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Domestic Violence in New Mexico:

Criminal Case Processing and Outcomes

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Introduction

Both prosecutors and judges have discretion that influences the progression and outcomes of criminal cases. Prosecutors decide whether there is enough evidence to pursue a case, which charges to pursue, and whether to accept a plea bargain. They can also recommend an appropriate sentence or choose to dismiss the case after filing charges. Judges have discretion when imposing sentences. Statutes in New Mexico (N.M. Stat. § 31-18-12 to N.M. Stat. § 31-18-26) provide judges with guidelines identifying the basic sentence by the degree (and in some cases, the type) of the offense. However, judges have some latitude. The judge may alter the basic sentence depending on aggravating and mitigating circumstances. For example, enhancements may be added if certain conditions are met (e.g. use of firearm). Further, judges choose whether defendants should serve a sentence for each charge concurrently or consecutively. While it is important for both prosecutors and judges to have discretion, it can lead to disparities. Both legal and extralegal factors can influence these decisions, which can vary by crime type. In this report, we assess whether there are disparities in sexual assault and aggravated assault cases involving domestic violence relative to those that do not involve domestic violence.

Literature Review

Prior research demonstrates different outcomes for defendants charged with domestic violence relative to those charged with other offenses. For example, in a multi-state study published by the Bureau of Justice Statistics, Smith, Durose and Langan (2008) found domestic violence cases resulted in the same or harsher case processing outcomes than non-domestic violence cases. Conversely, in New Mexico, Freeman (2008) found that cases involving assault against a household member were less likely to be convicted and more likely to be conditionally discharged. Conditional discharges require that the defendant comply with certain conditions; if violated, judges can convict the defendant of the original charges. Further, cases not involving a household member had longer prison sentences. The Freeman (2008) study, however, did not control for important variables like prior criminal history, which could impact these results. Like the Freeman (2008) study, other literature suggests that cases involving domestic violence are treated less severely. For example, Bond and Jeffries (2014) found that cases involving domestic violence were less likely to result in a prison term and when incarcerated, sentences were shorter after accounting for legal and extralegal variables. Importantly, New Mexico researchers (Caponera, 2015) have noted a decline in the proportion of domestic violence cases resulting in conviction with a corresponding increase in dismissals. It is important to understand whether this is unique to domestic violence cases.

Disposition and sentencing may vary by offender characteristics and by crime type. Research generally shows that women are treated more leniently than men (see, e.g., Daly and Bordt, 1995; Doerner & Demuth, 2014; Nowacki, 2019; Steffensmeier et al., 1998). However, some researchers theorize that women who commit more "masculine" violent crimes are treated either the same or more harshly than men who commit the same crimes (for a discussion, see Spohn & Beicher, 2000). Some research supports this supposition. For example, Rodriguez et al. (2006) found that the likelihood of incarceration was the same for males and females who commit violent crimes. However, Bond and Jeffries (2014) found females convicted of violent offenses were less likely to be incarcerated, and both Rodriguez et al. (2006) and Bond and Jeffries (2014) found that when incarcerated, males were more likely to receive a longer sentence. The location of incarceration may also differ for men and women. In New Mexico, judges have discretion regarding where offenders should spend their incarceration if the sentence is between 12 and 18 months. Some believe that, in New Mexico, women are more likely to serve a

sentence in prison while men are more likely to serve it in jail when judges are allowed this discretion. We are not aware, however, of any studies comparing these rates in New Mexico. Nationally, Nowacki (2019) found that women were less likely to be sentenced to prison, but found no differences for jail or non-custodial sentences by gender.

Current Study

The goal of this study is to examine whether there are criminal justice disparities among individuals charged with aggravated assault or sexual assault. We explored whether the cases of individuals charged with aggravated assault or sexual assault against a household member are processed and sentenced differently than those who commit these acts against someone who is not a household member. We examined multiple outcomes (prosecution rate, conviction rate, etc.) which are consistent with the Bureau of Justice Statistics' (BJS) study of case processing of domestic violence cases (Smith et al., 2008). This allowed us to compare our results to those found in other states. We also explored whether female offenders are treated differently than male offenders. In addition to replicating the measures from the BJS (Smith et al., 2008) report, we completed multivariate analyses to assess factors associated with prosecutorial, disposition, and sentencing decisions. We explored the following research questions:

1. What are the outcomes among aggravated assault and sexual assault incidents involving domestic violence compared to those that do not involve domestic violence?
2. How do these outcomes vary by the gender of the offender?

Methods

This study follows cases with a most serious offense of felony-level aggravated assault or sexual assault. In this section, we describe the data sources, construction of the sample, and data elements. We conclude with a summary of the analytical techniques employed in the study.

Data Sources

In this study we used two sources of data. First, we used administrative data from the New Mexico Administrative Office of the Courts (AOC). In addition to personal identifiers and some demographics, the data include charge name, statute and degree; disposition; and sentencing information. There are multiple lines of data for each case. Each line includes a unique charge by type (case filing, plea, and disposition charges) and date. Case filing charges are the initial charges. Plea charges are changes to the initial charges based on the plea agreement. Disposition charges indicate which charges progressed to the disposition stage and include the disposition, sentence, and date of sentence by charge. There are also variables that summarize the entire disposition and sentence for the case (e.g., total number of days incarcerated, total number of days suspended). If the disposition changes (e.g., probation is ordered and then revoked), a new line of data with the charge, the new disposition, and associated date for that charge appears in the data.

Second, we used data from the Department of Public Safety (DPS). DPS criminal history data are maintained in DPS' Criminal Justice Information System. DPS provides quarterly statewide arrest data. Each entry represents a custody change: arrest or incarceration, with one line of data for each offense type associated with a given arrest or incarceration. Data elements we received from DPS include name, date of birth, last four digits of social security number, race, sex, offense type, arresting agency, and date of arrest. We have data from January 2000 to the current quarter. These data were used to create criminal history measures.

We merged data from AOC and DPS together using Soundex versions of names and date of birth. For details on our matching procedures, please see our report entitled "Assessing Record Linkage Matches Using String Distance Measures".

Sample Construction

In order to identify cases for inclusion, we began with all felony-level cases disposed between 2012 and 2016. We then identified the most serious offense in the case as measured by the degree of the offense. We eliminated cases that did not include a violent offense as the most serious offense from the sample. Thus, this sample included all violent felonies disposed between 2012 and 2016 in New Mexico. From this sample, we identified cases with a charge of aggravated assault or sexual assault and determined whether these were the most serious offense (see Appendix A for definitions). If the assault charge was the most serious offense, the case was included in the final sample. Some cases involved juvenile offenders; these were eliminated from the final sample.

Data Elements

We explored four primary outcomes in this study, consistent with the BJS study of domestic violence case processing (Smith et al., 2008): prosecution, conviction, incarceration, and length of incarceration. This allowed us to compare our results to those found by Smith et al. (2008). Additionally, we expected a number of legal and extralegal variables to be related to those outcomes: current offense, demographics, and prior criminal history. In this section we describe these data elements.

Dependent Variables

We classified cases in which the prosecutor dismissed all charges as *not prosecuted*. We considered all others *prosecuted*. Cases in which the defendant pled guilty or was found guilty after a trial were classified as *convicted*. Those who were acquitted or whose sentence was conditionally discharged were classified as *not convicted*. If convicted, we also determined whether the defendant was convicted of the same offense with which the defendant was charged, and whether it was a felony or misdemeanor. However, for some analyses, we disaggregated cases into three groups: *convicted*, *acquitted*, and *deferred or conditionally discharged*.[1] The last group includes defendants who are held responsible for their offense, but whose charges may be dismissed if they successfully complete the conditions imposed. As such, these options may result in less serious outcomes for the defendant.

Among those convicted, we determined whether the judge sentenced the defendant to serve any time *incarcerated*, and whether that time was to be served in jail or prison, as documented in the AOC data. We also calculated the total *incarceration length in days*. The AOC data records sentence length in different ways: by case, by charge, and if by charge, it could be consecutive or concurrent. There was not a single variable that captured total incarceration sentence. Instead, this had to be calculated (see "Quality of the Administrative Office of the Courts' Disposition and Sentencing Data" for an in-depth discussion of the sentence data and how to best calculate it).

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[1] When a defendant is granted a conditional discharge, no conviction or adjudication of guilt is entered. Instead, the defendant is placed on probation and, if successfully completed, the charges against them are dismissed and the case does not result in a conviction. However, the defendant is still being held accountable and, if not successful, may be adjudicated as guilty. Deferred sentences require a finding of guilt; the judge defers the sentence but requires that certain conditions be met. If the defendant successfully meets those conditions, the charges may be dismissed.

We included a number of independent variables to answer our research questions. These included measures of the current offense, demographic information, and measures of criminal history.

