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**PREDICTING PRETRIAL MISCONDUCT
AMONG DOMESTIC VIOLENCE
DEFENDANTS IN NEW YORK CITY**

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PREDICTING PRETRIAL MISCONDUCT AMONG DOMESTIC VIOLENCE DEFENDANTS IN NEW YORK CITY

I. INTRODUCTION

The processing of domestic violence (DV) cases often presents special problems for the criminal justice system. A DV defendant released prior to the disposition of a criminal case may harm or threaten the victim while the case is pending. The DV defendant's motivation may be to retaliate against the victim for having the defendant arrested and/or to discourage the victim from participating in the prosecution of the case. While defendants in Non-DV cases may also retaliate against or threaten their victims, victims in DV cases are often in greater danger of facing renewed threats or violence. DV defendants have easier access to the victim, since they usually know where the victim lives and works. Because of their emotional ties to the victim, DV defendants may have greater motivation to threaten or retaliate. Emotional and economic ties also may provide defendants with greater leverage against victims in DV cases than in Non-DV cases. Furthermore, domestic violence, more than other types of violence, often occurs in a private location, and is therefore difficult to detect and prevent.

Concerns about pretrial release of DV defendants generally focus on the risk of re-offending. Preventive detention, aimed at preventing re-arrest for new offenses, is permitted in the federal courts and in many state courts. However, New York State's Criminal Procedure Law (CPL) §510.30(2)(a) requires that decisions about releasing the defendant on recognizance or setting bail be based on factors related to insuring that the defendant will make scheduled court appearances. New York State law does not allow these decisions to be based on concerns about the safety of the victim or the community. Nevertheless, the law does allow the court to address concerns about safety through the conditions of release. The court has wide latitude to set conditions of release, including issuing a temporary order of protection limiting the defendant's contact with the victim.

A previous CJA report (Peterson 2006) examined pretrial release outcomes for domestic violence cases in New York City and compared them to the outcomes for Non-DV cases. It also examined models predicting two types of pretrial misconduct: failure to appear for a scheduled court appearance, and re-arrest for a new DV offense during the pretrial period. In this report, we extend those analyses by developing one model to predict re-arrest for any new offense during the pretrial period, and another model to predict the combined risk of failure to appear and a pretrial re-arrest for a new DV offense.

To provide a context for our research and to assist in developing models, we extend our review of previous research on factors that affect pretrial failure to appear (FTA) and pretrial re-arrest.

A. Review of the Literature on Pretrial Failure to Appear

In a previous report (Peterson 2006), we reviewed the literature on pretrial failure to appear, on pretrial re-arrest for any type of offense, and on pretrial re-arrest for a DV offense. In this report, we provide a brief summary of that literature review, and add a more detailed literature review of research on the combined risk of pretrial failure to appear and pretrial re-arrest.

1. Summary of Previous Literature Review

Research on Pretrial Failure to Appear. Our review of research on the general population of defendants found that defendants with more serious criminal histories, especially those with a history of prior FTA, were more likely to fail to appear. Results on the effect of community ties were mixed, with some studies finding that stronger community ties reduced FTA, while others found no impact. One measure of community ties, employment, was consistently associated with lower rates of failure to appear. Charge type seemed to influence FTA, with drug defendants more likely to fail to appear. However, there were mixed results for burglary and property crimes. Charge severity was inversely related to FTA—the more severe the charge, the *lower* the likelihood of FTA. The effect of type of release (bail vs. release on recognizance) varied considerably from study to study and place to place, so no definitive conclusion can be drawn. Age, race, sex, and drug use had an impact in some studies but not in others. Overall, the main conclusion that can be drawn from prior literature is that criminal history and employment affected the likelihood of FTA, while results for the influence of other factors were not consistent.

While there has been extensive research on FTA in the general population of defendants, we are not aware of any published research on FTA among domestic violence defendants other than CJA's previous research report (Peterson 2006). That report found that criminal history was associated with higher rates of FTA, and that defendants with stronger community ties had lower rates. Defendants released after arraignment were more likely to FTA than those released at arraignment. Those released on bail were less likely to FTA than those released on recognizance. Older defendants (40 and over) were less likely to FTA; defendants on Staten Island were more likely to FTA than defendants in other boroughs.

Research on Pretrial Re-Arrest. Our review of research on the general population of defendants found that defendants with more serious criminal histories were more likely to be re-arrested during the pretrial period. Community ties, particularly employment, reduced the likelihood of pretrial re-arrest. Charge characteristics were also influential, although the findings varied. Some studies found that defendants charged with violent crimes, felonies and drug offenses were more likely to be re-arrested, while others did not. Findings on the effect of type of release (bail vs. release on recognizance) were also inconsistent. Younger defendants were more likely to be re-arrested, while findings on the effects of ethnicity and gender varied across studies. Defendants who tested positive for drug use were more likely to be re-

arrested. There seemed to be a consensus across studies that criminal history and community ties were influential predictors of pretrial re-arrest. Findings on the effects of other factors were inconsistent, except that all the reviewed studies found that pretrial re-arrest rates were lower for older defendants.

We found only a few published studies that examined pretrial re-arrest among domestic violence defendants and therefore extended our review to include research on post-disposition re-arrest for these defendants. The findings from prior research on pretrial and post-disposition re-arrest among DV defendants suggest that criminal history, community ties, and age were consistent predictors of re-arrest, while findings for the effect of other variables were either inconsistent or untested. The finding that pretrial re-arrest for a DV offense was a strong predictor of post-disposition re-arrests for DV offenses suggests that for some DV defendants a pattern of repeated re-offending is undeterred by arrest and prosecution. These defendants pose considerable problems for the criminal justice system, and for the processing of domestic violence cases.

Our previous report (Peterson 2006) examined factors that predicted pretrial re-arrest for a new DV offense among New York City DV defendants. Two measures of criminal history were significant: whether the defendant had any prior arrests and whether the defendant had two or more open cases at the time of arrest. Several measures of community ties were significant. Being employed, having a telephone, and living at one's current address for over one year were all associated with lower rates of pretrial re-arrest for a new DV offense. One community tie, living with someone, increased the risk of pretrial re-arrest for a new DV offense, presumably because it indicated that the defendant had closer contact with the victim in many cases. Defendants charged with criminal contempt (usually involving violation of an order of protection) were more likely to be re-arrested for a new DV offense during the pretrial period. Women and defendants over 40 were less likely to be re-arrested, as were those who were not charged with a crime against an intimate partner. Finally, Non-Hispanic Whites were more likely than Non-Hispanic Blacks to be re-arrested for a new DV offense during the pretrial period, while Hispanic defendants were less likely than Non-Hispanic Blacks to be re-arrested.

2. Review of Research on the Combined Risk of Failure to Appear and Pretrial Re-Arrest

Research on the combined risk of failure to appear and pretrial re-arrest is relatively rare, and most of the research is over 15 years old. We begin by describing each of six previous studies, and then summarize their basic findings regarding the factors that affect the combined risk of pretrial misconduct. None of these studies focused specifically on defendants in DV cases.

The earliest study, by Clarke et al. (1976), used a sample of 861 defendants released between January and March 1973 in Charlotte, North Carolina. About 18% engaged in some kind of pretrial misconduct (either failure to appear or re-arrest).

Boudouris et al. (1977) assessed a pretrial risk assessment instrument by examining data for 1,677 defendants released in Polk and Linn counties in Iowa from January 1974 to June 1975. The rate of pretrial misconduct was 16%. Goldkamp et al. (1981) reported a much higher rate of pretrial misconduct, 24%, in a study of 4,308 defendants released in the Municipal Court of Philadelphia from 1977 to 1979. Cuvelier and Potts (1993) assessed a pretrial risk assessment instrument in Harris County, Texas (Houston), and used the results to develop a new instrument. They used two samples, one drawn in 1990 while the original instrument was in effect (N=6,796) and one drawn after the implementation of the new instrument (N=4,710). The rate of pretrial misconduct was 11% during both periods. More recently, VanNostrand (2003) examined data for 1,971 defendants in seven Virginia localities. Using a sample drawn in 1998 and 1999, she found a pretrial misconduct rate of 27%. Finally, Siddiqi (2006), using a first-quarter 2001 sample from New York City (N=24,926), reported a similar rate of pretrial misconduct—28%.

Although these studies vary considerably in terms of sample sizes, year of data collection, rates of pretrial misconduct and size of jurisdiction, it is possible to derive some generalizations about factors affecting pretrial misconduct.

Criminal History. All of the studies found that the defendant's criminal history was a strong predictor of pretrial misconduct. However, the specific aspects of criminal history that affected pretrial misconduct varied across the studies. Having any prior arrests (Clarke et al. 1976), recent arrests and open cases (Goldkamp et al. 1981), prior felony convictions (Boudouris et al. 1977, Cuvelier and Potts 1993, VanNostrand 2003) and prior misdemeanor convictions (Cuvelier and Potts 1993, Siddiqi 2006) increased the likelihood of pretrial misconduct. (Siddiqi, however, found that prior felony convictions did not affect pretrial misconduct.) Defendants with a prior history of failure to appear (Cuvelier and Potts 1993, Goldkamp et al. 1981, Siddiqi 2006) or a current open warrant (VanNostrand 2003) were more likely to engage in pretrial misconduct. Finally, VanNostrand (2003) found that prior convictions for failure to appear or for violent offenses increased the likelihood of pretrial misconduct.

Community Ties. Employment is associated with less pretrial misconduct in most studies (Boudouris et al. 1977, Cuvelier and Potts 1993, Siddiqi 2006, VanNostrand 2003), though one study found no effect (Clarke et al. 1976). Having a telephone (Cuvelier and Potts 1993, Goldkamp et al. 1981, Siddiqi 2006), owning an automobile (Cuvelier and Potts 1993), and living for a longer period of time at one address (VanNostrand 2003) decreased the likelihood of pretrial misconduct. Marital status had no impact in Boudouris et al.'s (1977) study, but Cuvelier and Potts (1993) found that living alone or living with a spouse and children were associated with lower rates of pretrial misconduct than other living arrangements.

Charge Characteristics. Being charged with a felony (vs. a misdemeanor) increased pretrial misconduct in one study (VanNostrand 2003), had no impact on pretrial misconduct in another (Boudouris et al. 1977), and was actually associated with a lower rate of pretrial misconduct in another (Siddiqi 2006). These disparate findings,

though initially surprising, may reflect differences in the selection process for release of felony defendants across jurisdictions. It may be that in more selective jurisdictions, felony defendants have lower rates of pretrial misconduct. Retail theft was associated with a lower rate of pretrial misconduct in Philadelphia (Goldkamp et al. 1981). Siddiqi (2006) found an unusual pattern—defendants charged with misdemeanor property, drug, and public order offenses had higher rates of pretrial misconduct than those charged with violent misdemeanor offenses. However, among defendants charged with felonies, she found no differences among these types of offenses.

Type of Release. Only one study reported the effect of type of release. Boudouris et al. (1977) found that defendants released on recognizance (ROR) had higher rates of pretrial misconduct than those released on bail. However, those released to a supervised release program had lower rates than those released on bail.

Demographic Characteristics. Older defendants have lower rates of pretrial misconduct (Boudouris et al. 1977, Clarke et al. 1976, Cuvelier and Potts 1993, Siddiqi 2006), as do women (Siddiqi 2006). Ethnicity had an effect in only one study (Siddiqi 2006), with whites having lower rates of pretrial misconduct than blacks or Hispanics. Income (Clarke et al. 1976) and education (Boudouris et al. 1977) had no effect.

Drug Use. VanNostrand (2003) found that a history of drug abuse increased pretrial misconduct. Boudouris et al. (1977) reported the same for a history of drug or alcohol abuse.

In summary, research on the combined risk of failure to appear and pretrial re-arrest has produced findings similar to research that examined failure to appear and pretrial re-arrest separately. However, the results appear to be somewhat weaker, with fewer variables found to have consistent effects. (This conclusion should be tempered, however, by the understanding that fewer studies of combined risk have been conducted.) Criminal history, as usual, is the strongest predictor in these studies. Prior convictions, and in particular, a prior history of failure to appear were the strongest of the criminal history predictors. The most important community ties are employment and having a telephone. Evidence for the effect of other community ties variables is less consistent. The results for the effects of charge characteristics are mixed and do not allow any definitive conclusions. Only one study examined the effect of type of release, finding that defendants released on ROR are at higher risk of pretrial misconduct than those released on bail. However, a supervised released program produced better results than bail. Among demographic factors, age is strongly associated with lower rates of pretrial misconduct; other variables were found significant in isolated studies. Drug use, not surprisingly, is associated with higher rates of pretrial misconduct.

B. Summary of Literature on Pretrial Misconduct

The literature on pretrial re-arrest and on the combined risk of failure to appear and pretrial re-arrest provided limited guidance on what findings to expect in this study. Most of the literature is focused on the general defendant population and its applicability

to DV defendants is unclear. The literature on pretrial re-arrest is more extensive and suggests that criminal history, community ties (especially employment) and age are generally strong predictors. Findings on the effects of other factors, such as charge type, type of release, ethnicity, and sex are mixed. The most consistent findings in the literature on the combined risk of pretrial misconduct were that defendants with more serious criminal histories and weaker community ties were more likely to engage in pretrial misconduct. Some studies found that charge characteristics mattered, though the findings on the specific type of charges associated with pretrial misconduct varied. Younger defendants and defendants who used drugs were more likely than older defendants to engage in pretrial misconduct. The effects of other factors, including type of release, ethnicity, and sex, were tested in only one study.

Taken together, findings of research on pretrial re-arrest and on the combined risk of pretrial misconduct informed the design of the current study in three ways. First, the research identified factors that should be considered in the models. Specifically, measures of criminal history, community ties, charge characteristics, type of release, demographics, and drug use should be included if available. Second, previous research suggested that multiple measures of each of these factors should be used. For example, while studies generally found an effect of community ties, the particular measures of community ties varied from study to study. The use of multiple measures whenever possible maximizes the chance of finding an effect, and of determining which particular variables are most influential. Third, gaps in the literature suggested a need for models of pretrial re-arrest for any new offense and a model of the combined risk of failure to appear and pretrial re-arrest for a new DV offense. With this general guidance based on previous research, we are now ready to describe the plan of research for the current study.

C. Research Plan

The current study is designed to address two research questions:

- 1) What are the factors that influence the likelihood of pretrial re-arrest among DV defendants?
- 2) What are the factors that influence the likelihood of pretrial failure to appear and/or pretrial re-arrest for new DV offenses among DV defendants?

These questions will be addressed through an analysis of data on New York City defendants drawn from the New York City Criminal Justice Agency, Inc. database. As described in Chapter 2, the dataset includes defendants arrested in the first quarter of 2001 and the third quarter of 2002. The dataset includes information from the CJA interview, the arrest report, and case processing information. A model predicting pretrial re-arrest among DV defendants is developed and presented in Chapter 3. Chapter 4 discusses a model predicting the combined risk of pretrial failure to appear and/or re-arrest for a new DV offense among DV defendants. The report concludes with a summary of findings, and a discussion of their implications.

II. METHODOLOGY

A. Overview of the CJA Database and the Combined First Quarter 2001 and Third Quarter 2002 Dataset

The data for this study were drawn primarily from the CJA database. This database contains information about the arrest, case processing, and case outcomes of most New York City arrestees. The CJA database includes data from three sources: CJA's pre-arraignment interview,¹ the New York City Police Department's On-Line Booking System (OLBS) Database, and the New York State Office of Court Administration (OCA). Information concerning demographic characteristics and the community ties of the defendants is taken from the CJA pre-arraignment interview. Information about the arrests is based on the OLBS data. Detailed Criminal Court and Supreme Court processing and outcome data on each of the arrests are drawn from the OCA data.

This report is based primarily on analyses of two datasets. The First Quarter 2001 Dataset includes data collected on a three-month cohort of arrests made from January 1, 2001 to March 31, 2001. The dataset includes information on 91,729 arrests where the district attorney elected to bring charges and where a docket number was assigned. The Third Quarter 2002 dataset includes data collected on a three-month cohort of arrests made from July 1, 2002 to September 30, 2002. The dataset includes information on 77,427 arrests where the district attorney elected to bring charges and where a docket number was assigned. In addition to information in the CJA database, the datasets also include information provided by the New York State Division of Criminal Justice Services (DCJS).² DCJS data were used to supplement and check the reliability of criminal history information that was routinely collected by CJA interviewers.

