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DOMESTIC ASSAULT RECIDIVISM IN VERMONT

2004-2008

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DOMESTIC VIOLENCE RECIDIVISM IN VERMONT

Introduction

There are over 1,000 domestic violence incidents reported to the police each year in Vermont. It is one of the more prevalent crimes in the state. For men who are convicted of battering women, the Vermont Department of Corrections provides several batterer intervention programs aimed at changing the batterers' behavior. This study did not evaluate the efficacy of specific programs. Rather, this study examined the rate of recidivism and criminal history typology of offenders in an effort to inform policy makers about who is likely to recidivate.

Key Findings:

- About 12% of domestic violence offenders are reconvicted on a new domestic violence offense within 3-5 years of eligibility.
- First time offenders, where the first conviction is for a domestic violence offense have the lowest rate of recidivism.
- The most common first recidivism offense is a violation of probation.
- The overall recidivism rate was 53.5%.

Demographics of Cohort¹:

All defendants (N=1,926) convicted of a domestic violence offense in Vermont between 2004-2008 were the subjects of the recidivism study. 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 average age of defendants at conviction was 33 years of age, the median age was 32 years of age. There were 237 (12.3%) females in the cohort and 1,688 (87.6%) males. Race and ethnicity data was available for 70% of the cohort. One thousand one hundred and ninety-one (61.8%) defendants were white. One hundred and thirty (6.7%) defendants were African American. Defendants from other racial and ethnic backgrounds accounted for about 1% of the cohort population.

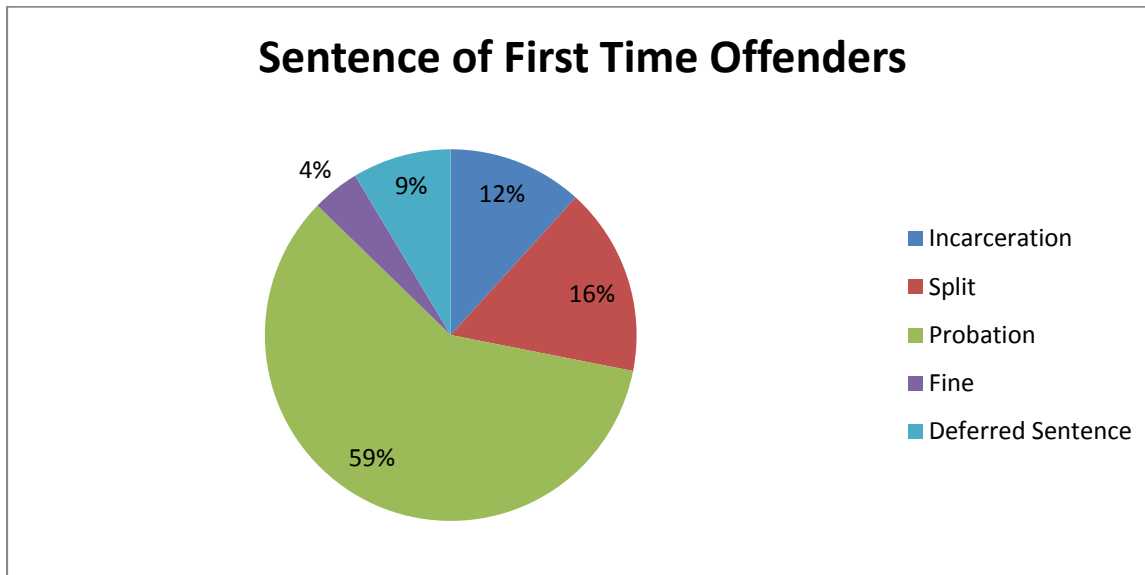
¹ Data came from VCIC criminal histories, in response to the query of all those arraigned in 2004-2008 in domestic violence offenses. The data was in XML form, which was then converted to .csv for import into SPSS. The histories were current up through May of 2011.

Recidivism

Analysis of the cohort's criminal history and recidivism is presented below. For analysis and comparison, offenders were classified into three types: (1) First time offenders (2) First time domestic violence offenders and (3) Recidivist domestic violence offenders. First time offenders were those defendants that had no prior convictions for any offense, and no prior domestic violence charges filed against them in the past. First time domestic violence offenders had no prior domestic convictions or charges, but had other criminal history. Recidivist domestic offenders had at least one prior domestic violence conviction or charge filed against them.

First Time Offenders:

There were 605 first time offenders. The average age for first time offenders was thirty-two years of age. Approximately 25% of the first time offenders were twenty-one years of age or younger. Ninety-five (15.7%) of the defendants were female. During the study period first time offenders were convicted of five hundred and sixty-eight (93.3%) of domestic assault misdemeanors, and thirty-seven felonies. The most common sentence for first time offenders was probation, with 358 defendants receiving that sentence. Ninety-nine defendants received split sentences, whilst seventy-one were sentenced to incarceration.² Of those sentenced to incarceration, 20 were first time felons. Fifty-two defendants had their sentences deferred, and 25 defendants received only a fine.



