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Predictors of Program Outcome & Recidivism at the Bronx Misdemeanor Domestic Violence Court

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EXECUTIVE SUMMARY

A growing number of domestic violence courts include as a condition of sentence a *program mandate*—whether for a batterer intervention program, substance abuse treatment, mental health services, or other program. Compliance with the mandate is usually monitored by the court, a process that is both time- and labor-intensive, often ending with program failure and the resentencing of the offender to jail. Frustratingly, after a decade or more of monitoring program mandates, domestic violence courts know very little about which defendants are routinely sentenced to which types of programs (and why), how they are doing in those programs, and what, if any, benefit they receive. This has led court administrators to ask whether an individual defendant’s likelihood of benefiting from a program and court monitoring could be assessed and made a factor of sentencing.

Accordingly, with funding from the Violence Against Women Office of the U.S. Department of Justice, this study examined program mandate non-completion and recidivism for 439 defendants sentenced by the Bronx Misdemeanor Domestic Violence Court (BxMDVC). These defendants had been assigned to one of the court’s three most commonly imposed program mandates: (1) batterer intervention alone; (2) batterer intervention with substance abuse treatment; and (3) substance abuse treatment alone. In addition, we compared these 439 defendants with all other defendants sentenced in the BxMDVC during a portion of the same period of time. These other defendants received sentences that included jail, probation, conditional discharge without a program mandate, or conditional discharge with a program mandate other than batterer intervention or substance abuse (such as mental health treatment or parenting classes). Data for all comparisons were obtained from BxMDVC and the New York State Division of Criminal Justice Services.

METHODOLOGY

Case characteristics and outcomes were examined for 439 defendants arraigned between January 25, 1998 and June 26, 2000 and sentenced to a conditional discharge or probation with one of three program mandates. These defendants were then grouped by mandate type:

- Group 1 was sentenced to batterer intervention only (64% of the sample);
- Group 2 was sentenced to batterer intervention as well as substance abuse treatment (24% of the sample); and
- Group 3 was sentenced to substance abuse treatment only (11% of the sample).

In addition, we examined 870 cases that were sentenced in the BxMDVC between July 1, 1999 and May 31, 2000, excluding only those cases already included in the program mandate sample. These 870 cases received sentences including jail (50%), probation (11%), and conditional discharge either with a program mandate other than batterer intervention or substance abuse treatment or with no program mandate (39%).

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Two key outcome measures were assessed:

PROGRAM MANDATE OUTCOME Possible program mandate outcomes were ‘completed’ and ‘not completed.’ The not completed category included both defendants who had been found guilty of violating their conditional discharge due to program failure or rearrest, and defendants who were not found to have violated, but who did not complete the program.

RECIDIVISM OUTCOME Recidivism was defined as any new arrest, for domestic violence or other crime, and was measured for several time periods: pendency of the initial case; the program mandate; the one year period following the defendant’s last court date; and the two years following the last court date (only a limited number of defendants had been out for two years and were included in this analysis).

RESULTS FOR THE PROGRAM MANDATE SAMPLE

DEFENDANT CHARACTERISTICS More than 90% of these defendants were male and either African-American or Hispanic, with a median age of 31. Most (87%) were arrested for a crime against an intimate partner. Nearly three-quarters (72%) had at least one prior arrest, and most of those had at least one prior felony arrest. More than half of defendants were arrested on assault charges (57%); however, the majority were convicted of harassment (59%), with 19% convicted of assault and the remaining 22% convicted of other charges. Two-thirds of defendants received a full Order of Protection, barring contact of any kind with the victim.

PROGRAM MANDATE NON-COMPLETION RATES Exactly half of all defendants failed to complete the program mandate; those in the two groups receiving substance abuse treatment were less likely to complete than those in the batterer intervention-only group. Forty two percent of those in the batterer intervention only group, 67% of those in the combined group, and 60% of those in the substance abuse treatment only group did not complete their mandate.

RECIDIVISM RATES Eight percent of defendants were rearrested between the initial arrest and case disposition; 35% were rearrested during the program mandate period; 31% were rearrested during the one year following the end of the mandate; and 44% were rearrested during the two years following the end of the mandate. Across all recidivism measures, there were few significant differences among the three program mandate groups—not even for drug-related arrests, which make up a substantial proportion of rearrests for all groups (although at one and two years post-release, the substance abuse treatment groups did have minimally higher rearrest rates). Instead, what is most remarkable is the consistently high rate of recidivism for the sample as a whole, across all periods examined. Overall, from the moment of index arrest to two years post-release, 62% of all defendants were rearrested.

PREDICTORS OF PROGRAM MANDATE NON-COMPLETION AND RECIDIVISM Final outcomes were not predicted by defendants’ arrest charges, disposition charges, or Order of Protection type (limited versus full “stay away”). However, prior arrests and assignment to either of the

two substance abuse treatment groups *did* predict both mandate non-completion and recidivism. Mandate non-completion was also predicted by non-compliance at the first court monitoring appearance after sentencing: defendants who had immediate problems complying with the mandate were very likely never to complete it. And non-completion of the mandate, in turn, predicted recidivism.

Another, slightly less significant predictor of non-completion and recidivism was younger age, while unemployment at the time of arrest also predicted non-completion.

COMPARISON OF THE PROGRAM MANDATE SAMPLE AND THE 870-CASE SAMPLE

By definition, defendants in the 870-case sample were more likely to have received a jail sentence than were defendants in the program mandate sample, indicating that they were convicted of more serious charges. They also proved more likely to have (1) a prior criminal history, (2) a more serious criminal history; and (3) to have been previously incarcerated. In the current case, they were more likely to have been arrested and disposed on criminal contempt charges, and to have had more serious arrest and conviction charges. Their recidivism rate was higher, particularly while the case was pending.

RECIDIVISM RATES Twenty-four percent of the 870-sample were rearrested during case pendency; 49% were rearrested during the one year following disposition of the case; and 63% were rearrested during the two years following disposition. In total, from index arrest to two years post-release, 78% of defendants were rearrested. These recidivism rates are all consistently *higher* than the rates (already high) for defendants in the sample assigned to a batterer intervention and/or substance abuse treatment program.

PREDICTORS OF PROGRAM MANDATE NON-COMPLETION AND RECIDIVISM Most of the same demographic and criminal justice variables predicted rearrest in the 870 sample as in the program mandate sample, although prior criminal history was not as strong a predictor as it was for the program mandate sample. This may be because the prevalence of prior arrests is so high for this sample as a whole (85% versus the program mandate sample's 72%). For defendants in the 870-case sample, younger age, prior drug arrests, and prior convictions were the most powerful predictors of recidivism.

CONCLUSION

If we created a baseline profile of the defendant in the program mandate sample most likely to complete his program and refrain from recidivism, he would be older, employed, without a criminal history, assigned to the batterer intervention-only group and in compliance at the first monitoring appearance. The defendant least likely to complete the program and more likely to be rearrested would be relatively young, unemployed, previously arrested, previously incarcerated, assigned to the combined batterer intervention and substance abuse treatment group, and non-compliant with the program mandate at first monitoring appearance. In both cases, the 'impact' of the program mandate type might simply reflect sentencing patterns (e.g., defendants with more

extensive criminal histories, greater unemployment, etc. are more likely to be mandated to the substance abuse treatment groups).

Among the defendants in the 870-case sample, recidivists would also be younger and have greater prior criminal histories. In a population with higher rates of criminal history, however, prior arrests alone would not distinguish the potential recidivist: rather, he would be distinguished by prior criminal contempt arrests, prior drug sales or possession arrests, and, most significantly, prior convictions.

In sum, the single greatest predictor of both program non-completion and recidivism for all defendants was prior criminal history. For the program mandate sample, any prior criminal history was predictive. In addition, for program non-completion, non-compliance at initial monitoring appearance was also a very strong predictor. For the 870-case sample, however, so many defendants had a criminal history that further distinctions were necessary. For this sample, prior drug arrests, criminal contempt arrests, and convictions proved predictive.

These findings indicate that intensive individual assessments of attitudes or personality are not required to make reasonable judgments regarding the likelihood of a defendant's successful completion of a program mandate. Criminal history information is available to the court before sentencing; afterward, initial non-compliance with program mandate provides an early warning sign that defendants are at serious risk of mandate failure, at a time when the judge may choose to resentence the defendant to jail or probation. It appears that courts already possess powerful tools for predicting negative outcomes; the question that remains to be explored is how and to what purpose to use them.

INTRODUCTION

As domestic violence courts have proliferated across the country, they have challenged the limits of the judicial arsenal of sanctions and penalties, experimenting with a variety of means for attaining their goals of offender accountability and victim safety. Of these strategies, one of the most common is the enrollment of the defendant in educational, therapeutic or social service programs in the community. Rationales for the use of these programs vary. Some courts hope that batterer intervention programs may rehabilitate batterers; others assert that batterer intervention programs have no long-term effect on attitudes or conduct but may serve as effective tools for monitoring current behavior; and still others believe that addressing coexisting issues such as alcoholism, substance abuse and mental illness may reduce domestic violence recidivism.

For any of these reasons, high volume misdemeanor domestic violence courts often include a *program mandate* as a condition of sentence. Compliance with the mandate is then monitored by the court, informed by progress reports from the program and regular court appearances by the offender. The monitoring period can be as long as one year, and the process is both time- and labor-intensive, often ending with program failure and the resentencing of the offender to jail. After a decade or more of monitoring program mandates, courts are still wondering which defendants are being sentenced to which programs and why, how they are doing in those programs, and what, if any, benefit they receive from them (e.g., see Daly, Power & Gondolf, 2001).

In this study, we examined 439 cases in the Bronx Misdemeanor Domestic Violence Court for possible correlates of program mandate non-completion and recidivism. These cases had been assigned to one of the court's three most commonly imposed program conditions: (1) batterer intervention alone; (2) batterer intervention with substance abuse treatment; and (3) substance abuse treatment alone. The impact of several variables of interest was examined for the entire pool of defendants; for each of the three subgroups separately; and for all cases assigned to substance abuse treatment, with or without batterer intervention.

In addition, we compared the 439 cases with all other cases sentenced in the Bronx Misdemeanor Domestic Violence Court during a portion of the same time period. These 870 other cases received sentences that included jail, probation, conditional discharge without a program mandate, or conditional discharge with a program mandate other than batterer intervention or substance abuse (such as mental health treatment or parenting classes).

LITERATURE REVIEW

The regular imposition of mandates to intervention and treatment programs is one of the hallmarks of a domestic violence court (Aldrich & Mazur, 2002; Sack, 2002). Yet controversy remains over which defendants might be more or less appropriate for program mandates, what types of programs should be mandated, and what impact—if any—programs might have on participants' attitudes and behavior. Given the considerable expenditure of time required to place and monitor defendants in programs, courts are increasingly interested in resolving some of these issues and making the most effective use of limited resources.

