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# **DOMESTIC VIOLENCE CASE PROCESSING IN VERMONT 2004-2008**

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**Domestic Assault and Violation of Relief From Abuse Order  
District Court Case Processing and Sentencing  
2004-2008**

**Introduction:**

In the criminal courts, domestic violence is best measured by domestic assault charges and violations of abuse order charges. This report examines the district court case processing and sentencing of these offenses during the study period of 2004 to 2008.

Key findings:

- A majority of convictions are for the same category of offense (domestic assault or violation of abuse orders) as the original charge. Ninety-nine percent of felony relief from abuse order convictions are for a violation of an order.
- Race is not a statistically significant factor in determining which defendants are sentenced to incarceration for domestic assault. Women, however, are more likely to be sentenced to incarceration.
- The Counties vary in their approach to sentencing domestic assault and violations of abuse orders. The county of conviction is statistically significant in determining which defendants are incarcerated for domestic assault.

**Domestic Assault:**

Three Statutes define the various levels of Domestic Assault in Vermont. Misdemeanor Domestic Assault is defined as “Any person who attempts to cause or willfully or recklessly causes bodily injury to a family or household member, or willfully causes a family or household member to fear imminent serious bodily injury”.<sup>1</sup> First Degree Aggravated Domestic Assault is defined as:

- (a) A person commits the crime of first degree aggravated domestic assault if the person:
- (1) attempts to cause or willfully or recklessly causes serious bodily injury to a family or household member; or
  - (2) uses, attempts to use or is armed with a deadly weapon and threatens to use the deadly weapon on a family or household member; or
  - (3) commits the crime of domestic assault and has been previously convicted of aggravated domestic assault.<sup>2</sup>

A person is guilty of Second Degree Aggravated Domestic Assault if he/she commits a domestic assault whilst a protection order is in effect; or the defendant commits a domestic assault and he/she has a

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<sup>1</sup> 13 VSA 1042

<sup>2</sup> 13 VSA 1043

prior conviction for domestic assault or within 10 years, a prior conviction for violating a relief from abuse order.<sup>3</sup> Both First and Second Degree Aggravated Domestic Assaults are felonies.

### **Demographics of Cohort:**

During the study period, there were 6,643 charges of domestic assault filed and disposed of in Vermont District Court. Of those filed and disposed, 27% (1,800) were felony charges and 73% (4,843) were misdemeanor charges. The charges represent approximately 5,944<sup>4</sup> defendants and 5,815 separate incidents as reported in the court data. Eighteen percent of the charges were filed against women and 82% against men. Seventy-two percent of male defendants were between the ages of 18 and 44. Eighty-percent of female defendants were between the ages of 18 and 44. Race data was available in 88% of the charges filed. Eighty-one point four percent (5,201) were Caucasian, 4.7% (305) were African American. Other races/ethnicities accounted for .7% of the defendants.

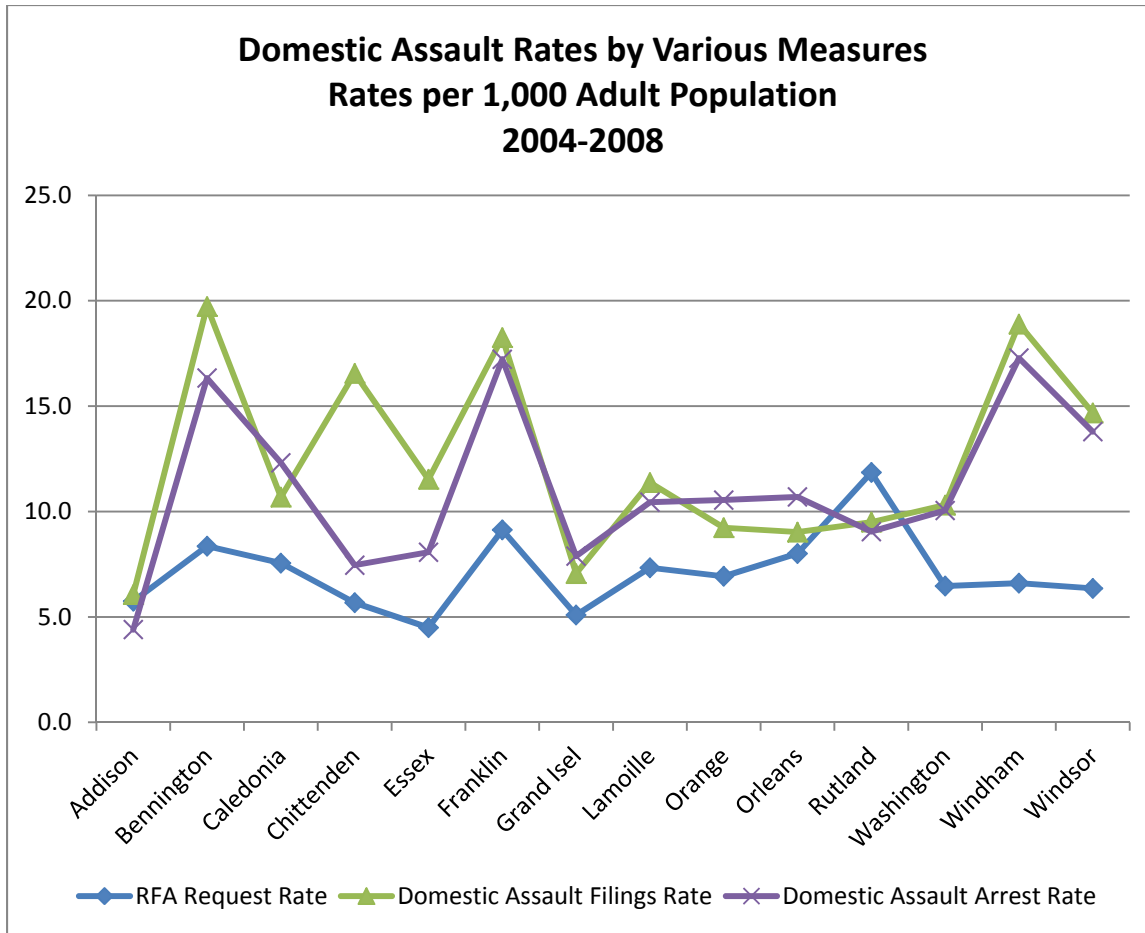
Of the 5,815 incidents, 1,754 (30.0%) had other charges filed, in addition to the domestic assault charge. The most common additional charges were: disorderly conduct (369) violations of conditions of release (391) and kidnapping (241). Disorderly conduct additional charges accounted for the largest percentage of incidents 4.83% while violations of conditions of release accounted for 4.04%.

