

HOW DO DOMESTIC VIOLENCE COURTS WORK?
A TEST OF THE IMPACT OF COURT POLICIES ON RECIDIVISM

By

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Abstract

HOW DO DOMESTIC VIOLENCE COURTS WORK? A TEST OF THE IMPACT OF COURT POLICIES ON RECIDIVISM

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Domestic violence courts typically handle a jurisdiction's domestic violence cases on a separate calendar, presided over by a specially assigned and trained. They arose in response to a number of legal and social developments, in particular, as part of a broader trend towards "problem-solving justice". Problem-solving justice can trace its theoretical roots to innovations in policing, which attempted to replace traditional law enforcement's focus on responding to individual offenses with a focus on addressing patterns of crime and community engagement.

Under the rubric of therapeutic jurisprudence, problem-solving courts emerged in the 1990s. This model posits that legal rules and procedures can be used to improve psychosocial outcomes. However, therapeutic jurisprudence is not the only theoretical foundation for problem solving courts. Deterrence theory posits that receipt or threat of a punishment for an infraction will reduce the likelihood that the infraction will be repeated.

Using the theoretical lenses of therapeutic jurisprudence and deterrence, I conceptualize the key elements of those theories and test whether policies and procedures adopted by these courts are associated with better outcomes than others. Given the unprecedented number of sites, coupled with the application of sophisticated multi-level modeling techniques, this dissertation asks the fundamental question of how domestic violence courts work.

The findings indicate that recidivism reductions are enhanced under some conditions. Substantially advancing the state our knowledge, these analyses point to a greater focus on therapeutic jurisprudence mechanisms, as primary candidates for policy factors that may lead some make domestic violence courts to reduce recidivism more than others. In turn, there are a number of therapeutic jurisprudence and deterrence policies that lead domestic violence courts to increase recidivism as well. This indicates the effectiveness of policies that focus on shared communication, training of outside stakeholders, and accountability mechanisms that are designed and implemented to increase re-arrest when there are reports of assault. The results seem to point to a theoretical model that needs to be tested more to find policies that can be most beneficial to domestic violence offenders and victims of these crimes.

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Chapter 1

Introduction

The past three decades have demonstrated a transformation of the criminal justice system's historically inadequate response to intimate partner violence. Major reforms have included mandatory arrest laws and case filing policies; no-drop prosecution; specialized police, prosecution, and court units; and increased federal funding for victim services (Buzawa and Buzawa 1996; Davis et al. 2008; Guzik, 2009; Keilitz 2001; Rebovich 1996). These changes spawned a massive influx of domestic violence cases into criminal courts nationwide (e.g., Davis et al. 2008; Ostrom and Kauder 1999), leading these courts to seek effective strategies for intervening with the offenders and victims and reducing future violence.

In particular, over the past 15 years, a growing number of jurisdictions have established specialized domestic violence courts. Justice system practitioners, victim advocates, and researchers argue the benefits of domestic violence courts are wide-ranging; such as, enhanced coordination of cases and consistent orders in different cases involving the same parties, more comprehensive help-seeking and advocacy services for victims, more consistent legal procedures, greater availability of mechanisms to hold batterers accountable for the abuse, and greater confidence on the part of the community that the justice system is responding effectively to domestic violence (Fritzler and Simon 2000, Keilitz 1999, Tsai 2000).

There are currently over 300 domestic violence courts in the United States (Labriola et al. 2009), as well as more than 50 in Canada (Quann 2007) and nearly 100 in the United Kingdom (Crown Prosecution Service 2008). These courts typically hear all or most of a jurisdiction's domestic violence cases on a separate calendar, presided over by a specially assigned judge. The

idea is that the judge will gain expertise in the unique legal and personal issues presented by domestic violence cases, leading to more informed and consistent decisions.

Domestic Violence Court Origins Within the Problem Solving Court Movement

Domestic violence courts arose in response to a number of legal and social developments. For one, they may be seen as a logical strategy for handling the massive number of domestic violence cases that have flooded courts nationwide since the late 1970s, at which time activists began pressing the legal system to treat domestic violence as a serious crime rather than a private matter among individuals (e.g., Horowitz 2003; Schechter 1982). Domestic violence courts complemented other innovative strategies implemented by the police, prosecution, and probation by facilitating a more streamlined approach to the growing number of cases requiring court action.

Possibly more important, domestic violence courts emerged as part of a broader trend towards “problem-solving justice”. Problem-solving justice can trace its theoretical roots to innovations in policing, particularly community and problem-oriented policing, which attempted to replace traditional law enforcement’s focus on responding to individual offenses with a focus on identifying and addressing patterns of crime, ameliorating the underlying conditions that fuel crime, and engaging the community as an active partner.

In the 1990s, these new policing strategies helped inspire similar approaches in the rest of the criminal justice system, helping give rise to innovations like community prosecution, community courts, and problem-solving probation. These new experiments shared an emphasis on data analysis, community engagement, crime prevention, and problem solving. At their core

was the idea that it was no longer enough just to arrest, process, and adjudicate an offender, but law enforcement officers, prosecutors, judges, and probation officers also needed to try to reduce recidivism, improve public confidence in justice, and prevent future crime.

These ideas influenced not only community courts but also other specialized courts—drug, domestic violence, reentry, mental health courts—that emerged in the United States in the 1990s. Although each problem-solving model has distinct goals and elements, these models are unified by an overarching focus not primarily on the legal process but on substantive outcomes, such as reduced recidivism, enhanced victim services, or greater responsiveness to community needs (Berman and Feinblatt 2005; Porter, Rempel, and Mansky 2010; Wolf 2007).

Under the rubric of therapeutic jurisprudence, problem-solving courts emerged in the 1990s (Hora, Schma, and Rosenthal 1999; Senjo and Leip 2001a; Slobogin 1995; Wexler and Winick 1991). The therapeutic jurisprudence model posits that legal rules and procedures can be used to improve psychosocial outcomes, an idea supported by a growing research consensus that coerced treatment is as effective as voluntary treatment in changing behaviors (Anglin, Brecht, and Maddahian 1990; Belenko 1999; Collins and Allison 1983; DeLeon 1988a, 1988b; Hubbard, Marsden, et al. 1989; Lawental, McClellan, et al. 1996; Siddall and Conway 1988; Trone and Young 1996). However, therapeutic jurisprudence is not the only theoretical foundation for problem solving courts. Deterrence theory posits that receipt or threat of a punishment for an infraction will reduce the likelihood that the infraction will be repeated. General deterrence holds that by increasing the probability that a particular infraction will be punished, infractions will be reduced. Specific deterrence posits that an individual's own experience with punishment will affect his/her future behavior. For all facets of deterrence, the goal is to increase the expectation that an infraction will be punished; those expectations can be changed either by directly

punishing an individual, making highly visible punishments of others, or simply by increasing individuals' beliefs that punishment will follow an infraction.

As currently practiced in specialized courtrooms across the country, the hallmarks of problem-solving justice include:

- Redefining goals.
- Maximizing judicial authority.
- Contextualizing core problems.
- Forming partnerships.
- Rethinking traditional roles.

Though varying in their specialization, each type of problem-solving court modifies the traditional roles of lawyers and judges in the judicial process, and links them with probation officers, social workers, and other justice system partners to form a treatment team for each individual offender. These teams combine the efforts of individual members to create a strategy that attempts to internally motivate the offender and produce long-lasting change (Winick, 2000). The hope is to eventually reduce the rate of recidivism, and make the term “revolving door” obsolete. Most problem-solving courts focus on victimless crimes. Drug and mental health courts, for instance, deal with nonviolent offenses and can focus their attention on the defendant. Problem solving courts are developing constantly to deal with a wide variety of issues facing the criminal justice system.

Problem Solving Court Models

What follows is a brief description of the four most prolific problem solving court models – drug courts, mental health courts, community courts and domestic violence courts. These

courts have several common elements, including enhanced information, community engagement, collaboration, evaluation, and service provision but differ importantly as described below.

Drug Courts: Drug courts vary across states and jurisdictions but all follow the guidelines outlined in the Key Components of Drug Courts. Drug court participants are provided with intensive treatment and other services they require to get and stay clean and sober; held accountable by the Drug Court judge for meeting their obligations to the court, society, themselves and their families; regularly and randomly tested for drug use; required to appear in court frequently so that the judge may review their progress; and are rewarded for doing well or sanctioned when they do not live up to their obligations. Essentially they are a specially designed court calendar or docket, the purposes of which are to achieve a reduction in recidivism and substance abuse among nonviolent substance abusing offenders and to increase the offender's likelihood of successful rehabilitation through early, continuous, and intense judicially supervised treatment (Bureau of Justice Assistance 2005).

Mental Health Courts: Like drug courts, mental health courts vary from jurisdiction to jurisdiction, but most share a number of characteristics. The Council of State Governments Justice Center has defined the "essential elements" of mental health courts (Council of State Governments Justice Center 2009). These elements include a specialized court docket, which employs a problem-solving approach to court processing in lieu of more traditional court procedures for certain defendants with mental illnesses. In addition, these courts offer judicially supervised, community-based treatment plans for each defendant participating in the court, which a team of court staff and mental health professionals design and implement. Each case includes regular status hearings at which treatment plans and other conditions are periodically

reviewed for appropriateness, incentives are offered to reward adherence to court conditions, and sanctions are imposed on participants who do not adhere to the conditions of participation.

Community Courts: Community courts are neighborhood-focused courts that attempt to maximize the power of the justice system to address local problems. They can take many forms, but all focus on creative partnerships and problem solving. Although many community courts focus on one neighborhood, several jurisdictions have created courts that serve a wider territory, sometimes even an entire city or county. Some community courts were begun as court-led initiatives; while others were initially championed by local prosecutors, executive branch leadership, or community activists. Many community courts handle only criminal cases, focusing largely on quality-of-life offending, such as shoplifting, graffiti, illegal vending, and prostitution. Others tackle a broader range of criminal cases, such as auto theft, low-level felony drug possession, stalking, and assault, while still others address non-criminal matters, including juvenile delinquency, housing issues, environmental code violations, or offender reentry. Community courts combine punishment and help, requiring offenders to pay back the community by participating in restorative community service projects while also participating in individualized social service sanctions, such as drug treatment or mental health counseling. Community courts are designed to respond to the particular concerns of individual communities. Community court staff strive to create new relationships, both within the justice system and with outside stakeholders such as residents, merchants, churches and schools. They test new and aggressive approaches to public safety rather than merely responding to crime after it has occurred.

Domestic Violence Courts: Domestic violence courts handle domestic violence cases on a separate calendar or assign domestic violence cases to one or more dedicated judges or judicial

officers. Unlike the other problem solving models, in domestic violence cases, not only is there a victim but also the same victim is at ongoing risk of being assaulted by the same offender. Domestic violence courts have a responsibility to the victim, and link victims to services in addition to addressing the criminal behavior of the defendant. Perhaps more critically, most problem-solving court models operate under the assumption that the defendant's criminal behavior stems from underlying problems that treatment or services can resolve. This premise is controversial in regard to domestic violence offenders. Many agencies that work with victims of domestic violence argue that the underlying problem is not an aberration or treatable illness of individual offenders but of societal values. Furthermore, among researchers, there is considerable doubt over whether court-mandated programs can succeed at rehabilitation in this area (Babcock, Green, and Robie 2004; Feder and Wilson 2005; Rempel 2009; and others). In addition, the goal of many of the policies implemented in a domestic violence court is not necessarily to reduce recidivism but by holding offenders accountable, training criminal justice stakeholders and providing protection orders to victims, the goal is actually to increase re-arrests if there is a report of abuse.

Domestic Violence Courts

Even though domestic violence courts emerged concurrently with the broader problem-solving court movement, domestic violence courts do not reflect all the movement's principles and practices. The fundamental difference between cases that are heard in drug court, mental health and community court and those in domestic violence court is the presence of a victim. This has led to a divide in the larger problem solving movement on whether or not domestic violence courts should even be considered problem-solving. For example, in California, these

courts are called collaborative justice courts. The term problem-solving courts is specifically not used by those working in the field in California. This divide can be traced back to the theoretical discussion between therapeutic jurisprudence and deterrence.

In previous research, those establishing domestic violence courts have reported a variety of reasons for doing so, ranging from fundamental concerns with the adjudication process, such as processing cases expeditiously, to concerns with extra-legal outcomes, such as increasing victim safety (Gavin and Puffett 2007; Keilitz 2001). A recent national survey detected broad agreement concerning the overarching goals of victim safety and offender accountability but identified other goals whose importance elicited far less consensus, including offender rehabilitation, efficient case processing, and consistency in sentencing. The survey also revealed wide variations in specific policies, such as the use of offender assessments, program mandates, probation and judicial monitoring, and courthouse victim safety measures (Labriola et al. 2009). Several publications have proposed recommended practices for domestic violence courts, such as linkage to victim services, judicial monitoring, and a coordinated community response (Mazur and Aldrich 2002; Sack 2002). Yet, it is unclear whether these publications have influenced the field to the same extent as, for example, the “Ten Key Components” has broadly unified the field of drug courts.

The following list outlines goals and motives for creating domestic violence courts identified through a review of previous studies.

- Correct application of statutory requirements: Consistent application of legally appropriate procedures and sentences, especially in states with domestic violence statutes that require courts to process and sentence cases in particular ways distinct from other criminal cases.
- Efficient case processing: Effective management of domestic violence caseloads, including

efficient and timely screening and processing to disposition.

- Informed decision making: Assignment and training of dedicated judges and other staff who develop expertise in the dynamics of domestic violence and related legal issues.
- Coordinated response: Participation of the court in a network of criminal justice agencies, victim service organizations, and offender program providers working collaboratively to share information and create effective policies.
- Victim safety and services: Assistance to victims such as court accompaniment, crisis intervention, shelter referral, and other services.
- Offender accountability: Adjudication and sentencing to hold domestic violence offenders responsible for their criminal behavior and convey that domestic violence is unacceptable.
- Reduced recidivism: A decrease in future domestic violence as a result of effective case handling, through *rehabilitation* (changing offenders' beliefs and attitudes) or *deterrence* (increasing the perceived consequences of re-offending).