² Incarceration includes pre-approved furlough sentences. Although VCIC has a disposition code for pre-approved furlough, the courts are not consistent in the way they report the sentence in their own data. It is not clear if the pre-approved furlough gets transmitted to VCIC.

All of the first time offenders were eligible to recidivate at the time of the analysis.³ Two hundred and sixty-one (43.1%) had been convicted of another crime.⁴ However, 132 defendants (50.1% of recidivists) had only one violation of probation 'conviction' in their recidivism record. Younger defendants were more likely to recidivate, with 53% of those under age thirty earning a new conviction, compared to only thirty-three percent of those over age thirty

The most common first recidivist conviction was for probation violations. Seventy-six recidivists were found to have violated their probation. The next most common first conviction was for domestic violence. Forty-one (6.8%) defendants were reconvicted on another domestic violence charge. Seventeen (2.8%) defendants were convicted of violating a relief from abuse order.

The most common sentence for the new recidivism offense was incarceration, with 114 (43.7%) defendants receiving that sentence. Fifty-seven (21.8%) defendants received probation for the new offense, whilst fifty-four defendants (20.7%) received probation. Sixty-five percent (170) of the recidivists were eventually sentenced to jail during the study period.

Most recidivists earned a new conviction within 2 years of being eligible to do so. Forty-eight defendants (18.4%) re-offended within six months, 62 defendants (23.8) re-offended between 6 months and 1 year. Sixty five (24.9%) defendants re-offended between 1 year and 18 months.

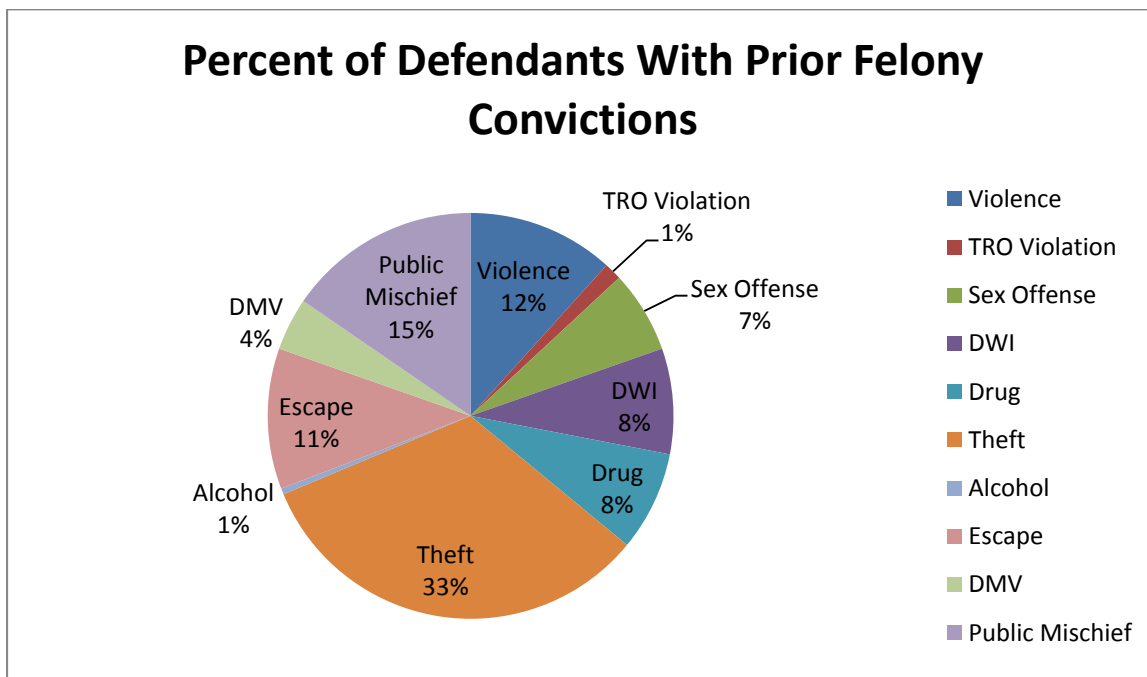
Throughout the study period, twenty-four recidivists earned at least one new domestic violence misdemeanor conviction, and no new felony domestic violence convictions. Thirty-six defendants earned new felony domestic violence convictions without a misdemeanor conviction. One defendant earned both a new felony and a new misdemeanor domestic violence conviction.

³ Eligibility of recidivism was calculated by taking 90% of the minimum sentence for incarceration (if a defendant was sentenced to consecutive sentences, 90% of the combined minimum was used) and adding that time to the disposition date. If the calculated date was earlier than May 1, 2011, the defendant was considered eligible to recidivate. For split sentences, 90% of the days to serve was used, again combine consecutive sentences. All other sentences were considered eligible for recidivism on the date of disposition.

⁴ Recidivism in domestic violence is traditionally measured one of three ways: interviews with victims, reports to police or re-arrests. In prior discussions at the Sentencing Commission and with Vermont policy makers, re-conviction was the preferred method of measuring recidivism. In our determination of a new conviction, we included findings of a violation of probation, although not technically a conviction, it indicates continuing serious contact with the criminal justice system.