The existence and possible nature of batterer typologies has been hotly debated in the literature over the course of the last decade (Holtzworth-Munroe, Meehan, Herron, Rehman &

Stuart, 2000). However these typologies are conceptualized, they must ultimately face the test of utility. How will they serve the people and agencies who must assess batterers—for risk of reassault, for treatment readiness—every day? Pressured by budgetary and time constraints and working with limited information, the criminal justice system, in particular, is seeking easily identifiable criteria for predicting defendants' likelihood of program mandate non-compliance and recidivism. For these purposes, a fully articulated typology requiring administration of multiple clinical instruments might be less helpful than a few key compliance indicators that can be quickly and inexpensively assessed.

Accordingly, in selecting variables for analysis in this study, we focused on demographic and criminal history information that would routinely be available to a sentencing judge. Most of these variables lend themselves to a stake-in-conformity thesis (Sherman & Smith, 1992), acting as measures of defendants' ties to the community and motivation to stay out of the criminal justice system. They have been associated with both criminal recidivism generally (Hanson & Wallace-Capretta, 2001) and with domestic violence recidivism more specifically (Feder & Forde, 2000).

PREDICTORS OF PROGRAM NON-COMPLIANCE AND RECIDIVISM

The research literature has considered a wide variety of demographic, criminological and psychological variables that might be expected to bear on program non-compliance and recidivism, and, unsurprisingly, has found that predictors of non-compliance are generally also predictors of recidivism (Bennett & Williams, 2001). However, this does not imply that there is universal agreement on what those predictors are. Some factors have demonstrated a significant impact in multiple studies; others have proven less consistent. Contradictory results have led some authors to conclude that differences in populations, programs and jurisdictions may render the pursuit of a national consensus less valuable than the identification of “local norms” (Hamberger, Lohr & Gottlieb, 2000, p. 550).

DEMOGRAPHICS One of the most robust findings in this area has been an association of *unemployment* with program non-compliance and recidivism (Baba, Galaka, Turk-Bicakci & Asquith, 1999; Cadsky, Hanson, Crawford & Lalonde, 1996; Daly et al, 2001; DeMaris, 1989; Feder & Forde, 2000; Gerlock 2001; Grusznski & Carrillo, 1988; Hamberger & Hastings, 1989; Peterson, 2003; Pirog-Good & Stets-Kealey, 1986; Saunders & Parker, 1989; Sherman, 1993; Taft, Murphy, Elliott & Keaser, 2001). While some investigators have reported no such association (Brown, O'Leary & Feldbau, 1997; Buttell & Carney, 2002; Jones & Gondolf, 2001), this may have been due, at least in the Jones and Gondolf study, to the low rate of unemployment in the study population as a whole.

Less education and *lower income* have also been associated with program non-completion and, less often, with recidivism (Baba et al, 1999; Cadsky et al, 1996; Daly et al, 2001; DeMaris, 1989; Feder & Forde, 2000; Gondolf & White, 2001; Grusznski & Carrillo, 1988; Saunders & Parker, 1989), with a few exceptions (Brown et al, 1997; Buttell & Carney, 2002).

Marital status—specifically, single or divorced versus married—has variously predicted program non-completion and recidivism (Baba et al, 1999; Cadsky et al, 1996; DeMaris, 1989; Feder & Forde, 2000; Gondolf & Foster, 1991; Harrell, 1991) and failed to predict them (Berk,

Campbell, Klap & Western, 1992; Buttell & Carney, 2002; Gondolf & White, 2001; Pate & Hamilton, 1992).

Despite the large number of African-Americans in the criminal justice system, few studies, particularly studies of men in batterer intervention programs, have included significant numbers of African-American participants (Daly & Pelowski, 2000). Of those that have, some have concluded that *African-American race* predicted program failure (Hamberger & Hastings, 1989; Saunders & Parker, 1989; Taft et al, 2001) while others have not found such a relationship with program failure or recidivism (Buttell & Carney, 2002; Daly et al, 2001; Gerlock, 2001), and one found program dropout to be related instead to Caucasian race (Pirog-Good & Stets-Kealey, 1986).

Younger age, on the other hand, has been more widely studied and found significant for both outcomes, as is consistent with other criminological research (Baba et al 1999; Buttell & Carney, 2002; Cadsky et al, 1996; DeMaris, 1989; Hamberger & Hastings, 1989; Hanson & Wallace-Capretta, 2001; Saunders & Parker, 1989), although some research has found no such relationship (Daly et al, 2001). (Gerlock (2001) found the reverse relationship, but her subjects were significantly older than in most other studies; the average age of completers (33.87) was actually consistent with that of completers in other studies.)

Regarding exceptions to each finding, it should be noted that in at least three studies, (Brown et al, 1997; Harrell, 1991; DeHart, Kennerly, Burke & Follingstad, 1999) demographic and socioeconomic variables have demonstrated no predictive validity.

CRIMINAL HISTORY AND SUBSTANCE ABUSE A longer or more severe *history of domestic violence* has sometimes proven predictive of recidivism (Gondolf & White, 2001; Hamberger & Hastings, 1993), though not always (Murphy, Musser & Maton, 1998); it has not been proven to be predictive of program failure (Gerlock, 2001). A longer or more severe *history of violence toward non-family members*, however, as well as any official *criminal history*, has been found predictive of both (Baba et al 1999; Cadsky et al, 1996; Davis, Nickles & Smith, 1989; DeMaris, 1989; Feder & Forde, 2000; Gerlock, 2001; Hamberger & Hastings, 1993; Hanson & Wallace-Capretta, 2001; Harrell, 1991; Jones & Gondolf, 2001; Peterson, 2003; Pirog-Good & Stets-Kealey, 1986; Saunders & Parker, 1989).

Prior drug-related arrests have been associated with program failure (DeMaris, 1989; Gruszinski & Carrillo, 1988; Hamberger & Hastings, 1989; Saunders & Parker, 1989), while *substance abuse* has been associated with both program failure and recidivism (Baba et al, 1999; Daly et al, 2001; DeMaris 1989; Gondolf, 2002; Hamberger & Hastings, 1990; Hanson & Wallace-Capretta, 2001), with some exceptions (Gerlock, 2001; Harrell, 1991).

PROGRAM OUTCOME As program failure and recidivism appear to share at least some common predictors, we might expect program failure to predict post-program recidivism. Many studies have found that offenders in batterer intervention programs who attend more sessions, or who complete the program, are less likely to reoffend or be rearrested post-program (Baba et al, 1999; Chen, Bersani, Myers & Denton, 1989; Dutton et al, 1997; Goldkamp, Weiland, Collins & White, 1996; Gondolf, 2002; Hamberger & Hastings, 1988; Murphy et al, 1998). Other research has failed to replicate these findings, or has described a more complex relationship. For instance, Taylor, Davis and Maxwell (2001) found that, for men court-mandated to community service or an 8-week or 26-week batterer intervention program, the longer program assignment was indeed

predictive of fewer arrests, but the individual's program attendance and completion was not. Moreover, victim reports did not reflect any differences in actual reassault between the groups.

This research, in combination with existing research on the impact of domestic violence courts themselves (see, for instance, San Diego Superior Court, 2000) suggests that any observed relationship of official recidivism with program mandate compliance might actually reflect a relationship with the court supervision that accompanies the mandate. It also raises the possibility that rearrest and reassault are distinct phenomena and may have different predictors—which might account for some of the contradictions in the literature described here.

THE BRONX MISDEMEANOR DOMESTIC VIOLENCE COURT

The Bronx Misdemeanor Domestic Violence Court (BxMDVC) opened in June 1998 as the second domestic violence court—the first criminal domestic violence court—in New York State. It is staffed by two judges, a judicial hearing officer (usually a retired judge), a dedicated prosecution team, a project director, resource coordinator, two defendant monitors and multiple victim advocates. The court processes roughly 4,000 domestic violence cases per year, and monitors approximately 700 defendants who have been mandated to attend one or more programs as a condition of sentence. At the time that the subjects of this study were sentenced, nearly 80% of such mandates were for batterer intervention programs, either alone (61%) or in conjunction with substance abuse treatment (19%); another 10% were for substance abuse treatment alone, and the remaining 10% were for other programs, primarily mental health treatment and parenting classes.

At the time of the study, the court heard all domestic violence cases. Ninety percent of these involved intimate partners, including legal spouses, common-law spouses, non-co-habiting intimate partners, and parties with children in common; the remaining 10% involved parents and children, siblings, and other family members.

OPERATIONS AND CASE PROCESSING

The BxMDVC has three court parts: an all-purpose part, a trial part, and a compliance part. Domestic violence cases may be arraigned in the all-purpose part, but are more often arraigned elsewhere and then transferred to the BxMDVC. In cases where the defendant does not plead guilty, the case is moved to the trial part for trial. If the defendant pleads guilty, or is found guilty, and is sentenced to a conditional discharge and a program, the case moves to the compliance part (DVC), for continued monitoring by a Judicial Hearing Officer (JHO). The defendant appears in DVC approximately once a month through the duration of the program. All programs provide the court with monthly reports on defendants' attendance and payment. If the defendant is determined to be in violation of the conditional discharge, the case is sent back to the all-purpose part. There, the sentencing judge may tell the defendant to continue in the program and return to DVC; re-sentence the defendant to a different program or different condition and return the case to DVC; commute the sentence; or impose jail.

HYPOTHESES

The primary purpose of this study was to examine predictors of program mandate non-completion and recidivism for defendants in the Bronx BxMDVC who received a conditional discharge with one of three program conditions. We hypothesized that the following factors would predict a higher probability of defendants failing to complete their program mandate and being rearrested:

- Substance abuse issues;
- Younger age;
- Any prior criminal history;
- Prior felony criminal history;
- Prior violent criminal history;
- More serious arrest charges;
- Violent arrest charges;
- More serious disposition charges;
- Violent disposition charges;
- Receipt of a full, as opposed to a limited, Order of Protection (the former of which makes even non-abusive or consensual contact between defendant and victim a crime); and
- Non-compliance with program mandate at first monitoring appearance (usually occurring one month after imposition of the sentence).

We also hypothesized that failure to complete the program mandate would predict subsequent recidivism.

Most of these hypotheses are based on standard findings in criminal justice research generally, as well as in some research specific to domestic violence, linking substance abuse issues, younger age and prior criminal history with a higher likelihood of recidivism. The hypothesis regarding type of Order of Protection is more speculative, for either type might be imagined to lead to greater recidivism: a full, “stay-away” order may create additional opportunities for rearrest by increasing the range of behaviors that qualify as illegal; while a limited order allows the defendant to have contact with the victim and thus may provide continued opportunities to reassault.

