if they knew [K240]
xxii. CW's mother's caseworkers gives CW advice & information [K141]
xxiii. CW's family & friends urge CW to breakup with D [K141; X136]
xxiv. CW depends on neighbors and super [X346]
xxv. CW's family wanted her to support prosecution [X346]

B) Church support
i) Pastor rebuked defendant
ii) Victim sought help from supportive pastor [K139. K282]
iii) No help from church [X159; X315; X334; X307; K25; K189; K260; K246; X349; X344: CW attends on Sundays but did not inform anyone there]

3) Consequences of cross-complaint
i) Loss of pay and loss of job due to her jail-time, absence due to court dates, etc. [K139: DV social worker]
ii) Missed a church members wedding the weekend victim was jailed [K139]
iii) In jail cell was exposed to black-on-white violence, roaches, isolation, secondary victimization [K139]
iv) CW's regular probation check-in became more inconvenient [K240: for a previous non-DV offense CW had to see someone each time instead of the simple palm-scan]

4) Suggestions for maintaining health and well-being
i) Don't keep your feelings and thoughts bottled up [X344]
ii) Let persons who bother you know what they are doing wrong [K282: learn to talk things over in the right way]
iii) Did not ask CW this question [X82]
iv) Separate [X345: men don't change; X346: even if first time after many years together]
v) Develop your support system [X345]
vi) Seek ongoing therapy if need be [X345, X307, X349]
vii) Use prescribed medication if need be [X345]
viii) Keep yourself active and busy; don't give yourself depression time [K189: don't lock yourself inside; K257: have active relationship with your kids, if any]
ix) If you can't live for yourself and you can't live for nobody else, live for your kids. [X159]
x) Ask for help, there are a lot of organizations [K25]

<u>DV Publicity</u>

1) Neighbors/passersby intervening [K273, X136, X82, X307: CW's sister]

2) Target all types of businesses that are frequented by the public [X349]

3) Target DV ads & public service announcements to youth [includes CW's suggestions for victims]

i) Its not your fault [K24]
ii) Do not tolerate abuse [K24, X346: you have to walk (away) and look over your shoulder; K257: go through with the charges]
iii) You can leave [K24; K141: go to a shelter; X346: there are places that help women make it on their own, K282: get out in a way that does not endanger your own life even more]
iv) Females don't go through with the charges. It's sad because a lot of times when you could have had him arrested, in jail and he kills you [K24]
v) Know when to call it quits
vi) If someone hits you once, its very likely to happen repeatedly [K257]
vii) Have someone you can always call for help and guidance [X82: can't rely on the cops]
viii) Avoid getting stranded with a person who has hurt you emotionally or physically [X136]
ix) Avoid being with someone who makes you feel physically vulnerable [X136]
x) Seek information about DV and other types of abuse [K139]
xi) Seek DV counseling [K139]
xii) Have goals and dreams and work toward them [K139]
xiii) Grown sons you could end up getting arrested for inadvertently injuring your father while protecting your mother [X81]
xiv) I regret not allowing my husband to face police action and court prosecution as a natural consequence of his abusive behavior 13 years ago, because ten years later he is still jealous and came at me wielding a hatchet threatening to chop me in little pieces [X81]
xv) The first incident is a red flag [X345]
xvi) When a man promises to change but does not, that's a red flag [X345]
xvii) It usually gets worse in the future [K141; K349: you and your kids could get hurt physically]
xviii) If you have a chance to get out, get out and don't go back [K260]
xix) Keep family and friends around [X82: let them help, "can't rely on the cops"]

<u>Victim Safety and Risk Assessment</u>

1. Mentioned that DV can become fatal [K139, K24, X81, X345, X346; K282]
   B) Identifies own fatality risk
      i) CW requested safety planning tips [X159: fear being killed if supported prosecution; X346: its against the law to use mace spray, look through peephole, call 911].