Current Offense

We constructed several variables related to the current offense. We first classified cases as involving *aggravated assault* or *sexual assault*. If the case involved both and the severity of the offenses were the same, we coded the case as sexual assault.

Next, we determined whether the case involved *domestic violence* or *not*. New Mexico has statutes specific to domestic violence aggravated battery/assault (N.M. Stat. § 30-3-15 to N.M. Stat. § 30-3-17) and criminal damage to property against a household member (N.M. Stat. § 30-3-18).[2] We used these statutes to identify domestic violence-related assaults. If the case included one or more domestic violence-related charges at filing, the case was identified as involving domestic violence. In a small percentage of cases, the domestic violence-related charges were dismissed before disposition. This may be because the relationship was determined not to fit the criteria for domestic violence. Additionally, in some cases, domestic violence-related charges were added later. We chose to use the filing charges for consistency as well as completeness. We did not find any meaningful differences by using either the disposition designation or by combining filing and disposition in our analyses.

In addition to offense type, we included the *degree of the offense* at the time of initial filing. This ranges from 1st degree felony (the most serious) to 4th degree felony (the least serious). While the degree of the offense is recorded for most offenses, there were some values missing from the automated data. When missing, we checked the online court database. When this did not resolve the issue, we coded the charge using the lowest felony identified in statute for that charge. The degree of the offense at filing can be higher or, less often, lower than the degree of the charge for which a person is ultimately convicted (e.g., defendants can accept a plea bargain for a lesser charge). Thus, we also constructed a variable that measures the *change in degree* from filing to conviction, with three values: increase, decrease, or no change.

Use of a *weapon* may reflect the severity of the case. Filing charges indicating that a weapon was used were coded as such. Typically, this reflects whether a firearm was used in the commission of the offense. This is an imperfect way of determining whether a weapon was involved since it depends on whether certain charges were filed, but New Mexico is not yet a NIBRS-compliant state and the DPS data do not include reliable information about weapon use in their automated data. Thus, we relied on charge information from the AOC.

Finally, we identified the county where the court case was filed as there may be jurisdictional differences. There are 33 counties in New Mexico, which we grouped into six regions: Central, Northeast, North Central, Northwest, Southeast and Southwest (see Appendix B). Bernalillo County is the most populous county in New Mexico; it is included in the Central region along with the counties surrounding Bernalillo County. Analyses compare the other regions to the Central region.

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[2] New Mexico statute defines a household member as: "a spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the purposes of the Crimes Against Household Members Act" (N.M. Stat § 30-3-11 (2019)).

Demographics

Demographics consisted of *age* at the time of case filing and *gender*. We used the AOC database as the primary database for these data, and DPS when not populated in the AOC data. In supplementary analyses, we included interaction terms combining gender and domestic violence offense status. We also intended to include race/ethnicity. However, we ultimately excluded this variable because of high rates of missing and contradictory data across data sources. Race/ethnicity was largely missing from the AOC data, and the DPS data often does not include ethnicity.

Criminal History

We included several measures of criminal history. We determined the total number of *prior arrests* from the DPS data. We also calculated the *percentage* of prior arrests that were for *violent offenses not involving domestic violence* and the *percentage* of prior arrests that *did involve domestic violence*.

Data Analysis

We analyzed the data to compare outcomes among domestic violence offenders relative to non-domestic violence offenders using univariate and bivariate statistics. Replicating the methodology used in the BJS multi-state study (Smith et al., 2008), we calculated the following outcomes. First, we constructed the prosecution rate. This is the proportion of individuals whose cases were prosecuted. Second, we calculated conviction rates. This includes seven different measures of conviction: overall conviction rate, felony and misdemeanor conviction rates, violent felony and violent misdemeanor conviction rates, and felony and misdemeanor aggravated assault/sexual assault rates. We also calculated the prison incarceration rate and the jail incarceration rate. Finally, we calculated the average length of incarceration.

We used binary logistic regression, multinomial logistic regression, and multiple linear regression to explore the outcomes of domestic violence cases compared to non-domestic violence cases controlling for extralegal and legal factors. Specifically, we used binary logistic regression to assess whether there are disparities between domestic violence cases compared to non-domestic violence cases regarding prosecution, conviction, and incarceration likelihood. A binary logistic regression is conducted when the dependent variable has two possible outcomes, and it measures the association of multiple independent variables with the outcome of the dependent variable. The results produce an odds ratio (OR) coefficient for each independent variable. This coefficient can be interpreted as the multiplicative change in odds of an event occurring. Odds ratios greater than one indicate that the odds of the outcome occurring are more likely, while those less than one indicates the odds of the outcome occurring are less likely when comparing one category of the variable to the reference category. We calculated two models: one without the domestic violence variable and one with it. This allowed us to compare whether including the domestic violence variable improves the overall fit of the model. We used multinomial logistic regression to assess conviction type (acquittal, conditional discharge/deferred, convicted). Multinomial logistic regression provides the same results as binary logistic regression, but is used when the dependent variable has more than two possible outcomes. Among those ordered to incarceration, we used multiple regression to assess whether there are differences in the length of sentences. We included gender as a key variable. We also calculated models to compare the disposition and sentencing outcomes of males and females by domestic violence status, controlling for other extralegal and legal factors.

Results

We begin with a description of the sample used in this study and descriptive statistics examining offense type. Next, we explore prosecution rates and likelihood of prosecution. Then, for the defendants who are prosecuted, we explore conviction rates and likelihood of conviction. Finally, for the defendants convicted, we examine incarceration rates and the likelihood of incarceration. Throughout the results section, we include comparisons to the findings in the BJS multi-state study (Smith et al., 2008), when applicable.

Sample Description

The initial sample includes cases disposed between 2012 and 2016 where the most serious offense was a violent felony (N=21,454). Table 1 below summarizes all violent felonies disposed in New Mexico between 2012 and 2016. The most common violent felony charge was aggravated assault (50%) followed by other violent offenses (32%). These include charges such as kidnapping, child abuse, and great bodily harm by vehicle. Most offense types were not identified as domestic violence-related. Overall, 26% of cases involved domestic violence, which is lower than the 32% BJS found (Smith et al., 2008). The majority of domestic violence cases involved aggravated assault (58.5%), which is slightly less than the 62.2% reported by BJS (ibid). However, just 1% of domestic violence cases in New Mexico had a most serious offense charge of sexual assault; this is much lower than the nearly 11% BJS found. Rates of non-domestic sexual assault in New Mexico were similar to the rates reported by BJS.

Table 1. Most Serious Violent Felony Charge at Arrest			
Most Serious Arrest Charge	Total	Domestic Violence	Non-Domestic Violence**
Murder	2.0%	0.1%	2.7%
Robbery	7.1%	0.9%	9.3%
Intimidation	1.5%	2.4%	1.1%
Aggravated Assault	49.9%	58.5%	46.8%
Sexual Assault	7.2%	1.2%	9.3%
Other Violent	32.4%	36.8%	30.8%
Number of Cases	21,454	5,674	15,780
Percent of Cases	100%	26.4%	73.6%

**p≤.05

The final sample includes 12,248 felony-level aggravated assault and sexual assault cases disposed between 2012 and 2016. Aggravated assaults comprised the majority (87.4%) of the cases; just 12.6% of cases included a sexual assault charge as the most serious offense. Around a third (27.7%) of all cases also involved domestic violence; the remainder were classified as non-domestic violence. A significantly higher percentage of aggravated assault cases involved domestic violence (31%) compared to cases involving sexual assault (4.5%). These results are summarized in Table 2 below.

Table 2. Domestic Violence Rates by Offense Type			
		Most Serious Charge at Filing	
	Total	Sexual Assault	Aggravated Assault***
Domestic Violence	27.70%	4.50%	31.0%
Non-Domestic Violence	72.30%	95.50%	69.0%
Number of Cases	12,248	1,543	10,705
Percent of Cases	100%	12.60%	87.4%

 *p<.05 **p<.01

Most defendants were male, with only 15% of the sample identified as female. While the majority of offenses involved aggravated assault regardless of gender, males were significantly more likely than females to be charged with sexual assault, regardless of whether the case was domestic violence-related. A greater proportion of females were charged with a non-domestic aggravated assault than males. Table C.1 in Appendix C provides additional information about the sample.