The hypothesis regarding initial non-compliance with program mandate is based on drug court findings regarding the importance of defendants’ early engagement in program (e.g., Rempel, Fox-Kralstein, Cissner, Cohen, Labriola, Farole, Bader & Magnani, 2003). In the drug court context, it is believed to be dangerous for too much time to elapse between sentencing and program participation, as defendants’ resolve to achieve sobriety may erode. The meaning of this variable in a domestic violence court is not precisely the same, particularly because, for those who are not in substance abuse recovery, there is no element of clinical engagement in a treatment program. Rather, this variable is believed to capture defendants’ willingness to comply with the mandate; our hypothesis is based on the expectation that defendants who take their mandates seriously will immediately comply with court and program directives. It seems reasonable to believe as well that immediate failure to comply with the court’s program mandate might indicate a more general disregard for the authority of the court and the criminal justice system, an attitude which might lead to reoffending.

A secondary aim of the study was to compare recidivism rates between defendants sentenced to any of the three program conditions and defendants who received other sentences, including

jail, probation, conditional discharge without a program, and conditional discharge with a program other than a batterer intervention program or substance abuse treatment. We hypothesized that, in comparison to defendants receiving these other sentences, defendants in the three programs would have:

- Less serious arrest and disposition charges;
- Less severe criminal history; and
- Less severe recidivism.

These hypotheses were based on the expressed opinions of judges and court personnel that program mandates were reserved for “the least serious” cases.

METHODS

CASE SELECTION: 439 PROGRAM SAMPLE

In order to examine correlates of success or failure for defendants sentenced to program mandates by the Bronx BxMDVC, we examined the case files of 439 defendants who were first arraigned between January 25, 1998 and June 26, 2000 and who were sentenced to a conditional discharge or probation with one of three program conditions. Defendants were then grouped by condition:

- GROUP 1 - Sentenced to batterer intervention only;
- GROUP 2 - Sentenced to batterer intervention as well as substance abuse treatment; or
- GROUP 3 - Sentenced to substance abuse treatment only.

(Seventeen percent of these defendants also received a jail sentence of less than one month to precede the conditional discharge, while nine percent received a probation sentence to be served concurrently with the conditional discharge.)

Each condition encompassed several different programs: the court employed more than six batterer intervention programs and ten substance abuse programs.

These three conditions are not assigned with equal frequency: at the time that these defendants were sentenced, batterer intervention only accounted for 67% of these three mandates, batterer intervention and substance abuse treatment accounted for 21% and substance abuse treatment only accounted for 11%. To the extent that was possible, we attempted to reflect this distribution in our sample: Group 1 makes up 64% of the sample, Group 2, 24% and Group 3, 12%.¹

Information on program mandate outcome was drawn from the court’s case files, primarily from entries made by the judge or judicial hearing officer. Some demographic and victim information was taken from the Criminal Justice Agency defendant questionnaire² and the

¹ This study was hampered by the fact that it was not possible to capture every eligible case from this time period. Cases were identified by review of court calendars for sentencing information; if the calendar did not indicate that a program was assigned, the case was missed. We believe that this was an infrequent but regular event, varying with the clerk who completed the day’s calendar; there is no way to assess its true frequency. Another ten to fifteen cases were excluded due to a significant amount of missing or unclear paperwork; as many as 30 were excluded because the case file itself could not be located. Thus, the cases examined may not be an entirely accurate representation of all of the eligible cases seen by the court during the study period.

² This questionnaire is completed before arraignment and collects demographic, education, employment and other information intended to assess the strength of community ties and assist the judge in making a bail decision.

affidavit, both included in the case file. Data on new arrests (including sealed cases), as well as criminal history and basic demographic variables (date of birth, race, gender) were obtained from the New York State Division of Criminal Justice Services (DCJS). This data was combined with the existing data set, adding criminal history to the program mandate outcome analysis and allowing for recidivism analyses.

CASE SELECTION: 870 SAMPLE

The cases in the 870 sample represent all cases disposed on a misdemeanor or violation and sentenced in the BxMDVC between July 1, 1999 and May 31, 2000, excluding those cases that had already been included in the 439 program sample.³ Because there was no manual file review for this sample, there is no information available on program assignment, if any; employment status; relationship to victim; or Order of Protection.

INDEPENDENT VARIABLES

The study weighed the possible correlations of multiple variables with both mandate non-completion and recidivism. Variables also available for the 870 sample are indicated with a (*).

DEMOGRAPHICS These included gender* (M/F), age*, employment status at time of arrest (employed/not) and race* (originally categorized as African-American, Hispanic, white/other, coded for analysis as African-American/other). Employment status was collected from the Criminal Justice Agency paperwork in court files and was not always available (N=226).

RELATIONSHIP TO VICTIM This variable (intimate partner/other) was included in order to distinguish true domestic violence between intimate partners from violence between family members (siblings, parents and children, etc.), who until recently were sometimes referred to the BxMDVC. This information was assessed from the affidavit or other court file papers and was frequently unavailable (N=381).

PRIOR CRIMINAL HISTORY* The variables used in analysis were primarily those related to arrest: any prior arrests, mean number of prior arrests, misdemeanor arrests, felony arrests, murder/manslaughter arrests, violent felony offender (VFO) arrests, gun or weapon arrests, assault arrests, criminal contempt arrests and drug possession or sale arrests. We also considered convictions and incarcerations in some analyses: any prior convictions, mean number of prior convictions, felony convictions, criminal contempt convictions, drug possession or sale convictions, any prior incarcerations and mean time previously incarcerated. All but means were coded any/none.

CURRENT ARREST CHARGES* Arrest charges were categorized as assault, menacing/ endangerment, criminal contempt and other.

³ This sample was identified through the Criminal Court's information system (CRIMS), and, due to the general accuracy of data entered in that system and to the simplicity of the inclusion criteria, is believed to have captured every eligible case. Dates, charges, disposition and sentence on the index case were obtained from CRIMS; the two samples were then submitted to DCJS for criminal history and recidivism data to be appended.

CURRENT ARREST DISPOSITION CHARGES* Disposition charges were categorized as assault, criminal contempt, harassment and other.

ORDER OF PROTECTION This was coded as a full (stay-away or no-contact) or limited Order of Protection. This data, which was retrieved from court files, was available for only half of the defendants (N=238).

JAIL ALTERNATIVE In the BxMDVC, jail alternative can be set at 15, 60, 90, 180 or 365 days. For some analyses, jail alternative was coded as 15 days/60+ days. This information was not available in all cases (N=387).

INITIAL COMPLIANCE WITH PROGRAM MANDATE This variable assessed whether or not the defendant had 1) reported to the appropriate court office after sentencing for program referral, 2) attended the intake appointment scheduled for him by the court and 3) if possible, enrolled in the program (enrollment might not have been possible if the program did not have an immediate class opening, or if the defendant was found ineligible for the program on criteria such as type of insurance or program catchment area). Initial compliance was coded yes/no.

NON-COMPLETION OF PROGRAM MANDATE Although an outcome measure in its own right, for recidivism analyses program mandate outcome was also an independent variable. It was coded as completed/did not complete. (See Outcomes section below for discussion.)

OUTCOME VARIABLES

The first outcome measure assessed defendants' completion of the court's one-year mandate. The second measure looked at defendants' criminal behavior after release from that mandate (whether release came as a result of completion or violation and termination). This criminal behavior was also compared with that of the 870 sample.

PROGRAM MANDATE OUTCOME This variable had multiple values, which were broadly defined as completed, compliant and failed. *Completed* indicates either that the program declared that the defendant had successfully finished the program, or that the court ruled that the defendant had satisfactorily discharged his obligation. (The latter applies primarily to defendants in substance abuse treatment, which may continue far beyond the one year of the conditional discharge.) *Compliant* defendants did not fail, but did not complete the program. This terminology refers most commonly to cases in which defendants have failed to complete the program at the end of their conditional discharge, yet have made enough of an effort that the judge chooses not to impose jail. (Less frequently it is used to describe defendants who are excused from program due to medical or financial hardship; move away from the area and can no longer return for regular monitoring; or undergo some other unusual change of circumstances.) Defendants *failed* when they were terminated by the program for poor attendance or poor behavior (and the court declined to extend him another chance); were rearrested; or disappeared and were out on warrant for several months. Failure generally resulted in a finding of Violation of Conditional Discharge and the imposition of a jail sentence. For the purposes of almost all analyses, this variable was

coded as completed/not completed, with failed and compliant collapsed.⁴

RECIDIVISM OUTCOME Recidivism was defined as any new arrest, but dimensions of recidivism were also considered, including number of arrests, arrest charge severity (violation, misdemeanor or felony) and arrest charge type (violent felony, gun or weapon, criminal contempt, and drug possession or sales). We did this both to be consistent with the criminal history analysis, and also to focus on two charges of particular interest, criminal contempt (the only indicator that the new arrest was not only an act of domestic violence but was perpetrated against the original victim) and drugs (as an indicator of the success of substance abuse treatment).

In order to make the period of recidivism analysis equal for all defendants, some of whom were discharged from the court relatively recently, we conducted all major analyses with recidivism during the one year period following the defendant's last court date; or, if the last court date resulted in a jail sentence, from that release date.⁵ For those defendants who had been released for at least two years, we also conducted recidivism analyses for the entire two-year period.

We also conducted separate analyses of recidivism during the pendency of the index case, and, for the 439 program sample, of recidivism during the period of court monitoring. This was to investigate the impact of case processing and court monitoring status on the likelihood of recidivism.

Rearrest is not the outcome measure of choice in domestic violence research; ideally, arrest records should be complemented by Domestic Incident Reports filed by the police, and by victim and defendant report. (For a discussion of rearrest as a recidivism measure, see Peterson, 2003.) We relied on rearrest for two reasons: expedience and data availability, but also relevance to the courts. A primary question of judges and court personnel is: Will this person be back? We sought to answer this question.

⁴ This classification has been used in other program outcome research (Buttelle & Carney, 2002); the rationale for using it here is that 'compliant' defendants committed multiple minor infractions, were repeatedly re-referred to programs, spent significant amounts of time out on warrant, and did not meet formal criteria for program completion.

In this sense, these defendants looked more like the outright failures than the completers. The one exception to this similarity, however, was in the amount of time spent in the compliance part; analysis not shown indicates that defendants who failed spent a mean of 5.3 months in the compliance part, versus a mean of 8.6 months for compliant defendants and 8.2 months for completing defendants. As the initial charge for research was to identify not only defendants who were very likely to fail, but also any who absorbed inordinate resources, we considered this factor to weigh in favor of combining compliant and failed defendants into a single category.