   B) Victim minimizes the violence
      i) due to relationship issues [X136: we were both out drinking, I bruise very easily, he's very close with my family; K273: I often start fights, he could have called police on me, cut that needed hospital visit is referred to as a bruise by victim and "wasn't anything major; X81: D comes at her with a hatchet threatening to chop her up, and she says he's a little cuckoo and jumps for no reason]
      ii) due to systemic issues [X136: one cop was arguing with me]

2. CW's Experience/Perception of Police
   i) CW loses trust in police resolves to never call police again [K273; X136]
   ii) CW will call only if very grievous incident [K276; X81: detective gave her a special tel # which she carries with her at all times]
   iii) Will not hesitate to report even verbal abuse or threats [K246; X159; X315; K24; X345: even if there are visitation and child support problems; K141; X346: even if D phoned CW; K282; X344]
   iv) Police are doing a pretty good job [K24; X81; K141]
   v) CW lives very close to precinct [X81: will run there at the least threat of physical abuse]

vi) CW will call police even though had very bad experiences with police [X82: two years ago police threatened to arrest her, this time they did not take any report and left her stranded at 2am; K240: police did not take her evidence of stalking]

3. No one aids/trains CW in risk-assessment
   i) Safety concerns when aggressor goes from 0 to 100 (after CW severs the relationship) [K139: no partner abuse until after being put out of the apartment for talking inappropriately to CW's child, X346: did not lift a finger against CW during relationship but has past criminal record in the Bronx]
   ii) CW's (in)ability to assess her safety -- CW's mental health, any learning disability, etc. [X81]
   iii) Does CW expect D to magically leave her alone? [X81]
   iv) D's employment status – he has nothing to lose [X81: D is unemployed since firm closed, after 33 years as a shipping clerk, he studied up to 3rd grade]
   v) Incident egregious enough that someone else called the police [X82; K273]
   vi) Victim's self-esteem issues [X136: I rather he learns healthy communication with me, than abuse someone else the way he abuses me]
   vii) DV history (incl. length of previous arrest/incarceration and span of time for re-abuse) [X82: one arrestable incident each year, serious injuries, current arrest during D's probation for a DV charge with his children's mother; X349: second within 2 years over an 8-year relationship; K282: throughout 15-year relationship, first time allowed police to take a report and arrest him]
   viii) May be they know something that I don't know [K260]
   ix) Constant bickering in relationship is affecting CW's college performance [X136]
   x) Constant bickering in relationship is affecting CW's relationship with her parents [X136]
   xi) Injury required hospital visit [X82; K273]
   xii) Coerced to attend court dates by D or his lawyer? [K273: must ask CW about this]
   xiii) Abuse is increasing in severity [X81]
   xiv) Grown children could get hurt and arrested while restraining D [X81: They're big, husky adults and they say they can handle him so I shouldn't be calling the cops]
   xv) D's definition of "a strong woman" [X82: strong women never leave their men no matter what happens]
   xvi) CW recognizes risk of future injury [X349; X307: D drew a gun on her a year or two prior]

4. Time span between current and previously sought police intervention
   i) Many years ago [X81: once 12-13 years ago in 22-yr relationship; X345: one time 6 years ago; K246: a long time ago in 13-yr-marriage had an altercation over a vehicle, just asked police to remove him from the site; K189: once many years ago]
   ii) Many times over a long relationship [K24: 7-8 times in 18 years; K282: this incident was after one year; K257: many reports and even prosecuted once in a 12-year-relationship which began when she was 11 years old]
   iii) No previous arrest [K276; K273, K139, K240; K141; X346: resisted separation over 12 years but was never abusive; K282: in previous incidences she just wanted police to take him away temporarily; X159; X344]
   iv) Few times over long relationship [X307: 2 times in long relationship (D age 46; CW age unknown; been together since CW was 13-yrs-old; X349: 2 times in 8 years but previous incident was within past two years and she called police but changed her

mind about filing a report at that time; X307: pulled gun on her two years ago, since then no abuse, this arrest was inappropriate because it was only a loud argument ; K260: 2 times, now when a child visitation constraint came up and first incident was when CW evicted D eight years ago]

v) Many times in a short relationship [X82: three serious incidents in four years; X334]