Table 3. Offense Type by Gender		
	Male	Female**
Sexual Assault	14.30%	2.80%
Domestic Violence	0.70%	0.10%
Non-Domestic Violence	13.70%	2.80%
Aggravated Assault	85.70%	97.20%
Domestic Violence	27.0%	27.9%
Non-Domestic Violence	58.7%	69.2%
Number of Cases	10,409	1,839
Percent of Cases	85%	15%

 **p<.01; Details may not sum to total due to rounding.

Charges indicating weapon use were more common in domestic sexual assault cases (7.1%) than non-domestic sexual assault cases (1.1%, p<.01). However, the opposite was true in aggravated assault cases. Weapons-related charges were more common in non-domestic aggravated assault (52.7%) than domestic aggravated assault (22.2%, p<.01). These results are summarized in table 4 below. The BJS study (Smith et al., 2008) found similar results in that domestic sexual assault cases were slightly more likely to involve a weapon than non-domestic sexual assault cases, but domestic aggravated assault cases were less likely to involve a weapon than non-domestic aggravated assault cases.

Table 4. Charges Involving Weapon Use in Domestic and Non-Domestic Violence Cases				
	Sexual Assault		Aggravated Assault	
Weapon Use	Domestic	Non-Domestic	Domestic	Non-Domestic
Armed	7.1%	1.1%**	22.2%	52.7%**
Unarmed	92.9%	98.9%	77.8%	47.3%
Number of Cases	70	1,473	3,322	7,383

*p<.05 **p<.01

Prosecution

Aggravated assault cases that involved domestic violence had significantly lower prosecution rates (65.1%, p<.01) than aggravated assault cases that did not involve domestic violence (74%, p<.01). We found that sexual assault cases involving domestic violence were prosecuted at a slightly higher rate than non-domestic sexual assault cases; this was not, however, statistically significant. These results are summarized in Table 5 below.

The aggravated assault outcome here differs from that of the BJS report (Smith et al, 2008), which found that cases involving domestic aggravated assault were as likely to be prosecuted as non-domestic aggravated assault cases. Furthermore, while, the BJS report (ibid.) found that domestic sexual assault cases were more likely to be prosecuted than non-domestic sexual assault cases, we found no significant difference.

Table 5. Prosecution Rates by Domestic and Non-Domestic Violence				
	Sexual Assault		Aggravated Assault	
Prosecution Outcome	Domestic	Non-Domestic	Domestic	Non-Domestic**
Prosecuted	71.4%	70.3%	65.1%	74.0%
Not Prosecuted	28.6%	29.7%	34.9%	26.0%
Number of Cases	70	1,473	3,322	7,383

**p<.01

We utilized two multivariate logistic regression models to predict the likelihood of prosecution. The first model includes demographic variables (age and gender), criminal history variables (prior arrests, percent of prior arrests for non-domestic violence, and percent of prior arrests for domestic violence) and current offense characteristics (offense type, degree at filing, region, weapon usage). The second model includes all of these variables, with the addition of a variable that identifies whether the filing charges included domestic violence.

Older defendants were significantly less likely to be prosecuted than younger defendants after holding all other variables constant. The first model shows that for every year increase in a defendant's age, the odds of prosecution decreased by a factor of .987 (p<.01); the odds were nearly identical in the second model. We found no statistically significant differences by gender.

Criminal history was significantly related to the odds of prosecution. For every one unit increase in the number of prior arrests, the odds of being prosecuted increases by a factor of 1.021 (p<.01).

Furthermore, every unit increase in the percent of prior arrests for non-domestic violent offenses increases the odds of being prosecuted by a factor of 1.006 (p<.01). While the proportion of prior arrests for domestic violence offenses was not statistically significant in Model 1, it was significant in Model 2. Model 2 shows that for every one unit increase in the proportion of prior arrests for domestic violence, the odds of prosecution increase by a factor of 1.002 (p<.01).

The variables representing current offense were also significantly related to prosecution. Model 1 indicates that the odds of prosecution were greater for those charged with aggravated assault relative to sexual assault; however, this variable was not statistically significant in this model.

The most serious degree of felony charged at filing was inversely related to prosecution likelihood. Thus, contrary to what may be expected, the higher the severity of the charge, the less likely it is to be prosecuted. Defendants charged with a 3rd degree felony had significantly lower odds of being prosecuted than a defendant charged with a 4th degree felony (odds ratio Model 1 = .769, Model 2=.827, p<.01). Defendants charged with a 2nd degree felony had significantly lower odds of being prosecuted than a defendant charged with a 4th degree felony; this result, however, was only statistically significant in Model 1 (OR=.811, p<.05). The odds of prosecution did not significantly differ for those charged with a 1st degree felony relative to those charged with a 4th degree felony.

Weapon usage was inversely related to likelihood of prosecution. In both models, defendants who were charged with an offense involving a weapon had significantly lower odds (Model 1=.876, Model 2 = .798, p<.01) of being prosecuted than defendants who did not have a weapons-related charge.

Region also mattered for prosecution likelihood. Compared to defendants tried in the Central region of New Mexico, defendants tried in all other regions had significantly higher odds of being prosecuted. Particularly notable were the odds of prosecution in the Northeast region relative to the Central region. The odds of prosecution were over four times greater in the Northeast region relative to the Central region, while the odds were over two times greater in the remaining regions.

In Model 2, we added a variable that indicates whether the filing offense involved domestic violence. The chi-square value (42.146, 1 df) indicates that the addition of this variable significantly improved the model (p<.001). In the second model, the odds of prosecution were significantly lower for a defendant arrested for domestic violence (OR = .681, p<.01) relative to a defendant arrested for non-domestic violence. The previously identified relationships in Model 1 remained mostly stable with the introduction of the domestic violence variable. However, in Model 2, the effect of filing offense type became statistically significant (p<.05), with defendants charged with aggravated assault having higher odds (OR= 1.282) of being prosecuted than defendants charged with sexual assault. These results are summarized in Table 6 below.

Table 6. Multivariate Logistic Regression Predicting Prosecution		
Variable	Model 1	Model 2
Demographics		
Gender (Reference = Female)		
Male	1.020	.933
Age	.987***	.988***
Criminal History		
Prior Arrests	1.021***	1.021***
Percent of Prior Arrests for Non-DV Violent Offenses	1.006***	1.006***
Percent of Prior Arrests for DV Offenses	1.000	1.002**
Current Offense		
Filing Offense Type (Reference = Sexual Assault)		
Aggravated Assault	1.144	1.282*
Degree at Filing (Reference= 4th Degree Felony)		
3rd Degree Felony	.769***	.827***
2nd Degree Felony	.811*	.833
1st Degree Felony	.846	.861
Region (Reference = Central)		
Northwest	2.494***	2.445***
North Central	2.744***	2.747***
Northeast	4.281***	4.252***
Southeast	2.385***	2.386***
Southwest	2.295***	2.311***
Weapon (Reference= None)	.876***	.798***
Domestic Violence (Reference= No DV)	---	.681***
Constant	1.763	1.879
Number of Cases	12,248	12,248
Correctly Classified	71.8%	72.1%
Chi-square difference in -2LL (df)	42.146 (1)***	

*p<.05 **p<.01 *** p<.001

Conviction

Replicating the methods used in the BJS report (Smith et al., 2008), we calculated seven conviction rates and compared the results for domestic and non-domestic sexual and aggravated assaults. First, we calculated the overall conviction rate—that is, the rate of conviction for any offense among those prosecuted. Second, we determined the proportion of defendants convicted of a felony offense versus a misdemeanor offense. We then determined the proportion of defendants convicted of a violent offense within the felony and misdemeanor categories among all those prosecuted. Finally, we calculated the

proportion of convictions for the same offense as the arrest charge, whether at the felony or misdemeanor level, among all prosecuted cases. These results are summarized in Table 7 below.

The majority of defendants whose cases were accepted for prosecution were ultimately convicted. However, there were essentially no differences in overall conviction rates for either domestic (82%) versus non-domestic sexual assault (80.5%) or domestic versus non-domestic aggravated assault (82.5% each). Felony conviction rates, however, were significantly lower for domestic sexual assault than non-domestic sexual assault (58% versus 75.1%, respectively), while cases involving domestic sexual assault had a significantly higher misdemeanor conviction rate (24%) than those for non-domestic sexual assault (5.4%). When convicted, defendants were less likely to be convicted on the same felony sexual assault charge if the cases involved domestic violence compared to those that did not involve domestic violence (32% versus 59.1%, respectively). Most misdemeanor convictions for sexual assault were for a violent offense, but not the same as the offense charge regardless of domestic-violence involvement.

We found significant differences between prosecuted domestic violence-related aggravated assault and non-domestic aggravated assault cases on all conviction measures except the overall conviction rate. The patterns were very similar to those found for sexual assaults. Relative to domestic aggravated assaults, non-domestic aggravated assaults had significantly higher felony conviction rates (45.9% versus 57.8%, respectively), violent felony conviction rates (44.1% versus 53.7%, respectively), and violent felony conviction rates for the same offense as the arrest charge (39.1% versus 52.7%, respectively). Conversely, all three rates for misdemeanor convictions were significantly higher for cases involving domestic violence compared to those that do not.