⁵ For the purpose of identifying a release date, we assumed that defendants served two-thirds of their jail sentence, which is standard practice in New York City.

RESULTS FOR THE PROGRAM MANDATE SAMPLE (439 CASES)

DESCRIPTIVE INFORMATION

Table 1 presents descriptive data for the entire sample. Summarized below it are the key findings.

TABLE 1. 439 CASE SAMPLE: DESCRIPTIVE				
DEMOGRAPHICS, PRIOR CRIMINAL HISTORY, CURRENT ARREST BY PROGRAM MANDATE TYPE				
	Batterer Intervention Only N=279	Batterer Intervention & Substance Abuse TX N=106	Substance Abuse TX Only N=54	Total N=439
DEMOGRAPHICS				
Percentage male	98%	98%	85%**	94%
Median age	29	34 **	37**	31
Percentage employed ¹	61%	50%	39%**	56%
Race				
African-American	46%	42%	31%*	43%
Hispanic	48%	47%	54%	49%
White/Other	5%	12%*	15%*	8%
RELATIONSHIP TO VICTIM²				
Intimate partner	81%	73%+	48%**	75%
Other family member	19%	27%	52%	25%
PRIOR CRIMINAL HISTORY				
Arrests				
Any prior arrests	70%	72%	83%*	72%
Mean number of arrests	4.2	7.2**	9.0**	5.5
Felony arrests	57%	61%	67%	59%
Murder/manslaughter arrests	4%	2%	4%	4%
VFO arrests	42%	45%	57%*	45%
Gun/weapon arrests	30%	42%*	43% ⁺	35%
Assault arrests	36%	37%	50% ⁺	38%
Criminal contempt arrests ³	8%	6%	13%	8%
Drug possession/sale arrests	39%	50% ⁺	56%*	44%
Convictions				
Any prior convictions	61%	67%	81%*	65%
Mean number of convictions	3.7	6.7**	6.9**	4.9
Felony convictions	27%	39%*	43%*	31%
Criminal contempt convictions ³	5%	5%	11%	5%
Drug possession/sale convictions	24%	35%*	31%	27%

TABLE 1 CONTINUED

	Batterer Intervention Only N=279	Batterer Intervention & Substance Abuse TX N=106	Substance Abuse TX Only N=54	Total N=439
PRIOR CRIMINAL HISTORY CONTINUED				
Sentences				
Conditional discharge	46%	47%	67%**	49%
Probation	28%	37%	33%	31%
Incarceration	24%	60%**	56%**	30%
Mean years incarcerated ⁴	4.0	4.6	4.1	4.2
CURRENT ARREST				
Arrest Charge				
Assault	63%	55%	35%**	57%
<i>Misdemeanor</i>	47%	42%	24%**	43%
<i>Felony</i>	16%	12%	11%	14%
Misdemeanor or felony criminal contempt	8%	12%	11%	10%
Misdemeanor or felony menacing/endangerment	11%	15%	15%	12%
Misdemeanor or violation harassment	2%	6% ⁺	6%	3%
Other misdemeanor or felony charges ⁵	16%	12%	33%*	17%
VFO charges	20%	20%	20%	20%
Gun/weapon charges	16%	22%	26% ⁺	18%
Disposition Charge				
Misdemeanor or violation harassment ⁶	59%	57%	59%	59%
Misdemeanor assault	20%	19%	11%	19%
Misdemeanor criminal contempt	13%	14%	11%	13%
Other misdemeanor charges ⁵	8%	11%	19%*	9%
Sentence				
Conditional discharge only	79%	71% ⁺	91%*	78%
Probation only	3%	8%*	0	3%
Jail followed by probation or conditional discharge	19%	22%	9% ⁺	18%
Mean days jail ⁷	32	33	38	32
Order of Protection				
Full Order of Protection ⁸	64%	100%*	65%	66%
Jail Alternative in Case of Program Failure⁹				
15 days	63%	57%	55%	61%
60, 90 or 180 days	19%	17%	18%	18%
365 days	18%	26%	28%	21%
Initial Compliance with Program Mandate				
In compliance at first monitoring appearance	58%	49%	62%	56%
More than one program referral necessary ¹⁰	29%	33%	30%	30%

TABLE 1 CONTINUED

	Batterer Intervention Only N=279	Batterer Intervention & Substance Abuse TX N=106	Substance Abuse TX Only N=54	Total N=439
CURRENT ARREST CONTINUED				
Case Processing				
Mean number of months from arrest to sentencing	1.3	1.2	1.5	1.3
Mean number of months in compliance part	7.3	7.4	5.6**	7.1
Warrants Imposed, Arrest through Mandate End				
Mean number of warrants imposed	0.6	1.0**	0.6	0.7

Asterisks indicate significant difference in means between that group and the batterer intervention-only group, as determined by t-tests. ⁺ p<.10 * p<.05 ** p<.01

Except where otherwise noted, the number of missing cases ranges from zero (0) to fifteen (15).

¹ N=226; for BSA group, N=8

² N=381

³ Captures only those arrests/convictions in which criminal contempt was the top charge.

⁴ One outlier was eliminated from the BSA group in calculating mean length of time incarcerated.

⁵ A significant percentage of these are theft or property charges; other charges include stalking, menacing, etc.

⁶ 99% of harassment dispositions were at the violation level and 1% at the misdemeanor level. A violation, a lesser charge than a misdemeanor, is not a crime and will not result in a criminal record.

⁷ One outlier from the B group and one from the SA group were omitted in calculating mean jail time imposed.

⁸ N=238

⁹ N=307

¹⁰ Multiple program referrals may or may not be due to defendant noncompliance; reasons for re-referral include program failure, rejection by program, scheduling conflicts, recommended change in treatment modality, etc.

DEMOGRAPHICS Defendants are almost universally male (94%), with a median age of 31. Forty nine percent are Hispanic and 43% are African-American; the remaining eight percent are white or another race. The population suffers substantial unemployment (44%). The vast majority (87%) were arrested for a crime against an intimate partner.

PRIOR CRIMINAL HISTORY Most defendants have a criminal history: 72% have at least one prior arrest and 65% have at least one prior conviction; the mean numbers of prior arrests and convictions are six and five, respectively. The majority of those with prior arrests had prior felony arrests, and 16 defendants had been arrested on murder/manslaughter or attempted murder/manslaughter charges. Nearly half of those previously convicted—30% of the total—had been incarcerated; of those, the mean period of previous incarceration was 57 months.

CURRENT ARREST & CONVICTION CHARGES More than half of defendants were arrested on assault charges (57%); the majority were disposed on harassment (59%) or assault (19%) charges. Ten percent were arrested on, and 13% plead to, a criminal contempt charge.

ORDER OF PROTECTION 66% of defendants received a full Order of Protection.

JAIL ALTERNATIVE⁶ 61% of defendants received the minimum 15 day jail alternative, with 21% receiving the maximum of 365 days and 18% falling in between.

INITIAL COMPLIANCE WITH PROGRAM MANDATE 56% of defendants were in compliance with their program mandate at first monitoring appearance.

DIFFERENCES BETWEEN GROUPS

In comparison with the batterer intervention-only group, members of the two substance abuse treatment groups were older ($p < .01$); were less likely to be African-American or Hispanic ($p < .05$); had more prior arrests overall ($p < .01$); were more likely to have had prior arrests involving a gun or weapon ($p < .10$); were more likely to have had prior drug possession/sales arrests ($p < .10$); had more prior convictions ($p < .01$) and more prior felony convictions ($p < .05$); and were more likely to have been previously incarcerated ($p < .01$).

In general, of the three groups, the greatest differences were found between the batterer intervention-only and the substance abuse treatment-only groups. As Table 1 indicates, in addition to all of the above differences, members of the substance abuse treatment-only group were more likely than those in the batterer intervention-only group to be female and to have prior, violent criminal histories ($p < .05$); and they were less likely to be the intimate partner of their victim ($p < .01$) (the latter due to the fact that women were significantly less likely to be the intimate partner of their victim than were men).

⁶ We included this variable because drug court research indicates that jail alternative is significant as a measure of legal coercion. However, while it did prove to be significant in several correlations, we believe that the findings are misleading. Judges in BxMDVC rarely specify the jail alternative to the defendant (they generally say, "If you fail this program, you could go to jail," not, "You will serve ten days"), thus undermining the idea that a defendant will be motivated to avoid a lengthy jail alternative. Also, the jail alternative length is almost invariably linked to disposition charge—for example, a case disposed on a harassment violation gets the minimum alternative. Thus, when correlations show that increased jail alternative is associated with program mandate failure and recidivism, it is not that defendants are deterred by shorter rather than longer jail sentences, but that the defendants facing longer sentences pled to higher charges and may well have been more serious cases with greater criminal histories.

PROGRAM MANDATE NON-COMPLETION AND RECIDIVISM RATES

Table 2 reports the rates of program mandate non-completion and recidivism for all defendants.

TABLE 2. 439 CASE SAMPLE: OUTCOMES				
PROGRAM COMPLETION/FAILURE AND RECIDIVISM BY PROGRAM MANDATE TYPE				
	Batterer Intervention Only N=279	Batterer Intervention & Substance Abuse TX N=106	Substance Abuse TX Only N=54	TOTAL N=439
COMPLETION OF PROGRAM MANDATE				
Completed program mandate	58%	33%**	40%**	50%
Did not complete program mandate	42%	67%	60%	50%
% of non-completers that were resentenced to jail	74%	75%	58% ⁺	72%
Mean number of days of jail imposed ¹	33	70	25	34
Time in compliance part				
Mean number of months for those who completed	9.7	10.2	9.4	9.8
Mean number of months for those who did not complete	7.2	9.1 ⁺	6.6	7.7
RECIDIVISM DURING CASE PENDENCY				
Initial Arrest to Disposition				
Mean number of months, initial arrest to disposition	1.3	1.2	1.5	1.3
Any new arrests	8%	8%	11%	8%
Mean annual arrest rate	.7	1.1	.7	.8
Disposition to Program Completion/Failure				
Mean number of months, disposition to completion/failure	7.3	7.4	5.6**	7.1
Arrests				
Any new arrests	33%	40%	33%	35%
Mean number of arrests	.48	.58	.69	.53
Mean number months, disposition to new arrest	4.0	3.7	2.7	3.7
Felony arrests	18%	20%	20%	18%
Criminal contempt arrests ²	11%	9%	9%	11%
Drug possession/sale arrests	10%	10%	17%	11%
Mean annual arrest rate	.9	1.2	2.8	1.2
Convictions				
Any new convictions	22%	29%	30%	25%
Mean number of convictions	.29	.41	.38 ⁺	.33
Mean annual conviction rate	.74	1.4	1.5	1.0