5. CW maintains contact with D

i) Have child(ren) together [X159; X315; K24; K273: attends court dates, talks on phone, his mother ferries child; X81; K240: fears future abuse yet stays in touch to avoid losing child to D; X334; X349: visits them daily at home; K141: D did not contact CW prior to CW's invitation to the delivery 2 months after arrest. D rarely visits after that but financially supports childcare; K282; K189: Brooklyn DA's police assisted in resolving custody battle, have shared custody; X344: just delivered his baby]

ii) Relationship improved a lot [X159: still not living together; X136: no abuse and learning to work problems out; K282: the most improvement in 15 years]

iii) Looking for couple therapy [X136]

iv) Still legally married; reconciliation dependent on him seeking counseling [K139]

v) No physical threats, still verbal abuse [X81]

vi) Avoids all contact [K260: D's niece ferries child; X82: CW's mother stays in contact because much of CW's stuff is still in his apartment; X345: friend brings child and babysitting funds; K257: no answering machine]

vii) Still legally married and living together [X307; K246; K282]

6. No fear of future incident

i) No prior arrests; this is the first and last time [X159; X315; K25; K273; K246]

ii) CW did not read OP [K273]

iii) CW did not check expiration date on OP [K25; K273]

iv) CW attends all court dates in solidarity with or to express loyalty to offender [K273]

v) CW feels in control of her relationship with defendant [K273: I don't plan on having more bruises; X307]

vi) Stalking many years after separation [D felt deprived of child visitation due to CW's recent work + travel schedule]

vii) Talking out problems [X136: both shocked about incident that led to his arrest, both agreed that it was both their faults; K273: we both have loud mouths; X307; K282]

viii) We have a daughter together whom he loves very much [K273; X349]

ix) I'm not in a DV situation, the injury was from a misunderstanding [K273, X307(was there an injury?)]

x) D is afraid of another arrest [X159: police and DA told him that the next time they will proceed with prosecution even if CW does not want that; K139: CW feels safe enough to separate without another incident, X82: law enforcement warned him that he will serve time if arrested again since he is on probation for assaulting his children's mother; K246: D thinks twice, knows the consequences; K189: on non-DV parole]

xi) D has not threatened CW since the arrest [K246; K260; X159; X315; X81: no threats from April to Nov'06, but still argues; X345, X349: verbal abuse continued after arrest but stopped after her warning; K25: no interaction for eight months while case is active; K141; X344]

xii) CW warned D she will proceed with prosecution next time [X345: through his friends; X349: direct conversation with D]

xiii) D is very different after the arrest [X349; K282; K189: especially after getting shared custody]

7. Unable to utilize DV services
   i) Would love counseling but has rough schedule [K24: single parent + working + studying; K189: needs job more than counseling]

8. Does not need DV services
   i) CW has been living violence-free for many years [K25]
   ii) We don't have a constant problem, the arrest was due to a misunderstanding [K273; X307]

9. Would like follow-up from any agency?
   i) Yes, once every six months to check on victim's safety [K24]
   ii) Yes, to provide info about the case [X136; K246; K276]
   iii) No need: has very supportive family [K260]
   iv) No need, but wouldn't mind receiving phone calls [K260; K282]
   v) No need, and would not appreciate receiving phone calls [K273: does not feel threatened; X307]
   vi) Yes, expected follow-up calls from police [X136: since officer warned her that next time it would be 10 times worse, K346: since they failed to arrest him for a month and a half although he lives three blocks away]
   vii) Yes [K276; X159: not soon after incident/arrest but slightly later even if CW drops charges; K189; K139: it is healthy if someone cares to check up on victim's safety; X82: so victim does not feel alone; X345; K240; X315; X334; X349: phone calls; K141: to check on CW's safety; K246: to inquire about CW's safety; K257, X344; K25]
   viii) No, not now, but at the time of the incident would have welcomed calls [X346: it happened already, its over, that's good]