For cases that had multiple dockets, case-processing information in this study is based on the docket that had the most severe arraignment charge (based on Penal Law severity) in Criminal Court.³ When the most severe arraignment charges on two or

¹ CJA conducts pre-arraignment interviews to measure the defendant's community ties and to serve as the basis for making a recommendation as to whether or not the defendant should be released on recognizance at his or her first court appearance. Defendants who are arrested on a bench warrant, given a Desk Appearance Ticket (DAT), or who are held for arraignment on prostitution charges in the downtown Manhattan Criminal Court are not interviewed by CJA. CJA collects arrest and Criminal Court information for all arrestees, and arrestees were included in the First Quarter 2001 Dataset or Third Quarter 2002 Dataset whether or not they were interviewed by CJA.

² DCJS, OCA, and the NYPD are not responsible for the methods or conclusions of this report.

³ New York State Penal Law categorizes most offenses according to their severity. The most serious crimes are A felonies, followed by felonies classified as being of severity B through E. Misdemeanors are less severe than felonies, and are classified as A or B misdemeanors or Unclassified misdemeanors (A misdemeanors are more severe than B misdemeanors, and Unclassified misdemeanors are less severe than B misdemeanors). Violations are less severe than misdemeanors, and are not considered crimes, although they can result in jail sentences. No distinctions of severity are made within the category of violations.

more dockets are of equal Penal Law severity, the top charge is determined according to guidelines developed by OCA. These guidelines provide a consistent set of rules for determining which of two arraignment charges of equal severity will be identified as the top arraignment charge.

In New York State's two-tiered court system for handling criminal cases, the Criminal Courts only have trial jurisdiction over cases having a most serious charge of misdemeanor or lesser severity. Most defendants charged with felonies are first arraigned in Criminal Court. Cases sustained at the felony level must be brought for prosecution in Supreme Court. In felony cases where the DA decides not to prosecute the case in Supreme Court (or the Grand Jury fails to return an indictment), the case may be disposed in Criminal Court by dismissal or by a plea to a reduced charge less severe than a felony, or by a transfer to another court's jurisdiction (e.g., Family Court).⁴

The cases selected for inclusion in the analyses in this report include only **cases that reached a final disposition in Criminal Court**. The overwhelming majority (about 98%) of domestic violence cases citywide were disposed in Criminal Court. The First Quarter 2001 Dataset includes case processing information in Criminal Court through final disposition (and sentencing, if there was a conviction), or until November 30, 2001. The Third Quarter 2002 Dataset includes case processing information in Criminal Court through final disposition (and sentencing, if there was a conviction), or until May 6, 2003. Information about any final dispositions in Criminal Court beyond these cutoff dates was not included in the dataset.

B. Identifying Domestic Violence Cases

Social scientific and legal definitions of domestic violence have changed over the last 30 years (Peterson 2001). In New York State, the statutory definition of domestic violence approximates what has come to be known in the social scientific literature as "family violence." Under New York State's Criminal Procedure Law (CPL) §530.11 (as amended by the 1994 Family Protection and Domestic Violence Intervention Act), family offenses are defined as offenses committed against a member of the same family or household, where "family or household" are defined as: (1) persons related by consanguinity or affinity; (2) persons legally married to each other; (3) persons who were formerly married, and; (4) persons who have a child in common, whether or not they have ever been married or lived together.

New York State's statutory definition of domestic violence excludes unmarried partners, unless they have a child in common. However, the New York City Police Department (NYPD) operates with an expanded definition of domestic violence that includes individuals who are not married, but who are cohabiting or have previously

⁴ The Family Courts have concurrent jurisdiction over certain domestic violence cases (Aldrich and Domonkos 2000). Some DV cases are heard only in Criminal Court, some are heard in both Criminal Court and Family Court, and others are heard only in Family Court. We do not have access to data on DV cases that are heard only in Family Court, and our report draws no conclusions about these cases.

lived together. This NYPD definition of “family” expands on New York State law by including “common-law” marriages, same-sex couples, and registered New York City domestic partners (NYPD 2000). By citywide agreement, the DA’s offices and the Criminal Courts in all five boroughs also use this expanded definition to identify DV cases, whether or not the relationship between the victim and defendant meets the New York State statutory requirements contained in CPL §530.11.

To identify domestic violence cases, assistant district attorneys (ADAs) use information collected by the police about the relationship between the victim and the defendant, if any. The ADAs also often ask victims about their relationship with the defendant. When this information indicates that the defendant-victim relationship meets the NYPD expanded definition of domestic violence, the case is identified as a DV case. In all five boroughs DV case files are then given beige “backs” (special color-coded back sheets) to distinguish them from other case files. At Criminal Court arraignment, court clerks assign an arraignment hearing type of “DV” to domestic violence cases, and this designation is entered in OCA’s computerized court records.

At the time the defendants in the first quarter of 2001 and the third quarter of 2002 were arrested, cases identified at arraignment as DV cases were processed in different ways depending on the borough. In all boroughs, most cases with a DV hearing type were sent to a specialized Criminal Court domestic violence part for post-arraignment appearances. However, there were exceptions. In Brooklyn and the Bronx, cases with a DV hearing type that involved physical or sexual abuse of children or other types of non-intimate partner violence (e.g., violence between siblings) were not sent to the specialized domestic violence parts. Finally, some cases that did *not* have a DV hearing type at arraignment were also sent to the specialized DV parts, presumably because information that these cases involved domestic violence became available only after arraignment.

In this study, we identified “domestic violence” cases by relying on the court’s identification of these cases. We used information about both hearing type and court part, since not all DV cases were assigned a DV hearing type. **We identified cases as domestic violence cases if the Office of Court Administration reported that: (1) the case had a domestic violence hearing type at Criminal Court arraignment, and/or, (2) the case had one or more appearances in a specialized domestic violence Criminal Court part.**⁵

⁵ In the first quarter of 2001, the specialized domestic violence Criminal Court parts were AP-12 and AP-15 in Brooklyn (renamed DV1 and DV2 in January 2001), AP-10 and TAP-2 in the Bronx, AP-4 in Queens, D and JP13 (for DV jury trials) in Manhattan and AP2-DV in Staten Island. By the third quarter of 2002, the following specialized DV parts were added: Part IDV in the Bronx and part T-DV in Queens. Although AP2-DV in Staten Island was identified as a separate court part in our data, it was actually a specialized DV calendar. DV cases on this calendar were heard in an all-purpose part two days a week. We identified cases as DV cases if they had one or more appearances on this calendar.

Using these criteria, we identified 7,572 domestic violence cases in the First Quarter 2001 Dataset, about 9% of the total sample of 84,953 cases disposed in Criminal Court. There were 7,027 DV cases in the Third Quarter 2002 Dataset, about 10% of the 70,891 cases disposed in Criminal Court. In the combined First Quarter 2001 and Third Quarter 2002 Dataset, about 65% of the 14,599 DV cases had both a DV hearing type at arraignment and at least one appearance in a specialized DV part. An additional 18% of cases had a DV hearing type at arraignment but no appearance in a specialized DV part. These included cases that were disposed at arraignment as well as DV cases that were sent to Non-DV parts. Finally, 17% of the cases had at least one appearance in a specialized domestic violence part, but did not have a domestic violence hearing type at Criminal Court arraignment.

As we noted in a previous report (Peterson 2003a), the measure identifying DV cases does have some limitations. First, there may be instances where a DV case was not identified as such in court records (i.e., it did not receive a DV hearing type at Criminal Court arraignment and did not appear in a specialized domestic violence part). The measure did not identify these as DV cases but instead categorized them as Non-DV cases. In the current study, this limitation affected our analyses in two ways. First, it reduced the sample size of DV cases on which we report. Nevertheless, we have an adequate sample size for our analyses, and were able to draw valid conclusions about DV cases from our sample. Second, we slightly overestimated the number of Non-DV cases in the sample. However, the number of DV cases misidentified as Non-DV cases is likely to be a very small proportion of the total number of Non-DV cases.

C. Identifying Re-Arrests for Domestic Violence Offenses

We measured recidivism in this study by examining re-arrests for new offenses during the pretrial period (i.e., between arrest and case disposition). We classify each re-arrest as a DV re-arrest or a Non-DV re-arrest. Our analyses use two measures of pretrial re-arrest. One measure indicates whether the defendant had at least one re-arrest during the pretrial period for *any new* offense. The other measure indicates whether the defendant had at least one re-arrest during the pretrial period for a *new DV* offense.

Unfortunately, re-arrest rates are likely to underestimate recidivism. New DV offenses may not lead to re-arrest, since many victims do not call the police when a new offense occurs, and police may not make an arrest even when they are called. To overcome the limitations of re-arrest, some studies measure recidivism using interviews with the victim. Interviewers can learn about incidents that did not result in calls to the police and re-arrest of the defendant. Rates of recidivism based on victim interviews are generally higher than rates based on re-arrest. Victim interviews also have weaknesses, however. It is often very difficult to reach victims and to complete interviews with them. Furthermore, victim interviews ignore the possibility that the defendant has re-offended with a new victim.

Because both types of data have strengths and weaknesses, we would have preferred to measure recidivism using both victim interviews and re-arrest data. *We used re-arrest data for practical reasons—it was the only measure available to us.* Although re-arrest may underestimate recidivism, it has two advantages over victim interviews. Data are potentially available for all defendants, not just those for whom victim interviews were completed. In addition, it measures recidivism against new victims as well as against the same victim. One study of domestic incidents in New York State found that limiting a measure of recidivism to new incidents with the same victim reduced estimates of recidivism by 15% to 20% (Frisch et al. 2001). This suggests that a significant number of domestic violence defendants move on to new victims.

Our measures of re-arrest also are affected by the problems described above regarding the identification of DV arrests. To the extent that the courts fail to identify DV arrests as such, our measures of re-arrest underestimated the actual number of DV re-arrests and overestimated the actual number of Non-DV re-arrests. To create our re-arrest measures, we collected data on all re-arrests and then determined whether each re-arrest was for a DV case or a Non-DV case. This determination was made using the criteria described in Section II above. That is, we counted a re-arrest as a domestic violence case if either: (1) the case had a DV hearing type at arraignment, or (2) the case had any appearances in a specialized DV part. For re-arrests that were declined for prosecution, we used NYPD's information about the nature of the defendant-victim relationship to identify DV cases.

D. Selection of the Crimes Against Persons and Property Subsample

The current study used data from the Crimes Against Persons and Property (CAPP) Subsample described in a previous report (Peterson 2003a).⁶ This subsample was selected so that we could examine domestic violence cases across a wide range of charges. We began by selecting cases for this subsample where there was an alleged attempt to cause injury or where an overt threat of injury was made (Weis 1989). We used the most severe arraignment charge (based on Penal Law severity) to determine the nature of the offense, since this charge determines how the case is handled in the court system. We did not use the most severe arrest charge, which reflects charging decisions made by the police. We initially selected all cases that had a top (i.e., most severe) arraignment charge from any of the following New York State Penal Law articles: PL 120 (Assault), PL 130 (Sex Offense), PL 160 (Robbery), PL 260 (Crimes Against Children), or PL 265 (Weapons). Unfortunately, we were not able to include cases disposed in Criminal Court that had top arraignment charges from PL 125

⁶ In one of our reports (Peterson 2001), we also discussed results for an Assaults Subsample, which included all cases where the top arraignment charge was assault (PL 120). We used the Assaults Subsample to provide a more focused comparison of DV cases to similar Non-DV cases. In this study, we focus primarily on DV cases, and make only a few comparisons of DV to Non-DV cases. We therefore use only the Crimes Against Persons and Property Subsample for our analyses. This subsample includes information about the full range of DV offenses, including assaults as well as violations of orders of protection, crimes against children, etc.

(Homicide), PL 150 (Arson), and PL 135 (Kidnapping).⁷ Cases charged with offenses in these Penal Law articles were excluded since there were too few domestic violence cases with top arraignment charges in each of these Penal Law articles for reliable multivariate analysis. Recognizing that domestic violence often includes offenses that result in financial and psychological harm, rather than just physical harm, we also selected cases if they had a top arraignment charge from one of the following Penal Law articles: PL 140 (Burglary), PL 145 (Criminal Mischief), PL 155 (Larceny), PL 205 (Escape and Resisting Arrest), PL 215 (Criminal Contempt),⁸ and PL 240 (Public Order Offenses).

Within each Penal Law article, we selected only those cases that had charges that could plausibly include elements comparable to those found in domestic violence cases. For example, cases with a top arraignment charge of Assault in the Third Degree (PL §120.00) were included in the subsample. However, cases of Gang Assault in the First Degree (PL §120.07) or Gang Assault in the Second Degree (PL §120.06) were excluded, since it is unlikely that a domestic violence case would include a gang assault charge. Similarly, in PL 240, prostitution charges (PL §240.37) were excluded.

We then narrowed the subsamples further to identify an appropriate group of cases for the analysis. First, we limited the sample to Summary Arrests (i.e., cases in which the defendant was held in custody pending Criminal Court arraignment), excluding cases where the defendant was issued a Desk Appearance Ticket (DAT) and released by the arresting officer. DAT's are rarely issued in DV cases. We also excluded cases with juvenile defendants (under age 16), cases that did not reach a final disposition by the cutoff date, and cases that were missing data on the defendant's criminal history or sex. We also excluded cases that were disposed in Criminal Court on Vehicle and Traffic Law (VTL) or Administrative Code (AC) charges. After these exclusions, the Crimes Against Persons and Property Subsample included 12,882 DV cases in the combined First Quarter 2001 and Third Quarter 2002 Dataset.

E. Using a Defendant-Based Data File

The dataset analyzed in this study is a *defendant-based data file* that includes information on all defendants who were arrested in the first quarter of 2001 and third quarter of 2002. While the vast majority of defendants had only one case in the case-based data file, some defendants were arrested two or more times. For most defendants who had multiple arrests, we included information in the defendant-based data file about the *first arrest*, i.e., the arrest that occurred earliest. However, for defendants whose first arrest was not for a DV case but who had a second or subsequent DV arrest, we selected the *first DV arrest*, not the first arrest. This procedure enabled us to identify all the defendants who had at least one DV arrest.

⁷ Most, but not all, of these cases were sustained as felonies and disposed in Supreme Court.

⁸ Penal Law article 215 includes violations of orders of protection.

We first created two defendant-based files, one for the first quarter of 2001 and one for the third quarter of 2002. We then combined the two files, and took additional steps to eliminate arrests from the third quarter 2002 for defendants who had already been arrested in the first quarter 2001. After eliminating these re-arrests from the Third Quarter 2002 Dataset, the number of DV cases in the combined First Quarter 2001 and Third Quarter 2002 Dataset was reduced by 310 cases, from 12,882 to 12,572. Finally, we restricted the sample to docketed cases, resulting in a sample of 11,938 DV cases. The combined dataset included only one arrest for each defendant.

F. Plan of Analysis

Chapter 3 uses the combined First Quarter 2001 and Third Quarter 2002 Dataset to examine the factors that influence the likelihood of pretrial re-arrest among DV defendants. Chapter 4 examines the factors that influence the combined risk of pretrial failure to appear and pretrial re-arrest for a new DV offense. Chapter 5 summarizes the results of the study.

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III. PREDICTING PRETRIAL RE-ARREST FOR ANY NEW OFFENSE

To provide a context for developing a model of pretrial re-arrest, we begin by reviewing data on the rates of pretrial re-arrest for DV defendants. About 15% of released DV defendants were re-arrested for at least one new offense prior to the disposition of their case (see Figure 1, next page). About 9% of released DV defendants were re-arrested for at least one new DV offense during the pretrial period (see Figure 2, next page), while about 7% were re-arrested for at least one new Non-DV offense during the pretrial period. Note that about 1% of defendants were re-arrested for both DV and Non-DV offenses (data not shown). As noted in Chapter 2, re-arrest has limitations as a measure of recidivism, and the results presented here probably underestimate recidivism.

A. Development of a Model Predicting Pretrial Re-Arrest for Any New Offense

A previous report (Peterson 2006) developed a model to predict the likelihood of pretrial re-arrest for a new DV offense. That model identified factors that distinguished between the 9% of defendants in Figure 2 who were re-arrested for a new DV offense and the 91% who were not. We now develop a logistic regression model designed to predict the likelihood of pretrial re-arrest for *any* new offense, DV or Non-DV. This model will distinguish between the 15% of defendants in Figure 1 who were re-arrested for any new offense and the 85% who were not. (For a description of logistic regression analysis and a discussion of how to interpret regression results, see Appendix A.)

A variety of factors that previous research suggests may affect pretrial re-arrest was considered for inclusion in the logistic regression model (see review of literature in Chapter 1). Several categories of variables were considered for inclusion in the model: criminal history, release recommendation, community ties, charge characteristics, release characteristics, and geographic and demographic characteristics. Information on drug use by the defendant was not available.