Although Chittenden County had the most filings (1,957) for domestic assault, the filings did not mirror the adult population in many of the counties. Windsor County had the second highest number of filings (674) yet was the fourth most populated county. Windham County had 657 filings during the study period, and was the sixth most populated county. The chart below compares the rate of filings, the rate of relief from abuse requests and domestic assault arrest rate per 1,000 adults during the study period. Rutland County was the only county that had more requests for relief than charges filed. When rates of filing per 1,000 adult population is compared, Bennington county had the highest rate (19.7), followed by Windham (18.9) and Franklin (18.3) Counties.

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<sup>3</sup> 13 VSA 1044

<sup>4</sup> Defendants may have had more than one charge filed against them during the study period.



**Domestic Assault Case Processing and Outcomes:**

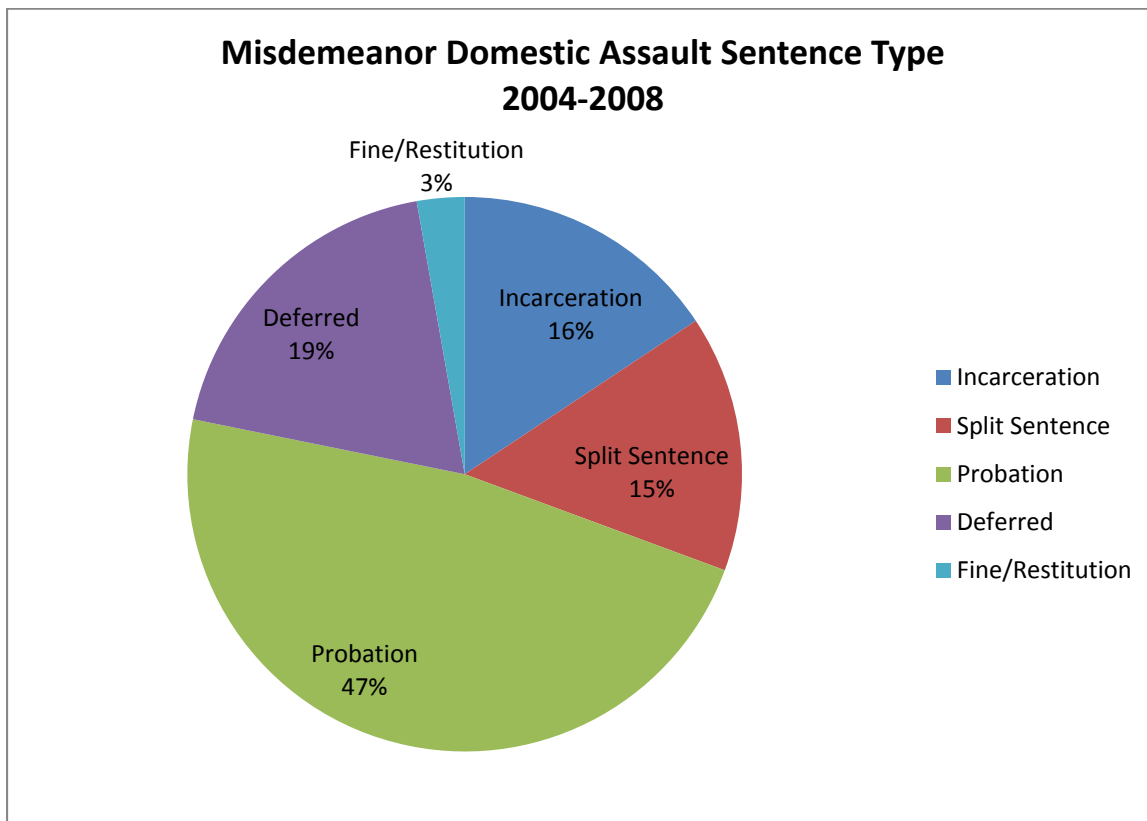
The court data contained final charge and disposition information for 4,459 misdemeanor domestic assault charges. One thousand six hundred and seventy-four (37.5%) defendants plead guilty to misdemeanor domestic assault. Sixty-one percent were disposed of by guilty plea. After domestic assault, the most common final charge was simple assault 546 (12.2%) and disorderly conduct 459 (10.29%).<sup>5</sup> Sixty two charges (1.39%) were dismissed by the court, and 1,449 (34.96%) of charges were

<sup>5</sup> Twenty-nine charges were amended up to a felony charge, 27 of them were amended to Felony Aggravated Assault.

dismissed by the state. Only 69 (1.55%) charges went to trial and 24 defendants were found not guilty. Of those charges with a guilty conviction, 62.6% were convicted of domestic assault.