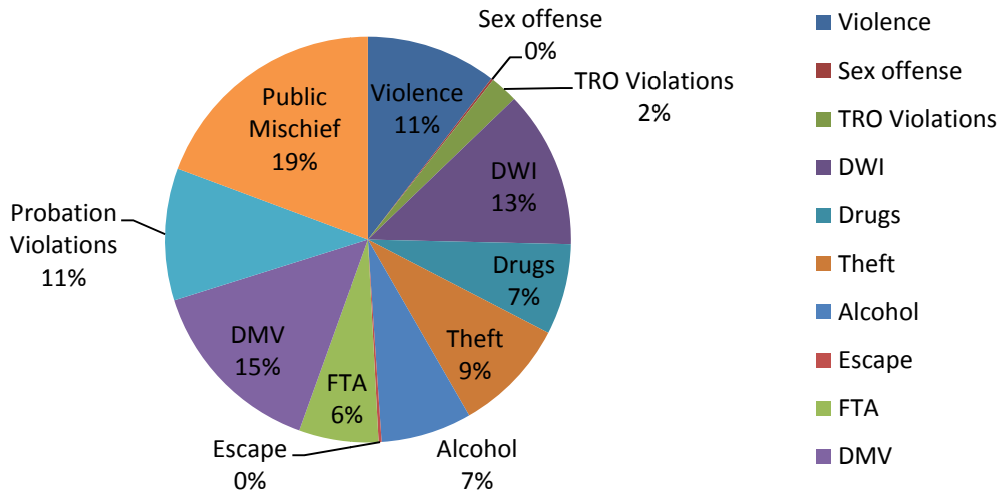
First Time Domestic Violence Offenders:

There were six hundred and forty-nine (33.7%) defendants with prior convictions for offenses other than domestic violence. The average age for these defendants was 29 at the time of conviction. However, the average age of the first conviction ever received was 23, indicating an average of 6 years of criminal activity before the domestic violence conviction. One hundred and sixty defendants had prior felony convictions. Theft was the most common felony conviction, with 70 of the defendants having a prior felony theft conviction.

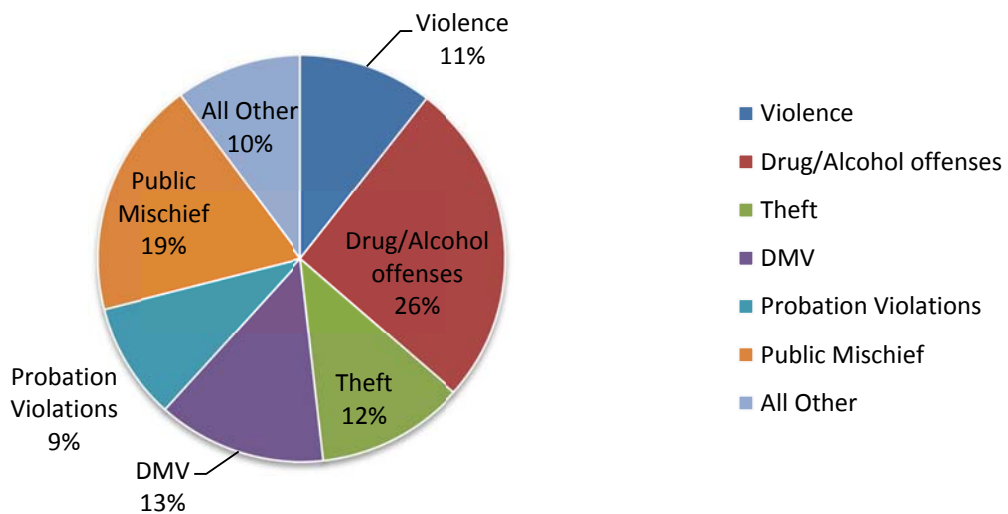


Sixteen defendants (4%) had just prior felonies in their criminal history. Six hundred and thirty-three (96%) defendants had misdemeanor convictions. Twenty-seven percent of the defendants had either alcohol, DWI or a Drug offense in their prior misdemeanor records. Eleven percent (71) of defendants had at least one misdemeanor conviction for a crime of violence. Eleven percent of the defendants had been found to have violated past probationary sentences.

PERCENT OF DEFENDANTS, PRIOR MISDEMEANOR CONVICTIONS



PERCENT OF DEFENDANTS ALL PRIOR CONVICTIONS COMBINED



As with the first time offenders, the most common sentence for first time domestic violence offenders was probation. Three hundred and six offenders (47.11%) were sentenced to probation. One hundred and sixty-two defendants (25%) were sentenced to incarceration, and the exact same number of defendants were sentenced to a split sentence.

Of the 649 first time domestic violence offenders, 646 were eligible to recidivate during the study period. Of those, 388 (60.1%) did earn a new conviction. Younger defendants were more likely to recidivate with 67% of those under 30 earning a new conviction versus 47% of those over thirty. The most common re-offense was a probation violation with 91 (23.5%) of the recidivists violating their probation. However, 179 defendants (46.1% of recidivists) had only one probation violation in their recidivist criminal record. The next most common re-offense was a new domestic violence conviction with 50 of the defendants earning a new conviction.