At this time, of all the problem-solving models, domestic violence courts arguably pose the greatest set of challenges, creating an urgent need for evidence-based guidance. There are currently at least 325 such courts in the U.S, making domestic violence courts the second most prolific model after drug courts (Bradley et al. 2008). Yet unlike drug or mental health courts, domestic violence courts lack a national informational clearinghouse, training institute, or professional association to provide updates on the number of courts in operation or to synthesize information on court policies and defendant characteristics. Not surprisingly, domestic violence courts lack a coherent and consensual statement of its model, often leading planners to create their particular domestic violence court's structure, policies, and procedures ad hoc. Even the

most basic, overarching goals that these courts should pursue are a point of contention. Some believe that it is important for domestic violence courts to reduce offender recidivism, whereas others are not convinced that such a goal is realistic and, consequently, place greater emphasis on holding offenders accountable for their behavior (e.g., by imposing consistent and meaningful sanctions) or improving services for victims (Gavin and Puffett 2005). Exacerbating these challenges, few studies have been conducted to illuminate which of their possible goals domestic violence courts can actually achieve.

The Need for Research

The diversity entailed by today's domestic violence courts presents a particular challenge for research. First, the methodology used in previous studies makes it impossible to draw any conclusions on whether or not domestic violence courts are effective in reducing future violence. Specifically, broad generalizations based on single-site evaluations are particularly problematic, given that other sites may operate quite differently. In addition, many of the policies implemented in domestic violence courts are simply not designed to decrease recidivism. Evaluations have looked at the effect of domestic violence courts, without parsing out the effect of various policies. Furthermore, few impact evaluations with strong quasi-experimental comparison groups have been conducted, and findings to date are inconsistent. For instance, regarding whether domestic violence courts reduce recidivism, ten sites have been evaluated, with four yielding positive findings, three yielding null or negative findings, and three yielding mixed findings depending on the specific recidivism measure utilized. It is entirely plausible that the three sites shown to have reduced recidivism employ policies that are particularly conducive

to such effects, whereas the other sites have a different constellation of policies that are better suited to other goals. It is also plausible that domestic violence courts have genuinely mixed or null effects, with site-to-site variations simply reflecting differences in the nature and quality of researcher methodology.

Second, as the next chapter will illuminate, previous research has shown that implementing various policies and practices in problem solving courts can be effective in changing offender behavior. For example, judicial monitoring has been shown to be effective in reducing recidivism and increasing program compliance with other court-involved populations, drug offenders in particular (Gottfredson et al. 2007; Harrell, Cavanagh, and Roman 1998; Marlowe et al. 2003; Rossman et al. 2011). But knowing what we know about the differences between domestic violence courts and other problem solving courts, we cannot assume that what works in one problem solving court model will work in a domestic violence court. For example, there have been attempts to test various components of the therapeutic jurisprudence and general deterrence theories of crime in a problem solving court setting. However, a theory based evaluation has not been conducted in domestic violence courts.

Third, the variety of goals, policies and practices of domestic violence courts inherently pose problems in developing and testing the “effectiveness” of these courts. Because there are such differing opinions on what the goals of these courts are, it is difficult to test whether or not they are effective. Courts that are trying to achieve reduced recidivism have a much different idea of effectiveness than courts that are trying to achieve offender accountability and increase victim services. While I believe that all of these domestic violence court strategies merit individual investigation, evaluating each policy and procedure implemented within the court seems particularly ripe for study.

Dissertation Overview

Therefore, this dissertation will fill a pressing gap in our knowledge. The ultimate goal of this dissertation is to understand the effect of policies implemented in the domestic violence court on recidivism. Using the theoretical lenses of therapeutic jurisprudence and deterrence, I conceptualize the key elements of those theories and test whether or not the hypotheses are supported by the data. To be clear, this dissertation is not comprehensive, testing all conceivable hypotheses about domestic violence courts. I am not attempting to compare domestic violence courts to other courts and I am not analyzing individual level characteristics or mandates on recidivism. Instead, given the unprecedented number of sites, coupled with the application of sophisticated multi-level modeling techniques, this dissertation will bring new clarity to the fundamental question of how domestic violence courts work. By pooling data across all of the sites, encompassing large urban, suburban, small city, and rural jurisdictions, this dissertation provides a compelling test of what court-level characteristics may change offender behavior. Such findings could have immediate policy import, potentially helping the field to coalesce around a set of evidence-based practices.

This dissertation analyzes 19 New York State domestic violence courts. New York is a particularly suitable state for undertaking a multi-site study of this nature. The state is currently home to 100 (31%) of the estimated 325 domestic violence courts nationwide. This study focuses exclusively on criminal domestic violence courts, which is by far the more common model nationwide. The goal is to test the effects of specialized domestic violence court policies on a quantifiable criminal justice outcome, recidivism. The main research question is:

What, if any, court-level policies (e.g., related to program mandates, compliance monitoring, or victim services) make these courts more or less effective in affecting recidivism?

In this dissertation, recidivism is measured as re-arrests over a one-year tracking period, with domestic violence re-arrests distinguished from re-arrests for other crimes. Since several key policies, such as program mandates and intensive monitoring, pertain only to those offenders who are actually convicted of a crime, I performed separate recidivism analyses on the subsample of offenders who were convicted on the initial case in the analysis.

Since all 19 sites are limited to a single state court system, some modesty is in order regarding the extent to which results should be generalized to all types of domestic violence court models that exist nationally and internationally. In addition, even with respect to New York State, this dissertation does not constitute a comprehensive evaluation of the impact of domestic violence courts on all pertinent outcomes. For instance, I did not interview defendants to determine their perceptions concerning the degree to which the court deterred them from misbehavior, nor did I examine the prevalence of victim services or degree to which victims perceive that available services meet their needs. (For studies that incorporate such questions, see Harrell et al. 2006, 2007; Newmark et al. 2001). A study limitation is that the recidivism measure relies on official reports of arrests, which does not include all of the violence that occurs that is not reported to the police.

Organization of the Dissertation

The first three chapters provide an overview of the dissertation and its purpose, as well as detailing all aspects of the research design and methodology. Chapter Two is a review of relevant previous research. Chapter Three describes the research design in detail, including the sampling frame and the analysis plan.

Chapter Four provides descriptive information on the individual characteristics of domestic violence court defendants as well as information on court-level policies and procedures.

Chapter Five presents the findings on recidivism impacts. Finally, Chapter Six discusses the methodological assets and limitations of this study as well as its substantive policy and research implications.

Chapter Two Review of the Literature

The goal of this dissertation is to examine two prominent frameworks for understanding the effectiveness of domestic violence court in affecting recidivism. Unlike previous literature that has evaluated various policies, I conceptualize and test the key elements of the therapeutic jurisprudence and deterrence theories. I believe that using a theoretical lens to understand what elements might make a domestic violence court effective in reducing recidivism can aid policy makers going forward in developing these courts and the problem solving court movement in general. This chapter is organized around each theoretical perspective, beginning with a description of the theories and the role they have played in the creation of problem solving courts, as well as a description of the literature that has examined policies and elements of domestic violence courts.

The Theory of Problem Solving Courts

The therapeutic jurisprudence model posits that legal rules and procedures can be used to improve psychosocial outcomes, an idea supported by a growing research consensus that treatment that is mandated by the court or other criminal justice agencies is as effective as voluntary treatment in changing behavior (Anglin, Brecht, and Maddahian 1990; Belenko 1999; Collins and Allison 1983; DeLeon 1988a, 1988b; Hubbard, Marsden, et al. 1989; Lawental, McClellan, et al. 1996; Siddall and Conway 1988; Trone and Young 1996). The goal of therapeutic jurisprudence is to teach judges, lawyers and other stakeholders the effect of their actions on the people involved in each of the proceedings. In other words, this approach attempts

to humanize the law and look at the emotional and psychological aspect of the law. Without taking away from the importance of the legal issues involved, therapeutic jurisprudence emphasizes that people in court (i.e. defendants, victims) are affected psychologically which can either aggravate their situation or heal their mental state of mind making them more susceptible to changes for their progress.

A different approach is taken by proponents of deterrence theory, which posits that receipt, or threat of a punishment for an infraction will reduce the likelihood that the infraction will be repeated. General deterrence holds that by increasing the probability that a particular infraction will be punished, infractions will be reduced. Specific deterrence posits that an individual's own experience with punishment will affect his/her future behavior. For all facets of deterrence, the goal is to increase the expectation that an infraction will be punished. Problem solving courts utilize a variety of practices to ensure that the defendants understand that a sanction will occur at each infraction. For example, drug courts employ graduated sanctions—incrementally more stringent responses to continuing infractions—as mechanisms to deter future offending. Drug courts also combine deterrence-based approaches with positive rewards for good conduct based on social learning theory, which posits that publicly rewarding pro-social behaviors can reinforce those behaviors in group settings.

There is a difference of opinion in the field of whether domestic violence courts should be studied through the same therapeutic jurisprudence lens that other problem solving courts are. The argument is that rehabilitation and fair treatment should not be the focus for domestic violence offenders because unlike the other problem solving court models, there is a victim and defendants should be held responsible for their behavior and judicial interaction should focus on strict supervision. In addition, there is serious doubt that batterer programs can be used as a form

of “treatment” and actually be effective in changing offender behaviors and attitudes, similar to drug or mental health treatment.

As I stated earlier, while some elements and policies of the domestic violence model has been examined and evaluated, none have been completed using a theoretical lens. In the following sections, I provide a description of each of the theories and follow with a review of the literature that has been completed on various elements of the domestic violence court model that are central to the two theories tenets: batterer programs, judicial monitoring, victim services and safety, accountability mechanisms, and coordinated community response (see Table 2.1 for a description of key studies). I conclude with a review of the evaluations of the domestic violence courts as whole, evaluations that did not attempt to carve out policies. I have limited this review of the literature to only domestic violence courts.

Therapeutic Jurisprudence Model

Therapeutic jurisprudence is a relatively new legal theory that was originally defined by Wexler and Winick (1991) as the study of the extent to which substantive rules, legal procedures, and the roles of lawyers and judges produce therapeutic consequences for individuals involved in the legal process, consequences that go beyond the traditional criminal justice response in terms of dispositions and sentences but instead focus on programs and treatment, fair treatment, listening and communicating with defendants. This paradigm promotes a coordinated and remedial response to the underlying service needs of the involved parties, while still upholding the due process rights of all litigants (see Rottman and Casey 1999). The therapeutic jurisprudence theory was first used in the field of mental health law and later adopted in response

to areas such as domestic violence, homelessness, and family law. More recently, Hora et al. (1999) has applied therapeutic jurisprudence theory to drug courts and other problem solving court models. The therapeutic jurisprudence paradigm is most commonly associated with problem solving courts, whose main purpose is to treat and rehabilitate the individual (i.e., reducing drug use, mental illness, and recidivism).

This model of problem solving courts draws heavily on social cognitive psychology and more specifically on theories of procedural justice, motivation, and anticipated emotion to offer an explanation of how offenders respond to these programs. Basically, the opinions that defendants form of the courts as an institution can have concrete behavioral effects. There is significant evidence suggesting that when citizens perceive justice system agencies to be fair, they are more likely to comply with the law, legal authorities, and court mandates (Tyler and Huo 2002). In studies of mediation, perceptions of fairness affect a litigant's decision both to accept an arbiter's decision (Lind, Kulik, Ambrose, and de Vera Park 1993) and follow its terms in the long run (Pruitt, Peirce, McGillicuddy, Welton, and Castrianno 1993). Similarly, Paternoster and colleagues (1997) report that defendants in domestic violence cases were more likely to obey the law in the future if they believed they were treated fairly by the police; indeed, the fairness of their treatment mattered more than how severely they were punished in predicting their future behavior. Since approximately 20% of people involuntarily engaged by police are immediately noncompliant, and many people engaged in illegal behavior are never caught (Mastrofski, Snipes, and Supina 1996), an important way to make communities safer is to increase voluntary law-abiding behavior through enhancing defendants' and citizens' sense of fairness.

Therapeutic jurisprudence theory helps to explain how the rules and processes of the

problem solving court affect the offenders who go through the process. There are three major components involved in therapeutic jurisprudence: 1) Monitoring offenders throughout their programs to ensure compliance and provide swift and certain sanctions for noncompliance. 2) Providing treatment for offenders depending on results from an assessment (i.e. drug treatment, mental health treatment, batterer program, etc.). 3) Upholding the key dimensions of procedural justice, which are making sure the litigants' side is heard; litigants are treated with dignity and respect; decision-making is unbiased and trustworthy; litigants comprehend court language, decisions, and responsibilities; and the court shows interest in litigants' needs.

Domestic violence courts add a significant component to the therapeutic jurisprudence paradigm, victim needs and services. Unlike other problem solving courts that focus on the needs of the defendant, domestic violence courts also serve the victim by providing services for their needs.

Most importantly, for the purposes of this dissertation, it is important to note that when using this theory as a lens to study impacts, the outcome measure of interest is reduced recidivism. The goal of added treatment services and judicial supervision through that process to the criminal justice system may also be increased program compliance and completion, but the ultimate goal is the reduce re-offending and keep victims safe.

Previous Literature

What follows is a literature review of studies that have carved out components of therapeutic jurisprudence and tested the impact on reoffending. These studies have not intentionally or specifically tested the theory of therapeutic jurisprudence, but I have singled out components of this theory and will describe their factors on various outcome measures. In most

cases, the outcome measure is recidivism; the only exception is the literature on victim services and safety. Those studies were not interested in reduced recidivism, but instead looked at victim satisfaction and perceptions of fairness.

Batterer Programs. Batterer programs were established as a criminal justice response based on the call of activists and the battered women's movement to reform the system, punish offenders and challenge the cultural and legal supports for battering. Courts have responded by referring an increasing number of batterers to these programs, through pretrial or diversion programs or as part of sentencing. There is not one single batterer program model, although most across the country are education based and either 26 or 52-weeks long. Although multiple quasi-experimental studies have been conducted analyzing the effectiveness of batterer programs, only five randomized trials and two meta-analyses have been conducted. Results from these studies seem to suggest that batterer programs do *not* seem to change offender behavior.