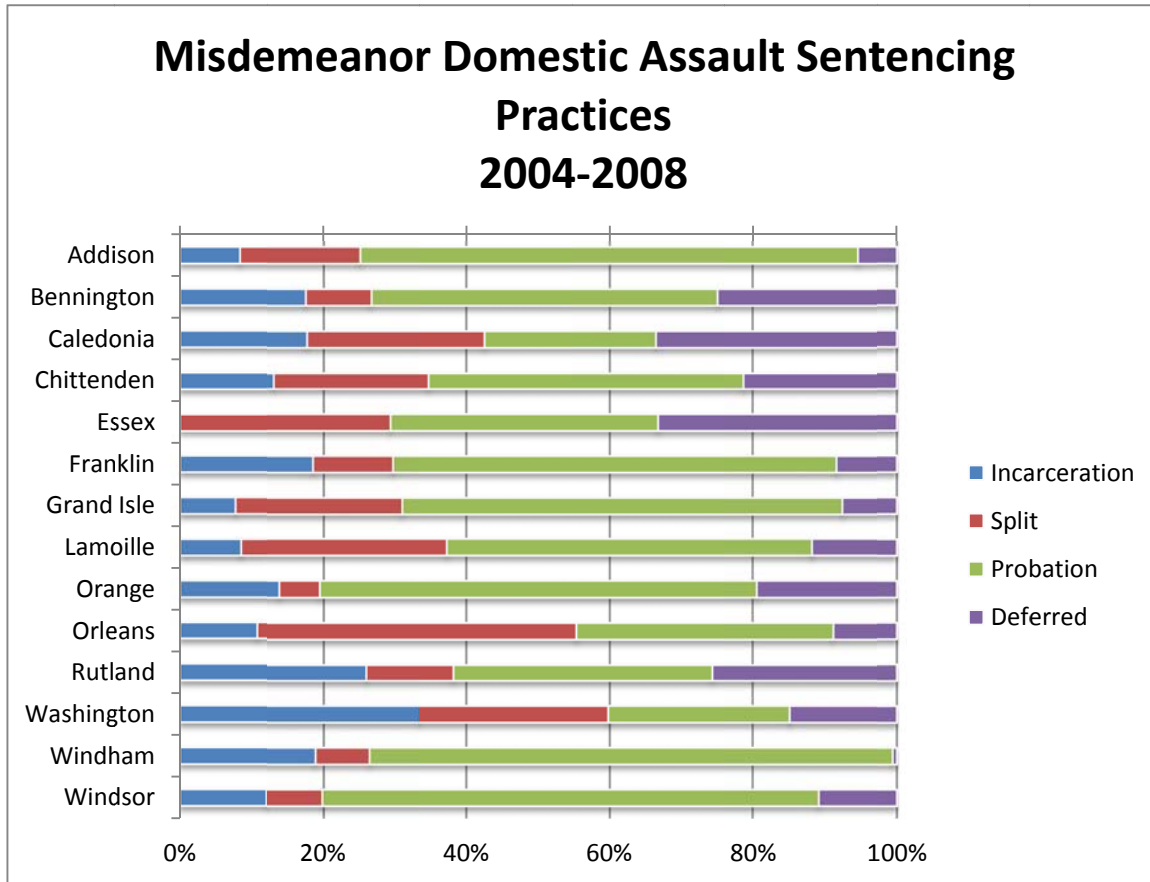
On average, misdemeanor charges resulting in a plea were disposed of in 100.38 days. Of those being dismissed by the court, in 127.68 days, and those disposed by the state in 121.58 days. For those charges going to trial, the average disposition time was 206.14 days.

Sentencing information was available for 1,696 misdemeanor charges. The most common sentence was probation, with 804 (47.4%) of charges receiving that sentence. Deferred sentences were the next most common sentence with 322 (19.0%). Incarceration was the next most common sentence, with 265 (15.6%) of the charges. It is important to note, however, that pre-approved furlough sentences are coded as incarceration in the court data, therefore this number may not reflect actual jail sentences. Two hundred and fifty-three charges (14.9%) received split sentences and 47 charges received a fine.



Counties differed in their sentencing practices for misdemeanor domestic assault. Washington County sentenced 33.3% (58) of its charges to incarceration, the highest percentage of any county. The next highest county was Rutland, sentencing 25.8% (46) of its charges to incarceration. Windham County sentenced 73.1% (128) charges to probation, the highest percentage of any county. The next highest

county was Franklin County, with 62% (124) of its cases sentenced to probation. Caledonia sentenced 33% of its charges to a deferred sentence.



The average minimum sentence, statewide, for incarceration for misdemeanor domestic assault was .251 Years and the average maximum was .802 years. The average minimum sentence for split sentences was .479 years, and the average maximum was .983 years. The average days to serve was 21. Probation sentences averaged from .449 years to .935 years. The average deferred sentence was 1.52 years.

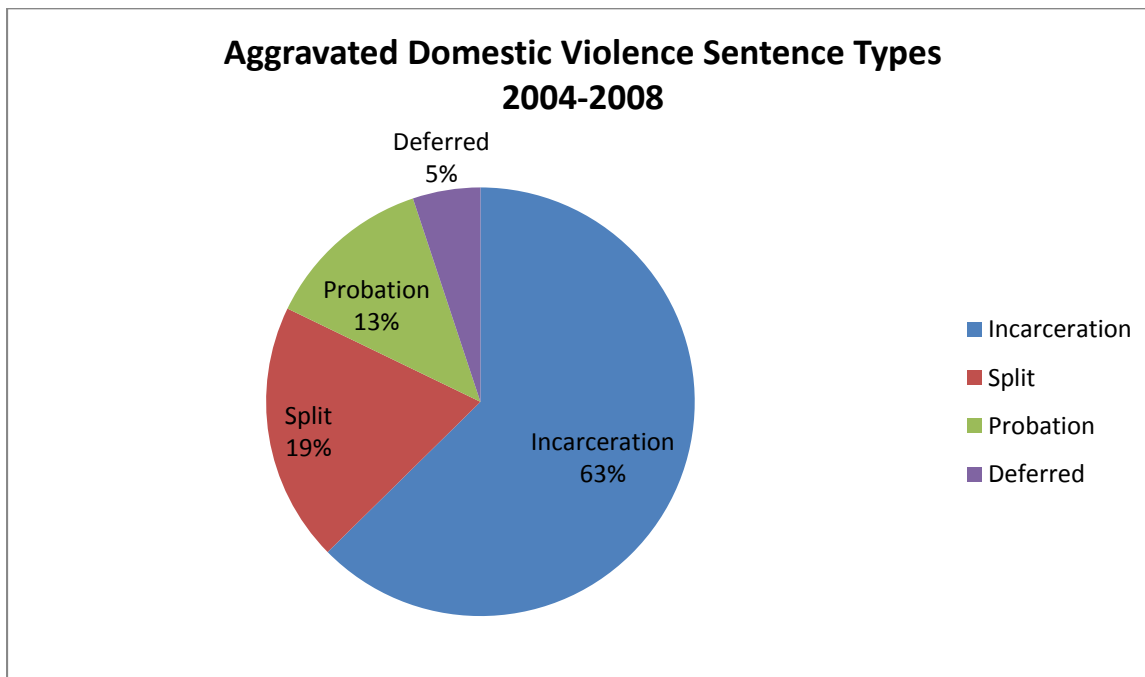
**Felony Domestic Assault Case Processing and Outcomes:**

Court disposition data was available for 1,600 felony charges. Four hundred and eighty-seven (30.4%) of the charges were dismissed by the State. Sixty-four point seven percent (1,035) of the charges were disposed of by guilty plea. Of those pleading guilty, 841 (81.2%) plead guilty to a domestic assault. Four

hundred and sixty four (55%) of those charges were disposed of as aggravated domestic assault. Thirty-two charges went to trial, resulting in 12 guilty verdicts. Ten verdicts were for aggravated domestic assault, and 2 were for misdemeanor domestic assault. Of those being convicted, 81.47% were convicted of a domestic assault offense.