TABLE 2 CONTINUED

	Batterer Intervention Only N=279	Batterer Intervention & Substance Abuse TX N=106	Substance Abuse TX Only N=54	TOTAL N=439
RECIDIVISM POST-RELEASE				
One Year Post-Release				
Arrests				
Any new arrests	28%	35%	39%	31%
Mean number of arrests ³	.5	.6	.8*	.6
Mean number months, release to first new arrest	4.5	5.0	3.8	4.5
Felony arrests				
VFO arrests	14%	19%	15%	15%
Gun/weapon arrests	5%	10%	4%	6%
Assault arrests	4%	6%	7%	5%
Criminal contempt arrests ²	7%	4%	7%	6%
Drug possession/sale arrests	5%	8%	11% ⁺	6%
	12%	16%	15%	13%
Convictions				
Any new convictions	20%	25%	33%*	23%
Mean number of convictions ⁴	.3	.4	.6**	.4
Incarceration				
Mean number of months incarcerated	9%	12%	20%*	11%
	1.2	2.8	0.8	1.5
Two Years Post-Release⁵				
Arrests				
Any new arrests	N=194	N=52	N=31	N=277
Mean number of arrests	45%	52%	47%	44%
Mean number months, release to first new arrest	1.0	1.3	1.1	1.1
Mean number months, release to first new arrest	8.6	6.9	4.3**	7.6
Felony arrests				
VFO arrests	26%	29%	16%	25%
Gun/weapon arrests	12%	13%	3%	11%
Assault arrests	6%	8%	6%	6%
Criminal contempt arrests ²	16%	12%	10%	14%
Drug possession/sale arrests	8%	19%*	16%	11%
	18%	21%	23%	19%
Convictions				
Any new convictions	33%	37%	42%	35%
Mean number of convictions	.6	.9	.9	.7
Sentences				
Conditional discharge	13%	19%	19%	15%
Probation	4%	4%	3%	4%
Incarceration	15%	23%	26%	18%
Mean number of months incarcerated	.8	3.7 ⁺	2.7*	1.5

Asterisks indicate significant difference in means between that group and the batterer intervention-only group, as determined by t-tests. + p<.10 * p<.05 ** p<.01

¹ N=3 for BSA group, which was missing considerable data on length of jail sentence imposed.

² Captures only those arrests/convictions in which criminal contempt was the top charge.

³ Two outliers (3%) were eliminated from the B group and one (3%) from the BSA group in calculating mean number of arrests one year post-release.

⁴ Two outliers (4%) were eliminated from the B group in calculating mean number of convictions one year post-release.

⁵ Only 277 defendants had been on release for two years and were included in this analysis.

⁶ One outlier was eliminated from the B group in calculating mean number of months in jail two years post-release.

As Table 2 demonstrates, half of all defendants did not complete their program mandates, and those in the two groups receiving substance abuse treatment were less likely to complete than those in the batterer intervention-only group. Forty two percent of those in the batterer intervention-only group, 67% of those in the combined group, and 60% of those in the substance abuse treatment-only group did not complete.

Recidivism, defined as any type of new arrest or conviction (it was not possible to distinguish domestic violence crimes from others), was calculated for several different periods. We first looked at recidivism during case pendency, and found that 8% of defendants were rearrested between initial arrest and case disposition.

We then looked at recidivism during the course of the program mandate, which lasted a mean of 7.1 months, regardless of whether defendants were arrested. Thirty five percent of defendants were arrested in this period, yielding a rate of approximately 1.2 arrests per year. Notably, the mean number of months to first arrest in this period was 3.7 months, suggesting that defendants were either allowed by the court to continue with their mandate despite the new arrest, or that the court did not learn of the new arrest. Fifty two defendants were arrested more than once during this period.

Finally, we looked at recidivism one and two years post-mandate completion. During the one year following completion of the program mandate or release from jail after failing the mandate, 31% of all defendants (14% of those who completed their program mandate, versus 47% of those who failed) were rearrested, with a mean of 0.6 arrests over the course of the year. During the first two years post-mandate, 44% of all defendants were rearrested (N=277).

Across all recidivism measures, there are few significant differences among the three program mandate groups, although the raw numbers do suggest that there was slightly more recidivism in the substance abuse treatment-only group. What is most remarkable, however, is the consistently high rate of recidivism for the sample as a whole, across the different stages of case pendency, compliance monitoring and release. In the very short period (1.3 months) from index arrest to sentencing, eight percent of defendants were arrested; in the relatively long (7.1 months) program mandate period, 35% were rearrested. That rate dropped slightly to 31% in the first year of release. Rearrest rates then rose to an impressive 44% in the second year post-release. A substantial percentage (19%) of these arrests included drug-related charges, up from 13% at one year post-release. There are no significant differences between the three groups on rates of rearrest for drug crimes.

PREDICTORS OF PROGRAM MANDATE NON-COMPLETION AND RECIDIVISM

Bivariate and logistic regression analyses were conducted to determine which variables predicted (1) program non-completion and (2) recidivism within one year post-mandate completion. Results are shown in Tables 3 and 4 below. (Simple bivariate correlations are presented in Appendix A.)

**TABLE 3. 439 CASE SAMPLE: OUTCOMES
ODDS RATIOS FROM LOGISTIC REGRESSION OF PROGRAM NON-COMPLETION
ON SELECT INDEPENDENT VARIABLES**

Variable	Model 1	Model 2	Model 3
Group 0: Batterer intervention only 1: Any substance abuse treatment		3.609 **	2.052
Race 0: Not African-American 1: African-American		.633 +	1.131
Age at arrest ¹		1.032 *	1.027
Any previous arrests	3.861 **	.344 **	2.732 *
Any previous drug arrests ²		.571 *	1.241
Employed			1.254
Disposition charge Harassment Criminal contempt		.722 .565	2.579 * 1.008
Not in compliance at first monitoring appearance	6.139 **	5.982 **	15.388 **
Arrested post-disposition, during monitoring period		.439 +	
Constant	.617	.592	.002 **
Chi-square	110.88 **	153.82 **	102.678 **
Nagelkerke R-square	.308	.414	.492
N	422	414	221

¹ Correlation is with younger age.

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

² This is intercorrelated with any previous arrests.

PREDICTORS OF PROGRAM NON-COMPLETION Bivariate analyses found no effect of age, severity and violence of arrest charges, severity and violence of disposition charges, or Order of Protection type on the probability of program mandate non-completion. Most of these variables were thus excluded from logistic regressions. Table 3 presents three logistic regression models

in which selected independent variables were found to have significant effects on final program status.

The first model demonstrates that two variables alone, prior arrests and program status at first monitoring appearance (compliant/non-compliant), explain a significant amount of variation in program completion (pseudo $R^2 = .308$). Odds ratios indicate that defendants with prior arrests are almost four times more likely than defendants with no criminal history to fail to complete their program mandate, while defendants who are not in compliance at first monitoring appearance are more than six times more likely to fail to complete than those who are in compliance.

The second model adds to the first several new variables: group (coded as any substance abuse treatment versus batterer intervention-only), race, age, prior drug arrests, harassment disposition charge (the disposition charge of lowest possible severity), criminal contempt disposition charge and post-disposition, pre-mandate completion arrest. All but harassment and criminal contempt disposition charge are significant, with the model achieving substantial explanatory power (pseudo $R^2 = .414$). Non-compliance at first monitoring appearance retains the greatest impact, followed by any substance abuse treatment (odds ratio = 3.609) and prior criminal history ($p < .01$ for all). Younger age ($p < .05$), African-American race ($p < .10$), and, surprisingly, new arrest in the monitoring period ($p < .10$) have less significant impacts.

The third model is identical to the second, but with the addition of employment status. Adding this variable extends the model to include nearly all of the independent variables that we had hypothesized would be significant, but missing employment status data reduce the sample size to 221 cases. Employment status did not reach significance; indeed, the only variables to reach significance are non-compliance at first appearance (odds ratio = 15.388, $p < .01$), prior arrests ($p < .05$) and disposition charge other than harassment (which had not reached significance in the previous model) (odds ratio = 2.579, $p < .05$). With only these three variables reaching significance, the model in its entirety retains significant power (pseudo $R^2 = .495$).

The results supported five of our initial hypotheses. Failure to complete the program mandate was positively associated with:

- All prior criminal history variables—any prior arrests, prior felony arrests, and prior violent arrests ($p < .01$);
- Non-compliance at first monitoring appearance ($p < .01$); and
- Substance abuse issues (both as indicated by a program condition including substance abuse treatment and also as indicated by prior history of drug possession or sales) ($p < .01$).

Across the three multivariate models, the impacts of initial program non-compliance and prior arrests were clearly demonstrated. In particular, defendants not in compliance at first monitoring appearance were six times more likely not to complete than defendants who were in compliance. Additionally, substance abuse treatment mandate (with or without batterer intervention) significantly reduced the probability of mandate completion—defendants receiving substance abuse treatment were two to three times less likely to complete than those in batterer intervention only.

Prior drug arrests, younger age and African-American race were also found to have significant negative impacts on completion. Harassment disposition charge (acting as a proxy for charge severity) did have a significant impact on program completion in one model, though not in another. Arrest charges, criminal contempt disposition charge and type of Order of Protection had no impact on program completion.

TABLE 4. 439 CASE SAMPLE: OUTCOMES
 ODDS RATIOS FROM THE LOGISTIC REGRESSION OF RECIDIVISM ONE YEAR POST-COMPLETION/FAILURE
 ON SELECT INDEPENDENT VARIABLES

Variable	Model 1	Model 2	Model 3
Group 0: Batterer intervention only 1: Any substance abuse treatment	1.634 ⁺		
Race 0: Not African-American 1: African-American	1.363		
Age at arrest ¹	1.043 **		1.037 **
Any previous arrests	4.969 **	6.118 **	4.334 **
Any previous drug arrests ²	2.084 **		1.915 *
Pre-disposition recidivism			3.041 **
Not in compliance at first monitoring appearance	1.362		
Did not complete program mandate		4.032 **	3.460 **
Constant	.068 ⁺	8.475 **	.064 **
Chi-square	79.007 **	88.093 **	113.46 6
Nagelkerke R-square	.244	.257	.326
N	415	438	429

¹ Correlation is with younger age.

⁺ p<.10 * p<.05 ** p<.01

² This is intercorrelated with any previous arrests.