We also compared categories of cases that did not result in conviction. Cases were classified as not convicted if they were dismissed because the defendant was acquitted, because the judge dismissed the charges or opted to offer the defendant a conditional discharge. We found no statistically significant differences in these rates for sexual assault cases. However, defendants charged with domestic aggravated assaults had significantly lower rates of acquittal than those with non-domestic aggravated assault (1.8% versus 2.6%). Notably, overall acquittal rates were much higher for sexual assault compared to aggravated assault, regardless of whether the case involved domestic violence, while rates of conditional discharge were higher for aggravated assaults.

The conviction rates found here differ from the findings of the BJS study (Smith et al, 2008). For both sexual assault and aggravated assault cases, they found conviction rates were higher for those cases involving domestic violence. These differences occurred at both the felony and misdemeanor level, however, not all of those differences were statistically significant. Furthermore, unlike the BJS study (ibid.), acquittal rates for sexual assault (domestic or non-domestic) are much higher in New Mexico.

Table 7. Conviction Rates by Domestic and Non-Domestic Violence				
	Sexual Assault		Aggravated Assault	
Adjudication Outcome	Domestic	Non-Domestic	Domestic	Non-Domestic
Convicted	82.0%	80.5%	82.5%	82.5%
Felony Offense	58.0%	75.1%***	45.9%	57.8%***
Violent Offense	54.0%	64.3%	44.1%	53.7%*
Same Offense as Arrest Charge	32.0%	59.2%*	39.1%	52.7%*
Misdemeanor Offense	24.0%	5.4%*	36.6%	24.8%*
Violent Offense	24.0%	4.5%*	32.9%	18.4%*
Same Offense as Arrest Charge	2.0%	1.0%	31.3%	17.4%*
Not Convicted	18.0%	19.5%	17.5%	17.5%
Acquitted	10.0%	10.7%	1.8%	2.6%*
Conditional Discharge	8.0%	8.8%	15.7%	14.8%
Number of Cases	50	1,036	2,164	5,461

*p<.05 ***p<.001

We conducted a multivariate logistic regression to predict the likelihood of a case resulting in a conviction. Like the prosecution model, we calculated two models. The first model includes demographic variables (age and gender), criminal history variables (prior arrests, percent of prior arrests for non-domestic violence, and percent of prior arrests for domestic violence), and current offense characteristics (offense type, degree at filing, region, weapon usage). In the second, we added whether the filing charges included domestic violence. These results are summarized in Table 8 below.

The effect of defendant gender on conviction likelihood was statistically significant in both models, with male defendants more likely to be convicted; odds ratios in both models are about 1.6 (p<.001). Cases with older defendants were more likely to end in conviction. For every year older a defendant is, the odds of their case resulting in conviction increased by a factor of 1.013 (p<.001).

All three criminal history variables were significantly related to conviction. For every prior arrest that a defendant had, their odds of being convicted increased by a factor of 1.155 (p<.001). However, the proportions of prior arrests for violent non-domestic and domestic violence offenses were inversely related to conviction. That is, for every percent increase in the proportion of prior arrests for non-domestic or domestic violence, a defendant's odds of conviction decreased (OR = .998 for proportion of non-domestic violent offenses, p<.05; OR is approximately .996 for domestic, p<.001).

Cases involving aggravated assault were significantly more likely than cases involving sexual assault to end in conviction. Cases involving aggravated assault had significantly higher odds (OR Model 1= 1.714, Model 2= 1.710, p<.001) of conviction than cases involving sexual assault. Furthermore, the more serious the degree of offense the more likely a case was to end in conviction. Cases involving a 3rd degree felony (OR Model 1= 1.142, Model 2=1.140, p<.05), 2nd degree felony (OR Model 1 = 1.713, Model 2=1.712, p<.001), or a 1st degree felony (OR Model 1=1.532, Model 2=1.531, p<.05) had

significantly higher odds of conviction than a case involving a 4th degree felony, holding all other variables constant. The odds were greatest, though, for those with a 2nd degree felony.

Relative to cases filed in the Central region, cases filed in most other regions had significantly higher odds of conviction. Most notable were those filed in the Southwest region, where the likelihood of conviction increased by over three times that of the Central region (OR=3.318, p<.001). However, there were no significant differences between the Central region and the North Central region and the odds of conviction were lower in the Northeast (OR=.722, p<.01).

Contrary to what would be expected, cases that involved weapons charges were significantly less likely to end in conviction (OR Model 1=.695, Model 2=.696, p<.001). Furthermore, whether the case involved domestic violence was not significantly related to conviction. Neither the OR (1.011) nor the overall chi-square value (.013) comparing Model 1 to Model 2 were significant.

Table 8. Multivariate Logistic Regression Predicting Conviction		
Variable	Model 1	Model 2
Demographics		
Gender (Reference = Female)		
Male	1.563***	1.562***
Age	1.013***	1.013***
Criminal History		
Prior Arrests	1.155***	1.155***
Percent of Prior Arrests for Non-DV Violent Offenses	.998*	.998*
Percent of Prior Arrests for DV Offenses	.996***	.996***
Current Offense		
Filing Offense Type (Reference = Sexual Assault)		
Aggravated Assault	1.714***	1.710***
Degree at Filing (Reference= 4th Degree Felony)		
3rd Degree Felony	1.142*	1.140*
2nd Degree Felony	1.713***	1.712***
1st Degree Felony	1.532*	1.531*
Region (Reference = Central)		
Northwest	1.246*	1.246*
North Central	1.133	1.132
Northeast	.722**	.722**
Southeast	2.533***	2.532***
Southwest	3.318***	3.318***
Weapon (Reference= None)	.695***	.696***
Domestic Violence (Reference= No DV)	---	1.011
Constant	.398	.398
Number of Cases	8,711	
Chi-square difference in -2LL (df)	.013 (1)	
Correctly Classified	82.3%	82.3%

*p<.05 **p<.01 *** p<.001

Table 9 summarizes the results of a multinomial logistic regression predicting disposition. In this model, conviction was the reference variable. This model compared those convicted outright (not conditionally discharged) to those conditionally discharged or with a deferred sentence, and those convicted to those acquitted.

Age was related to both conditional discharges/deferrals and acquittals, but in opposite directions. Age was inversely related to conditional discharges/deferrals. Holding all other variables constant, the odds that a case resulted in a conditional discharge or deferral decreased by a factor of .983 (p<.001) for

every year increase in a defendant's age. Conversely, the odds of a case resulting in an acquittal increased by a factor of 1.011 (p<.05) for every year increase in age. Gender was significant only for conditional discharge or deferral. Relative to females, the odds that a male defendant's case resulted in a conditional discharge or deferral rather than conviction were significantly lower (OR =.527, p<.001).

All of the criminal history variables were significantly related to condition discharge or deferrals, and all but one to acquittals. Prior arrests increased the odds of conviction. For every prior arrest a defendant had, the odds of deferral or conditional discharge decreased by a factor of .833 (p<.001) and the odds of acquittal decreased by a factor of .919 (p<.001). For every percent increase in the rate of prior arrests for non-domestic violence, the odds of conditional discharge/deferral increased by a factor of 1.003 (p<.001), while the odds of acquittal decreased by a factor of .994 (p<.001). Similarly, for every percent increase in the rate of prior arrests for domestic violence, the odds of conditional discharge/deferral increased by a factor of 1.004 (p<.01). In other words, defendants whose criminal history includes a greater proportion of violent offenses, whether they involve domestic violence or not, were more likely to receive a conditional discharge or deferral. However, those with a greater proportion of non-domestic violent offenses were less likely to be acquitted.

Current offense type did not have a significant relationship with conditional discharge/deferral, but did with acquittals relative to conviction. The odds that a case resulted in acquittal rather than conviction were significantly lower (.268, p<.01) for a defendant charged with aggravated assault relative to those charged with sexual assault. Domestic violence had a significant effect on case outcome. Defendants charged with domestic violence had significantly higher odds (OR = 1.264, p<.01) of conditional discharge or deferral rather than conviction than defendants charged with non-domestic violence. However, there was no statistically significant difference between acquittal and conviction by domestic violence status.

The degree of the most serious offense at filing had a significant effect on the likelihood of receiving a conditional discharge or deferral relative to conviction. Defendants arrested on a 1st degree felony (OR = .147, p<.001), 2nd degree felony (OR = .296, p<.001), or 3rd degree felony (OR = .720, p<.001), had significantly lower odds of receiving a conditional discharge or deferral relative to defendants arrested on a 4th degree felony charge. However, the degree of the offense at filing was not significantly related to acquittals.