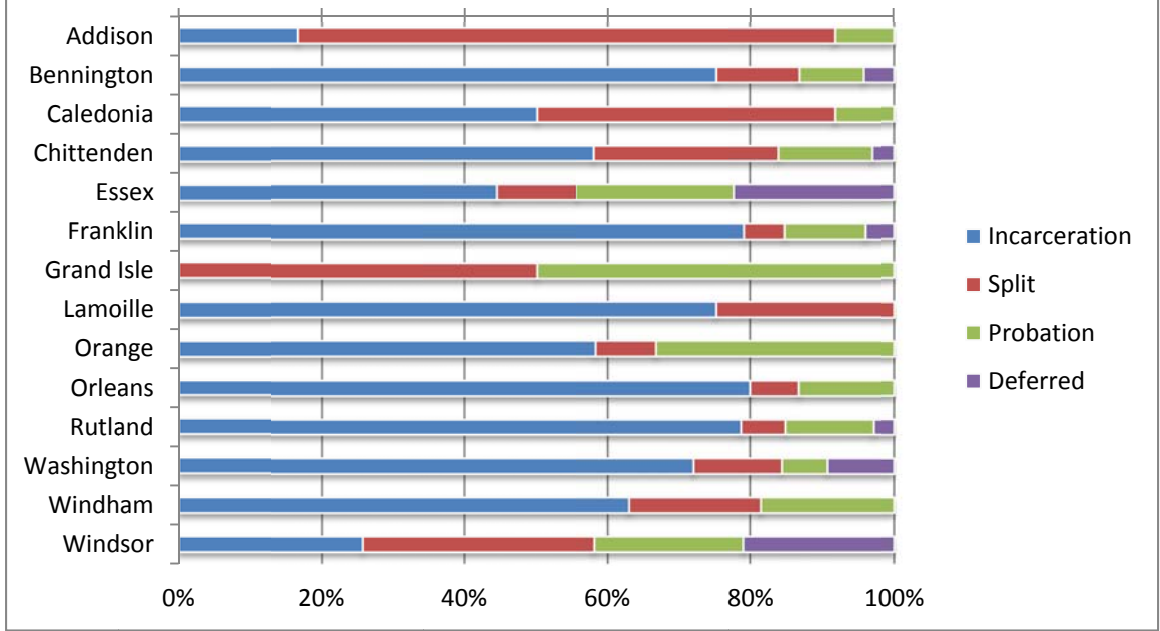
On average, those disposed by plea of guilty took 168.29 days to resolve. Cases dismissed by the State took on average 175.08 days to be disposed. Trials were resolved on average within 265.44 days.

Incarceration was the most common sentence for aggravated domestic assault, with 62.2% (474) of charges receiving that sentence. Split sentences accounted for 19.4% (92) of the sentences and probation 12.7% (60).



As with misdemeanor domestic assault, counties differed in the sentencing practices for aggravated domestic assault. However, because some counties had only a few cases during the study period, the sentence type disparity may more accurately reflect the circumstances of the crime and not a pattern of sentencing. For example, Addison County had 11 charges sentenced during the study period, 9 of them received split sentences. Grand Isle disposed of two aggravated domestic assault cases. Orange County dispose of 12 charges and Essex County 11.

### Aggravated Domestic Assault Sentencing Practices 2004-2008



The state wide average minimum sentence for incarceration was 1.597 years with the average maximum sentence 5.221 years. The average minimum sentence for split sentences was 1.503 years and the maximum was 4.798 years with an average of 214 days to serve. The average probation length was 1.355 years to 3.695 years. The average deferred sentence was 3.4 years.

#### Violations of Relief From Abuse Orders

During the study period, relief from abuse orders could be granted to intimate partners, family members, and household members. A defendant commits a misdemeanor violation of relief from abuse orders when he/she violates an order for the first time and has no prior domestic assault convictions.<sup>6</sup> A felony violation occurs on a subsequent violation, or if the defendant has a prior conviction for domestic assault.

<sup>6</sup> 13VSA 1030(a)



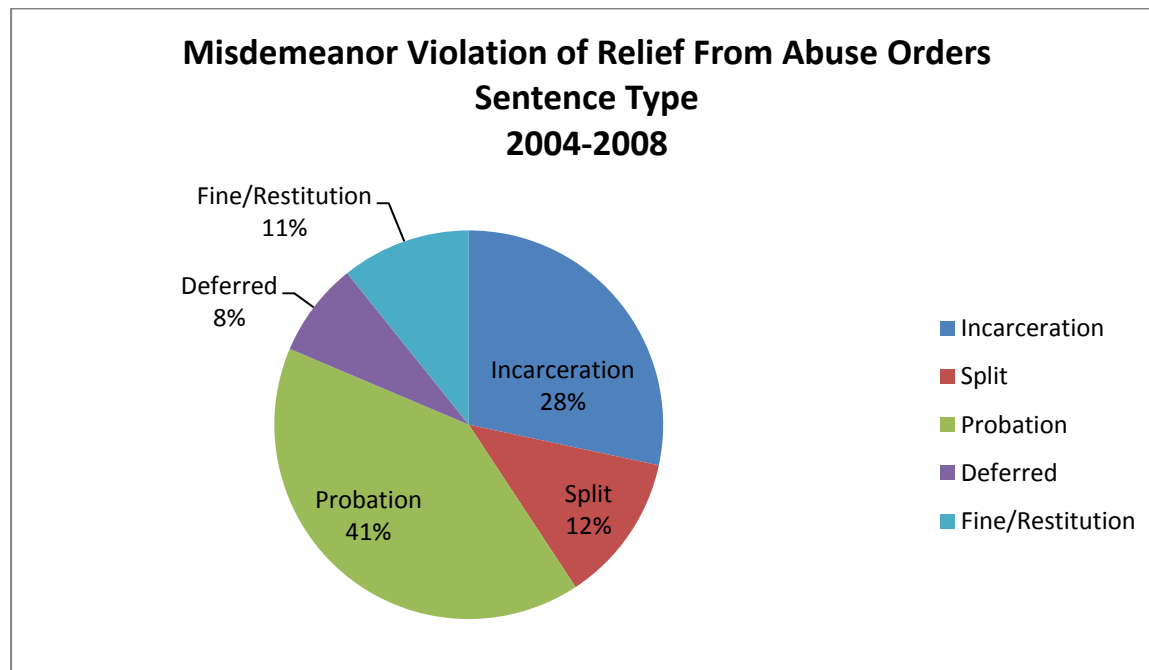
### Demographics of Cohort:

During the study period of 2004-2008, there were 2,862 charges of violating a relief from abuse order filed. Eighty-seven point one percent (2,494) were for a misdemeanor violation. Three hundred and sixty-eight charges were for felonies. The charges represented 2,276 incidents in the court data, and approximately 2,285 people charged. Ninety percent (2,777) of the defendants were male, and 77.8% were between the ages of 18 and 44. Eighty-six point five percent of the 262 female defendants were between the ages of 18 and 44. Race data was available for 5,709 charges. Four thousand six hundred and forty-nine defendants (81.4%) were Caucasian. Two hundred and sixty four defendants (4.6%) were African American.

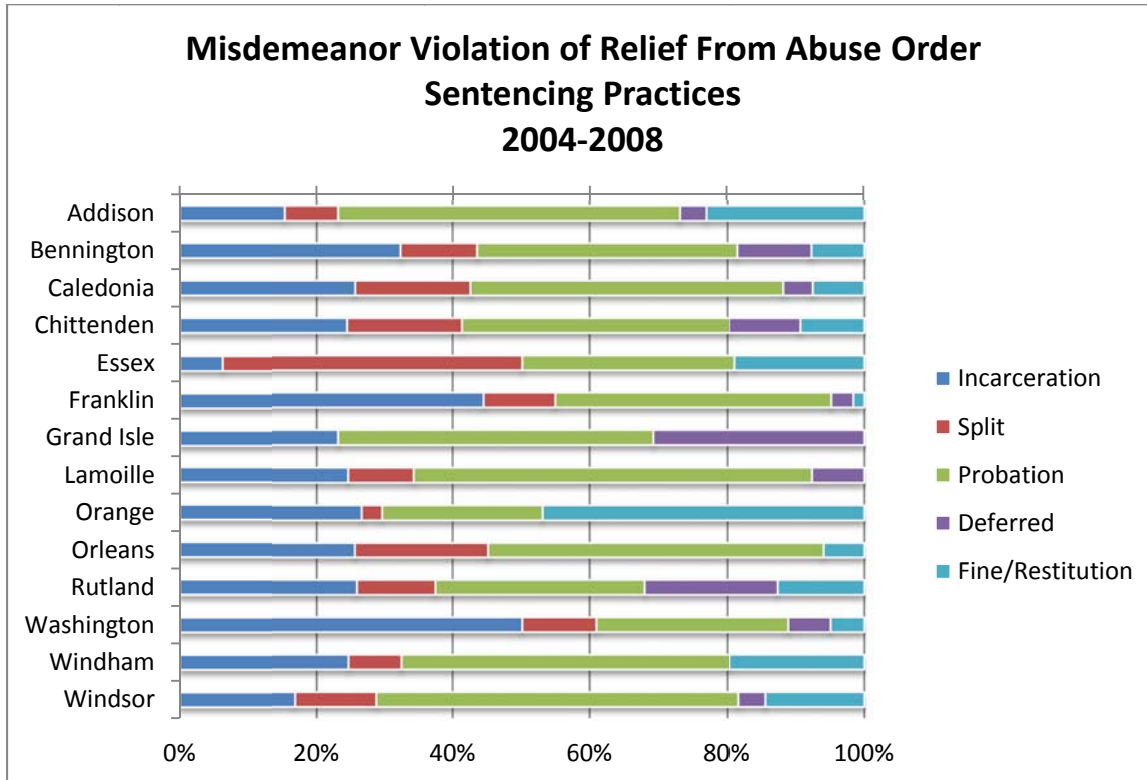
### Misdemeanor Violation of Relief From Abuse Orders Case Processing and Outcomes

Final disposition information was available for 2,306 of the charges. Nine hundred and ninety-six (43.19) charges were dismissed by the State. Fifty three point nine (1,242) charges were disposed of by guilty plea. Of those, 1,165 (93.8%) plead guilty to misdemeanor violation of relief from abuse and 19 defendants pled guilty to felony violation of relief from abuse. Eleven defendants went to trial, of those 9 were found guilty of violating the order. Of those charges resulting in a conviction 95% were for either felony or misdemeanor violation of relief from abuse.

Probation was the most common sentence for a misdemeanor violation of abuse order. Forty point five percent (476) charges received probation. Twenty eight point three (332) percent were sentenced to incarceration. Fines or Restitution accounted for 10.7% (126) of the sentences.



Counties differed in their sentencing practices for misdemeanor violations of relief from abuse orders. Washington County sentenced 50% (41) of the charges to incarceration, the largest proportion of any county. Orange County sentenced 47.0% (16) of its charges to fine, the highest percentage of any county and the largest percentage of any sentence in Orange County.