The first, in Hamilton, Ontario, assigned 59 men convicted of domestic violence either to probation and a 10-week batterer program or to probation with no program (Palmer et al. 1992). Re-arrest records showed that 3 of the 30 men (10%) assigned to the program re-offended over a one-year period, compared with 8 of the 26 men (31%) receiving probation only. Although these findings appear to provide strong support for the effectiveness of batterer programs, the study methodology raises serious concerns with the quality of the program and whether or not it was appropriate to study in the first place. First, the batterer programs involved only 15 hours of classes, a small number compared with general nationwide practice. Second, although the results were statistically significant, the small number of study participants raises questions concerning the random assignment process: Were large numbers of offenders systematically excluded from

the study due either to the subjective preferences of court stakeholders (judge, prosecutor, defense attorney, or others) or to the offender's ability to choose whether or not to participate? If so, the study's positive findings may in fact be applicable to only a narrow offender sub-population (see critique in Feder and Dugan 2002).

A second study involved personnel at the Navy base in San Diego (Dunford 2000). In this study, 861 men who were convicted of assaulting their partners were randomly assigned to four conditions: (a) six months of weekly cognitive-behavioral treatment, followed by 6 months of monthly group sessions; (b) six months of weekly group sessions for couples, followed by 6 months of monthly group sessions; (c) a rigorous monitoring and case management regimen similar to probation; or (d) safety planning for victims, similar to that done by victim advocates. The study found no significant differences in recidivism outcomes across the four groups. The main drawback to this study is the characteristics of the men, who consisted exclusively of Navy personnel, and excluded those with substance abuse problems, mental health disorders, and prior criminal records, as well as unmarried and unemployed men. In short, the study focused on a relatively "low risk" offender population, although batterer programs may well have more positive effects with "high risk" offenders; by definition, high-risk offenders start out with a greater propensity to commit future criminal acts and thus offer a greater opportunity for an intervention to make a real difference in curbing future crime.

A third study involved 404 offenders convicted in a misdemeanor domestic violence court in Broward County, Florida (Feder and Dugan 2002). These offenders were randomly assigned either to probation and a 26-week batterer program or to probation only. At one-year follow-up, there were no differences between batterer program participants and the control group on measures of attitudes toward women, beliefs about wife-beating, attitudes toward treating

domestic violence as a crime, and victim or official reports of recidivism. Instead, for both groups, the primary predictors of lower recidivism were “stake-in-conformity” variables, including length of employment, residential stability, older age, and marital status. The theory behind the importance of these variables is that those with more to lose from arrest or incarceration are more likely to remain in compliance with court orders (see Sherman and Smith 1992). This study arguably had the strongest research design of the first three, since all convicted misdemeanor offenders in Broward County entered the random assignment process with extremely limited exclusions. (Offenders were excluded from the study only if they or the victim were under the age of the 18; they or the victim spoke neither English nor Spanish; they had a severe mental illness; or the judge allowed them to move to another jurisdiction to serve their probation sentence.) Also, the intensity of probation monitoring was identical between the batterer program and the probation-only groups.

Contrasting with these last two negative results for the impact of batterer programs, a fourth randomized trial conducted in Brooklyn, New York first appeared to detect a large and positive impact (Davis et al. 2000). This study randomly assigned 376 misdemeanor domestic violence offenders to either a batterer program or to 40 hours of community service. However, despite the appearance of significantly lower re-offending rates among those assigned to the batterer program both at six months and one year after sentencing, closer inspection of the data revealed three complicating factors. First, while there was a strong effect of *assignment* to a batterer program, there was no effect of actually attending it. Among assigned men, those who completed their batterer program were no less violent than those who attended only some group sessions or who never attended a single session. Second, due to fortuitous circumstances, the treatment sample was split into two sub-samples distinguished by frequency of group sessions.

All offenders randomly assigned to programs were mandated to attend 39 hours of a psycho-educational group intervention. However, some received the 39 hours in 26 weekly sessions while others received it in longer biweekly sessions over 8 weeks (this was due to a change in the prosecutor's office, it was not part of the study design). The former treatment model maximized the time that batterers remained in the program while the latter reduced the chances that offenders' initial motivation to attend would flag over time. The results showed that more men successfully completed the 8-week group than the 26-week group. Since they received a higher dosage of the treatment, it was therefore expected that men assigned to the 8-week group would have a lower recidivism rate. Instead, only those in the 26-week group had a lower recidivism rate than the control group; the 8-week group did not differ from the control group.

The fifth most recent randomized trial was conducted in the Bronx, New York (Labriola, Davis, Rempel 2005). The study randomly assigned misdemeanor domestic violence offenders in the Bronx, New York to either a batterer program or not; and to either monthly or graduated judicial monitoring, with the latter involving reduced court appearances in response to compliance and increased appearances in response to noncompliance. The study found that neither the batterer program nor either of the two monitoring schedules produced a reduction in official re-arrest rates for any offense, for domestic violence, or for domestic violence with the same victim. Similarly, 1-year victim interviews indicated that neither program assignment nor monitoring schedule significantly affected victim reports of re-abuse, either in general or with regard to specific forms of re-abuse: physical, threats, or other. While victims expressed greater satisfaction with the sentence when a batterer program was assigned, interpretation of this last finding is difficult in the absence of an effect on re-abuse.

Research on Judicial Monitoring. In light of the overwhelming evidence that judicial monitoring in drug treatment courts is clearly positive in changing offender behavior, multiple studies of monitoring have also been conducted in domestic violence courts. There are key differences between the two populations that must first be noted. Drug courts serve nonviolent substance-abusing offenders, mandating them to treatment and supervising the treatment process through required drug tests and frequent judicial status hearings, usually ranging from weekly to monthly over one year or longer (see OJP 1997). At the monitoring appearances, the judge converses with program participants and administers a system of incentives and sanctions in response to their behavior.

Considered as a whole, the drug court literature suggests that judicial monitoring can be effective—provided that the form of monitoring is not limited to a fast-paced check-in (deterrence) but involves meaningful judicial interaction (therapeutic jurisprudence). Nonetheless, the degree to which this literature applies to domestic violence offenders remains an open question. To the extent that promoting procedural justice comprises an important intervening mechanism, there may be important limits to it in a domestic violence context. In particular, most judges would consider it inappropriate to praise or clap or give incentives to offenders who have refrained from recommitting violence against their intimate partner in the same way that a judge might praise the rehabilitation of nonviolent offenders who suffer from a drug addiction. Furthermore, drug court participants generally attend a full schedule of treatment classes at least several times per week, creating lots of treatment experiences, which could be a subject of conversational interaction during judicial monitoring sessions—whereas domestic violence offenders more often participate in batterer programs with one 60 to 90 minute session per week. Finally, there is some evidence that the risk principle—the idea that interventions such

as judicial monitoring work better with high-risk offenders—may not apply to the domestic violence offenders. For instance, Klein and Crowe (2008) found, instead, that intensive domestic violence probation had a greater positive effect with a *low-risk* subgroup. Accordingly, there remains uncertainty the applicability of the drug court literature to domestic violence offenders.

The previous literature regarding judicial monitoring with a domestic violence offender population is sparse, does not include any randomized controlled trials, and includes at most two studies that employed a rigorous quasi-experimental design. These projects have looked primarily at a deterrence based monitoring and will be discussed in the later section.

Coordinated Community Response. In 2006 and 2007, the Urban Institute published the findings from the large-scale multisite study, the Judicial Oversight Demonstration (JOD). JOD was designed to test the feasibility and impact of a coordinated response to intimate partner violence (IPV). At the core of the study design was a strong judicial response combined with community services and robust justice system policies. The primary goals of JOD were to protect victim safety, hold offenders accountable, and reduce repeat offending. Primary measures of interest were victim well-being, offender accountability and perceptions, and revictimization.

Two JOD sites -- Dorchester, MA, and Washtenaw County, MI -- participated in a quasi-experimental evaluation where intimate partner violence cases reaching disposition during JOD were compared to similar cases reaching disposition in neighboring jurisdictions. The third site, Milwaukee, was based on a quasi-experimental comparison of offenders convicted of IPV and ordered to probation during JOD and before JOD.

In Michigan and Massachusetts, JOD had no significant effect on offender re-arrest rates in the year after case disposition. Looking at just the raw percentages, the two sites had actually

different findings. In Massachusetts, recidivism decreased from 31% to 23% and in Michigan, recidivism increased from 23% to 24%. However, after controlling for background variables, these findings were not significant. (Harrell et al. 2007)

In the Milwaukee JOD site, Harrell et al. (2006) found that the domestic violence court reduced the one-year re-arrest rate; however, this reduction occurred not because the offenders were less likely to commit new crimes when “at risk” (i.e., living in the community), but because the offenders were more likely to be re-incarcerated on probation revocations. This is essentially a positive impact of the domestic violence court but is qualified in that the impact depended solely upon enforcement, not upon behavior change once the offenders were released into the community.

Victim Safety and Services. Many domestic violence courts partner with local victim service agencies to provide victims with immediate access to services and advocacy (Newmark et al. 2001). Typically, victims are linked to advocates who provide support throughout the court proceedings, including assistance with safety planning, linkage to appropriate community resources, the provision of legal information and case updates, as well as court accompaniment (Bell and Goodman 2001; Gover 2007; Mazur and Aldrich 2002). Victim advocates may also act as liaisons with the court and, with victim consent, may inform the court of infractions involving the victim and court orders. Some courts believe that the provision of these services will also encourage victim participation in the court process (Smith 2001).

The literature confirms that domestic violence courts are more likely to connect victims to services than non-specialized courts (Harrell et al. 2007; Henning and Klesges 1999; Newmark et al. 2001). In some sites, the impact of the domestic violence court was striking; for

instance, the percentage of victims linked to advocates rose from 55% to 100% after the Brooklyn felony domestic violence court opened and from very few to 56% after the Shelby, Tennessee domestic violence court opened.

The literature also indicates that victims have positive perceptions of domestic violence courts (Eckberg and Podkopacz 2002; Gover 2007; Gover et al. 2003; Hotaling and Buzawa 2003; and for the one study not finding such an effect, see Davis et al. 2001). At least four studies found that most victims were more satisfied with the handling of their case in a domestic violence court. Their satisfaction hinged not only on the outcome of the case, but also on perceptions of fair treatment (Eckberg 2002; Harrell et al. 2007; Henning and Klesges 1999), perceptions that the judge cared about and understood their situation (Eckberg 2002; Harrell et al. 2007), satisfaction with victim advocates (Harrell et al. 2007; Hotaling and Buzawa 2003), and personal motivation to end the relationship (Henning and Klesges 1999, Hotaling and Buzawa 2003).

It should be noted that the level of victim satisfaction may be related to the specific type and breadth of services to which they are linked, which can vary greatly from court to court. A recent article detailing an evaluation of domestic violence courts in Michigan, Wisconsin and Massachusetts reports that victims in these courts who received services did not indicate higher levels of perceived safety than comparison groups not receiving these services (Visher et al. 2008). The authors link this result to the unmet need for services such as assistance in finding a job, strengthening social networks and linkage to crisis services. The authors recommend that courts link victims to additional non-governmental service providers, who can provide a wider array of services well after the case has been disposed.

One study, in Quincy, Massachusetts, reported that 40% of victims found the domestic violence court experience “embarrassing” and said they would not return to court if they experienced another incident of domestic violence (Hotaling and Buzawa 2003). Similarly, in focus groups conducted with victims across three domestic violence courts, while expressing a high degree of satisfaction with their treatment by the victim advocates and the judge, victims were highly critical of their treatment by the police and prosecutors (Harrell et al. 2007). Victims described numerous examples in which they felt that these agents failed to treat victims with due respect and dignity. Such findings suggest a need for improved training among all justice agencies that interact with victims, both where there is and is not a specialized domestic violence court.

Deterrence Based Model

Many in the domestic violence field criticize studying domestic violence courts through a therapeutic jurisprudence lens. They argue that it places these courts too squarely in the business of rehabilitation. While some models, especially drug courts, rely on therapeutic interventions to change the behavior of offenders, some believe that domestic violence courts are not structured to do the same (Berman and Feinblatt 2005). Perhaps it is more appropriate to study these courts through the paradigm of accountability - focusing less on treatment and more on holding defendants (or other litigants) responsible for their behavior and on increasing judicial supervision to deter future criminal behavior.

Some problem solving court judges borrow from more traditional courts to rely heavily on specific and general deterrence. Deterrence theory is based on the simple idea that actual or

threatened sanctions should deter crime. Three aspects of punishment—perceived certainty, severity, and celerity of the possible sanctions—are hypothesized to affect a would-be offender's decision-making process and to be correlated with offending (Andenaes 1974; Gibbs 1975). Adopting a deterrence based model, the judges function as compliance monitors ordering the participants to participate in services and evaluating their progress during review hearings in order to ensure public safety and offender obedience. Judges acting in this capacity work in a familiar way not very different from those who rule on the attorney motions during hearings in criminal court.

In both traditional criminal courts and problem solving courts in which judges act as compliance monitors, a rational actor model is adopted to explain the conduct of substance abusers, mentally ill offenders, and domestic violence perpetrators. According to this model (Korobkin & Ulen, 1998, 2000), judges can use the law to encourage socially desirable conduct and discourage the undesirable conduct because problem solving court participants weigh the costs and benefits of following the law against those of not following the law. Participants base rational choices on the desire to increase or at least maintain their material, social, and psychological assets at the time of their choices (Hastie & Dawes, 2001). Because the consequences of choices and outcomes are probabilistic and not certain, problem solving court participants act like intuitive statisticians and estimate the expected utility of their outcomes (i.e., the severity of the outcome times the likelihood of the outcome) for each choice, in accordance with the laws of probability theory. Under the rational choice model, the driving force is adaptation so that the solution is to select behaviors with the highest expected utility (Korobkin & Ulen, 2000), those that maximize the likelihood of a positive change in one's life assets.

Results from research on the central tenets of deterrence theory are somewhat mixed, but

generally supports the notion that sanction risk perceptions evolve as a result of ongoing experiences. Paternoster, Saltzman, et al. (1985) found a significant relationship between reductions in perceived certainty and increased involvement in petty theft and bad check writing; being formally sanctioned was related to an increase in perceived certainty. Using data from a sample of 1,000 convicted felons, Horney and Marshall (1992) found subjects with higher arrest ratios (i.e., ratio of arrest to self-reported crime) also reported high risk perceptions. In addition, Lochner (2007) used data from the National Youth Survey and the National Longitudinal Survey of Youth, concluding that individuals engaging in crime who avoided arrest tended to reduce their perceived risk of arrest, while those who were arrested tended to raise their perceived risk of arrest and accordingly reduced their offending.