Criminal History. The available measures of criminal history included prior arrests, convictions, sentences, and warrants. We were able to determine whether the defendant had any prior arrests, any prior misdemeanor convictions, and/or any prior felony convictions. Information was also available about the number of open cases, the number of prior misdemeanor convictions, and the number of prior felony convictions. The sentencing variables included measures of the number of prior misdemeanor jail sentences, whether the defendant had ever been sentenced to prison, was currently on parole from prison, and/or had ever been sentenced as a youthful offender. We expect that defendants with more serious criminal histories are more likely to be re-arrested during the pretrial period. Because prior misconduct may be a predictor of future likelihood of pretrial re-arrest, we also included a measure which indicated whether the defendant had two or more previous bench warrants on his/her record.

FIGURE 1
PRETRIAL RE-ARREST RATE FOR ANY NEW OFFENSES
FOR DV DEFENDANTS WHO WERE EVER RELEASED
Combined First Quarter 2001 and Third Quarter 2002 Dataset

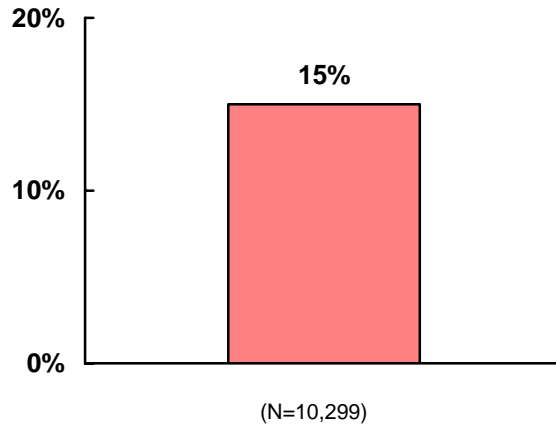
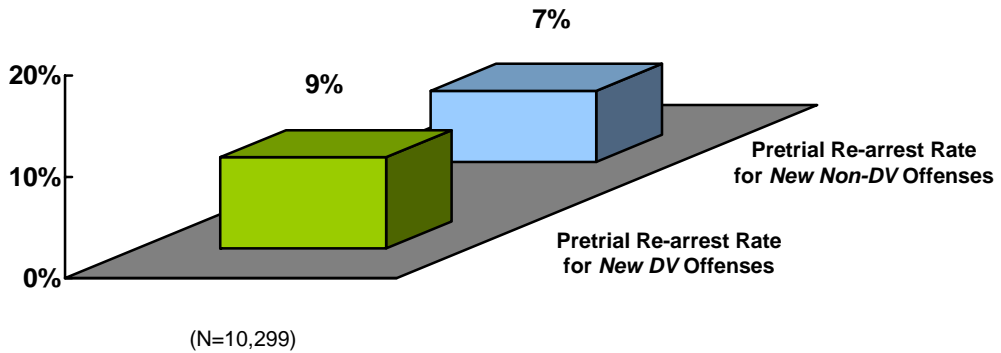


FIGURE 2
PRETRIAL RE-ARREST RATES FOR NEW DV AND NON-DV
OFFENSES FOR DV DEFENDANTS WHO WERE EVER RELEASED
Combined First Quarter 2001 and Third Quarter 2002 Dataset



Release Recommendation. CJA's release recommendation indicates whether the defendant received a full or qualified release recommendation, or was not recommended for release because of weak community ties or because of an active bench warrant at the time of arrest.

Community Ties. Although CJA's release recommendation is based on a composite assessment of a variety of community ties, we also considered whether individual measures of community ties independently affected the likelihood of pretrial re-arrest. The community ties measures considered were employment status, length of time at current address, whether the defendant lives with someone, whether the defendant expects someone to attend the arraignment, whether the defendant has a telephone, and whether the defendant lives in the New York City area. In general, we expect that defendants with stronger community ties are less likely to be re-arrested. However, whether the defendant lives with someone may be associated with a *greater* likelihood of pretrial re-arrest, since it may indicate that the defendant had closer contact with the victim.

Charge Characteristics. Several charge characteristics were also considered for inclusion in the models. Number of arrest charges and the type and severity of the charge at arraignment were tested in the model. The type of arraignment charge was classified in three categories, based on the most severe arraignment charge: assault, criminal contempt (usually for a violation of an order of protection), and other. Charge severity was based on New York State Penal Law, and ranged from most severe (B felony) through least severe (violation). Previous research provides little consistent evidence, and we have no expectations about the effects of these charge characteristics.

Type of Release. The model also tested for the impact of two aspects of the court's release decision: whether the defendant was released at arraignment or at a later appearance, and whether the defendant was released on recognizance, or on bail. Our prior research found that these variables had no effect on pretrial re-arrests for a *new DV* offense, and we expect that they will have no effect in our model predicting pretrial re-arrest for *any new* offense.

Geographic and Demographic Characteristics. The geographic and demographic variables considered for the model are borough, age, sex, ethnicity, and defendant-victim relationship. We do not expect any differences in rates of pretrial re-arrest by borough, ethnicity, or defendant-victim relationship. We expect older defendants and female defendants to be less likely to be re-arrested during the pretrial period.

Control Variables. Finally, our model includes two control variables. One is a correction for selection bias associated with the likelihood of release. Since our analyses of pretrial re-arrest are limited to defendants who were released prior to case disposition, this correction adjusts for the influence of some variables on both the probability of release and the probability of pretrial re-arrest (see Appendix A, Section 2,

for a detailed discussion of selection bias). The second control variable included in the model is time at risk. Since defendants whose cases take longer to reach a disposition have more opportunities to be re-arrested during the pretrial period, it is essential that the model predicting pretrial re-arrest adjust for the amount of time each defendant was at risk. To calculate time at risk, we counted the number of days between the defendant's release and the disposition of the case. We did *not* subtract any time that the defendant was out on a bench warrant for failing to appear. The reason we did not make this adjustment is that the defendant continues to be at risk of re-arrest while out on a bench warrant. In addition, our measure does not subtract from time at risk any time the defendant was held (either on bail or remand) after his or her first release. This adjustment would be very difficult to make, and we believe it affects relatively few defendants and consequently would not affect the results of our model.

The two control variables (the correction for selection bias and time at risk) were entered first. Whether they were statistically significant or not, we wanted these two variables included in the final model. To develop the remainder of the logistic regression model and to decide which variables to include in the final model, we used a stepwise procedure. This procedure allowed us to identify and select the strongest predictors of pretrial re-arrest. First, we tested all the criminal history measures, adding the strongest criminal history variable to the model first, followed by the second strongest criminal history variable, etc. We added variables to the model until all the statistically significant criminal history measures were entered. We then used the stepwise procedure to enter community ties variables, adding the strongest ones first, until all statistically significant community ties variables were entered. Similar procedures were followed in succession for charge characteristics, release characteristics, and geographic/demographic characteristics. Information about the distribution of each set of variables is included in Appendix B.

B. Model Predicting Pretrial Re-Arrest for Any New Offense

Based on the procedure described above, we developed the final logistic regression model predicting pretrial re-arrest among DV defendants (see Table 3-1). The proportion of variance explained by the model was about 19% (see Nagelkerke R^2), suggesting that the likelihood of pretrial re-arrest is primarily a function of factors not considered here. Nevertheless, this model provided information about a wide variety of factors that did have an influence on the likelihood of pretrial re-arrest. We now consider each of these in turn.

Of the two control variables, only time at risk had a statistically significant effect on the likelihood of pretrial re-arrest. As expected, defendants with a longer time at risk were more likely to be re-arrested during the pretrial period. This variable was actually the strongest predictor in the model, as indicated by the size of the standardized beta, .56. Although the correction for selection bias was not statistically significant, its effect was in the expected direction. Defendants who were more likely to be released by the court were less likely to be re-arrested.

TABLE 3-1
LOGISTIC REGRESSION MODEL PREDICTING
LIKELIHOOD OF PRETRIAL RE-ARREST FOR ANY NEW OFFENSE
 DV CASES, CRIMES AGAINST PERSONS AND PROPERTY SUBSAMPLE¹
 Combined 2001-2002 Dataset

INDEPENDENT VARIABLES ²	Standardized β	Odds Ratio
CONTROL VARIABLES		
SELECTION BIAS CORRECTION: LIKELIHOOD OF RELEASE	-0.07	0.54
TIME AT RISK	0.56 ***	1.01
DEFENDANT'S CRIMINAL HISTORY		
ANY PRIOR ARRESTS	0.26 ***	1.73
OPEN CASES AT TIME OF ARREST		
<i>Reference Category: None</i>		
One Open Case at Time of Arrest	0.01	1.03
Two or More Open Cases at Time of Arrest	0.08 ***	1.51
NUMBER OF PRIOR MISDEMEANOR CONVICTIONS	0.20 ***	1.15
DEFENDANT'S COMMUNITY TIES		
UNEMPLOYED	0.16 ***	1.40
AT CURRENT ADDRESS 1 YEAR OR LESS	0.08 **	1.20
LIVES WITH SOMEONE	0.07 *	1.16
HAS NO TELEPHONE	0.10 ***	1.28
ARRAIGNMENT CHARGE TYPE		
ARRAIGNMENT CHARGE PENAL LAW ARTICLE:		
<i>Reference Category: Assault (PL 120)</i>		
Criminal Contempt (PL 215)	0.13 ***	1.50
Other	0.04	1.11
RELEASE CHARACTERISTICS		
RELEASED AFTER ARRAIGNMENT	0.09 **	1.28
RELEASED ON BAIL	-0.11 ***	0.73
BOROUGH		
<i>Reference Category: Brooklyn</i>		
Manhattan	-0.09 **	0.79
Queens	-0.13 ***	0.72
Staten Island	0.00	1.01
Bronx	-0.07 *	0.82
DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS		
SEX (Female)	-0.18 ***	0.62
AGE:		
<i>Reference Category: Age 16-20</i>		
Age 21-29	-0.24 ***	0.58
Age 30-39	-0.37 ***	0.44
Age 40 and over	-0.51 ***	0.29

Nagelkerke R²

.19 ***

(N of cases)

(10,299)

NOTES¹ See text for a description of the dataset and the subsample.² See Appendix C for information about the measurement and coding of the variables.* Statistically significant at $p < .05$ ** Statistically significant at $p < .01$ *** Statistically significant at $p < .001$

As expected, defendants with more serious criminal histories were more likely to be re-arrested. Defendants with any prior arrests, defendants with two or more open cases at the time of arrest, and defendants with a larger number of prior misdemeanor convictions were all more likely to be re-arrested. The most important of these variables, as indicated by the large standardized beta, was the measure of any prior arrests. The remainder of our measures of criminal history did not have any effect on the likelihood of pretrial re-arrest, and were not included in the model.

CJA's release recommendation was not a statistically significant predictor of pretrial re-arrest. However, several individual measures of community ties that were used to determine the recommendation did have an effect. The strongest of these predictors was unemployment. The odds of pretrial re-arrest were 1.40 times greater for defendants who were unemployed than for those who were employed. Similarly, defendants who lived at their current address 1 year or less were more likely to be re-arrested than those who lived at their current address for longer than one year. Defendants who lived with someone at the time of their arrest were **more** likely to be re-arrested for a new offense during the pretrial period. Living with someone is usually considered a sign of stronger community ties and would normally be expected to be associated with lower likelihood of re-arrest. However, for domestic violence defendants, living with someone may indicate that they have easy access to the victim. When released, these defendants may have greater opportunity to commit a new offense against a family member living in their household, and therefore may be at greater risk of re-arrest for a new DV offense. (The measure used here did not indicate specifically who the defendant lived with, nor did it indicate if the defendant lived with the victim in the current case. However, it was probably strongly correlated with living with the victim—strongly enough to show an effect on the likelihood of re-arrest.) Finally, defendants who had no telephone, as expected, were more likely to be re-arrested.

Our findings regarding the effect of arraignment charge type show that defendants were more likely to be re-arrested during the pretrial period when they were charged with criminal contempt rather than with assault or other charges. For DV defendants, criminal contempt charges are often filed when the defendant violates an order of protection. This finding indicates that the odds of re-arrest for those charged with criminal contempt are 1.5 times greater than for those charged with assault or other charges.

Both release characteristics had a statistically significant effect on the likelihood of pretrial re-arrest. Defendants released after arraignment (as opposed to those released at arraignment) were more likely to be re-arrested. This suggests that defendants who were not released at arraignment generally posed a higher risk of pretrial re-arrest if they were subsequently released. Although these defendants were later released, their inability to secure release at arraignment was presumably due to the identification by the arraignment judge of significant reasons to set bail in an amount the defendant could not make. Their subsequent release, either on ROR or reduced

bail, or on the original bail, posed greater risks. Our findings also indicated that defendants released on bail had a lower risk of pretrial re-arrest than defendants released on recognizance. This finding is consistent with prior CJA research (Siddiqi 1999), although, as noted earlier, other research has produced mixed results. Since our model controlled for many factors that may be correlated with this variable, the effect identified here seems unlikely to be attributable to many of the case or defendant characteristics associated with release on bail vs. ROR. Most importantly, prior criminal history, community ties, and type of charge were included in the model and did not account for the lower pretrial re-arrest rate associated with release on bail. This suggests that other unmeasured characteristics (e.g., the defendant's financial resources) accounted for this effect, and/or that bail was more effective than ROR at preventing pretrial re-arrest for these defendants.

We found that the borough where the case was docketed had a statistically significant effect on the likelihood of pretrial re-arrest. Specifically, DV defendants whose cases were docketed in Manhattan, Queens, and the Bronx were less likely to be re-arrested during the pretrial period than defendants whose cases were docketed in Brooklyn or Staten Island.

Two demographic characteristics affected the pretrial re-arrest rate for DV defendants: sex and age. Female defendants were less likely than male defendants to be re-arrested. Age had a very powerful effect on the likelihood of pretrial re-arrest among DV defendants. Older defendants were less likely to be re-arrested during the pretrial period than younger defendants. The odds that a defendant aged 16-20 would be re-arrested were 1.7 times (1/.58) greater than for 21-29 year olds, 2.27 times (1/.44) greater than for 30-39 year olds, and 3.45 times (1/.29) greater than for those aged 40 and over. These findings indicate that for DV defendants, age was one of the most important predictors of pretrial re-arrest.

C. Comparison of Findings on Pretrial Re-Arrest for Any New Offense to Findings on Pretrial Re-Arrest for a New DV Offense

We now compare the results presented above for our model predicting pretrial re-arrest for **any new** offense to the results for a model predicting pretrial re-arrest for a **new DV** offense, which was presented in our previous report (Peterson 2006). To facilitate the discussion, we present the model from our previous report on the next page (see Table 3-2, originally published as Table 5-1 in Peterson 2006).

There are two categories of variables whose effects are substantially similar in the two models. The effects of the control variables are of similar magnitude in both models, although the selection bias correction is statistically significant only in the model predicting pretrial re-arrest for a new DV offense. In addition, all four measures of community ties have similar effects in each model. Similarly, the effect of arraignment charge type is similar—defendants charged with criminal contempt are more likely to be re-arrested than those charged with other offenses.

TABLE 3-2
LOGISTIC REGRESSION MODEL PREDICTING
LIKELIHOOD OF PRETRIAL RE-ARREST FOR A NEW DV OFFENSE
 DV CASES, CRIMES AGAINST PERSONS AND PROPERTY SUBSAMPLE¹
 Combined 2001-2002 Dataset

INDEPENDENT VARIABLES ²	Standardized β	Odds Ratio
CONTROL VARIABLES		
SELECTION BIAS CORRECTION: LIKELIHOOD OF RELEASE	-0.10 *	0.49
TIME AT RISK	0.66 ***	1.01
DEFENDANT'S CRIMINAL HISTORY		
ANY PRIOR ARRESTS	0.25 ***	1.57
OPEN CASES AT TIME OF ARREST		
<i>Reference Category: None</i>		
One Open Case at Time of Arrest	0.03	1.08
Two or More Open Cases at Time of Arrest	0.10 **	1.49
DEFENDANT'S COMMUNITY TIES		
UNEMPLOYED	0.15 ***	1.30
AT CURRENT ADDRESS 1 YEAR OR LESS	0.12 **	1.26
LIVES WITH SOMEONE	0.09 *	1.18
HAS NO TELEPHONE	0.08 *	1.20
ARRAIGNMENT CHARGE TYPE		
ARRAIGNMENT CHARGE PENAL LAW ARTICLE:		
<i>Reference Category: Assault (PL 120)</i>		
Criminal Contempt (PL 215)	0.20 ***	1.70
Other	0.03	1.06
DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS		
SEX (Female)	-0.16 **	0.70
ETHNICITY:		
<i>Reference Category: Non-Hispanic Black</i>		
Non-Hispanic White	0.10 *	1.29
Hispanic	-0.12 **	0.80
Other	0.03	1.11
AGE:		
<i>Reference Category: Age 16-20</i>		
Age 21-29	-0.10	0.83
Age 30-39	-0.13	0.78
Age 40 and over	-0.27 ***	0.58
DEFENDANT-VICTIM RELATIONSHIP		
<i>Reference Category: Married</i>		
Boyfriend-Girlfriend	0.09	1.23
Common-Law Marriage	0.05	1.13
Other Relationship	-0.12 *	0.73
Missing	0.05	1.10

Nagelkerke R²

.12 ***

(N of cases)

(10,299)

NOTES¹ See text for a description of the dataset and the subsample.² See Appendix C for information about the measurement and coding of the variables.* Statistically significant at $p < .05$ ** Statistically significant at $p < .01$ *** Statistically significant at $p < .001$

Two categories of variables exhibit different patterns in the two models. First, the measures of criminal history that predict re-arrest vary across the models. Having a greater number of prior misdemeanor convictions increases the likelihood of pretrial re-arrest for any new offense, but has no effect on the likelihood of pretrial re-arrest for a new DV offense. (However, two other measures of criminal history (any prior arrests and having two or more open cases at the time of arrest) have similar effects in both models.) Second, the demographic characteristics that predict re-arrest vary across the models. While sex has a similar effect in each model, age has a stronger effect in the model predicting pretrial re-arrest for any new offense than in the model predicting pretrial re-arrest for a new DV offense. Also, ethnicity influences the likelihood of re-arrest for a new DV offense, but had no effect on the likelihood of re-arrest for any new offense.