The region where a case was filed was a statistically significant predictor of multiple case outcomes. The odds that a case resulted in a conditional discharge/deferral or acquittal rather than conviction were either lower or no different for all regions relative to cases filed in the Central region. Defendants in the Northwest and Southwest regions had significantly lower odds of receiving a conditional discharge/deferral (OR=.314 and .219, p<.001) and significantly lower odds of being acquitted (OR = .521, p<.05 and OR =.472, p<.001) than defendants in the Central region. Defendants in the North Central and Southeast regions had significantly lower odds of receiving a conditional discharge/deferral than defendants in the Central region (OR = .438 and .259, p<.001). However, defendants in these regions were no more likely to be acquitted than those in the Central region. Defendants in the Northeast region had significantly lower odds of being acquitted (OR = .211, p<.01) than defendants in the Central region.

Finally, weapon use was significantly related to both conditional discharges/deferrals and acquittals. Defendants whose filing charges included those related to the use of a weapon had significantly greater

odds of either receiving a conditional discharge/deferred sentence (OR=1.234, p<.01) or being acquitted (OR = 1.975, p<.01) rather than convicted.

Table 9. Multinomial Logistic Regression Predicting Case Outcome		
	Case Outcome (relative to conviction)	
Variable	Conditional Discharge/Deferred	Acquitted
Demographics		
Gender (Reference = Female)		
Male	.527***	1.025
Age	.983***	1.011*
Criminal history		
Prior Arrests	.833***	.919***
Percent of Prior Arrests for Non-DV Violent Offenses	1.003***	.994***
Percent of Prior Arrests for DV Offenses	1.004**	1.003
Current offense		
Filing Offense Type (Reference = Sexual Assault)		
Aggravated Assault	.964	.239***
Degree of MSO at Filing (Reference = 4th Degree Felony)		
3rd Degree Felony	.720***	1.418*
2nd Degree Felony	.296***	1.590
1st Degree Felony	.147***	2.008**
Region (Reference = Central)		
Northwest	.314***	.521*
North Central	.438***	.538*
Northeast	1.158	.211**
Southeast	.259***	1.002
Southwest	.219***	.472***
Weapon Usage at Filing (Reference = No weapon)		
Weapon Used	1.234**	1.975***
Domestic Violence at filing (Reference = No DV)		
Domestic Violence	1.264**	.709
Number of Cases	8,711	
Chi-Square	1,920.8 (32)***	
Pseudo R-squared measures		
Cox and Snell	.198	
Naglekerke	.265	

*p<.05 **p<.01 ***p<.001

Incarceration

Incarceration rates were significantly lower (34.1%) for defendants convicted of domestic sexual violence than those convicted of non-domestic sexual violence (57.8%, p<.01). Furthermore, when convicted, prison incarceration rates were significantly lower for defendants convicted of domestic sexual assault (26.8%) compared to defendants convicted of non-domestic sexual assault (51.0%, p<.05). Jail incarceration rates did not significantly differ between defendants convicted of domestic or non-domestic sexual assault, nor did "other" non-incarceration rates.[3] Table 10 below summarizes these results.[4]

Overall incarceration rates, as well as prison and jail incarceration rates, were also significantly lower for defendants convicted of domestic aggravated assault compared to those convicted of non-domestic aggravated assault. The overall incarceration rate for defendants convicted of domestic aggravated assault was 30.9% compared to 42.2 of those convicted of non-domestic aggravated assault (p<.001); prison rates were 19.9% and 29.3%, respectively (p<.05). The differences in jail incarceration rates between defendants convicted of domestic compared to non-domestic aggravated assault were not as notable (11.0% versus 12.9%, respectively), but were still statistically significant (p<.05).

These findings differ from the results found in the BJS study (Smith et al. 2008). In that study, they found no significant differences in incarceration rates between defendants convicted of domestic sexual assault/aggravated assault and those defendants convicted of non-domestic violence sexual assault/aggravated assault. Furthermore, the BJS study (ibid.) had much higher rates of incarceration across the board (ranging from 84.5% to 93.8%).

Table 10. Incarceration Rates by Domestic and Non-Domestic Violence				
	Sexual Assault		Aggravated Assault	
Sentence Type	Domestic	Non-Domestic	Domestic	Non-Domestic
Incarceration	34.1%	57.8%**	30.9%	42.2%***
Prison	26.8%	51.0%*	19.9%	29.3%*
Jail	7.3%	6.8%	11.0%	12.9%*
Non-incarceration	63.4%	37.2%	63.3%	53.3%
Probation	61.0%	35.1%*	62.1%	52.4%*
Other	2.4%	2.0%	1.2%	0.9%
Missing	2.4%	5.0%	5.8%	4.4%*
Number of Cases	41	834	1,785	4,508

*p<.05 **p<.01 ***p<.001

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[3] Non-incarceration includes probation and "other." Probation rates include deferred sentences. "Other" non-incarceration rates include those who were convicted but released with time served and those sentenced to non-custodial community corrections.

[4] Some defendants are sentenced on multiple cases at the same time; these results reflect the information available for the case included in our sample. In some instances, defendants may be incarcerated for another case but that will not be reflected here.

We calculated a binary logistic regression to predict the likelihood of incarceration for convicted defendants. As in the prior multivariate analyses, we calculated two models. The first model includes demographic variables, criminal history, and current offense characteristics variables. The second adds the variable indicating whether the filing charges included domestic violence. These results are summarized in Table 11 below.

In both models, the odds of a male defendant being incarcerated were significantly higher (OR Model 1= 1.782, Model 2=1.810, p<.001) than the odds of a female defendant being incarcerated. Age was not significantly related to incarceration.

Prior arrests had a positive association with incarceration likelihood. For each prior arrest a defendant had, the odds of incarceration increased by a factor of 1.068 (p<.001). Percent of prior arrests for non-domestic violence was a significant variable. Interestingly, for every percent increase in prior arrests for non-domestic violence, the odds of incarceration decreased by a factor of approximately .998 (p<.01). Likewise, the percent of prior arrests for domestic violence was inversely related to incarceration (OR Model 1=.994, p<.001; Model 2 =.997, p<.05).

Current offense was not a statistically significant variable in either model. However, degree level at filing was related to incarceration likelihood. As the severity of the offense increased, the likelihood of incarceration also increased. Relative to defendants with a 4th degree felony at filing, the odds of incarceration for someone with a 3rd degree felony were 1.4 to 1.5 times greater (Model 1 and Model 2, respectively). Those odds increased for those who had a 2nd degree felony at filing (OR Model 1= 4.149, Model 2= 4.285, p<.001). Those who had a 1st degree felony at filing were over eight times as likely to be incarcerated, relative to those with a 4th degree felony (p<.001).

There were also some significant regional effects. Defendants tried in the Northwest, Southeast, and Southwest regions had significantly higher odds of incarceration than defendants tried in the Central region (OR range from 1.188 to 1.781, depending on region and model). Conversely, defendants tried in the North Central region had significantly lower odds of incarceration (OR Model 1=.795, Model 2=.802, p<.001) than defendants tried in the Central region. There were no differences between the Central and Northeast regions.

Defendants convicted of the offense with which they were originally charged with were more likely to be incarcerated than those whose conviction charge did not include the same felony offense (OR Model 1 =2.105, Model 2=2.064, p<.001). Whether there was a change in the severity of the offense was also associated with incarceration. Those whose charges were the same or higher were more likely to be incarcerated than those whose charges were lower (OR Model 1 =1.772, Model 2=1.761, p<.001). The length of time that it took to resolve the case was not significantly related to incarceration.

The effect of domestic violence was added in the second model. Defendants whose filing charges included domestic violence had significantly lower odds of incarceration (OR =.686, p<.001) than defendants charged with a non-domestic violence offense.

Table 11. Multivariate Logistic Model Predicting Incarceration if Convicted		
Variable	Model 1	Model 2
Demographics		
Gender (Reference = Female)		
Male	1.782***	1.810***
Age	1.000	1.001
Criminal History		
Prior Arrests	1.068***	1.068***
Percent of Prior Arrests for Non-DV Violent Offenses	.998**	.997**
Percent of Prior Arrests for DV Offenses	.994***	.997*
Current Offense		
Filing Offense Type (Reference = Sexual Assault)		
Aggravated Assault	1.060	1.147
Degree at Filing (Reference= 4th Degree Felony)		
3rd Degree Felony	1.432***	1.535***
2nd Degree Felony	4.149***	4.285***
1st Degree Felony	8.987***	9.234***
Weapon (Reference= None)	1.040	.968
Region (Reference = Central)		
Northwest	1.781***	1.757***
North Central	.795*	.802*
Northeast	.837	.836
Southeast	1.387***	1.400***
Southwest	1.188*	1.209*
Conviction Offense		
Convicted of same Felony Charge	2.105***	2.064***
Degree change (Reference= Decrease)		
Degree increase or same	1.772***	1.761***
Days Between Filing and Disposition	1.000	1.000
Domestic Violence (Reference= Not DV)	---	.686***
Constant	.090	.089
Number of Cases	6,821	
Chi-square difference in -2LL (df)	21.083 (1)***	
Correctly Classified	67.7%	67.9%

*p<.05 **p<.05

We examined the length of incarceration among those sentenced to serve time in jail or prison. Table 12 summarizes both the mean (average) length of incarceration as well as the median (midpoint). When sentenced to incarceration, defendants convicted of domestic sexual assaults received much shorter sentences than those convicted of non-domestic sexual assaults (average of 51 months versus 115 months, respectively). Although neither the average nor median differences were statistically significant, likely due to the very small number of defendants incarcerated for domestic sexual assault, they were still substantively significant.