Based on the research that exists, these paradigms are not mutually exclusive. A range of therapeutic and accountability/deterrence activities can and typically do occur together within all types of problem-solving courts, including domestic violence courts. However, similar to therapeutic jurisprudence, while this theory is concerned with offender obedience, offenders also weigh the consequences and choose desirable behavior (i.e. reduced recidivism). Thus, for the purposes of this dissertation, the common outcome measure is recidivism and the various elements that are key to each theory will be conceptualized and tested.

Previous Literature

As I stated above, no study has previously tested deterrence theory and the impact on recidivism with domestic violence offenders. While previous research may have tested one specific component of the theory, they have not analyzed the data using the theory as a guide. What follows is a literature review of studies that have carved out components of deterrence

theory and tested the impact on reoffending. This review serves the purpose of describing what others have found regarding deterrence theory policies and their effect on recidivism.

Research on Judicial Monitoring with Domestic Violence Offenders. The previous literature described above was based in the drug court literature, where judicial monitoring is modeled after therapeutic jurisprudence. In the domestic violence literature, what I found is a much different form of monitoring.

The first is a quasi-experiment conducted in the Bronx, New York (Labriola, Rempel, and Davis 2005; Rempel, et al. 2008). The Bronx study was designed as a randomized trial of batterer programs (see Labriola et al. 2008), but also contained a separate quasi-experiment, comparing offenders who were mandated to judicial monitoring with a second group that, due to particularities associated with the plea negotiations, received a conditional discharge without any monitoring requirements.

The Bronx study did not find that those assigned to monitoring re-offended less than those not so assigned, but noted several possible explanations for these null findings. First, the Bronx court did not implement a best practice model of monitoring. Instead, judicial monitoring took place monthly at most. More seriously, the judicial hearing officer's feedback during each monitoring court appearance tended to be brief, matter-of-fact, and often couched in legal terminology that—based on observation and a small number of qualitative interviews—the offenders did not appear to understand. Also, judicial monitoring was not conducted by an actual judge. As a result, the hearing officer who presided lacked the authority to impose immediate sanctions on noncompliant offenders; rather, such offenders had to be referred back to the sentencing judge, creating delays and inconsistencies in both the threat and use of sanctions. A

related problem was that there was not a formal schedule of sanctions that the sentencing judges could reference, or that could be shared with the offenders in advance to inform them of the likely court responses to various noncompliant behaviors. Yet, prior research makes clear that the threat of sanctions is more effective when offenders fully understand their responsibilities, receive frequent reminders, and anticipate that any infraction will result in a sanction of sufficient severity so as to make incurring it undesirable (Young and Belenko 2002).

The second quasi-experiment of interest was the evaluation of the Judicial Oversight Demonstration (JOD). Although not only a test of judicial monitoring, the JOD coupled monitoring with a series of related initiatives to increase offender accountability. As intended, the evaluation confirmed that across two sites, JOD cases were more likely than comparison cases to be convicted, sentenced to probation, ordered to a batterer program, and drug tested. Yet, only one of three total sites in which a quasi-experimental impact evaluation was conducted, Dorchester (MA), had a possible deterrent effect on re-arrests (Visher et al. 2008). A second site, Milwaukee (WI), also reduced re-arrests, but the mechanism was enforcement of, rather than deterrence from, noncompliance. That is, the Milwaukee effect stemmed from an increased use of probation revocations as a sanction for noncompliance, rather than from a reduction in re-arrests while the offenders were not incarcerated (Harrell et al. 2006). The Milwaukee results underline the inherent benefit of strong accountability mechanisms—i.e., more often revoking and incarcerating noncompliant offenders. However, in totality, the findings do not point to a clear *deterrent* effect of JOD policies while offenders are at risk in the community.

A number of other studies offer suggestive findings, although none isolated the effect of judicial monitoring per se. For instance, a study of four domestic violence courts in the San Diego court system reported that after implementation, there was increased attendance at

required counseling sessions; and the one-year re-arrest rate dropped from 21% to 14% (Angene 2000). The author attributed these findings to the new practice of requiring offenders to attend post-dispositional compliance hearings; yet, the implementation of the domestic violence courts triggered other court policy changes as well, so any attribution to monitoring is speculative at best.

Another study, conducted at the Pittsburgh Domestic Violence Court, found that batterer program completion rates rose from just under half to 65% after the court introduced a mandatory court appearance 30 days following the imposition of a batterer program mandate (Gondolf 1998). Yet, the introduction of a single court appearance is a rather small change—one seemingly unlikely to have much of an effect. As in the San Diego study, it is plausible that possible changes in arrest or prosecution strategies in Pittsburgh between the pre- and post-domestic violence court implementation periods may have instead accounted for the improved compliance outcomes.

As discussed earlier, the randomized batterer program trial in Brooklyn found that offenders mandated to a 26-week batterer program had lower re-arrest rates than those mandated to a shorter eight-week program, even though both programs required the same number of class hours and those assigned to the eight-week program actually had a higher completion rate. The authors speculated that perhaps the better outcomes in the longer program did not stem from batterer program participation as such but from the longer duration under court control. In an expanded analysis of these data, Maxwell, Davis, and Taylor (2010: 475) concluded that the effect of program participation “does not likely persist beyond the treatment period.” Moreover, regardless of treatment assignment or length, defendants who received a diversion disposition re-offended at a significantly higher rate than defendants who pled guilty and were sentenced to a

conditional discharge. Thus, while this study did not test judicial monitoring per se, a number of findings all suggest that judicial coercion generally might be an important deterrent factor.

A final suggestive result comes from a study of domestic violence offenders in the Bronx and Brooklyn, New York (Peterson and Dixon 2005). In a multivariate model controlling for key background characteristics, the study finds that more elapsed time from arrest to disposition—signifying a greater number of pre-dispositional court appearances—strongly predicted a lower re-arrest rate. The authors theorize that they may be detecting a deterrent effect of closer pre-disposition judicial monitoring. Yet, the pre-dispositional court appearances in this study were simply to address ongoing disposition issues. None of the techniques commonly associated with monitoring pertained (e.g., compliance checks, reminders of responsibilities, or imposition of sanctions for noncompliance). Thus, it is difficult to draw strong policy implications concerning whether or how such appearances could truly have triggered behavioral changes in the offenders.

In sum, several suggestive studies imply that court coercion generally or judicial monitoring specifically may have a positive effect on re-offending. The two strongest quasi-experiments in the literature did not produce similarly encouraging findings, although design limitations recommend caution in interpretation even these quasi-experimental findings.

Accountability Mechanisms. Offender accountability can be defined simply as holding perpetrators responsible for their actions. In practice, accountability is a complex concept with many potential implications. It might entail the prosecution of a higher percentage of domestic violence arrests; a higher conviction rate; more severe sentences such as jail, prison, or intensive probation; or the imposition of swift and certain sanctions for initial noncompliance with court orders (see Frank 2006; Harrell et al. 2007; Labriola et al. 2007). Although accountability is a

term and goal often used when discussing domestic violence in the criminal justice system, it is a difficult idea to conceptualize and ultimately test. I have included research done on intensive probation monitoring to demonstrate accountability mechanisms that have been tested.

Intensive probation monitoring through a special domestic violence unit has sometimes accompanied the development of a domestic violence court, although such units have also been adopted in the absence of a specialized court. The Judicial Oversight Demonstration Project and a study in Rhode Island by Klein and Crowe (2008) both found positive effects in regard to a decreased rate of new offenses, with Harrell et al. (2006) attributing it to incarceration and incapacitation when probation was revoked, and Klein and Crowe attributing it to secondary prevention through frequent contacts with victims and offenders. Interestingly, the research indicates that domestic violence court staff may be able to anticipate which defendants are more or less likely to maintain compliance with court mandates. A 2006 study of a Brooklyn-based domestic violence court demonstrated that the strongest predictor of program mandate failure is early noncompliance. Defendants who had not enrolled in the program by the time of their first compliance appearance in court were significantly less likely to complete the mandate (Puffett and Cissner 2006). An earlier study also found that defendants with a substance use or abuse problem were especially at risk of not completing their mandate and of subsequent recidivism (Puffett and Gavin 2004).

Literature on Domestic Violence Courts

Since domestic violence courts lack a common vision or set of practices, it is not surprising that attempts to assess the impact of domestic violence courts have reported different

findings. Approximately a dozen studies have tested the impact of domestic violence courts on overlapping outcomes. The following discussion reviews the findings related to recidivism. There are numerous other goals and outcomes that have been identified and analyzed, but isolating the recidivism outcome in the literature allowed me to structure the inquiry for the purposes of this dissertation. The following studies compared domestic violence court offenders to offenders not processed in a specialized court, but were not able to analyze the various level two policies and practices used in the courts.

Ten sites have been evaluated utilizing quasi-experimental methods¹. In general, six produced reductions in re-arrests across most measures analyzed. However, that overall finding should be cautiously interpreted since results in only four of the six studies actually approached significance. The six studies were conducted in San Diego (Angene 2000), Milwaukee, WI (Davis 2001 and Harrell 2006), Minneapolis, MN (Eckberg and Podkpacz 2002), Lexington County, South Carolina (Gover et al. 2003), and Dorchester, Massachusetts (Harrell et al. 2007). Four sites produced no reductions or increases: Ann Arbor, MI (Harrell et al. 2007), Brooklyn, New York (Newmark et al. 2001), Manhattan (Peterson 2004), and Ontario, Canada (Quann 2007). A brief summary of each of those studies follows (see Table 2.1).

Angene (2000) examined the introduction of a specialized DV court to hear cases with misdemeanor charges in San Diego, California. This study compared the outcomes of DV cases before and after the introduction of a specialized DV court in the late 1990's. This study also found that recidivism declined from 21% to 14% (this finding reached significance). However, this study was not able to control for other court policy changes brought about by the implementation of the domestic violence court (Angene 2000).

¹ An additional study by Henning and Kesges is often cited in the domestic violence court evaluation literature but a copy of the report could not be obtained. Only reports that could be studied in their entirety were included in this report.

Davis et al. (2001) examined the impact of a specialized misdemeanor DV court in Milwaukee and also found that recidivism within 6 months of case disposition declined from 30% to 16%, as reported in victim interviews. New misdemeanor arrests increased slightly (non significant) and new felony arrests were reduced slightly (not significant) after the specialized court began. Due to the ambiguity of these findings, there is not clear evidence that crime after disposition dropped after the introduction of a domestic violence court.

Eckberg and Podkopacz (2002) evaluated the impact of the Minneapolis domestic violence court, which handles misdemeanor DV cases. Pre-trial re-arrests for a new domestic assault case were essentially unchanged, while post-disposition (nine months after disposition date) re-arrests for a new domestic assault case declined slightly, from 18% before the court was established to 14% after. Eckberg and Podkopacz did not conduct multivariate analyses to account for the changes in conviction and recidivism rates (this finding reached significance).

Gover et al. (2003) also found a reduction in recidivism (from 19% to 12%) of DV offenses after the court was established in Lexington County, South Carolina. A multivariate model of the likelihood of re-arrest found that this decline could not be attributed to differences in legal, case processing or demographic characteristics. Gover et al. (2003) concluded that the specialized DV court was effective in deterring domestic violence. However, the study site is in a rural jurisdiction with a low number of arrests.

As stated earlier, there have also been four evaluations that found no reductions or increases in recidivism. One of those studies was the Michigan JOD site discussed earlier. Newmark et al. (2001) studied the first specialized DV court established in New York City: a Brooklyn felony DV Court, which was established in June 1996. Based on a comparison of felony DV cases processed before and after the establishment of this court, the study concluded

that the specialized court resulted in several changes in the way DV cases were processed. Re-arrest rates increased (from 26% to 41%) at 18 months post disposition after the establishment of the DV court, presumably because of better identification of DV cases and the closer monitoring of offenders, which increased the likelihood of detecting a repeat offense.










Also in New York, Peterson conducted two previous studies of the impact of specialized DV courts on case outcomes (Peterson 2002 and Peterson 2003) and compared Manhattan, which did not have a specialized DV court to Brooklyn and the Bronx, which did. He found the two boroughs with specialized Criminal Court DV parts had a higher re-arrest rate than Manhattan, even after controlling for legal, case processing and demographic variables. In 2004 he used a different approach and compared domestic violence case outcomes before and after the introduction of a specialized DV court in Manhattan. He found that the re-arrest rate for DV offenses within 18 months of case disposition was higher after the establishment of the specialized DV Criminal Court in Manhattan (16% in 2001, compared to 12% in 1998). The author attributes this increase to better identification of DV cases, and does not reflect a real increase in DV re-arrests.

Finally, a quasi-experimental study was completed of a random sample of 500 offenders who have been convicted in Ontario, Canada of a domestic violence offence in a jurisdiction where there is a Domestic Violence Court (DVC) with a random sample of 500 offenders convicted in court jurisdictions without a DVC (Quann 2006). Findings did not demonstrate the influence of a DVC on reducing the overall likelihood of recidivism. However, offenders who appeared in a DVC were less likely than offenders who appeared in other Ontario courts to be reconvicted of a spousal or other violent offense and were more likely to be reconvicted of an administrative offense.

Summary

Taken together, the body of literature on the effectiveness of domestic violence courts cannot definitely say whether these courts or various policies are effective at reducing criminal behavior. Limitations in many of the studies' designs and methods suggest that caution is warranted when interpreting these results. Analytic improvements, such as employing matched comparison groups and following participants throughout extended follow-up periods, have improved the quality of recent studies. In addition, further research on the effectiveness of domestic violence courts in impacting outcomes other than recidivism would advance our understanding of the full impact that these courts have on the lives of defendants. Finally, although previous research has the effectiveness of court policies, it has not attempted to conceptualize and test major theoretical tenets. In addition, previous research has focused on individual level characteristics and court mandates, level two analyses at the court level has not been done. Accordingly, this dissertation takes all of the limitations posed by the previous literature and analyzes policies of 19 domestic violence courts in New York State using multi-level modeling to answer the question of how do domestic violence courts work.