There are three categories of variables that were statistically significant in one model but not the other. Defendant-victim relationship is a significant predictor of the likelihood of pretrial re-arrest for a new DV offense, but not of re-arrest for any new offense. Release characteristics, on the other hand, influenced the likelihood of re-arrest for any new offense, but not of re-arrest for a new DV offense. Borough is also a significant predictor of the likelihood of pretrial re-arrest for any new offense, but not for a new DV offense.

Finally, the model predicting pretrial re-arrest for any new offense accounted for 19% of the variation in re-arrest, compared to only 12% for the model predicting pretrial re-arrest for a new DV offense (compare the Nagelkerke R^2 in Tables 3-1 and 3-2). The greater success of the model predicting re-arrest for any new offense may simply reflect the greater ability of the model to predict events that occur more frequently. About 15% of the DV defendants were re-arrested for any new offense during the pretrial period, compared to only 9% who were re-arrested for a new DV offense (as was shown in Figures 1 and 2 above).

D. Summary and Discussion of Findings

After controlling for time at risk, the strongest predictor of pretrial re-arrest among DV defendants was the defendant's age. Older defendants were much less likely than younger defendants to be re-arrested during the pretrial period. The next strongest predictors were whether the defendant had any prior arrests and the number of prior misdemeanor convictions. DV defendants who had any prior arrests were more likely to be re-arrested than those with no prior arrests. DV defendants with more prior misdemeanor convictions were more likely to be re-arrested than those with fewer prior misdemeanor convictions.

Other predictors of pretrial re-arrest were additional measures of criminal history, community ties measures, arraignment charge type, release characteristics, borough, and sex. Among the criminal history measures, defendants with two or more open cases were more likely to be re-arrested. With one exception, the findings regarding community ties confirmed, as expected, that defendants with weak community ties were

more likely to be re-arrested. Specifically, defendants who were unemployed, who lived at their current address 1 year or less, and who had no telephone were more likely to be re-arrested. (Defendants who lived with someone were more likely to be re-arrested.) Defendants charged with criminal contempt were more likely to be re-arrested (see Newmark et al. 2001 for a similar finding). Defendants who were released after arraignment (as opposed to being released at arraignment) were more likely to be re-arrested, while those released on bail were less likely to be re-arrested. These differences cannot be explained away by any of the factors included in the model. The lower pretrial re-arrest rate for defendants released after arraignment and those released on bail cannot be attributed to community ties, criminal history, age, or any of the other factors included in the model. This may indicate that releasing defendants at arraignment and releasing defendants on bail reduced their likelihood of pretrial re-arrest. Alternatively, there may be other relevant differences not included in our model (e.g., the defendant's financial resources) that might account for these effects. Finally, the effect of borough was somewhat surprising—it is not clear why pretrial re-arrest rates were higher in Brooklyn and Staten Island than in the other boroughs.

It is worth identifying the variables that were tested but not included in the model. While some criminal history variables were statistically significant predictors of the likelihood of pretrial re-arrest, several other criminal history variables did not add explanatory power to the model: prior felony convictions, prior prison sentences, current parole status, prior sentences as a youthful offender and prior bench warrants. CJA's release recommendation was not statistically significant, although many of the community ties items that determine the recommendation were significant. Two community ties items were not statistically significant in the model: whether the defendant expected someone to attend the arraignment and whether the defendant lived in the New York City area. Two charge characteristics had no effect on pretrial re-arrest, and were not included in the model: number of arrest charges, and severity of arraignment charge. Finally, ethnicity and defendant-victim relationship had no effect on pretrial re-arrest, after controlling for the effects of the other variables in the model. Some of these variables had very little variance (e.g., only 3% of DV defendants lived outside the New York City area, and only 2% were on parole), so it is not surprising that they did not have a statistically significant impact on pretrial re-arrest. Some of these variables were similar to other variables that were included in the model, such as the community ties measures, criminal history measures, and charge characteristics. It may be that the effects of community ties, criminal history, and charge characteristics can be captured by a few key variables, and that other measures are redundant. Finally, the remaining variables that were not included in the model (ethnicity and defendant-victim relationship) were not expected to have an effect, and their absence was not surprising.

Many of the findings reported here are similar to findings in the model predicting pretrial re-arrest for a new DV offense (Peterson 2006). Notably, community ties, arraignment charge type, two measures of criminal history, sex and age all have similar effects in both models. However, it is instructive to examine some of the key differences between the models. Ethnicity and defendant-victim relationship affect the

likelihood of pretrial re-arrest for a new DV offense, but not the likelihood of pretrial re-arrest for any new offense. On the other hand, number of prior misdemeanor convictions, whether the defendant was released after arraignment, whether the defendant was released on bail, and borough all influenced the likelihood of pretrial re-arrest for any new offense, but had no effect on the likelihood of pretrial re-arrest for a new DV offense. These differences suggest that the types of re-offending among DV defendants are influenced by different factors. In particular, ethnicity and defendant-victim relationship are associated only with re-arrest for new DV offenses. Non-Hispanic Whites had higher rates of re-arrest for a new DV offense than Non-Hispanic Blacks, who in turn had higher rates of re-arrest than Hispanic defendants. Defendants involved in intimate relationships with their victims (whether marriage, common-law or boyfriend-girlfriend) were more likely to be re-arrested for a new DV offense than those involved in other types of family relationships with their victims. It seems clear that defendant-victim relationship is relevant only when predicting new DV offenses, not any new offenses. However, it is not clear why ethnicity is associated with new DV offenses but not with any new offenses. One possibility is that after the defendant's arrest for an initial offense, the victim is more likely to end the relationship with the defendant in some ethnic groups than in others. This may reduce the defendant's opportunity to re-offend. Unfortunately, we have no data on changes in the victim-defendant relationship and cannot test this hypothesis.

Many of the findings reported here for DV defendants are also similar to findings from research on general populations of defendants. The influence of criminal history, community ties, especially employment, and age on the likelihood of pretrial re-arrest is consistent with most previous research. A somewhat surprising finding was that the type of release (bail vs. ROR) affected the likelihood of pretrial re-arrest. Prior research had been inconsistent, and our previous research on DV defendants had indicated that this variable was not a predictor of pretrial re-arrest for a new DV offense (Peterson 2006). The influence of the timing of release (i.e., whether the defendant was released at or after arraignment) is also a new finding—this variable has generally not been tested in prior research.

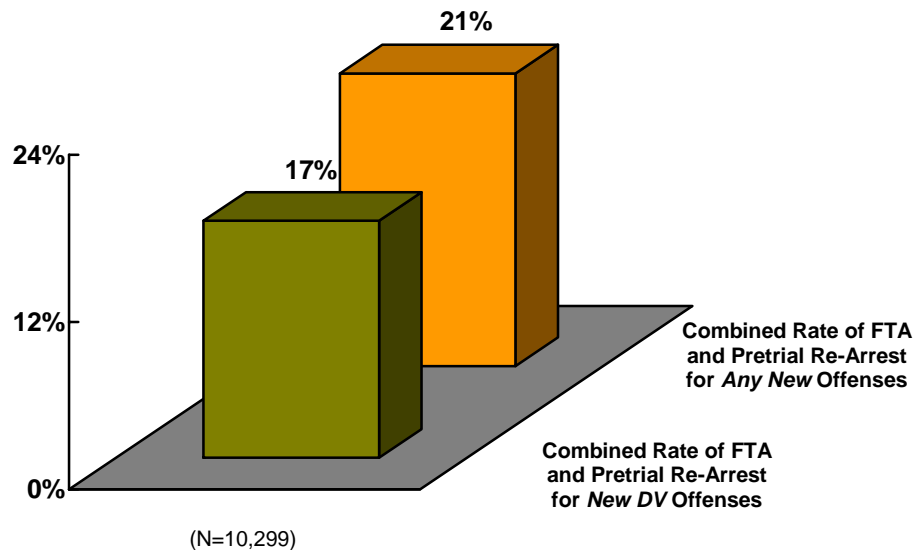
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IV. PREDICTING THE COMBINED RISK OF FAILURE TO APPEAR AND PRETRIAL RE-ARREST FOR A NEW DV OFFENSE

To examine overall rates of pretrial misconduct, we combine the information about pretrial failure to appear and pretrial re-arrest. Specifically, we look at two measures of pretrial misconduct. One measure is the combined rate of FTA and pretrial re-arrest for any new offense. This measure indicates the percentage of defendants who failed to appear and/or were re-arrested for any new offense during the pretrial period. The second measure is the combined rate of FTA and pretrial re-arrest for a new DV offense. This measure indicates the percentage of defendants who failed to appear and/or were re-arrested for a new DV offense during the pretrial period. Each measure includes some defendants who engaged in both types of pretrial misconduct.

As shown in Figure 3, about 17% of DV defendants failed to appear and/or were re-arrested for a new DV offense during the pretrial period. The rate of pretrial misconduct was somewhat higher, about 21%, when FTA and/or re-arrests for *any* new offenses were included.

FIGURE 3
COMBINED RATES OF PRETRIAL MISCONDUCT
FOR DV DEFENDANTS WHO WERE EVER RELEASED
 Combined First Quarter 2001 and Third Quarter 2002 Dataset



A. Development of a Model Predicting the Combined Risk of Pretrial Misconduct

In this chapter, we develop a statistical model to examine the combined risk of pretrial misconduct. Specifically, we consider which factors increase or decrease the likelihood of failure to appear and/or pretrial re-arrest for a *new DV* offense among DV defendants. We focus on this outcome, rather than on the combined risk of failure to appear and/or pretrial re-arrest for *any new* offense, for two reasons. First, the primary concern about pretrial re-arrest in DV cases is a concern for victim safety, which is best addressed by examining pretrial re-arrest for a new DV offense. Second, the combined risk of failure to appear and pretrial re-arrest for a *new DV* offense is almost as high as the combined risk of FTA and pretrial re-arrest for *any new* offense (17% vs. 21%). The outcome measure chosen for this analysis therefore captures most of the pretrial misconduct that occurs among DV defendants.

The variables considered for inclusion in the model of the combined risk of pretrial misconduct included all the variables considered in the pretrial re-arrest model discussed in Chapter 3. Time at risk is measured just as it was in the pretrial re-arrest model presented in Chapter 3, i.e., as the number of days between the defendant's release and the disposition of the case. As before, our measure does not subtract from time at risk any time the defendant was held (either on bail or remand) after his or her first release. This adjustment would be very difficult to make, and we believe it affects relatively few defendants and consequently would not affect the results of our model.

Our expectations regarding the effects of the independent variables on the likelihood of the combined risk of pretrial misconduct are based on prior research as discussed in Chapter 1. Specifically, we expect criminal history, community ties, and age to affect the likelihood of pretrial misconduct. The literature provides no consistent evidence regarding what to expect regarding the effect of charge characteristics, type of release, or geographic or demographic variables.

The stepwise procedure used to develop the logistic regression model of pretrial misconduct is the same procedure used to develop the model predicting pretrial re-arrest in Chapter 3. We entered the two control variables (correction for selection bias and time at risk) first, to insure that the effects of other variables were independent of these two variables. We then entered variables stepwise within each of the major categories: criminal history, community ties, charge characteristics, release characteristics, and geographic/demographic characteristics.

B. Model Predicting the Combined Rate of Failure to Appear and Pretrial Re-Arrest for a New DV Offense

The final logistic regression model predicting pretrial re-arrest is shown in Table 4-1. The model indicates that a variety of factors influence the likelihood of pretrial re-arrest. We discuss each set of factors in turn.

TABLE 4-1
LOGISTIC REGRESSION MODEL PREDICTING LIKELIHOOD OF
FAILURE TO APPEAR AND/OR PRETRIAL RE-ARREST FOR A NEW DV OFFENSE
 DV CASES, CRIMES AGAINST PERSONS AND PROPERTY SUBSAMPLE¹
 Combined 2001-2002 Dataset

INDEPENDENT VARIABLES ²	Standardized β	Odds Ratio
CONTROL VARIABLES		
SELECTION BIAS CORRECTION: LIKELIHOOD OF RELEASE	-0.13 ***	0.36
TIME AT RISK	0.71 ***	1.01
DEFENDANT'S CRIMINAL HISTORY		
ANY PRIOR ARRESTS	0.20 ***	1.46
OPEN CASES AT TIME OF ARREST		
<i>Reference Category: None</i>		
One Open Case at Time of Arrest	0.06	1.17
Two or More Open Cases at Time of Arrest	0.08 **	1.40
TWO OR MORE PRIOR BENCH WARRANTS	0.12 ***	1.59
DEFENDANT'S COMMUNITY TIES		
UNEMPLOYED	0.15 ***	1.33
AT CURRENT ADDRESS 1 YEAR OR LESS	0.08 **	1.19
DOES NOT EXPECT ANYONE AT ARRAIGNMENT	0.13 ***	1.29
HAS NO TELEPHONE	0.09 **	1.24
ARRAIGNMENT CHARGE TYPE		
ARRAIGNMENT CHARGE PENAL LAW ARTICLE:		
<i>Reference Category: Assault (PL 120)</i>		
Criminal Contempt (PL 215)	0.12 ***	1.39
Other	0.05	1.11
RELEASE CHARACTERISTICS		
RELEASED AFTER ARRAIGNMENT	0.12 ***	1.33
RELEASED ON BAIL	-0.16 ***	0.67
BOROUGH		
<i>Reference Category: Brooklyn</i>		
Manhattan	-0.06 *	0.85
Queens	-0.01	0.97
Staten Island	0.09 **	1.53
Bronx	0.01	1.03
DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS		
SEX (Female)	-0.08 *	0.83
AGE:		
<i>Reference Category: Age 16-20</i>		
Age 21-29	-0.16 ***	0.72
Age 30-39	-0.27 ***	0.58
Age 40 and over	-0.36 ***	0.46

Nagelkerke R²

.18 ***

(N of cases)

(10,299)

NOTES¹ See text for a description of the dataset and the subsample.² See Appendix C for information about the measurement and coding of the variables.* Statistically significant at $p < .05$ ** Statistically significant at $p < .01$ *** Statistically significant at $p < .001$

Both control variables have a statistically significant effect in this model. As expected, the correction for selection bias had a negative effect on the likelihood of pretrial misconduct. This indicates that defendants who had a higher probability of release (based on their background and case characteristics) were less likely to fail to appear and/or to be re-arrested for a new DV offense during the pretrial period. Those who had a higher probability of release presumably had fewer risk factors for pretrial misconduct than those with a lower probability of release. The second control variable, time at risk, had a statistically significant positive effect. As indicated by the size of the standardized beta (.71) this was by far the strongest predictor of pretrial misconduct. Not surprisingly, the greater the time at risk, the greater the likelihood that the defendant engaged in pretrial misconduct during the pretrial period.

Three measures of defendants' criminal history had a statistically significant effect. Defendants with any prior arrests were more likely to fail to appear and/or be re-arrested for a new DV offense during the pretrial period, as were those with two or more open cases at the time of arrest. Having two or more previous bench warrants was also associated with a greater likelihood of pretrial misconduct. The odds of pretrial misconduct were 1.59 times greater for those with two or more previous bench warrants than for those without.