PREDICTORS OF RECIDIVISM Bivariate analyses did not support a relationship of substance abuse, severity and violence of arrest or disposition charges, or type of Order of Protection with recidivism. Potentially significant predictors were included in the logistic regression models presented in Table 4. We again present three models. The first includes group, race (African-American/other), age, prior arrests, prior drug arrests, and program status at first monitoring appearance (compliant/non-compliant). Pseudo R² for this model is .244. Prior arrests reaches greatest significance in predicting future rearrest (odds ratio = 4.969, p<.01), but prior drug arrests and younger age are also significant (p<.01), group less so (p<.10). Status at first monitoring appearance, consistently the strongest predictor of program completion in the previous set of regressions, does not provide significant power for predicting recidivism.

The second model contains only two variables: the most powerful variable from model one—prior arrests—and a new variable intended to take the place of status at first monitoring appearance—program mandate non-completion. Both variables reach significance at p<.01; odds ratios indicate that defendants with prior arrests are six times more likely to recidivate than

defendants without a criminal history; those who did not complete their program mandate are four times more likely to recidivate than those who did complete. Pseudo R^2 for this model is .257, slightly higher than for the previous model.

The third model combines the significant variables of the first two and adds pre-disposition recidivism. All variables reach significance ($p < .01$ for all but prior drug arrests, for which $p < .05$). Prior arrests again have the greatest explanatory power (odds ratio = 4.334), followed by program mandate non-completion (odds ratio = 3.460) and pre-disposition recidivism (odds ratio = 3.041). Total explanatory power for this model is greater than that of the previous two (pseudo $R^2 = .326$), but it is notable that the three models do not achieve nearly the level of power reached in the program completion regressions.

Prior arrests and program non-completion were consistently the strongest predictors of recidivism in these models, followed by pre-disposition recidivism and prior drug arrests, then by age. The message of these analyses seems to be that future criminal behavior is most clearly predicted by past criminal and non-compliant behavior, while background demographics are less important.

In sum, several of our initial hypotheses were supported. Recidivism was positively associated with:

- Substance abuse treatment mandate ($p < .10$);
- Younger age ($p < .01$);
- Prior arrests and prior drug arrests ($p < .01$); and
- Failure to successfully complete the program mandate ($p < .01$).

Of these, substance abuse treatment mandate was clearly the least significant factor; prior arrests, which resulted in a four to six times greater likelihood of recidivism, was the greatest, followed by non-completion of the program mandate. Hypotheses regarding felony and violent criminal history, current arrest and disposition charges, and type of Order of Protection were not supported in the final multivariate analysis.

RESULTS COMPARING PROGRAM MANDATE SAMPLE TO 870-CASE SAMPLE

DIFFERENCES BETWEEN SAMPLES

Descriptive information for the 870 sample, and t-test comparisons with the 439 program mandate sample, are given in Table 5.

	439 Case Sample	870 Case Sample
DEMOGRAPHICS		
Male	94%	99%**
Median age	31	32
Race		
African-American	43%	50%*
Hispanic	49%	43%*
White/Other	8%	7%

TABLE 5 CONTINUED

	439 Case Sample	870 Case Sample
PRIOR CRIMINAL HISTORY		
Prior arrests ¹	72%	85%**
More than 10 prior arrests	15%	28%**
Felony arrests	59%	75%**
Assault arrests	38%	49%**
Criminal contempt arrests ²	8%	17%**
Drug possession/sale arrests	44%	55%**
Incarceration	30%	54%**
CURRENT ARREST		
Arrest Charge		
Any felony charge	31%	42%**
Any assault	57%	44%**
<i>Misdemeanor</i>	43%	16%**
<i>Felony</i>	14%	28%**
Criminal contempt ²	10%	18%**
Menacing/endangerment	12%	5%**
VFO charges	20%	23%
Gun/weapon charges	18%	17%
Disposition Charge		
Any violation charge (versus misdemeanor)	59%	13%**
Harassment (violation or misdemeanor)	59%	14%**
Assault	19%	34%**
Criminal contempt ²	13%	28%**
Other misdemeanor charges ³	9%	24%**
Sentence		
Conditional discharge (CD) only	78%	39%**
Probation only	3%	11%**
Jail followed by either probation or CD	18%	7%*
Jail only	0	43%**
Fine	0	0.5%
Case Processing		
Mean number of months arrest to disposition	1.3	3.4**
New Arrests During Pendency of Current Case⁴		
Any new arrests	8%	24%**
Mean annual arrest rate	.63	1.0*

Asterisks indicate a significant bivariate relationship. + p<.10 * p<.05 ** p<.01

Correlation coefficients are based on Pearson. All significance tests are two-tailed.

¹ The difference in number of prior arrests between the two samples is due entirely to the B group within the 439 sample; there is no significant difference between the 870 sample and the SA and BSA groups.

² Captures only those arrests/convictions in which criminal contempt was the top charge.

³ A significant percentage of these are theft or property charges; other charges include stalking, menacing, etc.

⁴ Arrest to disposition.

Members of the 870 case sample were more likely than members of the program case sample as a whole to be male and African-American. There was no significant difference in age between the groups. Members of the 870 sample had a consistently more serious prior criminal history, with a greater probability of: prior arrests; more than ten prior arrests; prior felony, assault, criminal contempt, and drug-related⁷ arrests; any prior convictions; and prior felony and criminal contempt convictions. The 870 sample was also more likely to have served time in jail or prison.

On the instant case, members of the 870 case sample were more likely than members of the program case sample to be arrested and disposed on criminal contempt charges; they were also more likely to be disposed on assault charges. Findings regarding assault charges at arrest, however, were more complex: members of the 870 sample were *less* likely to be arrested on any assault charge; however, when assault charges were broken down by severity, the 870 sample was less likely to be arrested on misdemeanor assault charges, but twice as likely to be arrested on felony assault charges ($p < .01$ for all).

Cases in the 870 sample took significantly longer to reach disposition, with a mean of 3.4 months from arrest to disposition, versus the program sample's mean of 1.3 months. Not surprisingly, they were also significantly more likely ($p < .01$) to be rearrested between index arrest and disposition (24% were rearrested, versus the 439 sample's eight percent).

Table 6 contains the results of two logistic regressions on sample for the entire population—the 439 program sample and 870 sample combined. The models reach significant power (pseudo $R^2 = .349$) only when disposition severity (violation versus misdemeanor) is included; despite the many differences between the two populations described in Table 5, criminal history, current charges and even predisposition arrests do not of themselves clearly distinguish the two.

TABLE 6. 439 & 870 CASE SAMPLES: OUTCOMES
ODDS RATIOS FROM THE LOGISTIC REGRESSION OF SAMPLE ON SELECT INDEPENDENT VARIABLES¹

Variable	Model 1		Model 2
Gender ²	.105 **		.083 **
Any previous arrests	.730 +		.991
Any previous incarceration	.449 **		.635 **
Misdemeanor assault charge on current case	1.557 **		1.197
Criminal contempt charge on current case	.358 **		.587 *
Pre-disposition arrests	.296 **		.342 **
Misdemeanor disposition charge (v. violation)			.133 **
Constant	1640.797 **		1866.044 **
Chi-Square	187.468 **		373.943 **
Nagelkerke R-Square	.187		.349
N	1296		1291

¹ Correlation is with 439 sample.

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

² Correlation is with male.

⁷ However, there was no significant difference between the 870 sample and the two substance abuse treatment groups on number of prior drug arrests; the differential was due entirely to the batterer intervention-only group.

RECIDIVISM

As shown in Table 7, 24% of the 870 sample was rearrested prior to disposition, more than half of them on felony charges. During the one year following disposition of the case or, if a jail sentence was imposed, release from jail, 49% of defendants were rearrested, with a mean of 0.9 arrests over the course of the year. Fifty five percent of those rearrested were charged with felonies. Ninety four percent of defendants' cases had been disposed at least two years prior; of these, 63% had been rearrested. In total, from the moment of index arrest up until two years post-release, 78% of defendants were rearrested.

TABLE 7. 439 & 870 CASE SAMPLES: OUTCOMES
RECIDIVISM

	439 Case Sample	870 Case Sample
RECIDIVISM DURING CASE PENDENCY		
Mean number of months, arrest to disposition	1.3	3.4**
<i>Arrested pre-disposition</i>	3.1	7.8**
<i>Not arrested pre-disposition</i>	1.1	2.0**
Any new arrests	8%	24%**
Mean annual arrest rate	.63	1.0*
RECIDIVISM POST-RELEASE		
One Year Post-Release		
Arrests		
Any new arrests	31%	49%**
Mean number of arrests	.6	.9**
Mean number months, release to first new arrest	4.5	4.1
Felony arrests	15%	27%**
VFO arrests	6%	11%**
Gun/weapon arrests	5%	8%+
Assault arrests	6%	10%**
Criminal contempt arrests ¹	6%	12%**
Drug possession/sale arrests	13%	20%**
Convictions		
Any new convictions	23%	39%**
Mean number of new convictions	.4	1.3**
Incarceration	11%	23%**
Mean number of months incarcerated	1.5	1.4
Two Years Post-Release²		
Arrests		
Any new arrests	44%	63%**
Mean number of new arrests	1.1	2.5**
Mean number of months, release to first new arrest	7.1	6.9
Felony arrests	25%	39%**
VFO arrests	11%	17%*
Gun/weapon arrests	6%	13%**

TABLE 7 CONTINUED

	439 Case Sample N=277	870 Case Sample N=816
Two Years Post-Release Continued		
Assault arrests	14%	18%
Criminal contempt arrests ¹	11%	16%*
Drug possession/sale arrests	19%	29%**
Convictions		
Any new convictions	35%	52%**
Mean number of new convictions	.7	1.8**
Incarceration	18%	32%**
Mean number of months incarcerated	1.5	2.5 ⁺

Asterisks indicate significant difference in means between the two samples, as determined by t-tests.

⁺ p<.10 * p<.05 ** p<.01

¹ Captures only those arrests/convictions in which criminal contempt was the top charge.

² Only 277 defendants in the 439 sample and 816 in the 870 sample had been released for at least two years at the time of data collection and so were included in the analysis.

Most of the same demographic and criminal justice variables predicted rearrest in the 870 sample as in the program sample. On the next page, Table 8 contains the results of two logistic regressions on recidivism in the 870 case sample. The explanatory power of these regressions is far less than that achieved for the program case sample, suggesting that the larger sample may be more diverse, and/or that information as specific as that regarding a defendant's compliance with court mandates is critical to predicting recidivism. Prior criminal history, in particular, does not hold the power it did for the program sample, perhaps because the prevalence of prior arrests is so high for the sample as a whole (85% versus the program sample's 72%).