Table 2.1. Overview of Select Domestic Violence Court Evaluations

Authors	Site	Comparison Group Definition	Selection Bias Adjustment	Key Findings: Recidivism			
				Finding	Sig.*	Timeframe	
Angene (2000)	San Diego, CA	Misdemeanor domestic violence cases processed before the establishment of specialized domestic violence courts (multiple courts within the site).	Yes		New police contact for domestic violence decreased from 21% to 14%.	Yes	One-year post conviction
Davis, Smith, and Rabbitt (2001)	Milwaukee, WI	Misdemeanor domestic violence cases processed before the establishment of a specialized domestic violence court.	Yes		Victim reports of re-abuse decreased from 30% to 16%; decline in felony re-arrests; increase in misdemeanor re-arrests	Victim: Yes Official: No	6-months post disposition
Eckberg and Podkopacz (2002)	Minneapolis, MN	Misdemeanor domestic violence cases processed before the establishment of a specialized domestic violence court part.	No		No change in pre-trial re-arrests for a new domestic assault case. New post-disposition domestic assault cases decreased from 18% to 14%.	Pre-Trial: No Post-Dispo: Yes	Pre-trial and one-year post disposition
Gover (2003)	Lexington County, SC	Criminal domestic violence cases processed before the establishment of a specialized domestic violence court.	Yes		Re-arrests for domestic violence and assaults involving intimates decreased from 19% to 12%.	Yes	18-months post arrest
Harrell et al. (2007)	Dorchester, MA	Similar cases reaching disposition in a neighboring jurisdiction: Lowell, MA.	Yes		Re-arrests decreased from 31% to 23%. Less victim reports of re-abuse (13% vs. 24%) in the eleven months after incident.	Official: No Victim: Yes	Official reports: one-year post-disposition. Victim reports: 2 months and 11 months post-incident
	Ann Arbor, MI	Similar cases reaching disposition in a neighboring jurisdiction: Ingham County, MI.			Re-arrests increased from 23% to 24%. No difference on any measure of revictimization at either interview.	No	
Harrell et al. (2006)	Milwaukee, WI	Offenders convicted of IPV and ordered to probation before the establishment of the Judicial Oversight Demonstration (JOD) Initiative.	Yes		Re-arrests for domestic violence decreased from 23% to 14%.	Yes	One-year post-disposition
Newmark et al. (2001)	Brooklyn, NY	Felony domestic violence cases processed before the establishment of this court.	Yes		Re-arrests for any crime increased from 26% to 41%.	Yes	18-months Post Disposition
Peterson (2004)	New York, NY	Misdemeanor domestic violence cases processed before the establishment of a specialized domestic violence court.	Yes		New domestic violence offenses increased from 12% to 16%.	No	18-months post-disposition
Quann (2006)	Ontario, Canada	Random sample of 500 offenders who were convicted of a domestic violence offense in Ontario, Canada in court jurisdictions without a domestic violence court (multiple courts within the site).	Yes		No change in re-conviction rates (about 31%).	No	Two-years post-conviction

* .05 significance level or better

Chapter Three

Research Design and Methodology

Overview

This dissertation reflects the results of analyses that conceptualize domestic court policies and procedures through the theoretical lenses of therapeutic jurisprudence and deterrence. Specifically, a series of two-level models was constructed using contextual and background factors at both the domestic violence offender and the domestic violence court levels to account for the variance in re-arrest rates between courts. The key elements of therapeutic jurisprudence and deterrence theories are tested to determine if some policies and procedures adopted by domestic violence courts are associated with better outcomes than others.

New York is a particularly suitable state for undertaking a multi-site study of this nature. The state is currently home to 100 (31%) of the estimated 325 domestic violence courts nationwide. The state includes criminal and “integrated” domestic violence courts, the latter of which place criminal, family, and matrimonial cases involving the same family before the same dedicated judge (Cissner, Picard-Fritsche, and Puffett 2011; Steketee 2000). This study focuses exclusively on criminal domestic violence courts, which is by far the more common model nationwide.

Chapter Three is organized around the following major sections: research design, sampling plan, data and measures, data analysis, and analytic plan. First, what follows is a brief outline of the research design and methodology:

1. **Research Design.** This section provides details on how the individual level and court level data was obtained. In sum, the level one case information is from three criminal justice databases used across New York State. In addition, critical background characteristics, criminal

history and recidivism data was obtained from the New York State Division of Criminal Justice Services. Court level data was obtained through a comprehensive survey sent to the 19 domestic violence courts.

2. Sampling Plan. The research design for this dissertation is organized at more than one level (i.e., nested data), which necessitates the use of multilevel models. The units of analysis are individuals (at a lower level) who are nested within the aggregate unit of domestic violence courts (at a higher level).

The level one data consists of the domestic violence court sample, which includes cases arrested and processed in 2008 in 19 domestic violence courts in New York State. This led to a total domestic violence court sample of 16,762 cases.

The level two court sample includes 19 criminal domestic violence courts that had been in operation as of 2007. Of those, four are located in New York City, three in its suburbs, three in mid-sized cities in upstate New York, and nine in small cities, semi-rural, or rural areas.

3. Measures

a. Level One Independent Measures– A wide range of background data were obtained for the domestic violence court sample; including, criminal history, instant case charge, and demographic measures. Although my research question concerns the effectiveness of court policies and procedures, I still needed to control for these offender background characteristics and covariates. Instead of adding a large number of independent variables to my models, I created a simple risk score. This level one risk score represents the predicted probability of re-arrest within one year, based on individual characteristics such as criminal history, current charges, and demographics. This risk score will be included in all regression models testing the effect of court policies on re-arrest.

- b. Level Two Independent Measures – For the purposes of data reduction and to develop meaningful measures to test the theoretical questions guiding this dissertation, I performed exploratory factor analyses on the survey results. Based on those results, multiple survey items that represent the same underlying concept (coordinated community response, accountability, monitoring, etc.) were combined into a single multi-item index. Each of these indices was included in the multi-level regression models.
 - c. Dependent – The outcome measures in this dissertation are official reports of re-arrest. Re-arrests were examined during two time periods: 1) over one year for all 19 sites which included the full available sample and 2) over one year post-disposition for all 19 sites which isolated only convicted offenders.
4. Analyses
- a. Univariate Analysis – A descriptive examination of both level one and level two variables were conducted.
 - b. Bivariate Analysis - An examination of bivariate relationships between level two variables was performed.
 - c. Multivariate Analysis – A series of regression models were conducted using HLM. Each model included the level one risk score and level two predictor (inputted one at a time).

Research Design

Data Source: Individual Level Data

Instant Case Information: The sample was obtained from three databases: 1) the Integrated Domestic Violence Application; 2) the Domestic Violence Application and 3) the Criminal Record Information Management System. The Integrated Domestic Violence Application and

Domestic Violence Application are used in criminal domestic violence courts across the state and contain defendant and case identifiers as well as data for each case on charges, dispositions, sentences, court appearances, program mandates, and compliance with court-imposed conditions. The applications are computer software programs that use Internet technology to connect specialized domestic violence courts with criminal justice agencies and social service providers. They allow users — which include judges, attorneys, victim advocates and batterers' intervention programs — to share information instantaneously. The applications immediately notify courtroom staff when an order of protection has been formally violated. Attorneys and victim advocates can stay on top of the latest case developments. Off-site service providers are able to provide court players with up-to-date information about their clients. The goal is to promote greater coordination and to help improve the criminal justice system's response to domestic violence crime.

One court in the sample, Troy City DV Court, does not enter case data into one of these applications. Information for defendants from that court had to be extracted from the Criminal Record Information Management System (CRIMS). CRIMS is an automated case management computer program designed exclusively for criminal trial courts. The system is up to date in all stages of case related record keeping from case initiation through disposition and appeal. In addition the system receives automated arrest information and provides disposition information to the State Division of Criminal Justice Services for the maintenance of defendants criminal histories. Complete criminal history records are essential to the work of Judges setting bail and determining sentences for prosecution as well as offering up to date case status to the police, corrections, probation and other criminal justice agencies.

Background Characteristics: These databases provide reliable information on the domestic violence case, but background characteristics on the offenders were needed and these are not collected in these databases. Once the sample was constructed, I requested and received baseline data from the New York State Division of Criminal Justice Services (DCJS). The DCJS data set contains comprehensive criminal history information, including charges, dispositions, and sentences for all prior arrests and convictions. The data set also includes all charges associated with the instant case as well as defendant demographics (race, age, and sex).

Recidivism Data: The New York State Division of Criminal Justice Services (DCJS) also provided comprehensive recidivism data for the sampled cases. The DCJS recidivism data set includes charges, dispositions, and sentences for all subsequent arrests and therefore enables a breakdown of domestic violence and non-domestic violence arrests, as well as domestic violence charges with the same victim.

The recidivism outcome measure consists of re-arrests up to one year in all 19 sites (arrests after one year are not included in the dataset). Furthermore, over one year following the disposition of each case ending in a conviction, I was able to isolate all re-arrests and all domestic violence re-arrests for convicted offenders.

I have been employed at the Center for Court Innovation for over eleven years. The Center functions as the New York State Unified Court System's independent research and development arm, creating demonstration projects that test new ideas. In my role as the Associate Director of Research, I have complete access to the DV and IDV Applications. In addition, the research department works closely DCJS in requesting and obtaining data. Per the request of the Institutional Review Board at the City University of New York, a letter was obtained from DCJS stating that I was able to use this data outside of my position at the Center.

Data Source: Survey Instrument for Court Level Data

Data on court policies and practices is drawn from two survey instruments administered to each of the 19 courts. The first survey was administered nationwide in 2008²; the second was a supplemental statewide survey administered in 2010³. The two surveys contained questions on a wide variety of operational and practice issues, including: caseload characteristics; court personnel and staffing; victim services; orders of protection; use of programs and services for defendants; judicial and probation monitoring practices; and common sanctions or responses to noncompliance (see Appendix A and Appendix B for the full survey instruments).

The goal of the surveys was to paint as complete a picture as possible of criminal domestic violence courts, including objective characteristics (e.g., court structure, staffing, and key policies) and stakeholder perceptions on court goals and practices. The court survey was designed with the expectation that the presiding domestic violence court judge, with first-hand knowledge of the court's structure and practices would be the respondent.

When designing the survey, it was vital that the questions were written in language shared by domestic violence court professionals nationwide. Several practitioners and legal professionals on our team guided discussions of question wording, leading the group toward greater clarity and comprehensibility of terms. Finally, a concerted effort to minimize the length and complexity of the survey was made.

² This survey was designed for a project funded by the National Institute of Justice and conducted by the Center for Court Innovation (Labriola et. al. 2009). The purpose of the study was to provide a description of domestic violence courts nationwide; specifically their goals, policies, and practices. I was the project director of the study. Together with colleagues from the Center for Court Innovation and partners at the California Administration of the Courts, I developed the questions for the survey, administered the survey distribution, collected and analyzed all data. I was also lead author on the final report.

³ This survey was distributed by the domestic violence technical assistance team at the Center for Court Innovation. I worked with the technical assistance team to develop the survey questionnaire. The survey was part of their on-going communication with courts about issues that courts may be facing.

The court survey could be completed online survey or by paper. Follow-up phone calls to non-responders were made in May of 2008, and a second wave of paper surveys was mailed in June 2008.

The supplemental survey was much shorter and sent only to domestic violence courts in New York State. The benefit of this survey was the opportunity to ask questions that were raised in the analyses of the original survey results, as well as re-word questions that we felt were not properly understood by respondents in the original survey. Lastly, since the survey was only sent to New York State domestic violence courts, additional questions could be asked that pertained only to those courts.

The presiding judge from each of the 19 courts responded to both the original survey and the supplemental survey. We were able to obtain a 100% response rate for both surveys. Only the presiding judge responded from each court, we were fortunate to have a perfect response rate from each of the courts.

Sampling Plan

Domestic Violence Court Sample

The court sample included 19 criminal domestic violence courts that had been in operation as of 2007. Of those, four are located in New York City, three in its suburbs, three in mid-sized cities in upstate New York, and nine in small cities, semi-rural, or rural areas. The majority of courts (N=16) accept misdemeanors only, two courts accept felonies only, and one court accepts both misdemeanor and felony cases. Table 3.1 lists all 19 domestic violence courts, along with basic information about each court's location, eligible cases, and year opened. Table 3.1 also provides the total number of cases included in the sample from each court.

In June 1996, the New York State Unified Court System, working in partnership with the local defense bar, the Kings County District Attorney's Office, Safe Horizon and the Center for Court Innovation, opened the Brooklyn Domestic Violence Court, the state's first specialized court part dedicated to handling domestic violence cases. The Brooklyn experiment was soon

Table 3.1. New York State Domestic Violence Court Sites

	Domestic Violence Court	County	Year Court Opened	Eligible Cases		Total # of Offenders in Sample	# of Convicted Offenders in Sample	
				Felony Cases	Misdemeanor Cases			
STRATA 1	New York City	Bronx Misdemeanor DV Court	Bronx	1997		x	2,936	812
		Brooklyn Misdemeanor DV Court	Kings	1996		x	4,323	1311
		Manhattan Criminal DV Court	New York	2000		x	2,279	502
		Queens Misdemeanor DV Court	Queens	1997		x	4,289	2796
STRATA 2	NYC Suburbs	Nassau County Misdemeanor DV Court	Nassau	2002		x	722	490
		Nassau County Felony DV Court	Nassau	2002	x		85	83
		Westchester County DV Court	Westchester	2001	x	x	215	169
STRATA 3	Mid-sized Cities	Albany City DV Court	Albany	2005		x	286	156
		Erie County Felony DV Court	Erie	2002	x		106	80
		Syracuse City DV Court	Onondaga	2004		x	670	419
STRATA 4	Semi-Rural/Rural	Auburn City DV Court	Cayuga	2003		x	103	66
		Beacon City DV Court	Dutchess	2007		x	46	19
		Binghamton City DV Court	Broome	2003		x	120	73
		Glens Falls City DV Court	Warren	2005		x	53	43
		Kingston City DV Court	Ulster	2006		x	38	19
		Newburgh City DV Court	Orange	2006		x	168	32
		Oswego City DV Court	Oswego	2006		x	11	10
		Troy City DV Court	Rensselaer	2001		x	141	112
Utica City DV Court	Onieda	2007		x	171	131		

followed by the Bronx Misdemeanor Domestic Violence Court, which began operations in June 1997. Over the next ten years, the New York State Unified Court System has replicated and adapted these court models in a variety of settings throughout the state.