Several community ties measures had statistically significant effects on the likelihood of pretrial misconduct. Unemployed defendants were more likely to fail to appear and/or be re-arrested for a new DV offense during the pretrial period than those who were employed. The odds of re-arrest were about 1.33 times greater for unemployed defendants. Similarly, defendants who lived at their current address for 1 year or less were at greater risk of pretrial misconduct than those who lived at their current address for longer than one year. Finally, defendants who did not expect anyone at arraignment and defendants who had no telephone, as expected, were more likely engage in pretrial misconduct.

The arraignment charge type had a statistically significant effect on the likelihood of re-arrest. Specifically, defendants who were charged with criminal contempt were more likely to be charged with pretrial misconduct than defendants who faced other charges. In DV cases, criminal contempt is usually charged when the defendant has violated an order of protection. This finding shows that defendants who had previously shown a willingness to violate a court order and who had been charged with criminal contempt were more likely to engage in pretrial misconduct.

Both release characteristics influenced the likelihood of pretrial misconduct. Defendants released after arraignment were more likely to fail to appear and/or to be re-arrested for a new DV offense than defendants released at arraignment. We also found that defendants released on bail had a lower risk of pretrial misconduct than those released on recognizance. The odds of failure to appear and/or pretrial re-arrest for a new DV offense were 1.5 times greater (1/.67) for those released on recognizance.

Pretrial misconduct varied by borough. Defendants whose cases were docketed in Manhattan were less likely to engage in pretrial misconduct than those whose cases were docketed in Brooklyn. The rates of misconduct in Queens and the Bronx were about the same as in Brooklyn. Staten Island DV defendants had higher rates of misconduct than those in Brooklyn.

Two demographic characteristics had a statistically significant effect on the likelihood of pretrial misconduct. Women were less likely than men to fail to appear and/or to be re-arrested for a new DV offense during the pretrial period. Age also had a statistically significant effect on pretrial misconduct. Older defendants were less likely to engage in pretrial misconduct than younger defendants, and this effect was successively stronger for each older age group. Defendants aged 40 and over were least likely to fail to appear and/or to be re-arrested for a new DV offense during the pretrial period, followed by defendants aged 30-39 and defendants aged 20-29. Defendants aged 16-20 were at greatest risk of pretrial misconduct.

C. Comparison of Findings on the Combined Risk of Pretrial Misconduct to Findings on FTA and on Pretrial Re-Arrest for a New DV Offense

To further explore the differences between the combined risk model and the separate models predicting FTA and re-arrest for new DV offenses, we now consider similarities and differences between the findings from the models predicting each outcome. Separate models predicting FTA and re-arrest for new DV offenses were presented in a previous report (Peterson 2006). To assist in the comparison of results to the combined risk model presented in Table 4-1, the separate models are presented again in this report (see Table 4-2, below, originally published as Table 4-1 in Peterson 2006, and Table 3-2, already presented in Chapter 3, above).

There are some important similarities between the combined risk model and the separate models predicting re-arrest for a new DV offense and FTA. Several of the variables had statistically significant effects in all three models: any prior arrests, unemployment, has no telephone, arraignment charge type, and age. After controlling for time at risk and the correction for selection bias, age was the most important predictor in both models. Older defendants were less likely to FTA and less likely to be re-arrested for a new DV offense than younger defendants. A record of prior arrests was also an important predictor in all the models. Weak community ties, particularly being unemployed and not having a telephone, were important predictors of pretrial misconduct in all the models. Finally, it is worth noting that although the specific variables varied from one model to the next, defendant's criminal history, defendant's community ties, and arraignment charge type were the categories of variables common to all three models.

However, there are several notable differences between the combined risk model and the models predicting re-arrest and FTA. First, the combined risk model explained

TABLE 4-2

**LOGISTIC REGRESSION MODEL PREDICTING
LIKELIHOOD OF FAILURE TO APPEAR**
DV CASES, CRIMES AGAINST PERSONS AND PROPERTY SUBSAMPLE¹
Combined 2001-2002 Dataset

INDEPENDENT VARIABLES ²	Standardized β	Odds Ratio
CONTROL VARIABLES		
SELECTION BIAS CORRECTION: LIKELIHOOD OF RELEASE	-0.03	0.80
TIME AT RISK	0.45 ***	1.01
DEFENDANT'S CRIMINAL HISTORY		
ANY PRIOR ARRESTS	0.32 ***	1.62
PRIOR MISDEMEANOR JAIL SENTENCES		
<i>Reference Category: None</i>		
One Prior Misdemeanor Jail Sentence	-0.01	0.97
Two or More Prior Misdemeanor Jail Sentences	0.19 ***	1.80
TWO OR MORE PRIOR BENCH WARRANTS	0.15 ***	1.61
RELEASE RECOMMENDATION		
<i>Reference Category: Recommended or Qualified Recommendation</i>		
No Recommendation (Weak NYC Ties)	0.06	1.11
Open Bench Warrant at Time of Arrest	0.17 ***	1.80
Missing	0.02	1.09
DEFENDANT'S COMMUNITY TIES		
UNEMPLOYED	0.19 ***	1.36
DOES NOT EXPECT ANYONE AT ARRAIGNMENT	0.18 ***	1.34
HAS NO TELEPHONE	0.13 *	1.28
ARRAIGNMENT CHARGE TYPE		
<i>Reference Category: Assault</i>		
Criminal Contempt	0.04	1.10
Other	0.09 *	1.19
RELEASE CHARACTERISTICS		
RELEASED AFTER ARRAIGNMENT	0.17 **	1.40
RELEASED ON BAIL	-0.30 ***	0.54

Table Continues on Next Page

TABLE 4-2
(continued)

INDEPENDENT VARIABLES ²	Standardized β	Odds Ratio
BOROUGH		
<i>Reference Category: Brooklyn</i>		
Manhattan	0.02	1.04
Queens	0.01	1.02
Staten Island	0.14 **	1.71
Bronx	0.07	1.15
DEFENDANT'S DEMOGRAPHIC CHARACTERISTIC		
AGE:		
<i>Reference Category: Age 16-20</i>		
Age 21-29	-0.28 ***	0.63
Age 30-39	-0.50 ***	0.44
Age 40 and over	-0.48 ***	0.43
Nagelkerke R ² (N of cases)	0.10 *** (10,299)	

NOTES

¹ See text for a description of the dataset and the subsample.

² See Appendix C for information about the measurement and coding of the variables.

* Statistically significant at $p < .05$

** Statistically significant at $p < .01$

*** Statistically significant at $p < .001$

a greater proportion of the variance (18%) than either the FTA model or the model predicting pretrial re-arrest for a new DV offense (12% and 10%, respectively). In part, this difference may have occurred because it is easier to predict events that occur more frequently than those that are somewhat rarer. In the combined risk model, 17% of the defendants had either failed to appear or were re-arrested for a new DV offense during the pretrial period (as was shown in Figure 3 above). By contrast, only 10% had failed to appear (see Figure 4 above), and only 9% had a pretrial re-arrest for a new DV offense (see Figure 2 above). It is also possible that the greater predictive ability of the combined risk model may reflect the greater power of some variables to predict either type of pretrial misconduct than to predict each individually. However, the only variables that had a stronger effect in the combined risk model than in the separate models (as measured by the standardized beta) were the correction for selection bias, time at risk, and the dummy variable for Manhattan. Most other variables that were common to the combined risk model and one or the other of the separate models actually had *weaker* effects in the combined risk model.

Second, some variables affected only FTA or only pretrial re-arrest for a new DV offense, but not the combined risk of both. Prior misdemeanor jail sentences and the CJA release recommendation were statistically significant predictors of FTA, but were not predictors of pretrial re-arrest for a new DV offense, or of the combined risk of both. Similarly, living with someone, ethnicity and defendant-victim relationship were statistically significant predictors of pretrial re-arrest for a new DV offense, but not of FTA or of the combined risk of both.

Third, some variables appeared in the combined risk model and in only one of the other two models. Having open cases at the time of arrest, living at the current address 1 year or less, being age 21-29 and being age 30-39 were statistically significant in the combined risk model and in the model of pretrial re-arrest for a new DV offense, but not in the model of FTA. Similarly, having two or more prior bench warrants, not expecting anyone at arraignment, being released after arraignment, and being released on bail affected the combined risk of pretrial misconduct and FTA, but not the risk of pretrial re-arrest for a new DV offense. There was also an interesting difference in the impact of charge type. Defendants arraigned on “other” charges were more likely to FTA, but “other” charges did not have an effect in the re-arrest or combined risk models. On the other hand, there was a statistically significant effect of being arraigned on “criminal contempt” charges (primarily violating an order of protection) in the re-arrest and combined risk models, but not in the FTA model. So although charge type affected both outcomes, it did so in different ways.

Taken together, these patterns suggest that the underlying factors influencing FTA and re-arrest share some basic similarities, but also that there are significant differences in the underlying processes. The implications of this will be discussed further in the concluding chapter.

D. Summary and Discussion of Findings

Our model of the combined risk of failure to appear and pretrial re-arrest for a new DV offense explained about 18% of the variation. This is stronger than the explanatory power of the model of pretrial re-arrest presented in Chapter 3, and is as strong as or stronger than the explanatory power of other models of the combined risk of FTA and/or pretrial re-arrest (e.g., Siddiqi 2006, VanNostrand 2003).

After controlling for time at risk and the correction for selection bias, the strongest predictor of the likelihood of pretrial misconduct was age. Defendants age 21 or older were significantly less likely to engage in pretrial misconduct than defendants age 16-20, and this effect was stronger for the older age categories. The next strongest predictors of pretrial misconduct were whether the defendant had any prior arrests and whether the defendant was unemployed. Defendants who had any prior arrests were more likely to fail to appear and/or to be re-arrested for a new pretrial DV offense than those with no prior arrests. Defendants who were unemployed were more likely than those who were employed to engage in pretrial misconduct.

As measured by the size of the standardized beta, the next strongest variables in the model were whether the defendant expected anyone at arraignment, whether the defendant had two or more prior bench warrants, and whether the defendant was charged with criminal contempt at arraignment. As noted in Chapter 3, criminal contempt charges in DV cases are generally brought when the defendant has violated an order of protection. This finding suggests that defendants who were charged with violating orders of protection were more likely to fail to appear and/or to be re-arrested for committing new DV offenses during the pretrial period. It is also consistent with previous research showing that DV defendants charged with criminal contempt have higher rates of post-disposition re-arrests for new DV offenses (Peterson 2003a). Taken together, these findings suggest that criminal contempt charges are a sign of increased risk for both pretrial misconduct and post-disposition re-arrests. Release characteristics also affected pretrial misconduct. Defendants released on bail were less likely to fail to appear and/or to be re-arrested for a new DV offense during the pretrial period. Defendants released after arraignment were more likely to engage in pretrial misconduct.

Other variables in the model that had statistically significant effects included having two or more open cases at the time of arrest, borough, and sex. Defendants who had two or more open cases at the time of arrest were more likely to fail to appear and/or to be re-arrested for a new DV offense during the pretrial period. This indicates that these defendants were in a period of frequent criminal activity, perhaps leading to failure to appear and/or multiple re-arrests in a relatively short time. Female defendants were less likely to engage in pretrial misconduct.

Additional criminal history, community ties, and charge type variables were tested but were not included in the model because they were not statistically significant. Among the criminal history variables that were not included were prior misdemeanor

convictions, prior felony convictions, prior jail and prison sentences, current parole status, and prior sentences as a youthful offender. Three community ties measures were not included in the model: the CJA release recommendation, whether the defendant lived with someone, and whether the defendant lived in the New York City area. Two charge characteristics had no effect and were not included in the model: number of arrest charges and severity of arraignment charge. Finally, ethnicity and defendant-victim relationship had no effect on the likelihood of pretrial misconduct. As noted at the end of Chapter 3, some of these variables had very little variance, and it is not surprising that they did not help to predict the likelihood of pretrial misconduct. Also, some of the variables were similar to other variables already in the model (e.g., criminal history and community ties) and may have been redundant.

Many of the findings reported here in the combined risk model are similar to findings reported in separate models predicting FTA and pretrial re-arrest for a new DV offense (Peterson 2006). Criminal history (any prior arrests), community ties (unemployment, has no telephone), arraignment charge type, and age had similar effects in all three models. There are some interesting differences among the models, however. Some predictors appeared only in the FTA model (prior misdemeanor jail sentences, CJA release recommendation) while some appeared only in the model of pretrial re-arrest for a new DV offense (living with someone, ethnicity, defendant-victim relationship). These variables appear to have effects on only one type of pretrial misconduct. Furthermore, their effects are relatively weak, since they do not also appear in the combined risk model. Other predictors appeared in the combined risk model and the FTA model only (two or more prior bench warrants, not expecting anyone at arraignment, being released after arraignment, being released on bail), while a different set of predictors appeared in the combined risk model and the model predicting pretrial re-arrest for a new DV offense (open cases at the time of arrest, living at the current address 1 year or less, being age 21-29, and being age 30-39). These variables also appear to have effects on only one type of pretrial misconduct. However, their effects are presumably stronger, since they are also predictors of the combined risk of both FTA and/or pretrial re-arrest for a new DV offense.

Among these differences, the most notable is the influence of type of release. Being released after arraignment and being released on bail (vs. ROR) appear to be relevant only as predictors of FTA. Neither variable affects the likelihood of pretrial re-arrest for a new DV offense. The other differences among the models are primarily differences regarding which particular variables in a given category have an influence on the particular outcome. For example, criminal history affects both FTA and pretrial re-arrest for a new DV offense, but having two or more prior bench warrants is only relevant for predicting FTA, while having open cases at the time of arrest is only relevant for predicting pretrial re-arrest for a new DV offense. Similar differences occurred regarding the effect of particular measures of community ties and particular age categories.

One final difference among the models is worth noting: the difference in explanatory power of the models. The models predicting the combined risk of FTA

and/or pretrial re-arrest for a new DV offense were more successful than the models predicting each outcome separately. In part, this is due to the greater ability of the models to predict events that occur more frequently, and in part it suggests that some variables have greater power to predict the combined risk than to predict the separate risk of FTA and pretrial re-arrest for a new DV offense. Surprisingly, however, most variables in the combined risk model had weaker effects there than they did in the separate models. The two control variables stand out as exceptions. The effects of the correction for selection bias and of time at risk were stronger in the combined model than in the separate models. These effects appear to be primarily responsible for the greater explanatory power of the combined model.

Many of the findings reported here for DV defendants are also generally consistent with findings from previous research on the combined risk of FTA and re-arrest among general defendant populations. As others have found, criminal history, community ties and age had an influence on the combined risk of pretrial misconduct. Moreover, the specific measures of community ties that were most consistently identified in previous models, unemployment and having no telephone, also had an effect in our model. Other specific measures of community ties and criminal history included in our model were different from those reported in previous research. Furthermore, unlike findings from other studies, age appeared to have a stronger effect in our model than criminal history. Our finding on the effect of arraignment charge type is notably different from other studies. In our study of DV defendants, being charged with criminal contempt is a strong predictor of pretrial misconduct. Other studies on the general population of defendants did not report a similar finding. Finally, some of the variables that influenced pretrial misconduct in our study had been discussed in only one previous study. Our findings regarding the effects of these variables were consistent with the limited previous research that had been done. Specifically, we found that defendants released on bail had a lower rate of pretrial misconduct than those released on ROR, and that women had a lower rate than men.

V. CONCLUSION

A. Major Findings

The current study has developed models to predict pretrial misconduct among DV defendants. The study used data from defendants arrested in New York City in the first quarter of 2001 and the third quarter of 2002 to address two questions:

1) What are the factors that influence the likelihood of pretrial re-arrest among DV defendants?

2) What are the factors that influence the likelihood of pretrial failure to appear and/or pretrial re-arrest for new DV offenses among DV defendants?

The answers to these questions can be summarized as follows.

First, pretrial re-arrest among DV defendants was most strongly affected by age, criminal history, community ties, arraignment charge type, release characteristics, borough, and sex. Age had the strongest impact—younger defendants were more likely than older defendants to be re-arrested during the pretrial period. Defendants with more serious criminal histories, particularly those with any prior arrests and with a greater number of prior misdemeanor convictions, were more likely to be re-arrested. Those with stronger community ties (employed, lived at current address 1 year or more, had a telephone) were generally less likely to be re-arrested. Defendants charged with criminal contempt were more likely to be re-arrested. Defendants released after the initial arraignment appearance and those released on recognizance were more likely to be re-arrested during the pretrial period than those released at arraignment or those released on bail. Pretrial re-arrest rates were higher in Brooklyn and Staten Island than in the other boroughs, and were lower for women than for men. Overall, the model accounted for 19% of the variation in likelihood of pretrial re-arrest for any new offense.