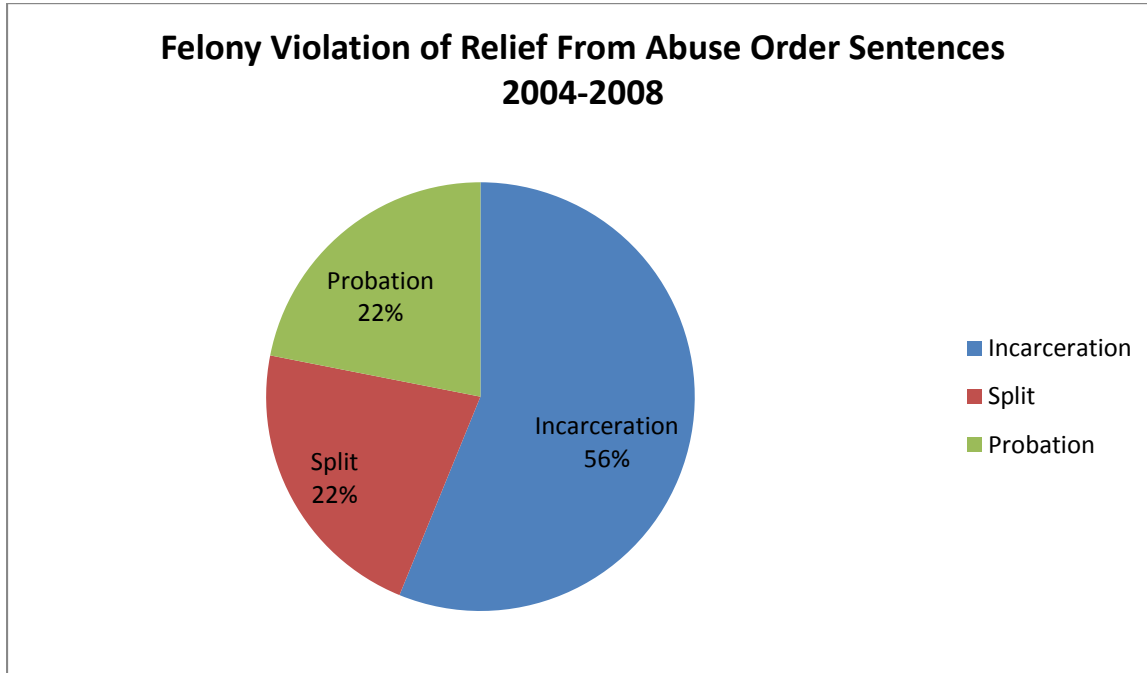


The statewide average minimum sentence for incarceration sentences was .194 years, and the maximum was .612 years. The average minimum on split sentences was .451 years and the maximum .921 years. The average sentence for days to serve was 35. Probation sentences averaged from .391 years to .855 years. The average deferred sentence was for 1.379 years.

**Felony Violation of Relief From Abuse Case Processing**

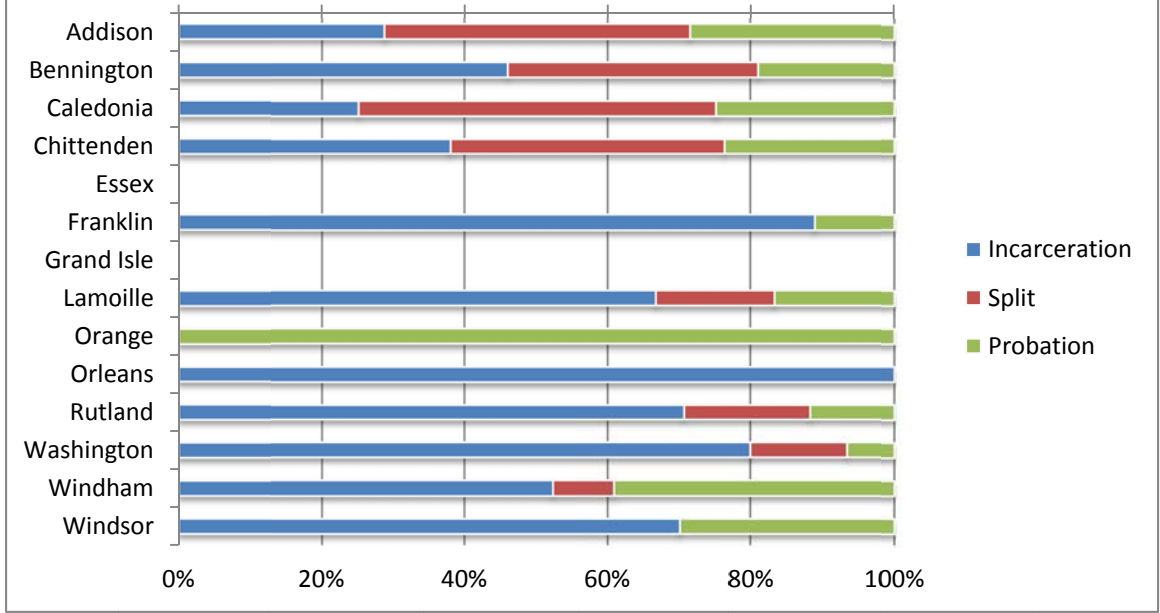
Final disposition information was available for 347 charges during the study period. One hundred and twenty five (36.0%) were dismissed by the state. One hundred and ninety-nine charges were disposed of by guilty plea. Of those, 145 (72.8%) plead guilty to the original charge. Fifty two defendants pled guilty to a misdemeanor violation of abuse order. Seven defendants went to trial, and three were found guilty of the felony violation of abuse order, four were found not guilty of any charge. Of those cases ending in a conviction, 99% were guilty of the violation.

Incarceration was the most common sentence for felony violation of an abuse order. Fifty-five point four (82) percent were sentenced to incarceration. Probation and split sentences each accounted for 21.6% (32) of the sentences. There were no deferred sentences.



Although there were significant differences in the sentencing patterns of the counties for felony violation of abuse orders, there were so few cases during the study period (347) that it is likely that differences represent the specifics of the cases and not county wide practices. Neither Essex County nor Grand Isle county sentenced any felony cases, and Orange county disposed of one.