Domestic Violence Court Offender Sample

From each of the 19 sites, the domestic violence court sample consists of all cases arrested and processed in 2008 in the domestic violence courts. Although each domestic violence court has their own eligibility criteria, all cases must involve allegations of domestic violence between domestic partners (persons who have children in common, are living together or have lived together, or are in a dating relationship). In order for cases to be accepted into the court, it must be alleged that a defendant has caused actual physical or emotional injury, or created a substantial risk of physical or emotional harm to a domestic partner. Unlike other problem solving court models, domestic violence courts are not voluntary. Any case that involves domestic violence is arraigned and immediately adjourned to the domestic violence court. The benefit of limiting the study to this one year was there is no risk of historical bias stemming from changes in police or prosecutor practices over time. Second, policies and procedures had been well established in each of the courts. These eligibility criteria led to a total domestic violence court sample of 16,762 cases (see Table 3.1 for total number of offenders in the post arrest sample and total number of convicted offenders in the post-disposition sample).

Table 3.2. Domestic Violence Court Sample

	Full Sample
<i>N</i>	16,762
Demographics	
Age	33.20
Race/Ethnicity	
Black	47%
Hispanic	32%
White	17%
Asian	5%
Male	83%
Current Charge Type	
Harassment	32%
Assault	58%
Menacing	13%
Stalking	1%
Criminal Contempt	15%
Criminal Contempt Only	9%
Child Victim	6%
Violent Felony	10%
Weapons	15%
Firearm	4%
Drug	2%
Driving While Intoxicated	1%
Current Charge Severity	
Felony Arrest	23%
Felony Arraignment	12%
Prior Arrests	
Any Arrest	63%
<i>Mean</i>	4.83
Domestic Violence	44%
<i>Mean</i>	1.45
Felony	48%
Violent Felony	32%
Drug	38%
Weapon	31%
Warrants	37%
Prior Convictions	
Any Convictions	38%
<i>Mean</i>	1.69
Domestic Violence	31%
<i>Mean</i>	0.71
Felony	22%
Violent Felony	9%
Drug	21%
Weapon	10%

Data and Measures

Again, the research design for this dissertation is organized at more than one level (i.e., nested data), which necessitates the use of multilevel models. The units of analysis are individuals (level one) who are nested within the aggregate unit of domestic violence courts (level two). What follows is a description of the measures at both levels; specifically the individual-level measures, court-level measures and the level-one risk score.

Individual-Level Measures (Level One)

The data presented in Table 3.2 indicates the range of criminal history, charge, and demographic measures that was collected for the domestic violence court sample. Basically, the sample is overwhelmingly male (83%), young (33 years old) and black (47%). The most common charges that brought them into the domestic violence court were assault (58%) and harassment (32%). The data show a sample with a large amount of criminal history - 63% had a prior arrest (with an average of 4.83 arrests) with the most common arrest charges being domestic violence (44%) and felonies (48%). In addition, 38% of the sample had a prior conviction and 31% had a prior domestic violence charge. This data are again presented, with differences by strata, in Chapter 4 where further description of the sample is provided.

Court-Level Characteristics (Level Two)

The 19 domestic violence courts vary on many court policies and practices. I argue that the impact of these courts will be associated with this variation in the policies and procedures that guide individual court operations. Most importantly, the various policies and practices make up the theoretical constructs that will be tested.

Between the two surveys, there were over one hundred variables of interest. I began trying to organize and understand the information by dividing up variables that best conceptualized the major ideas of therapeutic jurisprudence and those variables that best represent the theory of deterrence. Next, I performed exploratory factor analysis, which is most often used to uncover the underlying structure of a relatively large set of variables. It is commonly used by researchers when developing a scale or index and serves to identify a set of latent constructs underlying a battery of measured variables. I first performed exploratory factor analysis on those variables that I thought best conceptualized therapeutic jurisprudence and then I repeated the process with those variables that best conceptualized deterrence.

Exploratory factor analysis has three basic decision points: (1) the number of factors, (2) an extraction method, (3) a rotation method. The most common approach to deciding the number of factors is to generate a scree plot. The scree plot is a two dimensional graph with factors on the x-axis and *eigenvalues* on the y-axis, which represent the variance accounted for by each underlying factor. From the scree plot I determined the number of factors that accounted for most of the variance. To get the loadings for each of the factors, I used principal axis factoring with iterated communalities (least squares). This extraction method produced factor loadings for every item on every extracted factor. At that point, I used promax rotation to rotate the loadings, as a way of maximizing high loadings and minimizing low loadings. Promax rotation derives factor loadings based on the assumption that the factors are correlated.

Finally, I conducted reliability tests on sets of variables that based on their factor loadings seemed to form a construct. Keeping concepts that had an alpha higher than .70 (there is one caveat to that rule), I was able to ascertain eight possible concepts that conceptualized the therapeutic jurisprudence theory and seven possible constructs that conceptualized the deterrence

theory (see Table 3.4 for the cronbach's alpha scores). Finally, each of the variables was dichotomous, so I simply summed the variables together to form a new variable measuring each concept (the range for each construct are presented in Table 3.4). In addition to the concepts that were created, I also included four dichotomous variables that measure the importance of various goals of the court. These four goals did not hang together with any other concept but because I believe they are important to the theoretical constructs, I kept them as simple dichotomous variables. The four dichotomous variables and eleven concepts are used for the regression models. I believe the constructs tested represent the best possible approximations of theory tests given the responses of the domestic violence courts to the survey. What follows is a description of each of the concepts.

Reliability of Composite Predictor Variables. The therapeutic jurisprudence construct that will be tested is made up of eight concepts: rehabilitation, programs, judicial interaction, program noncompliance, court and community partnerships, assessments, and victim safety are all of which are inherently important to the theory of therapeutic jurisprudence (see Chapter 2). Likewise, when measuring the deterrence construct, the seven concepts that were conceptualized – deterrence, penalization, accountability, judicial supervision, punishment and sentencing – are the features that make up this theoretical perspective (see Chapter 2). All concepts are listed in Table 3.3. Of these fifteen concepts, eleven are composite variables that were created through exploratory factor analysis with reliability testing. The other four concepts are dichotomous variables related to the goals of the court. In addition, each of the concepts that make up each theoretical construct were standardized and summed to provide an overall measure of these theories.

Therapeutic Jurisprudence. What follows is an explanation of the concepts that make up the measurement of this theoretical model. First, judges were asked if **offender rehabilitation** was a goal of the court. Responses were scored on a five-point likert scale. As Table 4.4 shows, 21% of the courts rated rehabilitate offenders as an extremely important goal and 10% rated the goal as very important. Thus, the variable, for this analysis, was dichotomized to measure whether the goal was very or extremely important goal 0=not very/extremely goal and 1=very/extremely goal).

The **use of programs index** was created from eight variables related to the courts' use of batterer programs and other types of programs (e.g., alcohol or substance abuse treatment and mental health). Through an exploratory examination of the factor loadings and after reliability tests were conducted to confirm that these latent variables truly represented a larger concept, a single variable was created. The variables were summed together and since each of the variables was dichotomous the range for this index is from 0-8. The composite variable had Cronbach's α of .604. Although this alpha is a bit lower than standard, I allowed the composite in the analyses because of the theoretical import.

The composite variable, **judicial interaction index** was constructed from five items related to what the judge does during monitoring. In particular, this measures the type of monitoring promoted by therapeutic jurisprudence, which goes beyond surveillance of offenders and instead focuses on judicial interaction with the defendant through conversation and direct dialogue. Through an exploratory examination of the factor loadings and after reliability tests were conducted to confirm that these latent variables truly represented a larger concept, a single variable was created. The variables were summed together and since each of the variables was

dichotomous the range for this index is from 0-5. The composite variable had Cronbach's α of .703.

The next composite variable is **program noncompliance index**. This was measured by six items related to the court response when a defendant is noncompliant with a program. Court responses are not related to deterrence or punishment, instead they are using the power of the court to have the defendant restart the program, return to the program, or attend a new program (program attendance is a crucial aspect of therapeutic jurisprudence). Through an exploratory examination of the factor loadings and after reliability tests were conducted to confirm that these latent variables truly represented a larger concept, a single variable was created. The variables were summed together and since each of the variables was dichotomous the range for this index is from 0-6. The composite variable had Cronbach's α of .821.

Two composite variables (staffing and meetings and coordinated response and training) were constructed from five items related to court and community partnerships. Specifically, **staffing and meetings** was measured by three items, and **coordinated response and training** by two items. The first composite variable obtained Cronbach's α of .706 and the second obtained an alpha of .695. The range for the first variables is 0-3 and the second is 0-2.

The composite variable, **offender assessment index**, was constructed from six items related to assessments – are they conducted and if so, what is measured and what is done with the results. Through an exploratory examination of the factor loadings and after reliability tests were conducted to confirm that these latent variables truly represented a larger concept, a single variable was created. The variables were summed together and since each of the variables was dichotomous the range for this index is from 0-6. The composite variable had Cronbach's α of .883.

Lastly, the composite variable measuring **victim safety and services** is measured by seven items related to whether victim safety is a goal of the court, and what services are provided by the court to facilitate victim safety. Through an exploratory examination of the factor loadings and after reliability tests were conducted to confirm that these latent variables truly represented a larger concept, a single variable was created. The variables were summed together and since each of the variables was dichotomous the range for this index is from 0-7. The composite variable had Cronbach's α of .773.

Deterrence. Again, three of the concepts that make up this theoretical construct are simple dichotomous variables measuring court goals. Specifically, judges were asked if **offender rehabilitation, penalization, and accountability** were goals of the court. Responses were scored on a five-point likert scale. These goals were dichotomized to measure whether or not court goal was rated as extremely important (0=not extremely goal and 1=extremely goal). As Table 4.4 will outline:

- 90% of the courts rated accountability as an extremely important goal;
- 74% of the courts rated deterrence as an extremely important goal;
- 67% of the courts rated penalize offenders as an extremely important goal.

The composite variable, **judicial supervision index** was constructed from five items related to judicial supervision. It is important to note the difference between judicial supervision, which measures monitoring that is not interactive and does not promote dialogue with the defendant. Simply reviewing reports and restating responsibilities makes up judicial supervision, not involving meaningful judicial interaction (which is a key component to the theory of therapeutic jurisprudence). Through an exploratory examination of the factor loadings and after

reliability tests were conducted to confirm that these latent variables truly represented a larger concept, a single variable was created. The variables were summed together and since each of the variables was dichotomous the range for this index is from 0-5. The composite variable had Cronbach's α of .892.

Two composite variables (adjournment to court and imposition of sanctions) were constructed from six items related to punishment. Specifically, **adjournment to court** was measured by three items and **imposition of sanctions** by three items. The first composite variable measures the frequency a defendant is mandated back to court after an act of noncompliance. In addition, imposition of sanctions measures the use and frequency of severe court sanctions (i.e. jail and probation revocation). Using similar factor analysis criteria, the first composite variable obtained Cronbach's α of .832 and the second obtained an alpha of .716.

Lastly, the composite variable measuring **approach to sentencing** was measured by ten items related to the sentences mandated by the court for cases that end in conviction. Through an exploratory examination of the factor loadings and after reliability tests were conducted to confirm that these latent variables truly represented a larger concept, a single variable was created. The variables were summed together and since each of the variables was dichotomous the range for this index is from 0-10. The composite variable had Cronbach's α of .721.

Table 3.3. Theoretical Concepts Operationalized

THERAPEUTIC JURISPRUDENCE	
Offender Rehabilitation Priority	<ul style="list-style-type: none"> ○ Is rehabilitating offenders rated as a <i>very</i> or <i>extremely</i> important court goal
Use of Programs Index	<ul style="list-style-type: none"> ○ For cases that end in conviction, does the court <i>always</i> or <i>often</i> impose the following sentences: <ul style="list-style-type: none"> ▪ Batterer program mandate; ▪ Other program mandate; ▪ Community service ○ Does the court feel that it is important to mandate defendants to batterer programs for the following reasons: <ul style="list-style-type: none"> ▪ Treatment or rehabilitation; ▪ Alternative to incarceration ○ Does the court mandate defendants to other types of programs (other than batterer programs): <ul style="list-style-type: none"> ▪ Alcohol or substance abuse treatment; ▪ Anger management; ▪ Mental health treatment
Judicial Interaction Index	<ul style="list-style-type: none"> ○ Does the court have a separate compliance calendar? ○ During compliance hearings, does the judge/judicial officer <i>typically</i> do the following: <ul style="list-style-type: none"> ▪ Praises compliant behavior; ▪ Verbally admonishes defendant for noncompliant behavior; ▪ Reviews report submitted by program or probation; ▪ Converses directly with defendant in court
Program Noncompliance Index	<ul style="list-style-type: none"> ○ When a defendant is reported to be noncompliant with a program, does the court do the following <i>always</i> or <i>often</i>: <ul style="list-style-type: none"> ▪ Verbally admonish defendant (<i>always</i> responses only); ▪ Order defendant back to program with credit for sessions attended; ▪ Order defendant back to program with extra sessions added; ▪ Order defendant to restart program; ▪ Order defendant to start a new program; ▪ Order drug test
Court and Community Partnerships Index	Staffing and Meetings
	Coordinated Response and Training
Offender Assessment Index	<ul style="list-style-type: none"> ○ Does court staff administer an assessment directly to the offender <i>always</i> or <i>often</i>; ○ Does the assessment evaluate the following :

	<ul style="list-style-type: none"> ▪ Mental health issues; ▪ Drug or alcohol abuse issues; ▪ Service needs; <ul style="list-style-type: none"> ○ Does the court use the assessment to determine type of treatment or program(s)
Victim Safety and Services Index	<ul style="list-style-type: none"> ○ Is increased victim safety rated as an <i>extremely</i> important court goal; ○ Is facilitating victim access to services rated as an <i>extremely</i> important court goal; ○ Does the court routinely impose a temporary criminal protection at the first domestic violence court appearance; ○ Are the following provisions for victim safety made in and around the courthouse: <ul style="list-style-type: none"> ▪ Separate waiting area in the courthouse; ▪ Escort <i>before</i> court proceedings <i>outside</i> the courthouse; ▪ Escort <i>before</i> court proceedings <i>inside</i> the courthouse; ▪ Escort <i>after</i> court proceedings <i>inside</i> the courthouse