Second, the strongest predictors of the combined risk of failure to appear and/or pretrial re-arrest for a new DV offense among DV defendants were age, any prior arrests, unemployment, other measures of criminal history and community ties, arraignment charge type, release characteristics, borough and sex. As in the model of pretrial re-arrest, age had the strongest impact. Younger defendants were more likely than older defendants to engage in pretrial misconduct. Defendants with more serious criminal histories, particularly those with any prior arrests or two or more prior bench warrants, were more likely to fail to appear and/or to be re-arrested for a new DV offense. Defendants with stronger community ties, especially those who were employed and those who expected someone at arraignment, were generally less likely to engage in pretrial misconduct. Defendants charged with criminal contempt were more likely to engage in pretrial misconduct, as were those released after arraignment and those released on recognizance. Defendants in Staten Island were more likely, while those in Manhattan were less likely, to engage in pretrial misconduct than those in Brooklyn, Queens, and the Bronx. Female DV defendants were less likely than male

DV defendants to fail to appear and/or to be re-arrested for a new DV offense. Overall, the model predicting the combined risk of failure to appear and/or pretrial re-arrest for a new DV offense accounted for 18% of the variation, about the same as the model predicting re-arrest for any new offense.

B. Discussion

This study has extended our previous research on pretrial misconduct among DV defendants in New York City. It has focused on identifying factors that are associated with higher or lower rates of two types of pretrial misconduct: re-arrest for any new offense, and the combined risk of failure to appear and/or re-arrest for a new DV offense. The factors that were considered included criminal history, community ties, charge characteristics, release characteristics, and demographic characteristics. Our understanding of pretrial misconduct among DV defendants in New York City depends in part on which type of pretrial misconduct we examine. It also depends in part on whether we focus on broad categories of factors that influence misconduct, or on specific items that are associated with particular types of misconduct.

In research spanning the current report and a previous one on the same topic (Peterson 2006), CJA has developed models predicting four different measures of pretrial misconduct: 1) failure to appear, 2) re-arrest for a new DV offense, 3) re-arrest for any new offense, and 4) the combined rate of failure to appear and re-arrest for a new DV offense. The models were less successful in accounting for variation in failure to appear and pretrial re-arrest for a new DV offense (explaining 10% and 12% of the variation, respectively) than in accounting for variation in pretrial re-arrest for any new offense or the combined risk of FTA and pretrial re-arrest for a new DV offense (explaining 19% and 18% of the variation, respectively). One reason for this difference may be that rates of FTA and pretrial re-arrest for a new DV offense are lower (10% and 9%, as shown in Figures 4 and 2, respectively) than rates of pretrial re-arrest for any offense and the combined risk of FTA and pretrial re-arrest for a new DV offense (15% and 17%, as shown in Figures 1 and 3, respectively). It is easier for statistical models to predict variation in outcomes that are more likely to occur, while events that are rarer are harder to predict. It may also be that more general types of pretrial misconduct (pretrial re-arrest for any offense and the combined risk of FTA and pretrial re-arrest for a new DV offense) are easier to predict than more specific types of pretrial misconduct (FTA and pretrial re-arrest for a new DV offense). The latter types of pretrial misconduct may be influenced by more specific factors that are not captured by the predictors available to us in this study.

The four models of pretrial misconduct that we examined showed essentially similar results if we consider the impact of broad categories of factors. Criminal history, community ties, charge characteristics, and demographic characteristics were statistically significant predictors in each of the four models. Release characteristics were statistically significant predictors in three of the four models. Moreover, age is consistently the strongest predictor in each of the models. This general pattern of

FIGURE 5
A COMPARISON OF PREDICTORS OF PRETRIAL MISCONDUCT

		<u>TYPE OF PRETRIAL MISCONDUCT</u>			
		<i>FTA</i>	<i>Re-Arrest for a New DV Offense</i>	<i>Re-arrest for Any New Offense</i>	<i>FTA and/or Re-Arrest for a New DV Offense</i>
Criminal History	Any Prior Arrests	Yes (+)	Yes (+)	Yes (+)	Yes (+)
	2+ Misd. Jail Sentences	Yes (+)	No	No	No
	2+ Prior Bench Warrants	Yes (+)	No	No	Yes (+)
	Open Bench Warrant	Yes (+)	No	No	No
	2+ Open Cases	No	Yes (+)	Yes (+)	Yes (+)
	Number of Prior Misd. Convictions	No	No	Yes (+)	No
Community Ties	Unemployed	Yes (+)	Yes (+)	Yes (+)	Yes (+)
	Expects No One at Arrgt.	Yes (+)	No	No	Yes (+)
	No Tel. or Cell Phone	Yes (+)	Yes (+)	Yes (+)	Yes (+)
	Lived at Current Address 1 year or less	No	Yes (+)	Yes (+)	Yes (+)
	Lives with Someone	No	Yes (+)	Yes (+)	No
Arraignment Charge	Criminal Contempt (vs. Assault)	No	Yes (+)	Yes (+)	Yes (+)
	"Other" (vs. Assault)	Yes (+)	No	No	No

FIGURE 5, Continued

		<u>TYPE OF PRETRIAL MISCONDUCT</u>				
		<i>FTA</i>	<i>Re-Arrest for a New DV Offense</i>	<i>Re-arrest for Any New Offense</i>	<i>FTA and/or Re-Arrest for a New DV Offense</i>	
Release Characteristics	Defendant Released After Arrgt. (vs. at Arrgt.)	Yes (+)	No	Yes (+)	Yes (+)	
	Defendant Released on Bail(vs.ROR)	Yes(-)	No	Yes(-)	Yes(-)	
Demographic Characteristics	Age: 21-29 (vs. 16-20)	Yes(-)	No	Yes(-)	Yes(-)	
	Age: Age: 30-39 (vs. 16-20)	Yes(-)	No	Yes(-)	Yes(-)	
	Age: 40 + (vs.16-20)	Yes(-)	Yes(-)	Yes(-)	Yes(-)	
	Sex: Female	No	Yes(-)	Yes(-)	Yes(-)	
	Ethnicity:	Non-Hisp. White (vs. Non-Hisp. Black)	No	Yes (+)	No	No
		Hispanic (vs. Non-Hisp. Black)	No	Yes(-)	No	No
		Other (vs. Non-Hisp. Black)	No	No	No	No
	Defendant- Victim Relationship:	Boyfriend- Girlfriend (vs. Married)	No	No	No	No
		Com. Law (vs. Married)	No	No	No	No
		Other (vs. Married)	No	Yes(-)	No	No
Borough:	Manhattan (vs. Bklyn)	No	No	Yes(-)	Yes(-)	
	Queens (vs. Bklyn)	No	No	Yes(-)	No	
	Staten Island (vs. Bklyn)	Yes (+)	No	No	Yes (+)	
	Bronx (vs. Bklyn)	No	No	Yes(-)	No	

findings suggests that the types of factors that account for pretrial misconduct are similar regardless of the specific type of pretrial misconduct being examined. However, a closer look at the findings shows that while some of the specific items in each category have consistent effects in each of the models, other items that predict pretrial misconduct within each of the broad categories vary considerably from one model to the next.

One set of items was statistically significant in each of the four models. In order of their importance, they were age 40+, any prior arrests, unemployed, and defendant has no telephone. In addition, age 21-29 and age 30-39 were significant predictors in three of the four models (the exception being re-arrest for a new DV offense). These findings suggest that while demographic factors, criminal history, and community ties are important in predicting pretrial misconduct, the most consistent predictors of pretrial misconduct are specific measures from each category. Younger offenders, those who have had any prior arrests, those who are unemployed, and those who have no telephone are at the greatest risk for all types of pretrial misconduct.

A second set of items in our models showed specific patterns of association with particular types of pretrial misconduct. Among the criminal history items, current or prior bench warrants tended to be good predictors of measures that involved FTA (alone or in combination with a DV re-arrest), but were not good predictors of measures that involved re-arrest alone. In contrast, having two or more open cases tended to be a good predictor of measures that involved re-arrest (alone or in combination with FTA), but was not a good predictor of FTA alone. Similarly, being charged with criminal contempt (in DV cases, this is almost always for violating an order of protection) is also a good predictor of measures that involved re-arrest. Taken together, these findings suggest that defendants who have previously committed a specific type of pretrial misconduct are more likely to commit that misconduct again.

Among the community ties items, living at the current address 1 year or less was associated with all the measures that included re-arrest, but not with FTA alone. Expecting no one at arraignment was associated with measures that involved FTA (alone or in combination with a DV re-arrest) but not with measures that only involved re-arrest. In contrast, living with someone was associated with measures that only involved re-arrest but not with measures that involved FTA (alone or in combination with DV re-arrests). The latter two findings suggest that DV defendants with weaker ties to other individuals are at greater risk of FTA and lower risk of re-arrest. The increased risk of re-arrest for DV defendants who live with someone is presumably due to their easier access to the victim.

The release characteristics considered here had an unusual pattern of results. They were significant predictors of FTA alone, re-arrest for any new offense, and the combined risk of FTA and re-arrest for a new DV offense. However, they were not statistically significant in the model predicting re-arrest for a new DV offense alone. These results suggest that they were associated primarily with FTA and with re-arrest for Non-DV offenses, but not with re-arrest for a new DV offense. This pattern of

findings suggests that pretrial re-arrests for a new DV offense are more difficult to control by means of release decisions.

Among the demographic factors, sex was consistently associated with measures involving re-arrest (alone or in combination), but was not associated with FTA alone. This suggests that women were less likely than men to be re-arrested (regardless of type of re-arrest), but there is little difference between men and women in terms of FTA. Staten Island cases were associated with measures involving FTA (alone or in combination with re-arrest for a new DV offense), but not with measures of re-arrest alone.

A third set of items showed specific patterns of association with isolated types of pretrial misconduct. Having two or more prior misdemeanor jail sentences and being charged with “other” crimes were associated with FTA alone, but not with any of the other misconduct measures. Number of prior misdemeanor convictions was associated with re-arrest for any new offense, but not with any other misconduct measures. Ethnicity and defendant-victim relationship were associated with re-arrest for a new DV offense, but not with any other misconduct measures. Defendants in Queens and the Bronx were less likely to be re-arrested for any new offense than those in Brooklyn, but Queens and Bronx defendants were no different from those in Brooklyn in terms of their rates of other types of pretrial misconduct. Manhattan defendants had a similar pattern, except that they were also less likely than Brooklyn defendants to FTA and/or be re-arrested for a new DV offense. The latter finding is puzzling, since Manhattan defendants were no different from Brooklyn defendants in terms of their risk of FTA alone or re-arrest for a new DV offense alone.

Finally, some items that we tested were not associated with any of the types of pretrial misconduct we examined. Among the criminal history items, prior felony convictions, prior prison sentences, current parole status, and prior sentences as a youthful offender had no impact in any of our models. One community ties item had no effect: whether the defendant lived in the New York City area. Two charge characteristics also had no effect: number of arrest charges and severity of the arraignment charge. As noted in Chapter 3, most of these variables had little variance; moreover many of them were similar to other variables already in the models.

Taken together, our findings provide several valuable lessons for those interested in identifying the factors that are associated with a greater risk of pretrial misconduct among domestic violence offenders.

First, several factors are associated with the risk of all types of pretrial misconduct. Younger offenders, those with prior arrests, those who are unemployed, and those who have no telephone are more likely to engage in pretrial misconduct. These factors were influential in predicting each type of pretrial misconduct we examined. Among these factors, age is the strongest predictor.

Second, defendants who have previously engaged in a specific type of misconduct are more likely to engage in it again. Defendants with prior or current bench warrants for failing to appear are more likely to fail to appear on their current arrest. Defendants who have previously been arrested, who have open cases, or whose current arrest is for violating an order of protection are more likely to be re-arrested for both DV and Non-DV offenses. A history of violating the law, including orders of protection, increases the risk of new offenses.

Third, several factors seem primarily to affect FTA and not re-arrest. Defendants who do not expect anyone at arraignment are more likely to FTA than those who do, but are no more likely to be re-arrested. This suggests that defendants with weaker ties to other individuals are more likely to miss court appearances, but not more likely to commit new offenses. Defendants with two or more prior misdemeanor jail sentences and those who are charged with “other” crimes (other than assault or criminal contempt) are also more likely to FTA, but not more likely to be re-arrested. Offenders who have a longer history of committing misdemeanor offenses and who have committed an atypical DV offense seem to be more likely to FTA. Defendants in Staten Island are more likely than those in other boroughs to fail to appear in DV cases. It is not clear what the reasons are for their higher FTA rate.

Fourth, several factors appear to affect re-arrests generally, regardless of type (DV or Non-DV), but do not affect FTA. Women are less likely than men to be re-arrested, yet their FTA rates are similar. Those who have lived at their current address 1 year or less have higher rates of re-arrest than those with longer tenure at their current address, yet their FTA rates are similar. One measure of community ties, living with someone, increases the risk of re-arrest. As noted several times above, this measure probably indicates that the defendant is more likely to live with the victim of the current domestic violence offense. Even if a temporary order of protection (TOP) orders the defendant to stay away from the victim, the defendant probably has easier access to the victim and is therefore more likely to commit a new offense. Defendants who live with the victim may also be more likely to believe that the victim can be intimidated into not participating in the prosecution of the case.

Finally, some of our findings suggest that preventing pretrial re-arrest for a new DV offense presents unique issues. Defendants involved in “other” relationships with the victim (other than “intimate partner” relationships) are less likely to be re-arrested for a new DV offense. This suggests that efforts to prevent pretrial re-arrest among DV defendants should focus efforts on those involved in intimate relationships with the victim. Ethnicity is also associated with re-arrests for new DV offenses, although it is not clear whether and how this information could be useful in preventing pretrial re-arrests. Non-Hispanic Whites have higher rates of re-arrest for new DV offenses, while Hispanics have lower rates, than Non-Hispanic Blacks. This pattern might reflect ethnic differences in victims’ willingness to call the police for new DV offenses, rather than a real difference in the rate at which new pretrial DV offenses are being committed.

One of the most intriguing patterns of findings in our models concerns the effect of release characteristics. These characteristics are associated with pretrial misconduct in all the models except for pretrial re-arrest for a new DV offense. Although release on bail and release at arraignment are generally associated with a lower risk of pretrial misconduct, they are not associated with a lower risk of new DV offenses leading to pretrial re-arrest. This suggests that efforts to reduce pretrial re-arrest for new DV offenses through changes in pretrial release decisions are unlikely to succeed. DV offenders may not believe that pretrial DV offenses will be discovered as easily as other types of misconduct. We do not have enough information to determine whether these or other explanations are valid. Nevertheless, our findings do suggest that efforts by the court to change pretrial release decisions may have little impact on pretrial re-arrests for new DV offenses.

Reducing Pretrial Misconduct. The findings from this study suggest that pretrial misconduct is a problem for a significant minority of DV defendants and they suggest which factors increase the risk of pretrial misconduct. We now consider how the findings of this study could be used to reduce the risk of pretrial misconduct among DV defendants. Because the bail statutes in New York State require the criminal courts to take criminal history and community ties into account, we focus primarily on these factors. The statutes do not address whether the court is permitted to consider demographic characteristics such as age, sex, or ethnicity as a factor in determining the type or conditions of release. We exclude these factors from our discussion since their consideration by the court may be discriminatory. Furthermore, decisions about whether to release the defendant on bail or recognizance, and decisions about the amount of bail, must be based only on factors that are related to the likelihood of failure to appear. However, as will be discussed below, there are several ways that courts can address concerns about pretrial re-arrest.

Pretrial misconduct among DV defendants in New York City appears to be most strongly affected by criminal history and community ties. Our findings suggest that courts should pay special attention to those with any prior arrests, who pose a greater risk of pretrial misconduct. Two aspects of community ties also are consistent predictors of all types of pretrial misconduct: unemployment and not having a telephone. Additional factors should be considered to prevent particular types of misconduct. Defendants whose criminal history includes a particular type of misconduct (FTA, re-arrest) are more likely to repeat that conduct. To prevent FTA, courts should also focus on whether the defendant has two or more prior misdemeanor jail sentences, whether the defendant is charged with crimes other than assault or criminal contempt, and whether the defendant expects anyone at arraignment. To prevent re-arrest generally, courts should focus on defendants who have lived at their current address 1 year or less, and those who live with someone. When evaluating the risk of pretrial re-arrest for a new DV offense, defendants involved in “intimate partner” relationships pose a higher risk than other DV defendants.

Information about all these criminal history and community ties items is available to the criminal court at the time of arraignment, and could be used to assist the court in

making release decisions. However, the question of how to use this information remains to be addressed. What changes in release decision-making should be made if a defendant has a more serious criminal history or weak community ties? Our research addressed two characteristics of release decisions, and found that they were influential in predicting all types of pretrial misconduct except for re-arrest for a new DV offense.