TABLE 8. 870 CASE SAMPLE: OUTCOMES

ODDS RATIOS FROM LOGISTIC REGRESSION OF RECIDIVISM ON SELECT INDEPENDENT VARIABLES

Variable	Model 1	Model 2
Race	1.834 ⁺	1.838 ⁺
0: Not African-American or Hispanic		
1: African-American or Hispanic		
Age at arrest ¹	.973 **	.975 **
Previous drug sales or possession arrests	1.837 **	1.812 **
Previous criminal contempt arrests	1.618 *	1.600 *
Previous convictions	2.421 **	2.436 **
Pre-disposition recidivism		1.262
Jail imposed on index case	1.163	1.164
Constant	.155 **	.109 **
Chi-Square	86.853	89.384
Nagelkerke R-Square	.128	.131
N	864	864

¹ Correlation is with younger age.

⁺ p<.10 * p<.05 ** p<.01

In the first model for the 870 sample (pseudo $R^2 = .128$), younger age, prior drug arrests, and prior convictions are most significant ($p < .01$), while prior criminal contempt arrests ($p < .05$) and race other than African-American or Hispanic ($p < .10$) are less so. Incarceration on index arrest does not prove significant. A second model introduces the variable of new arrests during the pendency of the case; however, it does not reach significance, as it had in the program sample analysis. The explanatory power of the second model is no greater than the first (pseudo $R^2 = .131$).

PERFORMANCE OF THE HYPOTHESES

SUBSTANCE ABUSE ISSUES The evidence for a negative impact of substance abuse issues on program outcome is strong. Regression analyses found a strong relationship between both of the substance abuse treatment groups and mandate failure ($p < .01$): members of those two groups were as much as three and a half times more likely not to complete than were members of the batterer intervention-only group.

In seeming contradiction to these findings, there was little evidence of a relationship between substance abuse treatment and recidivism. However, another possible indicator of substance abuse issues, one that we had not originally considered—prior arrests for drug possession or sales—did prove to predict recidivism in multivariate analyses ($p < .05$ for the 439 sample, $p < .01$ for the 870 sample). (Prior drug arrests were significantly ($p < .01$) related to program failure in bivariate correlations, but not in regression analysis.)

It is the interpretation of these findings that poses difficulties. What is the significance of a substance abuse treatment mandate? How might it differ from the significance of prior drug arrests for recidivism? We consider these questions in the following section.

YOUNGER AGE In accordance with the larger body of criminal justice research, this study found that younger age was significantly related to recidivism ($p < .01$ for both samples) and non-completion of the program mandate ($p < .05$) in multivariate analyses.

ORDER OF PROTECTION There was no evidence of an impact of Order of Protection type on either outcome variable.

MORE SERIOUS ARREST CHARGES AND DISPOSITION CHARGES, VIOLENT ARREST AND DISPOSITION CHARGES There was no evidence of an impact of any of these variables on either outcome variable.

PRIOR CRIMINAL HISTORY AND PRIOR FELONY CRIMINAL HISTORY The hypothesis regarding prior criminal history was confirmed for both samples; the hypothesis regarding prior felony history was not. Both measures were very significant ($p < .01$) in bivariate correlations with program mandate non-completion and recidivism in both samples. Only prior criminal history, however, was significant in multivariate analysis for both dependent variables ($p < .01$) in the 439 program sample. In the 870 sample, prior arrests was not significant; but some specific types of prior criminal history were: prior criminal contempt arrests ($p < .05$), prior drug arrests ($p < .01$), and prior convictions ($p < .01$).

NON-COMPLIANCE AT FIRST MONITORING APPEARANCE This hypothesis was supported for program mandate non-completion, but not for recidivism. Bivariate correlations indicated a strong relationship with both outcome variables ($p < .01$); however, while non-compliance retained its level of significance in multivariate analysis of mandate completion, it did not reach significance in multivariate analysis of recidivism.

FAILURE TO COMPLETE PROGRAM MANDATE Non-completion of program mandate was very significant in both bivariate correlations and multivariate analysis of recidivism ($p < .01$).

HYPOTHESES: 439 PROGRAM SAMPLE VERSUS 870 SAMPLE

LESS SERIOUS ARREST AND DISPOSITION CHARGES As expected, multivariate analysis found that the program sample had significantly ($p < .01$) less serious arrest and disposition charges on the index case.

LESS AND LESS SEVERE CRIMINAL HISTORY In bivariate correlations, members of the program sample were significantly ($p < .01$) less likely than those in the 870 sample to have any criminal history or any particular subtype of criminal history (i.e., felony, violent, etc.). Prior arrest was less significant in multivariate analysis ($p < .10$), although prior incarceration—not considered in our original hypotheses—proved stronger ($p < .01$).

LESS AND LESS SEVERE RECIDIVISM Members of the program sample were significantly ($p < .01$) less likely to be rearrested within one year.

DISCUSSION

PROTOTYPICAL SUCCESSES AND FAILURES If we created a baseline profile of the defendant most likely to complete his program and refrain from recidivism in the following year, he would be older, employed, without a criminal history, assigned to the batterer intervention-only group and in compliance at the first monitoring appearance.

The defendant less likely to complete the program and more likely to be rearrested would be relatively young, unemployed, previously arrested (particularly on drug charges), previously incarcerated, assigned to the batterer intervention and substance abuse treatment group and non-compliant with the program mandate at first monitoring appearance.

Among the defendants in the 870-case sample, recidivists would also be younger and have prior criminal histories. In a population with higher rates of criminal history, however, prior arrests alone would not distinguish the potential recidivist: rather, he would be distinguished by prior criminal contempt arrests, prior drug sales or possession arrests, and, most significantly, prior convictions. He might be either African-American or Hispanic.

One caveat here is that the role of program mandate type might not be significant in itself. It seems likely that program mandate type is not a predictor of compliance, but rather the reflection of defendants' predictive characteristics – that is, it may be that defendants with more extensive criminal histories, greater unemployment, etc. are more likely to be in the two substance abuse treatment groups. Even if true, it is unclear whether this distribution would reflect the greater

problems of defendants with substance abuse issues, or sentencing patterns that mandate defendants with more problems to the substance abuse treatment groups. The latter instance might be motivated by the fact that, in contrast to batterer intervention programs, substance abuse treatment is generally more structured, more likely to address mental health and personal development, and possibly covered by Medicaid or other insurance.

PRIOR CRIMINAL HISTORY Both samples demonstrated tremendously high rates of prior criminal history: 72% of the 439 sample and 85% of the 870 sample had previously been arrested. Their prior criminal histories were also very serious: 59% of the 439 sample and 75% of the 870 sample had previously been arrested on felony charges; 38% and 49%, respectively, had been arrested on assault charges. While Buzawa, Hotaling, Klein and Byrne (1999) found a similar prior arrest rate of 84% in their study of defendants in the Quincy, Massachusetts domestic violence court (which accepts both misdemeanors and certain felonies), other studies of misdemeanor domestic violence offenders have found lower rates: Goldkamp, Weiland, Collins and White (1996) found that approximately two-thirds of defendants had any prior arrests and one-third had prior felony arrests; while Feder and Forde (2000) found that 40% of offenders had prior misdemeanor arrests, and 20% had prior felony arrests.

Gondolf (2000) also found that 40% to 50% of misdemeanor defendants court-mandated to batterer intervention programs had prior arrests, and remarked that this rate was similar to that of other domestic violence defendants. This study, in contrast, found that defendants mandated to programs, as compared to defendants receiving other sentences, had slightly less extensive criminal histories.

The prevalence of criminal histories among defendants in this study undoubtedly reflects that of the larger Bronx offender population. As we attempt to establish those predictors of failure and recidivism that are unique to the Bronx, criminal history emerges as a critical factor.

PROGRAM MANDATE NON-COMPLETION The observed non-completion rate of 50% is consistent with national research, which has reported completion rates ranging from 30% to nearly 70% (Babcock & Steiner, 1999; Buttell & Carney, 2002; Daly et al, 2001; Gerlock, 2001; Grusznski & Carrillo, 1988; Pirog-Good & Stets, 1986; for a complete review of attrition rates, see Daly & Pelowski, 2000). Although this analysis did not include the number of sessions defendants attended, other research suggests that the majority of program failures attend few, if any, sessions (Babcock & Steiner, 1999; Daly et al, 2001); and it has been the authors' anecdotal experience that, despite the presence in the court building of staff to make referrals and appointments, many defendants fail without ever making it to the referral room or to the intake appointment. Yet those defendants who failed the program took an average of five months to do so. It is possible that these defendants attended several sessions before dropping out; or were out on warrant for much of that time; or were granted multiple chances by the court despite non-compliance. Whatever the reason, it is worth noting that defendants who failed the program spent nearly half a year under court supervision. Even if these defendants never reported for regular monitoring, the court retained authority over them, issuing arrest warrants and imposing new sentences. For those who believe that the primary purpose of a program mandate is to keep defendants under the supervision of the court, this finding may suggest that there is value to program mandates even for defendants likely to fail.

RECIDIVISM The pre-disposition period saw the most radical differences in recidivism rates between the two samples: 8% for the program sample versus 24% for the 870 sample, yielding mean annual rearrest rates of 0.63 and 1.0, respectively. Inspection of differences between and within the two samples indicates that the cases of defendants who were rearrested pre-disposition had already been pending longer than the mean time to disposition even for their own sample—that is, they did not take longer to reach disposition because of the new arrest; rather, their case was already taking longer than average to reach disposition. These findings conform with other research that has found, unsurprisingly, that pre-disposition recidivism is diminished when time to disposition is reduced (Davis, Smith & Rabbitt, 2001).

Slightly more defendants in the program sample were arrested during the post-disposition monitoring period than were in the year following the conclusion of their sentence (35% versus 31%). Although this finding is not statistically significant, it is worth considering in regard to the impact of judicial monitoring on defendant behavior. One possible interpretation of defendants' rearrest rate during the court monitoring period is that, because most defendants receive a one-year Order of Protection, and because the mean length of time defendants spent under monitoring was seven months, defendants were at high risk of being arrested for technical infractions of the Order while under monitoring, but that risk expired five months post-release. Another possibility is that court scrutiny led to arrests for crimes that might not otherwise have come to the attention of the criminal justice system. Both of these hypotheses receive tentative support from the fact that nearly twice as many defendants were arrested for criminal contempt during the monitoring period as during the year post-release, but they should be further explored.

While recidivism was consistently higher in the 870 sample than in the program sample, it was significant in both, and relatively serious. Forty nine percent of the 870 sample was rearrested in the first year post-release, and more than half those arrests involved felony charges; during the same period, 31% of the program sample was rearrested, half on felony charges. Within the program sample, there was significant variation in rearrest rates; but one in four of even the 'best' (batterer intervention-only) defendants were rearrested. For those defendants who had been on release for two years, rearrest rates reached 42% for the program sample and 63% for the 870 sample. Overall, from the moment of index arrest to two years post-release, 62% of the 439 program sample and 78% of the 870 sample were rearrested.