DETERRENCE	
Deterrence Priority	<ul style="list-style-type: none"> ○ Is deterring recidivism rated as an <i>extremely</i> important court goal
Penalize Offenders Priority	<ul style="list-style-type: none"> ○ Is penalizing offenders rated as an <i>extremely</i> important court goal
Offender Accountability Priority	<ul style="list-style-type: none"> ○ Is holding offenders accountable for illegal behavior rated as an <i>extremely</i> important court goal
Judicial Supervision Index	<ul style="list-style-type: none"> ○ During compliance hearings, does the judge/judicial officer <i>typically</i> do the following: <ul style="list-style-type: none"> ▪ Reviews any re-arrests or alleged violations of court orders; ▪ Restates program attendance responsibilities; ▪ Restates responsibilities related to contact with the victim; ▪ Restates what consequences will follow future noncompliance with court orders; ▪ Imposes concrete sanctions for noncompliant behavior
Punishment Index	<p>Adjournment to Court</p> <ul style="list-style-type: none"> ○ Does the court have a written protocol defining which sanctions might be imposed when a defendant is noncompliant; ○ When the court receives a report of noncompliance, does the court return the defendant to the court calendar within two weeks, regardless of the court appearance schedule; ○ When a defendant is reported to be noncompliant with a program, does the court do the following <i>always</i> or <i>often</i> order defendant to return to court immediately
	<p>Imposition of Sanctions</p> <ul style="list-style-type: none"> ○ Does the court <i>always</i> impose sanctions in response to noncompliance with a program mandate; ○ When a defendant is reported to be noncompliant with a program, does the

	<p>court do the following <i>always</i> or <i>often</i>:</p> <ul style="list-style-type: none"> ▪ Revoke or amend probation conditions; ▪ Resentence defendant to jail
Sentencing Index	<ul style="list-style-type: none"> ○ Is increased consistency of DV case dispositions and sentences rated as an <i>extremely</i> important court goal; ○ For cases that end in conviction, does the court <i>always</i> impose a protective order; ○ For cases that end in conviction, does the court <i>always</i> or <i>often</i> impose the following sentences: <ul style="list-style-type: none"> ▪ Probation; ▪ Incarceration for less than one year; ▪ Incarceration for one year or longer; ▪ Protection/restraining order; ▪ Restitution/Fines ○ Does the court feel that it is important to mandate defendants to batterer programs for the following reasons: <ul style="list-style-type: none"> ▪ Accountability; ▪ Monitoring; ▪ Proportionality

Note: Each of the questions that make up each concept are simple dichotomous variables (0=no, 1=yes).

Table 3.4. Description of Court Level Measures				
	Range	Mean	Std. Deviation	Alpha
Therapeutic Jurisprudence				
Offender Rehabilitation Index	0-1	0.32	0.48	
Use of Programs Index	0-5	1.89	1.37	0.604
Judicial Interaction Index	0-5	2.89	1.66	0.703
Program Noncompliance Index	0-6	3.47	2.12	0.821
Staffing and Meetings	0-3	2.32	1.00	0.706
Coordinated Response and Training	0-2	0.63	0.83	0.695
Offender Assessment Index	0-5	1.68	1.97	0.883
Victim Safety and Services Index	0-7	3.74	2.00	0.733
Deterrence				
Deterrence Priority	0-1	0.74	0.45	
Penalize Offenders Priority	0-1	0.58	0.51	
Offender Accountability Priority	0-1	0.89	0.32	
Judicial Supervision Index	0-6	3.05	2.44	0.892
Adjournment to Court	0-3	0.95	1.22	0.832
Imposition of Sanctions	0-3	0.79	1.08	0.716
Sentencing Index	0-9	4.95	2.59	0.721

Level One Risk Score

In examining which policies and practices lead some domestic violence courts to be more effective than others, one concern is that the results of these analyses could be spurious without controlling for background characteristics whose distributions might vary from site to site. For example, when testing for the policy effect of more as opposed to less frequent judicial status hearings, it cannot be certain whether the average participant background characteristics in sites that employ more frequent hearings is comparable to the average background characteristics in sites that employ less frequent hearings. These individual background characteristics (age, race, gender, etc.) greatly affect the probability of re-arrest and these characteristics must be taken into account and controlled for when analyzing the effect of court policies. One way to control for selection bias on policy and practice variables is to reconfirm any results after controlling for a large number of background covariates. However, that is an undesirable strategy. It involves employing potentially complex models with large numbers of independent variables, a serious

risk of obtaining distorted estimates due to multi-collinearity, and a substantial loss of degrees of freedom in the analysis. To achieve the same purpose (controlling for background factors), I created a simple risk score (See Rossman et al. 2011 and Cissner et al. 2013, which adopted the same strategy). The process is essentially analogous to the creation of propensity scores. Here, I specified models to predict the probability of re-arrest within one year of arrest.

Table 3.5. Level 1 Risk Score: Logistic Regression of Individual-Level Baseline Characteristics on Re-Arrest within One Year	
Dependent Variable	
Number of Cases	16762
Re-Arrested	5863
Not re-arrested	10899
Chi-square for final model	2412.456***
Lost degrees of freedom	92
Nagelkerke R2 for final model	0.185
Independent Variables:	
Age	-0.037
Male sex	-0.529
Black race	-0.058
Hispanic race	-0.158
Instant case assault charge	-0.05
Instant case criminal contempt charge	0.553
instant case criminal contempt only charge	-0.037
Instant case menacing charge	-0.004
Instant case stalking charge	0.088
Prior arrests (y/n)	0.3
Prior felony arrest (y/n)	0.213
Prior misdemeanor arrest (y/n)	0.14
Prior violent felony arrest (y/n)	-0.003
Prior drug arrest (y/n)	0.329
Prior child victim arrest (y/n)	-0.018
Prior weapon arrest (y/n)	0.38
Prior sex offense arrest (y/n)	0.169
Prior conviction (y/n)	-0.419
Prior felony conviction (y/n)	0.161
Prior misdemeanor conviction (y/n)	0.562
Prior violent felony conviction (y/n)	0.053
Prior drug conviction (y/n)	-0.126
Prior child victim conviction (y/n)	-0.124
Prior weapon conviction (y/n)	-0.106
Prior sex offense conviction (y/n)	-0.185
Felony arraignment	-0.068
Interaction male * assault charge	0.007
Interaction male * criminal contempt charge	0.625
Interaction male * criminal contempt only charge	-0.126
Interaction male * menacing charge	0.025
Interaction male * stalking charge	1.339
Interaction male * Prior arrests (y/n)	0.376
Interaction male * Prior felony arrest (y/n)	-0.181
Interaction male * Prior misdemeanor arrest (y/n)	-0.375
Interaction male * Prior violent felony arrest (y/n)	0.045
Interaction male * Prior drug arrest (y/n)	0.132
Interaction male * Prior child victim arrest (y/n)	0.038
Interaction male * Prior weapon arrest (y/n)	0.029
Interaction male * Prior sex offense arrest (y/n)	-0.153
Interaction male * Prior conviction (y/n)	-0.339
Interaction male * Prior felony conviction (y/n)	0.206
Interaction male * Prior misdemeanor conviction	0.628
Interaction male * Prior violent felony conviction	-0.107
Interaction male * Prior drug conviction (y/n)	-0.208
Interaction male * Prior child victim conviction (y/n)	0.157
Interaction male * Prior weapon conviction (y/n)	0.251
Interaction male * Prior sex offense conviction (y/n)	21.724
Interaction male * Felony arraignment	0.061

Table 3.5. Level 1 Risk Score: Logistic Regression of Individual-Level Baseline Characteristics on Re-Arrest within One Year (CONTINUED)

Independent Variables:	
Interaction black * assault charge	-0.096
Interaction black * criminal contempt charge	-0.24
Interaction black * criminal contempt only charge	-0.251
Interaction black * menacing charge	-0.11
Interaction black * stalking charge	0.618
Interaction black * Prior arrests (y/n)	-0.143
Interaction black * Prior felony arrest (y/n)	0.095
Interaction black * Prior misdemeanor arrest (y/n)	0.362
Interaction black * Prior violent felony arrest (y/n)	0.018
Interaction black * Prior drug arrest (y/n)	-0.057
Interaction black * Prior child victim arrest (y/n)	0.018
Interaction black * Prior weapon arrest (y/n)	-0.066
Interaction black * Prior sex offense arrest (y/n)	-0.179
Interaction black * Prior conviction (y/n)	0.017
Interaction black * Prior felony conviction (y/n)	0.009
Interaction black * Prior misdemeanor conviction (y/n)	-0.052
Interaction black * Prior violent felony conviction (y/n)	-0.145
Interaction black * Prior drug conviction (y/n)	0.265
Interaction black * Prior child victim conviction (y/n)	0.474
Interaction black * Prior weapon conviction (y/n)	0.048
Interaction black * Prior sex offense conviction (y/n)	0.013
Interaction black * Felony arraignment	0.108
Interaction hispanic * assault charge	-0.149
Interaction hispanic * criminal contempt charge	-0.417
Interaction hispanic * criminal contempt only charge	0.271
Interaction hispanic * menacing charge	0.23
Interaction hispanic * stalking charge	-0.164
Interaction hispanic * Prior arrests (y/n)	-0.218
Interaction hispanic * Prior felony arrest (y/n)	0.008
Interaction hispanic * Prior misdemeanor arrest (y/n)	0.345
Interaction hispanic * Prior violent felony arrest (y/n)	0.001
Interaction hispanic * Prior drug arrest (y/n)	0.156
Interaction hispanic * Prior child victim arrest (y/n)	-0.079
Interaction hispanic * Prior weapon arrest (y/n)	-0.129
Interaction hispanic * Prior sex offense arrest (y/n)	0.16
Interaction hispanic * Prior conviction (y/n)	0.103
Interaction hispanic * Prior felony conviction (y/n)	0.003
Interaction hispanic * Prior misdemeanor conviction (y/n)	-0.175
Interaction hispanic * Prior violent felony conviction (y/n)	-0.091
Interaction hispanic * Prior drug conviction (y/n)	0.326
Interaction hispanic * Prior child victim conviction (y/n)	0.43
Interaction hispanic * Prior weapon conviction (y/n)	0.033
Interaction hispanic * Prior sex offense conviction (y/n)	0.382
Interaction hispanic * Felony arraignment	0.108
constant	-0.086
Level One Risk Score	
Range	.17 - .78
Mean	0.35
Standard deviation	0.18

The level one risk score represented the predicted probability of re-arrest within one year, based on individual characteristics such as criminal history, current charges, and demographics (see Table 3.5). First, I conducted a logistic regression with re-arrest as the dependent variable and a variety of individual background characteristics as the independent variables (see Chapter 4 for information on the means and percentages for each variable). After obtaining the coefficients for each of the independent variables, including the intercept, I was able to estimate the probability of $Y=1$ by replacing the values of X into the logit regression equation. After running the logit model I was able to estimate predicted probabilities or odds ratios. In sum, this created a level one risk score for each individual (see descriptive statistics of the level one risk score displayed in Table 3.5).

This level one risk score will be included in all regression models testing the effect of court policies on re-arrest. This process seemed to be the most beneficial because I am interested in the policies and procedures of domestic violence courts, not individual level predictors. I believe this simple risk score will take into account the impact of individual characteristics while allowing for a strong model that focuses on the effect of court policies.

Outcome Measures (Level One)

The outcomes measured in this study have to do with recidivism and the principal recidivism measure is official re-arrest. Analyses were conducted looking at any re-arrest (including all charges) and domestic violence re-arrest (including any domestic violence incident, with or without the same victim). These dichotomous variables were coded 0=no new arrest and 1=new arrest. Re-arrests were examined during two time periods: 1) over one year for all 19 sites which included the full available sample and 2) over one year post-disposition for all

19 sites which isolated only convicted offenders. Table 3.6 illustrates the available samples for each of the analysis periods. There are four outcome measures and all are dichotomous variables: 1) any re-arrest one year post arrest (y/n); 2) domestic violence re-arrest one year post arrest (y/n); 3) any re-arrest one year post disposition (y/n); and 4) domestic violence re-arrest one year post disposition (y/n). The various independent variables will all be tested to see the effect on re-arrest one year post arrest and one year post disposition. The hypothesis of the direction of that effect depends on the independent variable. In other words, some of the policies are intended to lead to greater re-arrest while others could be interpreted as successful if they are reducing future arrests. This will be discussed further in the later chapters.

Table 3.6. Available Sample for Each Analysis Period

		Strata 1	Strata 2	Strata 3	Strata 4
	Full Sample	New York City	New York City Suburbs	Mid-Size City	Semi-Rural/Rural
Time Periods					
One Year Post Arrest	16762	13827	1022	1062	851
One Year Post Disposition	7323	5421	742	655	505

Data Analysis

Secondary Data Analysis

As discussed earlier, the theoretical constructs I am testing are conceptualized using responses from surveys that were given to the presiding judges at each of the 19 domestic violence courts. The use of secondary data for research has become more common among social and behavioral science researchers. However, the choice to use secondary data must be made with consideration for its advantages and disadvantages (Rosenberg et al. 2006).

The primary advantage of using secondary data for research is the conservation of time and expense because researchers can eliminate several steps in the research process, such as development of the measurement instruments, obtaining a research sample, the collection of the data, and the preparation of data for analysis by statistical packages (Rosenberg et al. 2006). This is especially true when the research questions require large sample sizes in order to obtain the power needed to make generalizations.

Another reason for researchers to make use of the excellent sources of existing large-scale secondary databases relates to the timeliness and richness of information provided in these databases (Martin, 2005). A perfect example is the survey data that is being used for this dissertation was originally used for another study. Essentially by using the same database, researchers can conduct different studies to answer different research questions (Kiecolt & Nathan, 1985).

Possibly most important, from a theoretical perspective, the great level of variance in large-scale databases makes it possible for the testing of competing theoretical frameworks and revision of hypotheses (Kiecolt & Nathan, 1985). From a measurement perspective, secondary data analysis can support the refinement and improvement of the instruments through reliability analysis or confirmatory factor analysis (Hilton, 1992).