The first characteristic is whether the defendant is released at arraignment or after arraignment and the second is whether the defendant is released on bail or on recognizance. As discussed in our previous report (Peterson 2006), it would be difficult in practice for the courts to prevent most post-arraignment releases or to set bail rather than release the defendant on recognizance. Many DV defendants released after arraignment have made bail and cannot be detained. Other DV defendants must be released on recognizance because the DA has not corroborated the complaint within statutory time limits. Setting bail more often at arraignment would raise numerous problems in DV cases. Judges are likely to be reluctant to set bail more often, or to set higher bail, because defendants in misdemeanor DV cases are unlikely to be convicted, or if convicted, unlikely to be sentenced to jail. Changes in bail may also hurt victims financially if they are dependent on the defendant's income. Setting bail more often at arraignment would cause the detention of numerous defendants who would not fail to appear if released and would increase costs to the criminal justice system for detaining and transporting defendants. Finally, our research describes the effects of current practices, but does not explicitly examine whether changing those practices would produce changes in rates of misconduct.

Changing release decisions to prevent re-arrest is further complicated by two additional issues. First, New York State law does not allow for preventive detention of defendants based on the potential risk of re-offending. While judges are permitted to consider the defendant's likelihood of court attendance when setting bail or deciding whether to release the defendant on recognizance, they are **not** permitted to take into account public safety factors, such as the likelihood that the defendant will commit a new offense during the pretrial release period (Marks et al. 1996, Phillips 2004). Second, our research did not identify any characteristics of release decisions that are associated with likelihood of re-arrest for a new DV offense. This finding may have broader implications, suggesting that release conditions are likely to be less successful at reducing pretrial re-arrest for a new DV offense than other types of pretrial misconduct.

Given the legal restrictions and the limitations suggested by our research, what actions can the courts take to address concerns about risk of pretrial re-arrest in DV cases? As discussed in our previous report, there are several possibilities.

First, many of the factors that influence the risk of pretrial re-arrest for a new DV offense are included in the list of factors that courts must take into consideration in assessing risk of FTA. To the extent that courts consider criminal history, community

ties, and arraignment charge type⁹ for reasons related to FTA when making release and bail decisions, they are also coincidentally basing these decisions on factors relating to re-arrest. This would appear to be within the bounds of the statutes. As Marks et al. (1996) note, it is likely that courts frequently consider risk of re-arrest in making release and bail decisions without expressly acknowledging it.

Second, while the courts cannot explicitly take the risk of pretrial re-arrest into account in making decisions about bail and release, they are authorized to set conditions of release. Temporary Orders of Protection are routinely ordered in most DV cases, usually requiring the defendant to stay away from the victim's home, school, or work place and/or to refrain from harassing, intimidating, threatening, or committing a family offense against the victim. The decision to issue a TOP can be based on the risk of injury or intimidation to the victim (Marks et al. 1996). A court can set other conditions of release, in addition to a TOP, although the statutes are not specific about these other conditions. Presumably, permissible conditions must be related to insuring the defendant's return to court, but there appears to be considerable latitude in determining the relevance of the conditions to this goal. This latitude opens the possibility for supervised release in New York, a practice that is common in other jurisdictions. Supervised release programs are generally designed to monitor defendants' compliance with the conditions of their release while awaiting the disposition of their cases.

The use of supervised release programs for both the general population of defendants, and for DV defendants in particular, has grown more common over the past decade (Clark and Henry 2003). While it is beyond the scope of the current study to develop a plan for a supervised release program for DV defendants in New York City, we proposed some general guidelines for such a program in our previous report (Peterson 2006). DV defendants should be interviewed on the day of their arraignment in Criminal Court to provide contact information as well as information for a risk assessment. Each defendant should be provided at that time with a full explanation of the conditions of release, including the TOP. Defendants should be required to make contact with an oversight agency by telephone or in person for a specified number of times per week while the case is pending. The oversight agency should contact the defendant if s/he fails to check in as required. The oversight agency should also notify the defendant of upcoming court appearances, report to the court about the defendant's compliance or noncompliance with the conditions of release, and contact defendants who miss court appearances to encourage them to return to court. The oversight agency could also contact the victim to verify the defendant's compliance with the TOP, however this must be done carefully to avoid endangering the victim.

⁹ Consideration of charge type is permissible insofar as the court is required to take into account the likely sentence if the defendant is convicted (Kluger and Swern 1998).

C. Conclusion

Pretrial misconduct, including failure to appear and re-arrest, is a frequent problem among misdemeanor DV defendants in New York City. Furthermore, such pretrial misconduct often includes a re-arrest for a new DV offense. Younger DV defendants, those with a more serious criminal history and those with weak community ties are more likely to engage in pretrial misconduct. What can be done to reduce the rates of pretrial misconduct?

Changes in bail-setting practices significant enough to reduce pretrial misconduct among DV defendants are unlikely. Setting conditions of release, particularly by requiring supervised release for some DV defendants, may be an effective way to address concerns about both FTA and pretrial re-arrest for new DV offenses. This would require development and implementation of a supervised release program, since none currently exists in New York City.

Additional changes to reduce pretrial misconduct by DV defendants would require legislative action. Allowing preventive detention for defendants who pose a risk to a victim, a witness, or the community would enable the courts to base release and bail decisions on these risks. Another possibility is to give the courts authority to revoke bail or recognizance when a TOP is violated in the pretrial period. New York State law currently authorizes the court to revoke bail or recognizance and detain defendants charged with intimidating a victim or witness (Marks et al. 1996). Legislation would be required to allow pretrial detention for violating an order of protection. Remand would be allowed only for felony violations of an order of protection (PL §215.51 or §215.52), but higher bail or supervised release could be authorized for misdemeanor violations of an order of protection (PL §215.50).

Pretrial misconduct is a serious problem for a significant minority of defendants in DV cases. This study has extensively examined the factors associated with various types of pretrial misconduct, and suggested some ways to reduce it. However, remedies to reduce pretrial re-arrest are likely to be difficult to implement. New legislation is needed to make any significant changes that are likely to reduce pretrial re-arrest, particularly re-arrest for new DV offenses, among defendants in DV cases in New York City.

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VI. REFERENCES

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APPENDIX A: STATISTICAL METHODS

1. Logistic Regression Analysis

This report used logistic regression analysis to predict the likelihood of pretrial re-arrest and the combined likelihood of pretrial misconduct (failure to appear and/or pretrial re-arrest for a new DV offense). Logistic regression analysis is a statistical technique that is used when the outcome to be explained (i.e., the *dependent variable*) has two categories. In our analyses in Chapter 3, all cases were coded on our dependent variable in one of two categories: re-arrested during the pretrial period (coded 0) and not re-arrested during the pretrial period (coded 1). The model predicts the likelihood that defendants were re-arrested during the pretrial period. In our analyses in Chapter 4, all cases were coded on our dependent variable in one of two categories: did not fail to appear and was not re-arrested for a new DV offense during the pretrial period (coded 0) and failed to appear and/or was re-arrested for a new DV offense during the pretrial period (coded 1). The model predicts the likelihood that defendants failed to appear and/or were re-arrested for a DV offense during the pretrial period. In both chapters, the predictions were made on the basis of information we have about a variety of defendant and case characteristics (i.e., the *independent variables*). Logistic regression techniques provide several ways of evaluating the effect of these independent variables.

The current study examined three statistical measures to evaluate the effect of the independent variables on a dependent variable. First, we report the *statistical significance* of each independent variable. Statistical significance takes into account the size of the sample as well as the magnitude of the effect of the independent variable. Taking this information into account, statistical significance assesses the probability that the effect observed in the sample could have occurred by chance alone. In this report, following standard convention, significance levels of .05 or less were treated as statistically significant. In other words, when an effect has a 5% or less probability of having occurred by chance, we conclude that the independent variable is a statistically significant predictor of the likelihood of the outcome being considered. One weakness of using statistical significance to measure the effect of an independent variable is that when sample sizes are large (e.g., more than several thousand cases), many independent variables have statistically significant effects even when the magnitude of their effects is small. For example, in a very large sample, we may be able to say that having a prior arrest has a statistically significant effect on the likelihood of pretrial re-arrest, even though the odds of pretrial re-arrest for those with a prior arrest are only 1.01 times larger than for those without a prior arrest. In this hypothetical example, we can say that the effect of having a prior arrest is unlikely to be due to chance. However, it is also clear that knowing whether or not a defendant had a prior arrest does not explain much of the variation in likelihood of pretrial re-arrest.

Our second statistical measure used to evaluate the effect of the independent variables is the *odds ratio*. The odds ratio supplements information about statistical significance by evaluating the magnitude of the effect of the independent variable.

Specifically, it tells us how much the odds of an outcome (e.g., pretrial re-arrest) change, for each one-unit increase in the independent variable. If an independent variable is coded in two categories (e.g., 0 and 1), then the odds ratio tells us how the odds of the outcome change when cases are coded 1 on the independent variable (vs. cases coded 0). An odds ratio greater than one indicates an increase in the likelihood of the outcome occurring, while an odds ratio less than one indicates a decrease in the likelihood of the outcome occurring. An odds ratio of 1 indicates that the odds of an outcome occurring are not affected by the independent variable.

To return to our previous example, if the odds ratio for the effect of having a prior arrest on the likelihood of pretrial re-arrest was 1.12, this would mean that in cases where the defendant had a prior arrest, the odds of pretrial re-arrest are 1.12 times greater than in cases where the defendant did not have a prior arrest. In contrast, if we examined the impact of whether the defendant was released on recognizance while the case was pending, we might find an odds ratio less than 1. For example, if the odds ratio was .83, this would mean that in cases where the defendant was released on recognizance, the odds of pretrial re-arrest are only .83 times as large as the odds when the defendant was released on bail. To simplify interpretation of odds ratios less than 1, it is common to examine the inverse of the odds ratio (1 divided by the odds ratio). When this is done, the interpretation of the effect of the independent variable is reversed. For example, if the odds ratio for being released on recognizance is .83, we can take the inverse of the odds ratio, 1.20 (1 divided by .83), and say that in cases where the defendant was released on bail, the odds of pretrial re-arrest were 1.20 times greater than in cases where the defendant was released on recognizance. Finally, if the odds ratio was 1.00, this would mean that whether the defendant was released on recognizance or on bail had no impact on the odds of pretrial re-arrest. (These examples are hypothetical and do not necessarily reflect our expectations about the findings.)

In the analyses presented in this report, results are presented for independent variables coded in three different ways—categorical variables that have two categories, categorical variables that have more than two categories, and continuous variables that measure the quantity of a defendant or case characteristic (e.g., the number of prior felony convictions for the defendant). When a categorical independent variable has two categories, the odds ratio measures the change in the odds when cases are in one category vs. the other (e.g., defendant had a prior arrest vs. did not have a prior arrest). When a categorical independent variable has more than two categories, one of the categories is chosen as a **reference** category, and the odds ratios measure the effect of being in each of the other categories vs. being in the reference category (e.g., defendants age 40 and over are compared to defendants age 16-20, which is used as the reference category). Finally, when the independent variable is continuous, the odds ratio measures the change in the odds associated with an increase of one unit on the scale of the independent variable (e.g., for number of arrest charges, the odds ratio measures the effect of having one additional arrest charge).

Our third statistical measure used to assess the effect of the independent variables is the *beta* coefficient (Menard 1995). The *beta* (*B*) coefficient takes into account not only the change in the likelihood of the outcome associated with a change in the independent variable, but also the distribution of the cases among the categories of the independent variable. Being in one category of an independent variable may have a large effect on the likelihood of an outcome (and therefore the variable may have a large odds ratio), but if there are relatively few cases in that category, the variable will not help to explain much of the variation in the likelihood of the outcome. For example, a defendant charged with a sex offense might have a high probability of pretrial re-arrest, and this variable would have a high odds ratio. However, if only a small number of defendants in the sample are charged with a sex offense, this variable would not be able to explain much of the variation in likelihood of pretrial re-arrest. Standardized *betas* measure this overall effect of the independent variable on the dependent variable. Standardized *betas* vary from -1 to +1; values closer to zero indicate that the effect of the independent variable is relatively small, while values closer to +1 or -1 indicate that the effect of the independent variable is relatively strong. There are no commonly accepted absolute standards to determine whether a standardized *beta* is strong or weak. Consequently, we will discuss the relative strength of variables, describing some as stronger or weaker than others.

In the current study, we used all three of the measures discussed above. We used the statistical significance level to distinguish those independent variables that had a detectable¹⁰ effect on the dependent variable from those that did not. We used the odds ratio to evaluate the size of the effect of the independent variable and we used the standardized *beta* to evaluate the ability of the independent variable to account for variation in the dependent variable.

The models we discuss include a large number of predictors of the dependent variable. In these models, the measures of the effect of each independent variable (statistical significance, odds ratio, and standardized *beta*) evaluate the effect of that independent variable *after controlling for the effects of all the other independent variables in the model*. These effects represent the *net effect* of a given independent variable after the effect of all the other independent variables have been taken into account. This net effect differs from the *total effect* of the independent variable, which is the effect of the independent variable when it is used as the only predictor of the dependent variable.

To evaluate the overall ability of *all* the independent variables in the logistic regression model to predict the dependent variable, we use a statistical measure called Nagelkerke R^2 (SPSS, Inc. 1999). This measure varies from 0 to +1. It can be roughly interpreted as indicating what proportion of the variation in the dependent variable is

¹⁰ Due to sampling error, and limitations of logistic regression techniques, it is possible that some independent variables that do affect the dependent variable are found to be statistically insignificant in our particular sample of cases. See Mohr (1990) for a further discussion of these issues.

explained by all the independent variables in the model (see Menard 1995 for a full discussion of the R^2 statistic in logistic regression models). Low values of R^2 (closer to 0) indicate that the model as a whole is relatively weak in accounting for variation in the dependent variable. High values (closer to +1) indicate that the model as a whole is very successful in accounting for variation in the dependent variable.

2. Correcting for Selection Bias

Our models predicting likelihood of pretrial re-arrest and the combined risk of pretrial failure to appear and pretrial re-arrest for a new DV offense included a control variable to correct for selection bias. Selection bias is a problem that arises in statistical analysis when the group of cases that could have ended up in the sample is restricted to a selected set of respondents (Berk 1983). When selection bias occurs, the statistical estimates of the effects of the independent variables may be biased. These estimates may overstate, or understate, the influence of an independent variable. If problems of selection bias are not addressed, the interpretation of the results may be misleading. In our analysis, the models predicting pretrial re-arrest and the combined risk of failure to appear and pretrial re-arrest for a new DV offense include only cases that were released at some point between arraignment and disposition. The variables that influence whether a defendant was released also may influence whether the defendant fails to appear and/or is re-arrested during the pretrial period. For example, having a prior arrest may affect both the likelihood of release and the likelihood of pretrial re-arrest. If a model predicting the likelihood of pretrial re-arrest among those released does not control for selection bias, the estimate of the effect of having a prior arrest will be biased. Part of its effect on likelihood of pretrial re-arrest will actually be due to its influence on the likelihood of release, i.e., on the likelihood that the case ended up in the sample of released cases. The remainder of its effect, if any, will be due to its influence on the likelihood of pretrial re-arrest.

To control for this kind of selection bias, we included in the models a control variable that measures the predicted probability of release. This predicted probability of release was created using the logistic regression model shown in Table A-1. To avoid statistical problems¹¹ the predicted probability of release used as a correction for selection bias was created using a somewhat different set of independent variables than was used in the models presented in Chapters 3 and 4. The predicted probability of release can theoretically vary from a low of 0.00 to a high of 1.00. Of course, the model predicting likelihood of pretrial re-arrest included only those cases where the defendant actually was released. The predicted probability of release for released cases was skewed toward the higher end of the scale. As shown in Appendix B, the mean predicted probability for the released cases in our analyses was .90. Nevertheless,

¹¹ When the predicted probability of release is included in a model predicting an outcome, such as pretrial re-arrest, it is important that the predicted probability of release not be highly correlated with other variables in the model. This problem, known as multicollinearity, is particularly likely if the same set of independent variables is used in both the release and outcome models. For this reason, the model creating the predicted probability of release uses some different independent variables than those used in the analyses presented in this report.