The most common sentence on the new offense was incarceration with 191 defendants (29.4%) receiving that sentence. Eighty-six defendants (13.3%) received a split sentence. Fifty-five defendants (8.5%) received probation and the same number received a fine. One defendant received a deferred sentence on the new offense.

Of those that recidivated, 54 (13.9%) eventually earned new felony domestic violence convictions and 31 earned new misdemeanor domestic violence convictions. Forty-three defendants had subsequent domestic violence charges filed against them. On average, the recidivists were reconvicted about 4 times during the study period. Throughout the study period, 277 defendants (75%) were sentenced to incarceration at least once for a subsequent offense.

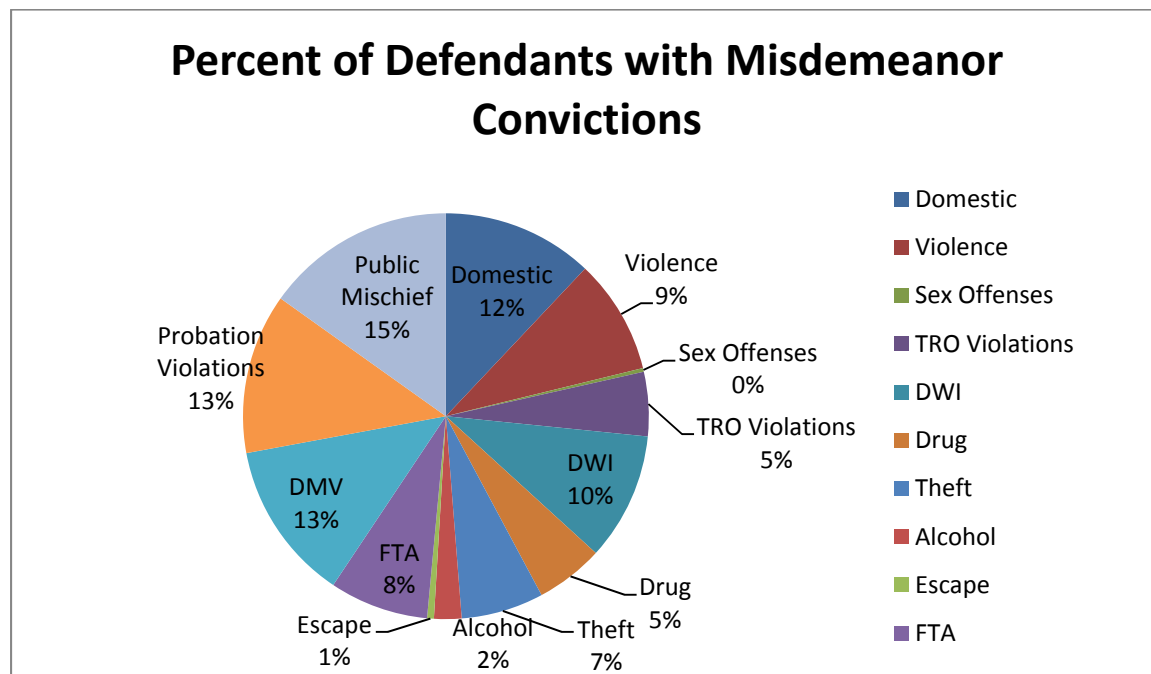
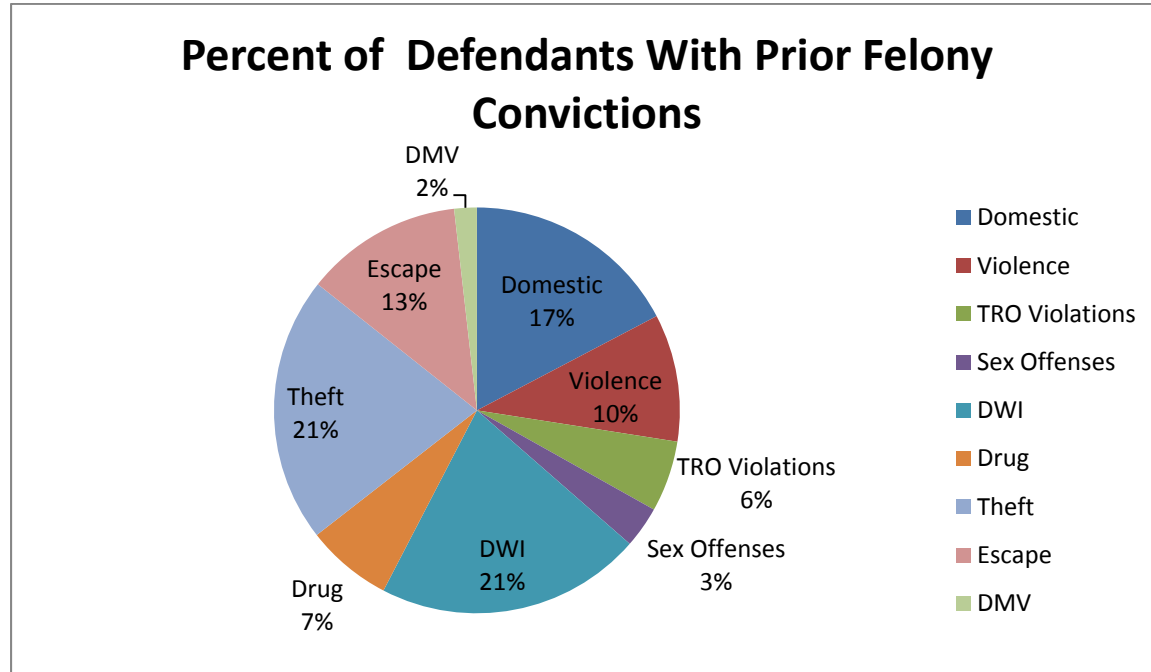
Domestic Violence Recidivists:

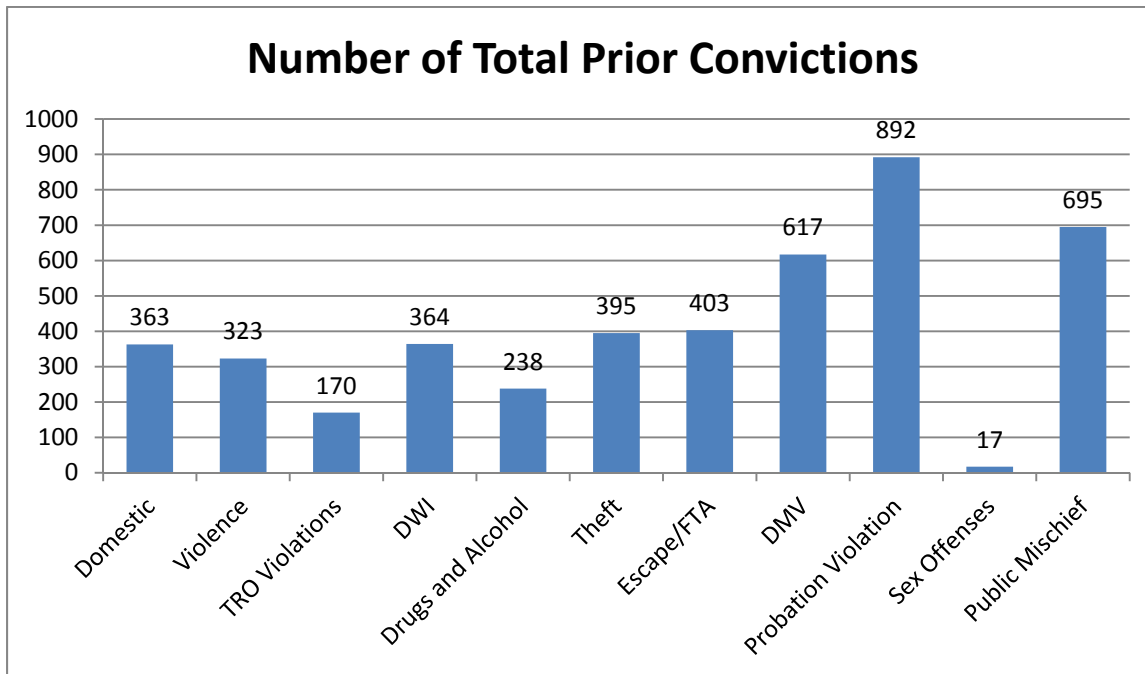
Six hundred and forty seven defendants had a prior domestic violence conviction or contact before the study period. The average age of this group was 37 at the time of the study, and on average they earned their first conviction at age 22. Indicating a much longer criminal activity period (15 years) compared to the first time domestic violence offenders (6 years).

Two hundred and forty-seven (38%) defendants had at least one prior domestic violence misdemeanor conviction. Fifty-eight defendants had at least one prior felony domestic violence conviction. The defendants had a total of 363 domestic violence convictions between them, and fifty-eight prior contacts for domestic violence.

For the base offense, the most common sentence was incarceration, with 38.9% (248) of the defendants receiving that sentence. Two hundred and thirty-six defendants (37%) received probation. Almost 20% of the defendants received a split sentence. Seventeen defendants were sentenced to a fine only, and ten defendants had their sentences deferred.

Probation violations were the most common prior offense, with 892 total violations in this group. However, only 13% (84) defendants earned those violations.





Of the six hundred and forty-seven domestic violence recidivists, six hundred and thirty-eight of them were eligible to recidivate at the time of the study. Fifty-seven percent (368) of those eligible did recidivate again. Approximately 70 (19.0%) of the recidivists earned three or fewer new convictions. One-hundred and eighty-nine defendants (51.3% of recidivists) had only one probation violation 'conviction' in their recidivist record.