Multivariate analyses of recidivism for the program sample provided powerfully predictive models. Moreover, relatively few, easily obtainable variables served as predictors: age, prior criminal history, pre-disposition recidivism and mandate completion. Personality variables, which might require expensive and time-consuming psychological assessment to identify, proved unnecessary. While the 870 sample regression models were not nearly as powerful, the most strongly predictive variables within them were again related primarily to criminal history measures, as well as to age and race, all factors easily identified on the rap sheet made available to the court. All of this suggests that a defendant's likelihood of recidivism can be easily assessed by the court, without resorting to additional expensive or time-consuming measures.

A serious limitation to this analysis is the inability to isolate domestic violence cases among the new arrests. However, one category of recidivism that can be identified is that of drug-related arrests. Of the 870 sample, 41% of defendants arrested in the one year post-release were arrested at least once on drug-related charges; for the program sample, this proportion is 43%. While this finding raises questions regarding the role and impact of substance abuse issues in this population (see discussion below), it also suggests that the rate of actual reoffense against an

intimate partner may be significantly less than the total rearrest rate. In his study of rearrest rates among misdemeanor domestic violence offenders in New York City, Peterson (2003) found that 38% of defendants were rearrested for any offense, 17% for a domestic violence offense. This rearrest rate was comparable to that found in this study (the one year rearrest state for the two samples combined was 43%), and implies that the domestic violence rearrest rate may have been half or less of the total.

IMPACT OF SUBSTANCE ABUSE Evidence for a negative relationship between substance abuse and criminal justice outcomes is strong, but causality is less clear. This may be due to the nature of our ‘substance abuse’ designation—deduction from program mandate type. As Goldkamp et al. (1996, p. xiii) have remarked, the criminal justice system suffers from a “lack of reliable up-front measures of substance abuse involvement.” This is certainly true at the BxMDVC, where the court must often rely on defense attorneys, defendants and victims to raise the issue of a substance abuse problem, which may only later be verified by a treatment provider.

Data on previous and new drug arrests indicate that, although the defendants assigned to substance abuse treatment may have had more or more severe substance abuse issues, the batterer intervention-only group probably included a substantial number of people with substance abuse problems.⁸ This fact must obscure differences between the groups regarding issues directly related to substance abuse. It is notable that both samples demonstrated a significant impact of prior drug arrests on recidivism, although one cannot assume that the impact is due to a substance abuse issue per se; drug arrests may be indicators of other factors that negatively impact outcomes. (For instance, analysis not shown indicated that drug arrests were significantly more likely to result in convictions than non-drug arrests; drug convictions were then significantly more likely to result in a jail or prison sentence than non-drug convictions.) Drug arrests may also have been for drug sales rather than possession, in which case it cannot be assumed that the defendant has a significant substance abuse problem.

It is also possible that the observed significant relationship of substance abuse with failure to complete program mandate reflects not the impact of substance abuse itself but of the substance abuse treatment modality, which varies but almost certainly requires more than 90 minutes per week, the norm for batterer intervention programs. Defendants may find it harder to attend frequent and/or lengthy sessions; they also simply have more opportunities for failure.

Clearly, future research should employ clinical diagnostic criteria for categorizing defendants as substance abusers; if possible, it should also control for program modality across program types. Given that a large body of literature has found some evidence that aggressive behavior is more strongly linked with alcohol than drug abuse (Fagan, 1990), it might also be worthwhile for future studies to distinguish between types of substances abused. The overlap of substance abuse issues with histories of drug-related arrests needs to be established and the non-addicted population with drug arrests better understood.

IMPLICATIONS FOR THE CRIMINAL JUSTICE SYSTEM IN IMPOSING AND MONITORING PROGRAM MANDATES In the current study, the single variable to demonstrate a strong negative association with both outcomes in multivariate analysis for both samples was prior criminal history: any

⁸ 39% of the batterer intervention-only group had prior drug arrests; 12% had new drug arrests one year post-completion/release.

prior history for the program sample; and prior drug arrests, criminal contempt arrests, and convictions for the 870 sample.

Non-compliance at initial monitoring appearance had a very strong positive association with program mandate non-completion, and together with prior criminal history accounted for much of the variation in program mandate outcome. It appears, then, that defendants without prior experience of the criminal justice system are most likely to comply immediately with the court's directive, and to maintain that compliance over the longer term. Once free of court supervision, these defendants who have completed their program mandate are also most likely to refrain from recidivism.

These findings indicate that the court may be better able to anticipate mandate failure and recidivism than it now does, and to allocate court resources more effectively. This study demonstrated that no qualitative assessments of attitudes or personality are required to make reasonable judgments regarding the likelihood of a defendant's successful completion of a program mandate. Criminal history information is available to the court in the form of the rap sheet included in the defendant's court file, and may influence sentencing conditions. Initial non-compliance with program mandate, occurring only one month after sentencing, provides an early warning that defendants are at serious risk of mandate failure, at a time when the judge may choose to resentence the defendant to jail or probation. Because the judge, the judicial hearing officer and court and program staff expend significant amounts of time and resources in monitoring particularly those defendants who are chronically noncompliant, the savings incurred by reducing the number of such cases monitored would be considerable.

If the court does not wish to take this approach, it must consider conversely devoting even closer scrutiny and more resources to these cases. As Buttell and Carney (2002) have noted, the purpose of a predictive model is to equip us to take remedial action; if we are to include these defendants in program mandates, knowing that they are at high risk of failure, we must identify strategies for motivating them to take advantage of the program, and to discourage them from mandate failure, violation of their conditional discharge and rearrest.

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APPENDIX A. 439 SAMPLE: OUTCOMES
BIVARIATE CORRELATIONS WITH PROGRAM MANDATE COMPLETION
& NEW ARRESTS WITHIN ONE YEAR OF PROGRAM COMPLETION/FAILURE¹

	% Completing	Bivariate Correlations w/ Completion	% Recidivating One Year Post- Completion	Bivariate Correlations w/ Recidivism
GROUP				
Batterer intervention only	58%	.221 **	28%	-.084
Batterer intervention & substance abuse treatment	33%	-.187 **	35%	.054
Substance abuse treatment only	39%	-.080	37%	.053
DEMOGRAPHICS				
Sex ²		-.048		-.049
Female	38%		19%	
Male	50%		31%	
Age		.090		-.161 **
Employment status ³		.224 **		-.114
Employed	60%		35%	
Not employed	37%		37%	
Race				
African-American	42%	-.126 **	37%	.102 **
Hispanic	55%	.100 **	29%	-.052
White/other	57%	.045	17%	-.090
RELATIONSHIP TO VICTIM⁴				
Intimate partner	51%	-.053	29%	.043
Other family member	45%		34%	
PRIOR CRIMINAL HISTORY⁵				
Prior arrests		-.290 **		.317 **
Any	40%		40%	
None	73%		7%	
Felony arrests		-.286 **		.311 **
Any	38%		42%	
None	67%		13%	
VFO arrests		-.208 **		.241 **
Any	38%		43%	
None	59%		21%	
Gun/weapon arrests		-.113 *		.159 **
Any	42%		41%	
None	54%		25%	
Assault arrests		-.087		.184 **
Any	44%		41%	
None	53%		24%	
Criminal contempt arrests ⁶		-.073		.134 **
Any	37%		51%	
None	51%		29%	

APPENDIX A CONTINUED

	% Completing	Bivariate Correlations w/ Completion	% Recidivating One Year Post- Completion	Bivariate Correlations w/ Recidivism
PRIOR CRIMINAL HISTORY CONTINUED				
Drug possession/sale arrests		-.318 **		.320 **
Any	32%		47%	
None	64%		17%	
CURRENT ARREST				
Arrest Charge				
Misdemeanor assault	54%	.068	29%	-.024
Misdemeanor menacing/endangerment	44%	-.037	36%	.036
Misdemeanor criminal contempt	41%	-.050	28%	-.015
Other misdemeanor charges ⁷	49%	-.121 *	31%	.049
VFO charges	55%	.050	30%	-.007
Gun/weapon charges	48%	-.019	36%	.055
Disposition Charge				
Misdemeanor & violation harassment ⁸	57%	.036	27%	-.062
Misdemeanor assault	41%	-.054	37%	.067
Misdemeanor criminal contempt	39%	-.108 *	34%	.029
Other misdemeanor charges ⁷	36%	-.095 *	44%	.131 **
Order of Protection⁹				
Full	49%	.017	28%	.096
Limited	48%		35%	
Jail Alternative¹⁰				
15 days	59%	-.156 **	25%	.108 **
60 days or more	43%		35%	
Initial Compliance with Mandate				
In compliance	70%	.433 **	25%	-.151 **
Not in compliance	26%		37%	
Number of Program Referrals				
One	54%	-.111 *	27%	.109 *
Two or more	41%		38%	
Warrants Imposed, Arrest to Mandate End				
Any	67%	-.372 **	26%	.112 *
None	29%		37%	
New Arrests During Case Pendency¹¹				
Any	23%	-.157 **	63%	.203 **
None	52%		28%	

APPENDIX A CONTINUED

	% Completing	Bivariate Correlations w/ Completion	% Recidivating One Year Post- Completion	Bivariate Correlations w/ Recidivism
CURRENT ARREST CONTINUED				
New Arrests While Court Monitored¹²		-0.248 **		.196 **
Any	32%		43%	
None	59%		24%	
Final Mandate Completion Status				-0.351 **
Completed			14%	
Did not complete			47%	
Jail Imposed for Mandate Non-Completion				.202 **
Yes			54%	
No			31%	

Asterisks indicate significant bivariate relationship. ⁺ p<.10 * p<.05 **p<.01

Correlation coefficients are based on Pearson. All significance tests are two-tailed.

Except where otherwise noted, the number of missing cases ranges from zero (0) to fifteen (15).

¹ For those defendants who were mandated to jail, one year is calculated from time of release.

² Correlation is with female.

³ N=226. Correlation is with defendant being employed at time of arrest.

⁴ Correlation is with non-intimate relationship.

⁵ Correlations are with any arrest.

⁶ Captures only those arrests/convictions in which criminal contempt was the top charge.

⁷ A significant percentage of these are theft or property charges; other charges include stalking, menacing, etc.

⁸ 99% of harassment dispositions were at the violation level and 1% at the misdemeanor level. A violation, a lesser charge than a misdemeanor, is not a crime. Defendants convicted of violations will not have a criminal record.

⁹ N=238

¹⁰ N=307. Correlation is with 60+ days.

¹¹ Captures post-arrest/pre-disposition arrests.

¹² Captures post-disposition/pre-completion/failure arrests.