TABLE A-1

**LOGISTIC REGRESSION MODEL PREDICTING
LIKELIHOOD OF PRETRIAL RELEASE**
CRIMES AGAINST PERSONS AND PROPERTY SUBSAMPLE¹
Combined 2001-2002 Dataset

INDEPENDENT VARIABLES ²	Standardized β	Odds Ratio
ARRAIGNMENT CHARGE TYPE		
<i>Reference Category: Assault (PL 120)</i>		
Criminal Contempt (PL 215)	-0.10 ***	0.60
Harassment (PL 240)	-0.03	0.85
Crimes Against Children (PL 260)	0.03	1.29
Other	-0.08 ***	0.78
DEFENDANT'S CRIMINAL HISTORY		
ANY PRIOR ARRESTS	-0.40 ***	0.32
ANY PRIOR MISDEMEANOR CONVICTIONS	-0.15 ***	0.64
ANY PRIOR FELONY CONVICTIONS	-0.11 ***	0.68
ANY OPEN CASES AT TIME OF ARREST	-0.04 **	0.88
PRIOR MISDEMEANOR JAIL SENTENCES		
<i>Reference Category: None</i>		
One Prior Misdemeanor Jail Sentence	-0.02	0.88
Two or More Prior Misdemeanor Jail Sentences	-0.14 ***	0.54
ANY PREVIOUS PRISON SENTENCE	-0.03 *	0.86
ON PAROLE FROM PRISON	-0.04 **	0.71
DEFENDANT HAD 2 OR MORE BENCH WARRANTS AT TIME OF ARREST	-0.07 ***	0.73
CHARGE CHARACTERISTICS		
NUMBER OF ARREST CHARGES	-0.18 ***	0.77
ARREST CHARGE IS A FELONY	-0.08 ***	0.78
RELEASE RECOMMENDATION		
<i>Reference Category: No Recommendation (Weak NYC Ties)</i>		
Recommended or Qualified Recommendation	0.22 ***	1.88
Open Bench Warrant at Time of Arrest	-0.13 ***	0.53
Missing	-0.08 ***	0.62

Table Continues on Next Page

TABLE A-1
(continued)

INDEPENDENT VARIABLES ²	Standardized β	Odds Ratio
DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS		
SEX (Female)	0.14 ***	1.69
ETHNICITY:		
<i>Reference Category: Non-Hispanic Black</i>		
Non-Hispanic White	0.08 ***	1.39
Hispanic	-0.02	0.93
Other	0.08 **	1.59
AGE:		
<i>Reference Category: Age 16-20</i>		
Age 21-29	0.04	1.13
Age 30-39	0.04	1.13
Age 40 and over	0.07 **	1.27
Nagelkerke R ² (N of cases)	0.29 *** (21,448)	

NOTES

¹ See text for a description of the dataset and the subsample.

² See Appendix C for information about the measurement and coding of the variables.

- * Statistically significant at $p < .05$
- ** Statistically significant at $p < .01$
- *** Statistically significant at $p < .001$

even among cases where the defendant was released, there was significant variation: the predicted probability of release ranged from .17 to .99 (data not shown). It is this variation that enables the predicted probability of release to correct for selection bias. Among released cases, those with a low predicted probability of release are more similar to those who were not released, while those with a high predicted probability of release are more representative of those actually in the sample. For example, the influence of the predicted probability of release on the likelihood of pretrial re-arrest controls for the influence of variables that affect both release and pretrial re-arrest. When the predicted probability of release is included as a control variable in the model predicting the likelihood of pretrial re-arrest, the estimates of the effects of the other independent variables in the model are more accurate.¹² Similarly, the influence of the predicted probability of release on the likelihood of failure to appear and/or pretrial re-arrest for a new DV offense controls for the influence of variables that affect both release and failure to appear and/or pretrial re-arrest for a new DV offense. Including the predicted probability of release as a control variable in the model predicting failure to appear and/or pretrial re-arrest for a new DV offense makes the estimates of the effects of the other independent variables in the model more accurate.

To return to the example discussed above, whether the defendant had any prior arrests may influence both the likelihood of release and the likelihood of pretrial re-arrest. In our model predicting the likelihood of pretrial re-arrest, the estimate of the effect of number of prior misdemeanor convictions was more accurate because the model controlled for the influence of any prior arrests on the likelihood of release.¹³ As a result, we had greater confidence in our estimates of the effects of this and other independent variables, as well as in our interpretation of the results of the model. Although we included the predicted probability of release as a control variable in the model, we did not discuss the impact of this variable since its primary purpose was to enable us to estimate accurately, and to interpret, the effects of the other variables.

¹² See Heckman (1979) and Peterson (1989) for a more detailed discussion of selection bias and corrections for it.

¹³ The extent to which the estimates are more accurate depends on the ability of the model predicting the probability of release to explain a significant portion of the variation in likelihood of release. Our model was reasonably successful at explaining variation in likelihood of release. The model correcting for selection bias accounted for approximately 29% of the variation in likelihood of release.

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APPENDIX B: DISTRIBUTION OF VARIABLES FOR REGRESSION MODELS

(N = 10,299)

VARIABLES AND DISTRIBUTION	
DEPENDENT VARIABLES	
DEFENDANT EVER RE-ARRESTED FOR ANY NEW OFFENSE PRIOR TO CASE DISPOSITION	
Never re-arrested for any new offense prior to case disposition	85%
Re-arrested for any new offense prior to case disposition	15
Total, all cases	100%
DEFENDANT FAILED TO APPEAR AND/OR WAS RE-ARRESTED FOR A NEW DV OFFENSE PRIOR TO CASE DISPOSITION	
No FTA or re-arrest for a new DV offense prior to case disposition	83%
Defendant failed to appear and/or was re-arrested for a new DV offense prior to case disposition	17
Total, all cases	100%
CONTROL VARIABLES	
MEAN PREDICTED PROBABILITY OF RELEASE	.90
MEAN NUMBER OF DAYS AT RISK OF PRETRIAL RE-ARREST	88
DEFENDANT'S CRIMINAL HISTORY	
ANY PRIOR ARRESTS	
No	50%
Yes	50
Total	100%
ANY PRIOR MISDEMEANOR CONVICTIONS	
No	77%
Yes	23
Total	100%
ANY PRIOR FELONY CONVICTIONS	
No	83%
Yes	17
Total	100%
NUMBER OF PRIOR MISDEMEANOR CONVICTIONS	
None	77%
1	10
2	4
3	3
4	2
5	1
6	1
7 or more	3
Total	100% ¹

NOTE¹ Percentages do not sum to 100% due to rounding.*Table Continues on Next Page*

**APPENDIX B: DISTRIBUTION OF VARIABLES FOR REGRESSION MODELS
(continued)**

VARIABLES AND DISTRIBUTION	
NUMBER OF PRIOR FELONY CONVICTIONS	
None	83%
1	10
2	4
3 or more	3
Total	100%
NUMBER OF OPEN CASES	
None	81%
1	14
2 or more	5
Total	100%
PRIOR MISDEMEANOR JAIL SENTENCES	
None	88%
1	5
2 or more	7
Total	100%
ANY PREVIOUS PRISON SENTENCE	
No	92%
Yes	8
Total	100%
ON PAROLE FROM PRISON	
No	98%
Yes	2
Total	100%
DEFENDANT HAD 2 OR MORE BENCH WARRANTS AT TIME OF ARREST	
Defendant did not have 2+ bench warrants at time of arrest	94%
Defendant had 2+ bench warrants at time of arrest	6
Total	100%
DEFENDANT PREVIOUSLY SENTENCED AS A YOUTHFUL OFFENDER	
Defendant not previously sentenced as a YO	94%
Defendant previously sentenced as a YO	6
Total	100%
RELEASE RECOMMENDATION:	
Recommended or Qualified Recommendation	66%
No recommended: weak NYC area ties	24
Open Bench Warrant At Time of Arrest	5
Other or Missing	5
Total	100%

Table Continues on Next Page

**APPENDIX B: DISTRIBUTION OF VARIABLES FOR REGRESSION MODELS
(continued)**

VARIABLES AND DISTRIBUTION	
DEFENDANT'S COMMUNITY TIES	
UNEMPLOYED	
Employed	63%
Not employed	37
Total	100%
AT CURRENT ADDRESS 1 YEAR OR LESS	
Defendant at current address more than 1 year	72%
Defendant at current address 1 year or less	28
Total	100%
LIVES WITH SOMEONE	
No	72%
Yes	28
Total	100%
DOES NOT EXPECT ANYONE AT ARRAIGNMENT	
Expects someone at arraignment	36%
Does not expect anyone at arraignment	64
Total	100%
HAS NO TELEPHONE	
Has a telephone	79%
Has no telephone	21
Total	100%
LIVES OUTSIDE NYC AREA	
Lives in NYC area	97%
Lives outside NYC area	3
Total	100%
CHARGE CHARACTERISTICS	
MEAN NUMBER OF ARREST CHARGES	1.78
ARRAIGNMENT CHARGE TYPE	
Assault (PL 120)	66%
Criminal contempt (PL 215)	12
Other	21
Total	100% ¹
ARRAIGNMENT CHARGE SEVERITY	
B Felony	1%
C Felony	1
D Felony	5
E Felony	3
A Misdemeanor	86
B Misdemeanor	4
Violation	0
Total	100%

NOTE

¹ Percentages do not sum to 100% due to rounding.

Table Continues on Next Page

**APPENDIX B: DISTRIBUTION OF VARIABLES FOR REGRESSION MODELS
(continued)**

VARIABLES AND DISTRIBUTION	
RELEASE CHARACTERISTICS	
STAGE OF RELEASE	
Released at arraignment	81%
Released after arraignment	19
Total	100%
TYPE OF RELEASE	
Released on recognizance	83%
Released on bail	17
Total	100%
DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS	
BOROUGH	
Brooklyn	39%
Manhattan	18
Queens	20
Staten Island	4
Bronx	19
Total	100%
SEX	
Male	82%
Female	18
Total	100%
ETHNICITY:	
Non-Hispanic Black	48%
Non-Hispanic White	13
Hispanic	33
Other	6
Total	100%
AGE:	
Age 16-20	10%
Age 21-29	31
Age 30-39	33
Age 40 and over	26
Total	100%
DEFENDANT-VICTIM RELATIONSHIP	
Boyfriend-girlfriend	18%
Married	20
Common-law marriage	19
Other relationship	13
Missing	30
Total	100%

APPENDIX C: CODING OF VARIABLES FOR REGRESSION MODELS

VARIABLES ¹	CODING SCHEME
<p>DEPENDENT VARIABLES</p> <p>DEFENDANT EVER RE-ARRESTED FOR ANY NEW OFFENSE PRIOR TO CASE DISPOSITION</p> <p>DEFENDANT FAILED TO APPEAR AND/OR RE-ARRESTED FOR A NEW DV OFFENSE PRIOR TO CASE DISPOSITION</p> <p>CONTROL VARIABLES</p> <p>SELECTION BIAS CORRECTION: LIKELIHOOD OF RELEASE</p> <p>TIME AT RISK OF PRETRIAL RE-ARREST</p> <p>DEFENDANT'S CRIMINAL HISTORY</p> <p>ANY PRIOR ARRESTS</p> <p>ANY PRIOR MISDEMEANOR CONVICTIONS</p> <p>ANY PRIOR FELONY CONVICTIONS</p> <p>NUMBER OF PRIOR MISDEMEANOR CONVICTIONS</p> <p>NUMBER OF PRIOR FELONY CONVICTIONS</p> <p>NUMBER OF OPEN CASES</p> <p>PRIOR MISDEMEANOR JAIL SENTENCES</p> <p><i>Reference Category: None</i></p> <p>One Prior Misdemeanor Jail Sentence</p> <p>Two or More Prior Misdemeanor Jail Sentences</p> <p>ANY PREVIOUS PRISON SENTENCE</p> <p>ON PAROLE FROM PRISON</p> <p>DEFENDANT HAD 2 OR MORE BENCH WARRANTS AT TIME OF ARREST</p> <p>DEFENDANT PREVIOUSLY SENTENCED AS A YOUTHFUL OFFENDER</p> <p>RELEASE RECOMMENDATION:</p> <p><i>Reference Category: No Recommendation (Weak NYC Ties)</i></p> <p>Recommended or Qualified Recommendation</p> <p>Open Bench Warrant At Time of Arrest</p> <p>Other or Missing</p> <p>DEFENDANT'S COMMUNITY TIES</p> <p>UNEMPLOYED</p> <p>AT CURRENT ADDRESS 1 YEAR OR LESS</p> <p>LIVES WITH SOMEONE</p> <p>DOES NOT EXPECT ANYONE AT ARRAIGNMENT</p> <p>HAS NO TELEPHONE</p> <p>LIVES OUTSIDE NYC AREA</p>	<p>Ever re-arrested = 1, Never re-arrested = 0</p> <p>Ever FTA'd or re-arrested = 1, No FTA or re-arrest = 0</p> <p>Continuous, ranges from 0.00 to 1.00</p> <p>Number of days</p> <p>Any prior arrests = 1, All other categories = 0</p> <p>Any prior misdemeanor convictions = 1, All other categories = 0</p> <p>Any prior felony convictions = 1, All other categories = 0</p> <p>None = 0, One = 1, Two = 2, Three = 3, Four = 4, Five = 5, Six = 6, Seven = 7 or more</p> <p>None = 0, One = 1, Two = 2, Three = 3 or more</p> <p>None = 0, One = 1, Two = 2 or more</p> <p><i>No prior misdemeanor jail sentence: Reference Category</i></p> <p>One prior misdemeanor jail sentence = 1, All other categories = 0</p> <p>Two or more prior misdemeanor jail sentences = 1, All other categories = 0</p> <p>Any previous prison sentence = 1, All other categories = 0</p> <p>On parole from prison = 1, All other categories = 0</p> <p>Defendant had 2 or more bench warrants at time of arrest = 1, All other categories = 0</p> <p>Defendant previously sentenced as a youthful offender = 1, All other categories = 0</p> <p><i>No recommendation (weak NYC ties): Reference Category</i></p> <p>Recommended or qualified recommendation = 1, All other categories = 0</p> <p>Open bench warrant = 1, All other categories = 0</p> <p>Other or missing = 1, All other categories = 0</p> <p>Unemployed = 1, All other categories = 0</p> <p>At current address 1 year or less = 1, All other categories = 0</p> <p>Lives with someone = 1, All other categories = 0</p> <p>Does not expect anyone at arraignment = 1, All other categories = 0</p> <p>Has no telephone = 1, All other categories = 0</p> <p>Lives outside NYC area = 1, All other categories = 0</p>

Table Continues on Next Page

APPENDIX C: CODING OF VARIABLES FOR REGRESSION MODELS
(continued)

VARIABLES ¹	CODING SCHEME
<p>CHARGE CHARACTERISTICS</p> <p>NUMBER OF ARREST CHARGES</p> <p>ARRAIGNMENT CHARGE TYPE <i>Reference Category: Assault (PL 120)</i> Criminal Contempt (PL 215) Other</p> <p>ARRAIGNMENT CHARGE SEVERITY</p> <p>RELEASE CHARACTERISTICS</p> <p>STAGE OF RELEASE</p> <p>TYPE OF RELEASE</p> <p>DEFENDANT'S DEMOGRAPHIC CHARACTERISTICS</p> <p>BOROUGH <i>Reference Category: Bronx</i> Brooklyn Manhattan Queens Staten Island</p> <p>SEX (Female)</p> <p>ETHNICITY: <i>Reference Category: Non-Hispanic Black</i> Non-Hispanic White Hispanic Other</p> <p>AGE: <i>Reference Category: Age 16-20</i> Age 21-29 Age 30-39 Age 40 and over</p> <p>DEFENDANT-VICTIM RELATIONSHIP <i>Reference Category: Married</i> Boyfriend-girlfriend Common-law marriage Other relationship Missing</p>	<p>Number of charges, ranges from 1 to 4</p> <p><i>Assault: Reference Category</i> Criminal Contempt = 1, All other categories = 0 Other = 1, All other categories = 0</p> <p>A Felony = 1, B Felony = 2, C Felony = 3, D Felony = 4, E Felony = 5, A Misdemeanor = 6, B Misdemeanor = 7, Unclassified Misdemeanor = 8, Violation = 9</p> <p>Release at arraignment = 1, Released after arraignment = 0 Bail = 1, ROR = 0</p> <p><i>Bronx: Reference Category</i> Brooklyn = 1, All other categories = 0 Manhattan = 1, All other categories = 0 Queens = 1, All other categories = 0 Staten Island = 1, All other categories = 0</p> <p>Female = 1, Male = 0</p> <p><i>Non-Hispanic Black: Reference Category</i> Non-Hispanic White = 1, All other categories = 0 Hispanic = 1, All other categories = 0 Other = 1, All other categories = 0</p> <p><i>Age 16-20: Reference Category</i> Age 21-29 = 1, All other categories = 0 Age 30-39 = 1, All other categories = 0 Age 40 and over = 1, All other categories = 0</p> <p><i>Married: Reference Category</i> Boyfriend-girlfriend = 1, All other categories = 0 Common-law marriage = 1, All other categories = 0 Other relationship = 1, All other categories = 0 Missing = 1, All other categories = 0</p>

NOTE

¹ See text for a description of the variables in the models.