The average length of incarceration for defendants initially charged with domestic aggravated assault was significantly shorter (21 months) than those charged with non-domestic aggravated assault (28 months, p<.001). The median length was similar, however, at 12 and 13 months, respectively. This difference was not statistically significant.

These findings are similar to the BJS report (Smith et al, 2008) which found no significant differences in the median sentence lengths by domestic violence status for either aggravated or sexual assault cases. Our findings differ in that they found the average incarceration length was significantly higher for cases involving domestic sexual assault and no significant differences for aggravated assault.

Table 12. Sentence Lengths by Domestic and Non-Domestic Violence				
	Sexual Assault		Aggravated Assault	
Length of Incarceration	Domestic	Non-Domestic	Domestic	Non-Domestic
Mean	51 months	115 months	21 months	28 months***
Median	45 months	54 months	12 months	13 months
Number of Cases	14	484	551	1,903

***p<.001

We calculated a linear multiple regression model to examine the length of incarceration among those sentenced to incarceration. Like prior models, it includes demographic information, criminal history, and current offense information, with the addition of information related to the conviction. This information included whether the defendant was convicted of the same offense, whether there was a decrease in the degree of the offense, and the time to case resolution. The model explains 22.8% of the variation in incarceration length for convicted defendants. This model is summarized in Table 13 below.

Neither of the demographic variables (gender of defendant or age of defendant) had a statistically significant relationship with length of incarceration. One of the criminal history variables was significantly related to incarceration length. The more prior arrests a defendant had, the longer the incarceration length (β= .064, p<.001). The percentage of prior arrests for either violent or domestic violence offenses did not have a statistically significant relationship with incarceration length.

Filing offense did not have a significant relationship with incarceration length, nor did weapon usage. However, the degree at filing was related to incarceration length. The standardized beta coefficients for each of the degree at filing charges was positively related to incarceration and all were statistically significant. Furthermore, the beta coefficients increased as the degree of the offense became increasingly severe, indicating that the effects became greater as the seriousness of the offense increased (β=.059 for 3rd degree felony, .187 for a 2nd degree felony, and .42 for a 1st degree felony).

While the beta coefficients for all of the region variables were negative, just three had a statistically significant relationship with incarceration length. Relative to those in the Central region, those in the Northeast, Southeast, and Southwest regions (β=-.034, β=-.042, β=-.049, respectively) are sentenced to significantly shorter incarceration terms, holding all other variables in the model constant. Moreover, the effect size is greatest for those in the Southwest region.

Whether the case involved domestic violence was not significantly related to incarceration length. Defendants sentenced for crimes involving domestic violence had sentence lengths similar to those that did not involve domestic violence, holding all other variables constant.

The variables related to the conviction offense were statistically significant. Defendants convicted of the same offense they were charged with at filing had a significantly shorter incarceration term than those who were convicted of a different offense (β= -.058, p<.01), holding all other variables constant. This finding was opposite of what was observed in the bivariate relationship, where the length of incarceration was longer for those convicted of the same offense. The coefficient for degree change from filing to conviction was positive and significant. If there was no change in the degree or there was an increase, then there was an increase in incarceration length (β = .239, p<.001). Finally, the length of time between the case's filing and disposition dates had a positive and statistically significant relationship with incarceration length (β= .047, p<.01). This indicates that the longer a case took, the longer the length of incarceration, holding all other values constant. Length to disposition is likely to increase for cases that are more complex and are typically associated with more serious charges.

Table 13. Multiple Linear Regression Predicting Days Sentenced when Incarcerated	
Variable	Standardized beta coefficients
Demographics	
Gender (Reference = Female)	
Male	.023
Age	.028
Criminal History	
Prior Arrests	.064***
Percent of Prior Arrests for Non-DV Violent Offenses	.030
Percent of Prior Arrests for DV Offenses	.011
Filing Offense	
Filing Offense Type (Reference = Sexual Assault)	
Aggravated Assault	.005
Degree at Filing (Reference = 4th Degree Felony)	
3rd Degree Felony	.089***
2nd Degree Felony	.229***
1st Degree Felony	.477***
Weapon (Reference = No weapon used)	.007
Region (Reference = Central)	
Northwest	-.012
North Central	-.031
Northeast	-.034*
Southeast	-.042*
Southwest	-.049**
Domestic Violence (Reference = No DV)	-.010
Conviction Offense	
Convicted of same Felony Charge	-.058**
Degree change (Reference= Decrease)	
Degree Increase or same	.239***
Days Between Filing and Disposition	.045**
Number of Cases	2,949
Adjusted R Square	.228
F-Value (df)	46.774 (192,930)***

*p<.05 **p<.01

Domestic Violence and Gender

The results of all of the multivariate analyses presented above indicated that cases involving domestic violence resulted in less serious outcomes (with the exception of length of incarceration), and there were either no differences in outcomes by gender (prosecution, length of incarceration) or that males were treated more harshly (conviction, incarceration). Those results, however, do not allow us to determine whether there were differences in outcomes for domestic and non-domestic violence cases by gender. In order to determine whether outcomes are modified by the interaction of gender and domestic violence status, we calculated a series of multivariate models with interaction terms. These are the same models as those presented above, but with interaction terms in place of the individual variables for gender and domestic violence status. In Table 14 below, we summarize the key findings as they relate to the interaction of gender and domestic violence status; the reference category is males with domestic violence. A plus sign indicates a positive relationship, while a minus sign indicates a negative relationship.

We found that some outcomes are moderated by the interaction of gender and domestic violence, but the effects differ according to the specific outcome. All of the interaction terms in the model measuring prosecution were statistically significant. Relative to males with domestic violence charges, females with domestic violence were significantly less likely to be prosecuted (p<.05). Regardless of gender, those without domestic violence charges were significantly more likely to be prosecuted (p<.001). These findings differ from the model without the interaction terms. In the original model, we found gender was not significantly related to prosecution while cases involving charges of domestic violence were less likely to result in prosecution. The interaction term here suggests that while cases involving domestic violence are less likely to result in prosecution, domestic violence cases involving female defendants are even less likely to be prosecuted.

Next, we analyzed conviction among those who were prosecuted. Relative to males with domestic violence charges, females were significantly less likely to be convicted regardless of whether their charges involve domestic violence (p<.001). Further, males without domestic violence charges were as likely to be convicted as males with domestic violence charges. These results indicate that domestic violence status does not moderate gender effects; in other words, males are more likely to be convicted, regardless of whether the cases involve domestic violence. These results are consistent with the conviction model without interaction terms.

When examining the results from the multinomial logistic regression, we found that females were significantly more likely than males to receive a conditional discharge or deferred sentence, regardless of whether the charges involve domestic violence (p<.001). However, males without domestic violence charges were less likely to receive a conditional discharge or deferred sentence than males with domestic violence charges (p<.01). This indicates that whether males receive a conditional discharge or deferred sentence is moderated by whether the charges involve domestic violence, but that females are less likely to be convicted outright regardless of domestic violence status. We found no significant differences between those acquitted and those convicted.

We found significant differences when examining the odds of incarceration. Relative to males with domestic violence charges, females with domestic violence charges were significantly less likely to be incarcerated, though this relationship was not that strong (p<.05). There were no differences in the odds of incarceration for females without domestic violence charges relative to males with domestic

violence charges. Conversely, males without domestic violence charges were significantly more likely to be incarcerated than males with domestic violence charges (p<.001). This indicates that females with domestic violence charges are least likely to be incarcerated while males without domestic violence charges are most likely to be incarcerated.

We found no significant differences by gender and domestic violence status in the length of sentence for those incarcerated. This is consistent with the results of the models that do not include the interaction terms. There, we found no significant differences by either gender or domestic violence status.