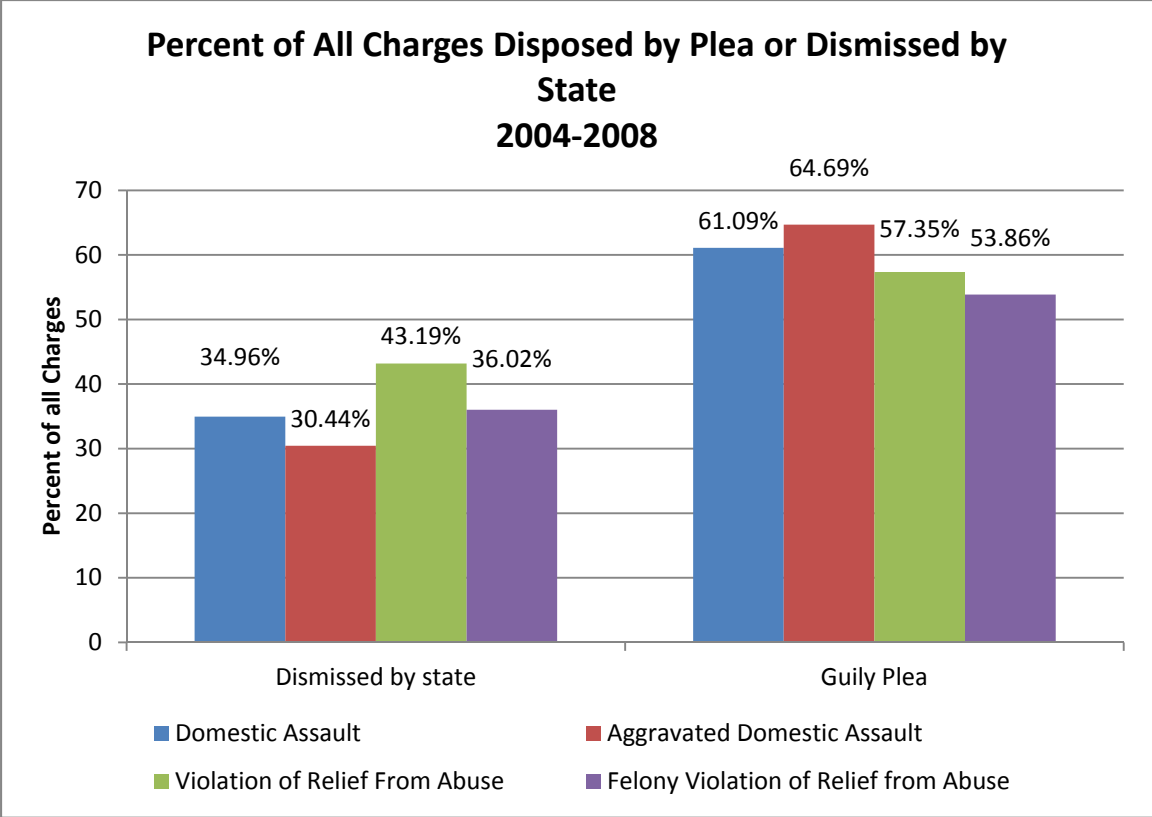
### Felony Violations of Relief From Abuse Order Sentencing Practices 2044-2008



The state wide average for the minimum sentence on an incarceration sentence was .501 years while the average maximum was 1.96 years. The average time to serve for split sentences was .880 years and the maximum was 2.12 years. The average days to serve was 37 days. The average probation sentence was .192 years to 2.118 years.

#### Comparison and Sentencing Regression

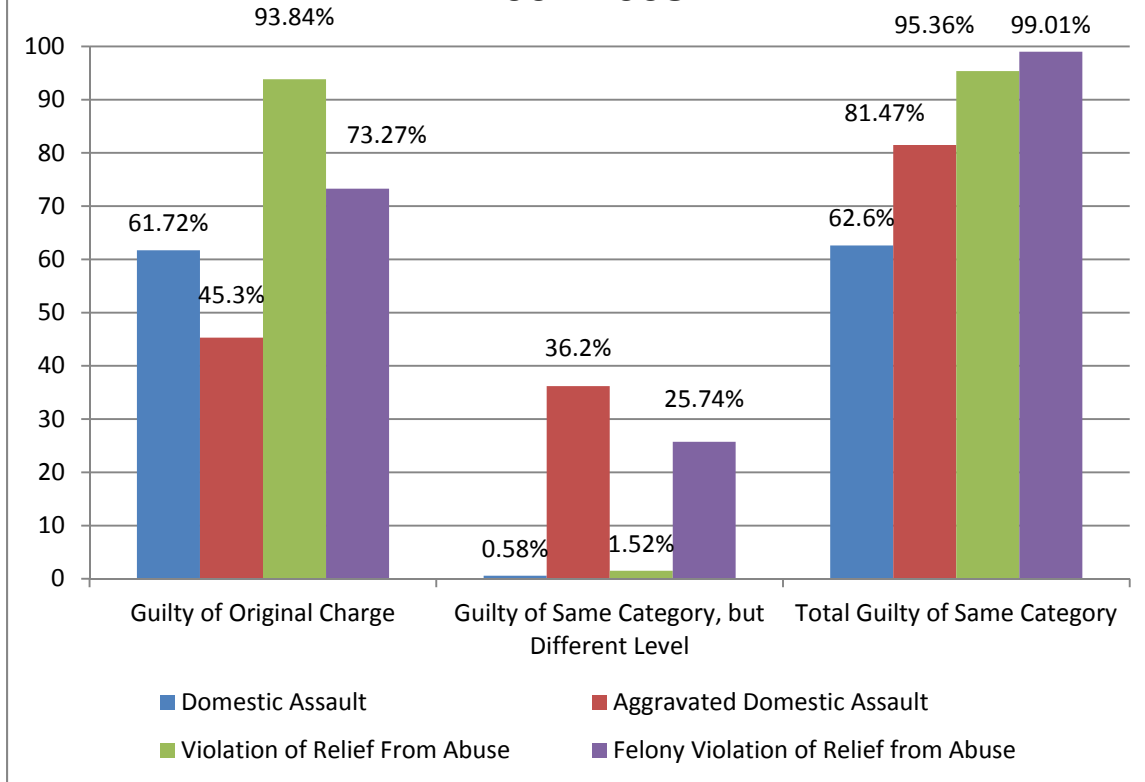
A dismissal of charges by the State was the second largest category of dispositions after guilty pleas. Misdemeanor violation for relief from abuse orders had the highest dismissal rate with 43.19% of all charges being dismissed. The lowest rate, 30.44% was for Aggravated Domestic Assault. Aggravated Domestic Assault did have the largest percentage of cases disposed of by guilty plea, at 64.69%.



A majority of convictions for all charges resulted in a conviction for the category (domestic assault or violation of abuse order) in which the defendant was originally charged. Sixty-two point six percent of defendants charged with misdemeanor domestic assault were convicted of a domestic assault crime. This was the lowest of all the crimes studied. The violation of relief for abuse categories had the highest guilty rate for the same category, with 99% of felony violations and 95.3% of misdemeanor violations resulting in a conviction for violating the order. The high charge retention rate may be due to the mandatory counseling for violations required by the statute.<sup>7</sup> None of the domestic assault statutes require counseling as a part of the sentence.