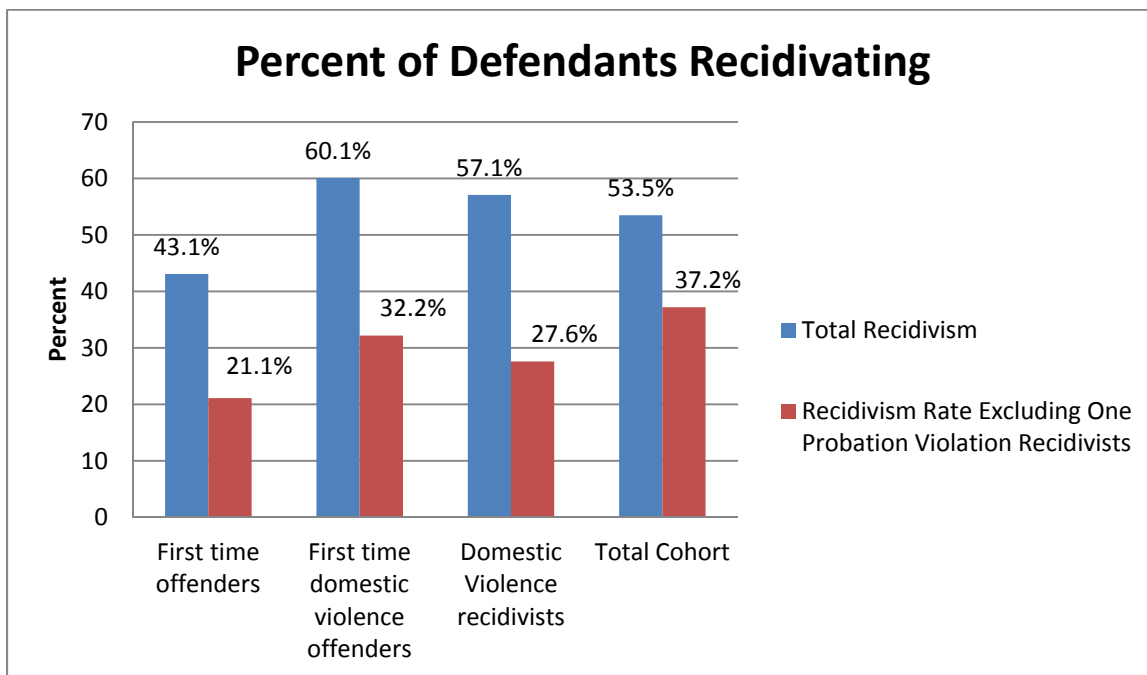
As with the other groups, the younger a defendant was at the time of the conviction, the more likely the defendant was to recidivate. Seventy-three percent of the defendants under age 30 recidivated versus 54% over age thirty who recidivated. Sixty defendants (16.3%) earned a new conviction within 6 months. Ninety-one defendants (24.8%) recidivated between six and twelve months of being able to do so. Ninety-four percent of the defendants had earned a new conviction within 4 years.

Also similar to the other groups, probation violations were the most common first new offense. Eighty-seven recidivists (23.6%) were found to have violated their probation. Also similar to the other groups, the next most common new conviction was domestic violence with 49 defendants (7.7%) earning a new domestic violence conviction. Throughout the study period, this group of defendants earned 88 (13.6% of group) new domestic violence convictions. Twenty six defendants were reconvicted of at least one misdemeanor domestic violence offense, and no further felonies. Sixty-one defendants were convicted of new felony domestic violence offenses, but no further misdemeanor offenses.

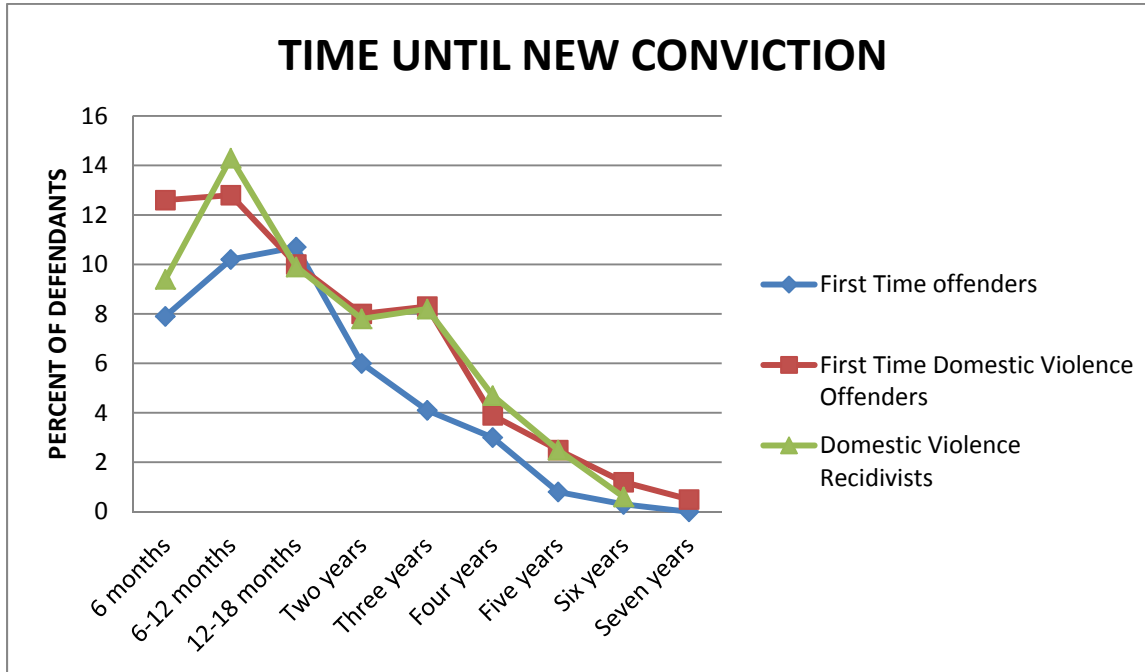
The most common sentence for the next new offense was incarceration with 199 (31.2%) of defendants being sentenced to jail. Seventy-three (11.4%) defendants received a split sentence on the new offense. Almost 9% (55) defendants were sentenced to pay a fine, whilst 6.4% (41) received a sentence of probation. During the study period, 255 (69.2%) of the defendants were eventually sentenced to incarceration.