Overall, these models suggest that females with domestic violence charges are subject to less serious outcomes in terms of initial prosecution and incarceration, though defendants with domestic violence charges are less likely to be prosecuted regardless of gender. Conversely, males without domestic violence charges had more serious outcomes. They were less likely to receive a conditional discharge or deferred sentence and had lower odds of incarceration, though females are more likely than males to receive a conditional discharge or deferred sentence. Gender is a significant predictor of whether a case results in conviction, and is not moderated by domestic violence status: males were more likely to be convicted than females. Once incarcerated, however, we found no differences across interaction categories.

Table 14. Interaction of Domestic Violence and Gender on Case Outcomes						
	Model Type					
	Binary logistic	Binary logistic	Multinomial logistic		Binary logistic	Multiple regression
	Prosecuted	Convicted	Conditional discharge/ deferral	Acquitted	Incarcerated	Length of incarceration
Females with DV	-*	-***	+***	n/s	-**	n/s
Females no DV	+***	-***	+***	n/s	n/s	n/s
Males no DV	+***	n/s	-**	n/s	+***	n/s

*p<.05, **p<.01, ***p<.001

Conclusion

The purpose of this study was to examine whether the cases of individuals charged with aggravated assault or sexual assault against a household member were processed and sentenced differently than those who committed these acts against someone who was not a household member. This study replicated sections of a study completed by the Bureau of Justice Statistics (Smith et al., 2008) in order to compare our results to those found in other states. The Smith et al. (2008) report found either no variation between the case processing outcomes of those arrested for domestic sexual/aggravated assault and those arrested for non-domestic sexual/aggravated assault, or more serious outcomes for those with domestic violence. Conversely, we found multiple significant differences and in opposition to those found in the Smith et al. (20018) report.

Case processing outcomes for domestic sexual assault cases were either the same or less serious than case processing outcomes for non-domestic sexual assault cases. We found no significant differences in

either prosecution or overall conviction rates between domestic and non-domestic sexual assault. However, we did find that domestic violence sexual assault cases had lower felony conviction rates and higher misdemeanor conviction rates than non-domestic sexual assault cases. Furthermore, when convicted, domestic sexual assault cases resulted in incarceration less often than non-domestic cases. Prison incarceration rates were lower for domestic violence-related sexual assault, and average sentence lengths, while not statistically different, were shorter. These findings differ from the Smith et al. (2008) report, which found no differences between case outcomes for domestic and non-domestic sexual assault cases or that domestic sexual assault cases had more serious case outcomes.

Likewise, case processing outcomes for domestic aggravated assault were either the same or less serious than case processing outcomes for non-domestic aggravated assault. Cases involving domestic aggravated assault were less likely to be prosecuted. When convicted, domestic violence aggravated assault cases had lower felony conviction rates and higher misdemeanor conviction rates, and were less likely to result in incarceration. When incarcerated, domestic aggravated assault cases were less likely to include a prison sentence, and the average sentence length was significantly shorter than non-domestic aggravated assault cases. These findings differ from the Smith et al. (2008) report which found that domestic aggravated assault cases had similar or more serious case processing outcomes than non-domestic aggravated assault cases.

Multivariate analyses largely support the results of these bivariate analyses. After controlling for offense type and other variables, we found that cases involving domestic violence had less serious case outcomes than cases involving non-domestic violence. Defendants arrested for domestic violence had significantly lower odds of prosecution than a defendant arrested for non-domestic violence. While there were no significant differences for conviction versus non-conviction, defendants charged with domestic violence had significantly higher odds of receiving a deferred sentence or being conditionally discharged rather than convicted. The odds of incarceration were significantly lower for defendants charged with a domestic violence offense compared to those not charged with domestic violence. However, we found no significant differences in sentence length in the multivariate model.

Besides these key differences, bivariate analyses revealed that relative to non-domestic sexual assault, domestic sexual assault cases were significantly more likely to include weapons. Conversely, domestic aggravated assault cases were significantly less likely to involve weapons compared to non-domestic aggravated assault. These patterns were the same as those found by Smith et al. (2008), but our rates were notably lower. We included a variable indicating whether a weapon was involved in the multivariate models. While not a primary focus of this study, we anticipated that those with weapons charges would have more serious outcomes. Instead, cases involving weapons charges had significantly lower odds of prosecution and conviction. Furthermore, those with weapons charges had higher odds of receiving a conditional discharge or deferred sentence rather than conviction, and higher odds of acquittal. We found no significant differences in either likelihood of incarceration or sentence length.

The current study also examined the relationship between gender and case processing outcomes. We found that male defendants had more serious case processing outcomes than female defendants. If prosecuted, male defendants were significantly more likely than female defendants to be convicted and significantly less likely to receive a conditional discharge or deferred sentence. Males were also more likely to be incarcerated than females, though there were no differences in length of incarceration. Finally, we examined the intersection of gender and domestic violence on case processing outcomes.

Our results suggest that these outcomes were moderated by the interaction of case type and gender, but it varied by the outcome examined.

As with any study, this study has its limitations. The primary limitation results from the availability of data. We were unable to compare case processing outcomes by the race and ethnicity of the defendants because of concerns about the quality of the data and high rates of missing data. Domestic violence cases often suffer from a lack of evidence, influencing key case processing decisions as well as outcomes (Westera & Powell, 2017). Our study did not include measures that other studies (see, e.g., Bechtel, Alarid, Holsinger & Holsinger, 2012; Nelson, 2012; Westera & Powell, 2017) have found important to predicting outcomes, such as whether there was testimony from the victim and/or witness, presence of corroborating evidence (e.g., photos, medical records), or whether the defendant was arrested the same day.

Likewise, our measure of weapon use was likely limited. Our weapon-related findings were contrary to expectations, which may be explained by our measure of weapons involvement. We identified weapon involvement as cases with weapons-related charges at filing. However, it is likely that this captures only a portion of cases that actually involved a weapon. New Mexico is not yet a National Incident Based Reporting System (NIBRS) compliant state. An important feature of NIBRS data is the inclusion of key attributes of a crime, including type of weapon involved. This may more accurately capture weapon use. It is also important to point out that some studies have found that victim participation in the criminal justice process is lower when the victim is severely injured (see Bechtel et al., 2012). Thus, rather than being a limitation of our weapons measure, the unexpected findings may reflect lack of victim participation in the criminal case. Future studies should include weapons as recorded in NIBRS data once those data are available statewide. This will help to confirm or refute the weapons-related findings here.

Despite these limitations, the findings of the current study are consistent with other research conducted both within New Mexico (e.g., Freeman, 2008) and elsewhere (e.g., Bond and Jeffries, 2014) that indicate non-domestic violence cases result in harsher outcomes than those involving domestic violence, which are generally contrary to the results found by Smith et al. (2008), Moreover, we found no support for the supposition that females are treated more harshly. Instead, we found either no gender differences or that males were treated more harshly. These results are also consistent with prior studies (Bond & Jeffries, 2014; Daly and Bordt, 1995; Doerner & Demuth, 2014; Nowacki, 2019; Rodriguez et al., 2006; Steffensmeier et al., 1998;). Future research should include other factors known to influence case processing and outcomes to determine whether these relationships remain.

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Appendix A: Definitions

Aggravated assault: Includes felony-level committed or attempted assault, aggravated assault, battery, aggravated battery, attempted murder, shooting from a motor vehicle, and assault with intent to commit a violent felony. Does not include solicitation or conspiracy to commit aggravated assault.

Sexual assault: Includes felony-level committed or attempted criminal sexual penetration. Does not include solicitation or conspiracy to commit sexual assault.

Murder: Includes all non-negligent, voluntary murder offenses.

Intimidation: Includes stalking, harassment, and using a phone to intimidate.

Other violent: Includes child abuse, criminal sexual contact, extortion, false imprisonment, kidnapping, conspiracy or solicitation to commit a violent crime, and other violent offenses.