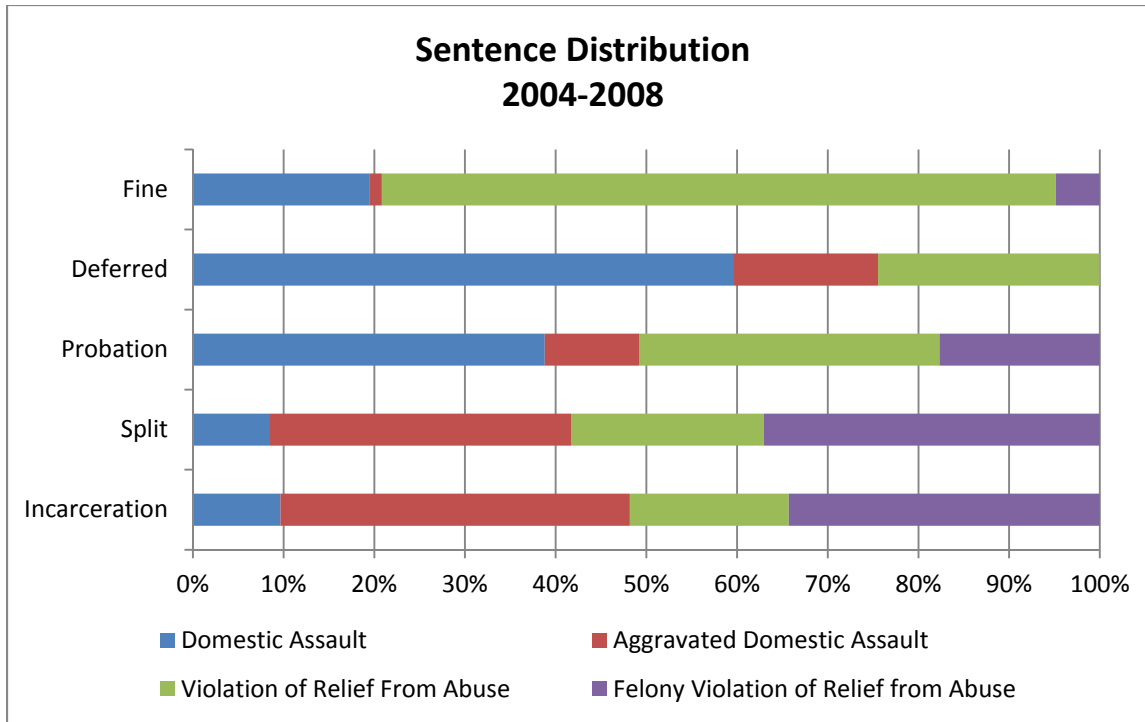
<sup>7</sup> See 13 VSA 1303 (b) and (c)

## Percent of Convictions For Category of Offense 2004-2008



### Sentencing Patterns and Regression Analysis

Sentence distribution appears to be in line with the charges convicted. Felony charges were more likely to result in incarceration sentences and misdemeanors more likely to result in probation. In the above sections, differences in sentencing practices by county were noted. The differences, especially in domestic assault cases, may be attributed to batterer intervention programs available in the county and requirements for participation in those programs.



#### Predictors of Sentencing- Domestic Assault

The information in the above sections was gathered from the court data. For the regression analysis to determine factors that predict sentencing, the criminal histories of all defendants (N=1,926) convicted of Domestic Assault during the study period were used. The regression model was only used to predict whether a defendant was sentenced to an incarcerative sentence (straight or split sentence) or a non-incarcerative sentence (probation, deferred, fine/restitution). Three hundred and nine defendants (16%) were convicted of a felony domestic violence offense and 1,617 (84%) were convicted of a misdemeanor domestic violence offense.

The variables and model presented below include only those variables that were statistically significant. The race of the defendant (coded Caucasian or non-Caucasian) was not statistically<sup>8</sup> significant when it was in the model. That is, all races and ethnicities are equally as likely to be sentenced to incarceration.

<sup>8</sup> When added to the model, the significance level of race was .137

## LOGISITIC REGRESSION

### INDEPENDENT VARIABLES

Criminal History	Criminal History was calculated from the prior records. $[\text{prior felony convictions} + (\text{prior misdemeanor convictions} * .5) + (\text{pre-1994 convictions} * .25)]$ .
Gender	Determined from VCIC data. Categorical, male used as reference category.
Offensive Severity	Offense level of base offense. Felony =1 Misdemeanor =2.
County	From VCIC data. Categorical, Chittenden used as reference category.
Prior Parole Violations	From VCIC data. Number of total prior parole violations.
Prior Parole Violations Resulting in Re-Incarceration	From VCIC data. Number of total prior parole violations resulting in re-incarceration.
Domestic Assault Cases disposed of on same day	From VCIC data, count of additional domestic assault cases disposed (guilty or not) on the same day as the base offense.
<b>Dependent Variable</b>	
In/Out	Whether the defendant was sentenced to an incarcerative sentence. 1= yes, 2=no.



**Logistic Regression In/Out N=1,925**

The model correctly predicted who would not be sentenced to incarceration 80.6% of the time. It correctly predicted who would be sentenced to incarceration 60.4% of the time. The overall model percentage was 71.3%.

Variable	B	s.e.	p-value*
Gender	.593	.156	.000
County	NA	NA	.000
Criminal History	.171	.020	.000
Offense Level	-2.05	.178	.000
Prior Parole Violations	-.162	.076	.033
Prior Parole Violations-Re-incarceration	.165	.062	.007
Domestic Assault Cases Disposed of Same Day	.909	.156	.001

\*P<.05

df=14

Chi squared =532.704 p=.0000

As expected, the legal variables of criminal history and offense severity were statistically significant. Likewise, the number of domestic violence charges on the same day was significant. The fewer parole violations a defendant had, the less likely he was to be incarcerated. However, if prior parole violations led to re-incarceration, the more likely the defendant was to be sentenced to incarceration. The county of conviction is statistically significant. That significance may be due to organizational differences within the prosecutor’s office, available intervention programs as well as dynamics within the courtroom itself. The gender of the defendant was also statistically significant, with women more likely than men to be sentenced to incarceration. This may be due to lack of programming for female batterers or may reflect the severity of the crime.

**Conclusion:**

That counties approach sentencing for domestic assault cases and violations of abuse orders differently is not terribly surprising. Further research is needed to explore the relationship between batterer intervention programs available in the counties and the relationship between accessibility and sentences. Policy makers and stake holders should determine if the differences are acceptable.

Although a majority of convictions are for the original category of offense, the difference between the rates for the violations of relief from abuse orders and the domestic assault categories is striking. Further research on the impact of the mandatory counseling provision of 13 VSA 1030 and charge dispositions is needed.