COMPARISON BETWEEN GROUPS

First time offenders had the lowest recidivism rate, with only 43.1% earning a new conviction. The next highest recidivism rate was for first time domestic violence offenders, with 60.1% reoffending. Fifty-seven percent of those with prior domestic violence contacts or convictions committed a new offense. This disparity in recidivism rates between first time offenders and those with prior records is possibly because of the criminal history of the defendant. That is, those with prior records are more likely to re-offend than those without. Age may be another factor, when combined with criminal history, that contributes to the difference in the recidivism rates. In all groups, those under the age of thirty were more likely to recidivate than those over the age of thirty. In the first time offender group, the average age was 32.6 years. The average age for the first time domestic violence offenders was 27 years of age. The average age of the domestic violence recidivists was 38 years of age, indicating that age alone is not necessarily the driving force of recidivism. This is explored more fully below in the regression analysis.



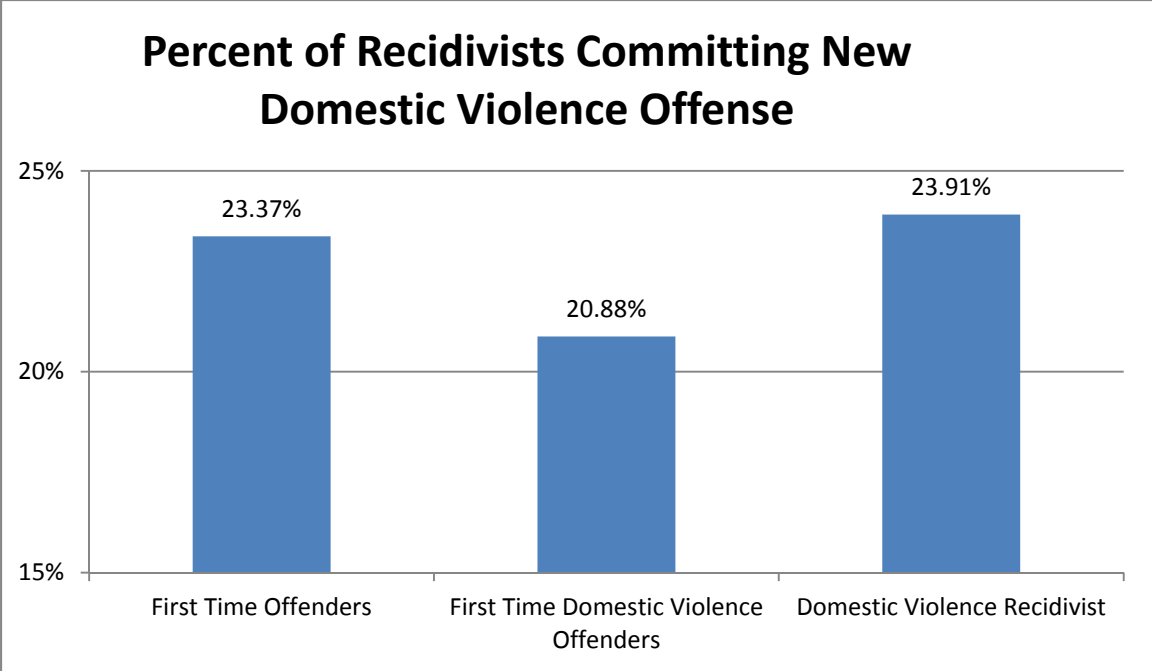
The groups did not differ greatly on the time to recidivate. In all groups, the first recidivism offense was generally WITHIN two years of the date eligible to recidivate.