Appendix B: Map of Regions

Counties to Regions
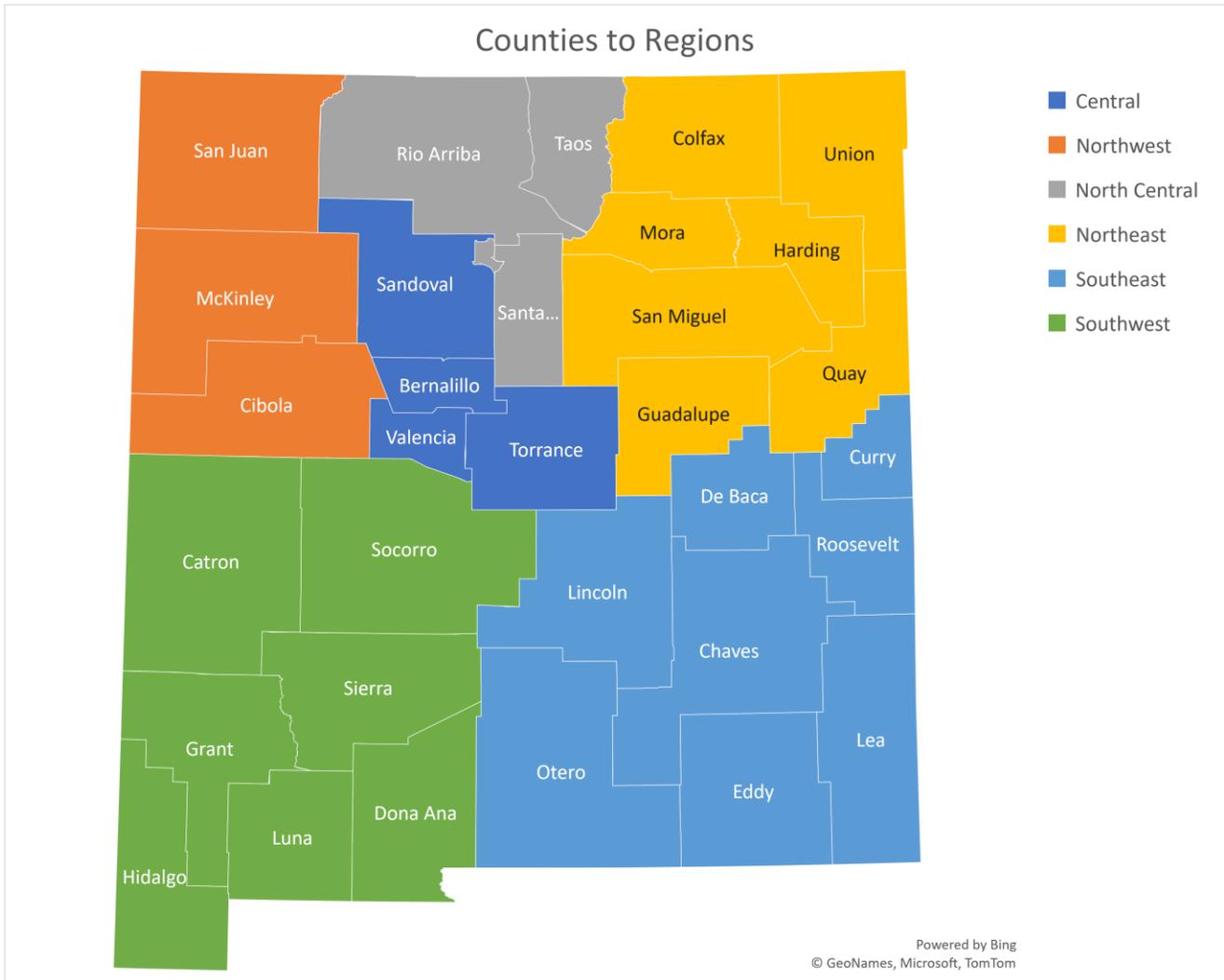
Appendix C: Supplemental Tables

Table C.1 Demographics of Sample and by Outcomes							
	Sample	Prosecuted		Conviction status			Incarcerated	
		Yes	**No**	**Convicted**	**Conditional Discharge**	**Acquitted**	**Yes**	**No**
Gender								
Male	85%	85%	85%	88%	76%	91%**	91%	84%**
Female	15%	15%	15%	13%	26%	9%	9%	16%
Age of Offender								
Average Age (sd)	34	34	35**	34	32	37**	34	34
	(12)	(11)	(12)	(11)	(12)	(11)	(11)	(12)
Grouped Age								
24 or Younger	23%	24%	19%**	22%	35%	11%**	19%	24%**
25-34	37%	38%	37%	39%	33%	38%	42%	37%
35-44	21%	20%	23%	21%	16%	26%	23%	20%
45-54	13%	12%	14%	13%	10%	16%	12%	13%
55 or Older	6%	6%	7%	6%	6%	9%	5%	6%
Number of Cases	12,248	8,711	3,537	6,311	2,128	272	2,950	3,014

 * p<.05 **p<.01

Table C.2 Current Offense of Sample and by Outcomes							
	Sample	Prosecuted		Conviction Status			Incarcerated	
		Yes	**No**	**Convicted**	**Conditional Discharge**	**Acquitted**	**Yes**	**No**
Region								
Central	44%	38%	60%**	32%	54%	40%**	31%	30%**
Northwest	12%	14%	8%	15%	9%	9%	17%	15%
North Central	7%	8%	5%	8%	6%	6%	6%	11%
Northeast	5%	6%	2%	5%	10%	2%	5%	5%
Southeast	17%	19%	13%	21%	12%	31%	23%	20%
Southwest	15%	17%	12%	19%	10%	13%	19%	20%
Offense Type								
Aggravated Assault	87%	88%	87%	87%	93%	58%**	83%	90%**
Sexual Assault	13%	13%	13%	13%	7%	42%	17%	10%
Domestic Violence								
Domestic Violence	28%	25%**	33%**	25%**	29%**	14%**	19%**	29%**
Non-Domestic Violence	72%	75%**	67%**	75%**	71%**	86%**	81%**	71%**
Offense Degree at Filing								
4th Degree Felony	46%	49%**	40%**	48%**	55%**	28%**	43%**	53%**
3rd Degree Felony	44%	41%**	49%**	42%**	42%**	37%**	41%**	42%**
2nd Degree Felony	6%	6%**	6%**	7%**	3%**	16%**	9%**	4%**
1st Degree Felony	4%	4%**	5%**	4%**	1%**	19%**	7%**	2%**
Weapon Used								
Weapon at filing	42%	41%**	44%**	40%**	46%**	39%**	41%	40%
Number of Cases	12,248	8,711	3,537	6,311	2,128	272	2,950	3,014

Table C.3 Criminal History								
	Total Sample	Prosecuted		Conviction status			Incarcerated	
		Yes	No	Convicted	Conditional Discharge	Acquitted	Yes	No
Has any Prior Arrests	94%	96%**	90%**	96%**	96%**	86%**	96%	96%
Average Number Arrests (sd)	5 (6)	6** (6)	5** (6)	6 (6)	3 (3)	4 (5)	7** (6)	6** (6)
Average Percent of Prior Arrests that are for Non-DV Violent Offenses (sd)	42% (35)	44%** (35)	38%** (36)	42%** (34)	52%** (38)	43%** (40)	41% (32)	43% (35)
Average Percent of Prior Arrests that are for DV-Related Violent Offenses (sd)	18% (29)	18%** (29)	20%** (30)	17%** (26)	22%** (33)	14%** (28)	14%** (23)	19%** (29)
Number of Cases	12,248	8,711	3,537	6,311	2,128	272	2,950	3,014

* p<.05 **p<.01

Table C.4 Relationship Between Conviction Variables and Incarceration		
	Incarceration	
	Yes	No
Convicted of Same Felony Charge	78%	53%**
Degree at Conviction Increased or Same	70%	50%**
Average Days between Filing and Disposition (sd)	321 (236)	297 (222)**
Number of Cases	2,950	3,014

* p<.05 **p<.01

Table C.5 Sentence Length in Months		Average Sentence Length(sd)	Correlation with Sentence Length	Number of Cases
Demographics	**Gender***			
	Male	43 (108)	--	2,689
	Female	18 (32)	--	261
	Age of Offender*			
	Average Age (sd)		0.104	2,950
Region	Central	49 (85)	--	910
	Northwest	39 (194)	--	488
	North Central	29 (43)	--	184
	Northeast	33 (46)	--	147
	Southeast	41 (79)	--	671
	Southwest	37 (62)	--	550
Offense	**Offense Type***			
	Aggravated Assault	27 (37)	--	2,454
	Sexual Assault	113 (227)	--	496
	Domestic Violence Related*			
	Domestic Violence	22 (26)	--	565
	Non-Domestic Violence	46 (115)	--	2,385
	Offense Degree at Filing*			
	4th Degree Felony	19 (25)	--	1,264
	3rd Degree Felony	29 (36)	--	1,204
	2nd Degree Felony	86 (84)	--	276
	1st Degree Felony	189 (326)	--	206
	Weapon Used*			
	Weapon Indicated at Filing	33 (45)	--	1,201
	No Weapon Indicated	47 (130)	--	1,749

Table C.5 Sentence Length in Months, Cont.		Average Sentence Length(sd)	Correlation with Sentence Length	Number Of Cases
Criminal History	**Prior Arrests**			
	Number Prior Arrests*	--	-0.044	2,950
	Percent Prior Arrests for Non-Domestic Violent Offenses**	---	0.090	2,950
	Percent Prior Arrests for Domestic Violence Offenses**	---	-0.059	2,950

* p<.05 **p<.01