While the overall recidivism rate of the defendants was high, the recidivism rate for domestic violence offenses was less than 25% for all groups of recidivists. Of the original 1,926 defendants, 230 (11.9%) earned a new conviction for a domestic violence offense. Further research is needed to determine why the domestic violence recidivism rate is so low.⁵ Possible factors include: an in-force relief from abuse order, participation in IDAP or other batterer intervention programs, participation in substance abuse programs and the social history of the defendant.⁶

⁵ Other jurisdictions report similarly low recidivism rates. Cook County in Illinois studied 899 convicted batterers. Recidivism rates for the various groups studied ranged from 15%-36%. The rate of recidivism was tied to the programming received after conviction. See: Adams, Sharon *Research at a Glance* Vol. 1 No 8 June 2006. Publication of the Illinois Criminal Justice Information Authority. New York City looked at the re-arrests for domestic violence offenders. They reported a 17% recidivism rate for a new domestic violence offense versus a 38% re-arrest rate for non-domestic violence offenses. See Peterson, Richard *The Impact of Case Processing on Re-Arrests Among Domestic Violence Offenders in New York City*. March 2003. A Publication by the New York City Criminal Justice Agency.

⁶ It is not likely that the low recidivism rate was due to charges being filed and then dismissed for lack of victim participation or withdrawing of the complaint. Only 71 (3.6%) had future domestic violence charges arraigned but not convicted. These 71 defendants did not have any further domestic violence recidivism.



Predictors of Recidivism

All information for the recidivism study was gathered through the criminal histories. The Center had no information regarding social data (employment, education, income, etc.) or information on what treatment the offender may have received via the Department of Corrections or other programs. Accordingly, the predicative model below should be viewed as informative but not dispositive. It is however, of interest what factors do not appear to contribute to recidivism.

Logistic 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.
Prior Domestic Violence Convictions	Calculated from the criminal histories. (prior felony convictions for domestic violence + prior misdemeanor convictions for domestic violence)
Age at disposition	The age of the offender at the time of the disposition of the base offense.
Sentence	The sentence on the base offense. Coded 2= incarceration, 3=split, 4= probation 5= fine 6= deferred sentence.
Offense severity	Offense level of base offense. Felony =1 Misdemeanor =2.
Drug/Alcohol use	Calculated from criminal history (prior dwi convictions+ prior drug convictions+ prior alcohol convictions)
Prior Probation Violation Filings	Total number of probation violations filed, but not resulting in a finding of a violation.

Dependent Variable

Recidivist	For the regression analysis, a recidivist was defined as earning a new conviction. ⁷ Defendants who only earned one probation violation, and no further convictions were excluded from the analysis.
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⁷ Only those eligible to recidivate were included in this analysis.

Logistic Regression Recidivist or Not N=1,418

The model when insignificant variables are excluded correctly predicted who would not recidivate 86.4% of the time. The model correctly predicted who would recidivate only 34.2% of the time. This indicates that there are extra-legal factors contributing to recidivism that are not captured in this data set. The model's overall percentage was 67.1%.⁸

Variable	Beta	s.e.	p-value*
Age at Disposition	-.055	.006	.000
Criminal History	.118	.024	.000
Offense Level	.614	.208	.003
Drug/Alcohol Use	.031	.059	.598
Gender	.027	.173	.874
Sentence	.113	.064	.078
Prior Domestic Convictions	.019	.137	.892
Probation Violation Contacts	-.118	.047	.012

*P<.05⁹

df=7

Chi-squared =142.810 p=.000

The only statistically significant variables in predicating recidivism were: the age at disposition, the criminal history of the defendant and the offense level. In the absence of treatment information, the sentence a defendant receives has no effect on recidivism.¹⁰ Whether the defendant had prior domestic violence convictions was not statistically significant, nor was the gender of the defendant. Drug and alcohol related convictions had no effect, however the use of convictions as a proxy for drug and alcohol use may be underestimating the actual habits of the defendants.

Of those factors that were significant, younger defendants were more likely to recidivate than older defendants. Likewise, those with longer criminal histories were more likely to re-offend. Those with

⁸ When the non-significant variables are excluded from the model, the model correctly predicts non-recidivists 85.5 percent of the time, but gains no accuracy in predicting recidivists.

⁹ The following variables were also not found to be significant: race, county, probation violation totals.

¹⁰ Other researchers have reached similar conclusions. Woodridge and Thistelthwaite, *Court Dispositions and Re-arrest for Intimate Assault*, Crime and Delinquency. Volume 51 Number 1 January 2005 pp. 75-102. Where the authors found that sentence alone did not contribute to recidivism, but rather sentence combined with social factors does. Ventura and Davis found that jail or probation had no effect on recidivism, but defendants sentenced to fine or deferred sentence were more likely to recidivate. See Ventura and Davis, *Court Case Conviction and Recidivism*, Violence Against Women Vol. 11 No.2 February 2005 pp 255-277.

misdemeanor convictions were more likely to offend than those with felony convictions. Interestingly, those with prior probation violation contacts were less likely to offend than those with probation violation contacts.

Conclusion:

The overall new domestic violence conviction rate of about 12% is consistent with what other jurisdictions find. However, in predicting who is likely to recidivate, more research on treatment options, participation and social factors is needed. A comprehensive statewide evaluation of programs is perhaps not feasible but individual programs should be thoroughly evaluated. It is interesting to note that county was not statistically significant in predicting recidivism, indicating that it is the type of programs that are available not necessarily their location that is contributing to a low recidivism rate.