Despite the many advantages of using secondary data in research, there are a number of drawbacks associated with secondary data analysis that are important for researchers to consider. One of the major limitations of secondary data analysis is that the data are often collected for purposes other than the purpose of the secondary analysis (Gonzales, 2001). This is particularly important to recognize for this dissertation since the surveys were not developed with a

theoretical foundation. Thus, many of the constructs are not perfect and that must be considered when interpreting the results.

Hierarchical Linear Modeling

Hierarchical data structures are very common in the social and behavior sciences. A hierarchy consists of lower-level observations nested within higher-level(s) (Kreft & Leeuw, 2004). Examples include students nested within classes and classes nested within schools, or residents nested within neighborhoods, or repeated measurements nested within persons. Because of such naturally occurring clusters, researchers often collect data on variables at both the lower-level and the higher-level(s) of the hierarchy. For instance, in the data being used for this dissertation, there are variables describing offenders (e.g., level one risk score), as well as variables describing courts (e.g., the theoretical constructs). Multilevel models are developed for analyzing hierarchically structured data (Kreft & Leeuw, 2004). The primary purpose of multilevel models is to capture the specific relationship between the lower-level and the higher-level(s) variables and the outcome variable. In the following sections, there is a discussion of the major advantages of using multilevel models to analyze hierarchically structured data over the traditional statistical regression models as well as theoretical and statistical assumptions of multilevel models.

One problem associated with traditional statistical approaches is related to analysis of data at the aggregate level. Some researchers tend to collect data from individuals and then aggregate the data to gain insights into the groups to which those individuals belong. This approach is technically flawed because inferences about groups are incorrectly drawn from individual-level information (Luke, 2004). In other cases, data collected at the group level are

disaggregated to the individual level. This approach is problematic because by ignoring group information, the model violates the independence of observations assumption leading to misestimated standard errors (estimated standard errors are smaller than they should be).

In multilevel models, predictor variables are conceptually defined at different levels and the hypothesized relations between these predictor variables operate across different levels (Luke, 2004). Thus, unlike conventional regression approaches, the data in multilevel models can be analyzed in the context of the level and in relation to the other levels (i.e., within and between groups). It is essential to realize, however, that in multilevel models, characteristics or processes occurring at a higher level of analysis tend to influence characteristics or processes at a lower level (Luke, 2004).

An advantage of using multilevel models over other traditional approaches addresses the issue of statistical or structural properties of the data. A major assumption of single-level, ordinary least squares (OLS) models is that the observations (and hence the error terms) are independent from one another. For hierarchically structured data, however, such an assumption is not valid because individuals who belong to the same group or context tend to have similar characteristics and thus, error terms tend to be correlated because the data are nested (not independent). In contrast, by accounting for both within and between group variability at two or more levels simultaneously, multilevel models can estimate the appropriate, unbiased, errors (Luke, 2004). In addition, multilevel models allow for estimating cross-level effects that cannot be conceptually defined in conventional single-level regression models

Finally, unlike traditional statistical approaches where sample size must meet specific criteria, multilevel models are powerful in that they can handle relatively small sample size.

Although the larger sample size will likely increase power of the study, multilevel models will be robust if the higher level sample size is at least 15 (Hox, 1995).

Not only are the observations each nested within one of 19 sites, these sites may have systematically varying police or prosecution policies, domestic violence court policies, or community-level influences. My hypotheses are that these site-specific features may lead re-arrest rates or other outcomes to vary (e.g., if some police departments are more likely than others to make an arrest in response to domestic violence incidents; or if some prosecutors are more likely to seek more or less severe sentences in court). Site-specific differences may also lead the direction or strength of the domestic violence court impact to vary. Hierarchical modeling enables taking these possibilities into account (see Raudenbush and Bryk 2002) by explicitly modeling (1) the intercept (constant) and (2) the impact of domestic violence court policies as random effects (i.e., policies able to vary by site) rather than as fixed effects (policies assumed not to vary site by site).

The HLM Model

Before conducting a multilevel model analysis, first, several decisions had to be made, including whether parameter values (i.e., the elements that will be estimated) will be fixed or random, whether to employ a random intercepts model or random slopes model; and what centering criteria will be made on the variables.

First, I had to determine whether or not the factors included in the model should be considered random or fixed. Table 3.7 shows the results of simple random effects logistic regression models, performed using HLM 6.04 software. The models include only the intercept and domestic violence court status in predicting four key outcome measures: (1) any re-arrest

one year after the initial arrest, (2) any domestic violence re-arrest one year after the initial arrest, (3) any re-arrest one year after disposition (of those convicted), and (4) any domestic violence re-arrest one year after disposition (of those convicted). In all four models, the random effect for the intercept was significant; in other words, there was significant between-site variance in all four outcomes. These results confirmed that it would be most prudent to conduct all analyses in an HLM framework that would adjust statistically for site-specific tendencies.

Hox and Kreft (1994) address this issue:

An effect in ANOVA is said to be fixed when inferences are to be made only about the treatments actually included. An effect is random when the treatment groups are sampled from a population of treatment groups and inferences are to be made to the population of which these treatments are a sample. Random effects need random effects ANOVA models (Hays 1973). Multilevel models assume a hierarchically structured population, with random sampling of both groups and individuals within groups. Consequently, multilevel analysis models must incorporate random effects (pgs. 285-286).

Another decision had to be made regarding random intercepts or random slopes. A random intercepts model is a model in which intercepts are allowed to vary, and therefore, the scores on the dependent variable for each individual observation are predicted by the intercept that varies across groups. This model assumes that slopes are fixed (the same across different contexts).

Table 3.7. Random Effects Logistic Regression Models

Post-Arrest Recidivism				
Number of Cases (Level 1 Units)	16762			
Number of Sites (Level 2 Units)	19			
Any Re-Arrest, 1 Year Post-Arrest (Y/N)				
Fixed Effects	<i>Coefficient</i>	<i>Standard Error</i>	<i>df</i>	<i>p value</i>
Intercept, G00	-0.504	0.057	18	0.000
Random Effects	<i>Variance</i>	<i>Standard Deviation</i>	<i>df</i>	<i>p value</i>
Level 2, U0	0.041	0.203	18	0.000
DV Re-Arrest, 1 year Post-Arrest (Y/N)				
Fixed Effects	<i>Coefficient</i>	<i>Standard Error</i>	<i>df</i>	<i>p value</i>
Intercept, G00	-1.069	0.069	18	0.000
Random Effects	<i>Variance</i>	<i>Standard Deviation</i>	<i>df</i>	<i>p value</i>
Level 2, U0	0.062	0.248	18	0.000
Post-Disposition Recidivism				
Number of Cases (Level 1 Units)	7323			
Number of Sites (Level 2 Units)	19			
Any Re-Arrest, 1 year Post-Disposition (Y/N)				
Fixed Effects	<i>Coefficient</i>	<i>Standard Error</i>	<i>df</i>	<i>p value</i>
Intercept, G00	-0.327	0.069	18	0.000
Random Effects	<i>Variance</i>	<i>Standard Deviation</i>	<i>df</i>	<i>p value</i>
Level 2, U0	0.061	0.247	18	0.000
DV Re-Arrest, 1 year Post-Disposition (Y/N)				
Fixed Effects	<i>Coefficient</i>	<i>Standard Error</i>	<i>df</i>	<i>p value</i>
Intercept, G00	-0.925	0.063	18	0.000
Random Effects	<i>Variance</i>	<i>Standard Deviation</i>	<i>df</i>	<i>p value</i>
Level 2, U0	0.042	0.204	18	0.000

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

Note: Logistic regression (Bernoulli) models were run on all outcome measures.

In the HLM model, all dichotomous variables are uncentered and the continuous were grand mean centered. In deriving a grand mean (the effect of X or an intercept), HLM pulls inaccurate group means toward the grand mean to reduce the influence of outliers if their estimates are inaccurate (i.e., having large error variance and/or coming from a small number of observations within each group unit). From a statistical perspective, there have been recent debates (e.g., Longford, 1989; Plewis, 1989; Raudenbush, 1989a, 1989b) as well as statistical demonstrations regarding the effects scaling decisions have on the estimation of random

coefficient models (Kreft, De Leeuw, & Aiken, 1995). In the most recent treatment of centering issues, Kreft et al. (1995; see also Kreft, 1995) investigated the equivalence of different centering options (i.e., raw metric, grand mean, and group mean) for several different random coefficient models where equivalence was defined as two models producing the same expectations and dispersions for the outcome variable. In summary, Kreft et al. (1995) concluded that grand mean centering and raw metric approaches produced equivalent models. Kreft et al. (1995: 10), however, noted that even though these two models were equivalent, grand mean centered models did provide a "computational advantage" (see also Raudenbush, 1989a, 1989b) because, in most cases, grand mean centering reduced the correlation between the intercept and slope estimates across groups. This reduction of the covariation between the random intercepts and slopes can help to alleviate potential level-2 estimation problems due to multicollinearity. Basically, when grand mean centering is adopted, the variance in the intercept term represents the between group variance in the outcome measure *adjusted* for the level-1 predictor(s). Therefore, with this approach, the level-2 regression coefficients represent the group level relationship between the level-2 predictor and the outcome variable less the influence of the level-1 predictor(s).

Analytic Plan

Based on the theoretical foundation of this research, I sought to examine whether domestic violence courts that have adopted certain policies and practices are more effective than other types of domestic violence courts. As explained above, measures were coded at the court level rather than the individual level. That is, each of the 19 courts had adopted distinct court-level policies and practices. Specifically, analyses to examine whether domestic violence courts

that have adopted certain policies and practices are more effective than other types of domestic violence courts. In conducting the actual analyses, the plan proceeded as follows.

Univariate Analysis

Descriptive statistics such as frequencies and means were computed for the level one and level two independent variables and outcome measures using SPSS version 20. In addition, figures and tables are used to display distributions of variables.

Bivariate Analysis

The bivariate relationships between the level 2 predictor variables were also examined using SPSS version 20. Bivariate comparisons were conducted to determine the incidence and prevalence of re-arrest both statewide and for each geographic stratum (New York City, suburbs, mid-size cities, and semi-rural/rural areas). Information is presented on re-arrest within one year of the initial instant case arrest and within one year of disposition.

Multivariate Analysis

Because the data for this dissertation were domestic violence offenders (level one) nested in domestic violence courts (level two), the analysis of the data was accomplished by the use of hierarchical linear modeling (HLM), a multi-level multiple regression technique useful in analyzing nested data (Raudenbush & Bryk, 2002). In order to proceed with HLM, the number of levels in the data needed to be specified and models needed to be constructed. Level one was represented by offender background variables, which were unique across students. Level two was represented by court level policies.

All subsequent HLM analyses were conducted using HLM 6.04, the specialized software developed for analysis of hierarchically structured data (Raudenbush, Bryk, Cheong, & Congdon, 2004). The chief reason that HLM 6 was selected for this study as opposed to other specialized software such as SAS Proc Mixed was that HLM 6.04 has the ability to incorporate appropriate complex design sampling weights at different levels of analysis (Raudenbush, Bryk, Cheong, & Congdon, 2004).

Final analyses were conducted with the impact of domestic violence court status analyzed as a random effect. For each outcome measure, I performed logistic regression for dichotomous measures (any re-arrest y/n)⁴. Since there is particular interest in the possible impact of domestic violence courts on cases ending in a conviction—e.g., via policies such as post-disposition program mandates, compliance monitoring, or sanctions for noncompliance—for the recidivism analyses, separate analyses for all sampled cases and for only those cases that were convicted were completed. The latter analyses began the follow-up tracking period on the case disposition date (i.e., date of conviction) rather than the initial arrest date.

As described above, I developed a risk score that represents the individual-level risk of re-arrest. Due to the development of this risk score, there was not a need to add each baseline predictors and introduce a serious risk of obtaining distorted estimates due to multi-collinearity and a substantial loss of degrees of freedom. Instead, this risk score was established and included in every model.

Having established a standard control variable, the next step of the analyses is to enter the risk score and a particular policy construct of interest into each model one at a time. Lastly, after standardizing each of the policy constructs, I was able to develop a complex model that included

⁴ I also conducted Poisson regression for count distributions that are right-skewed. Unfortunately, HLM software does not enable using a negative binomial specification, which is designed for the same kind of data as Poisson regression, but where the skewing is particularly extreme. Results from the poisson regression are presented in Appendix X.

each of the measures of the same underlying construct (deterrence and therapeutic jurisprudence). In this fashion, the goal of this dissertation is to provide a rigorous analysis of the key court-level policy and practice that explain the direction and magnitude of the domestic violence court impact on re-arrest within one year.

Chapter 4

Sample Characteristics and Court Policies

This purpose of this chapter is to present descriptive information about the final domestic violence court sample and the policies of the 19 domestic violence courts - essentially, the univariate results of both level one and level two data. This chapter provides important background information about the defendants and the courts that can help understand and decipher the information presented in the chapter that follows.

Profile of the Defendant Samples

Tables 4.1 through 4.3 present the baseline characteristics of defendants in the final domestic violence court sample. The table further distinguishes defendant characteristics by strata (i.e., New York City, New York City suburbs, mid-sized cities, and semi-rural/rural). Not only does the information presented in these tables provide a description of the sample for the current study, it also provides a more general portrait of domestic violence defendants in New York State, the third largest state in the country. Overall, the findings are consistent with previous research, suggesting that domestic violence defendants are predominately males from racial and ethnic minority groups in their early thirties, with an extensive criminal history. Important to note when looking at the average numbers, the New York City sample is overwhelmingly larger than the other stratum and because of that, the New York City sample drives the average.

Demographics

The domestic violence court defendants are approximately 33 years old on average and overwhelmingly male (83%). Half are black (47%), and the other half are made up of Hispanic (32%), white (17%), and Asian (5%) defendants. While the age and sex of the defendants do not differ by strata, there are differences in their racial make-up. Consistent with the overall racial make-up of the different jurisdictions within New York State, we see fewer black defendants and more white defendants in the New York City suburbs and semi-rural/rural courts.

Table 4.1. Profile of Domestic Violence Court Sample: Demographics

	Full Sample	STRATA 1 New York City	STRATA 2 NYC Suburbs	STRATA 3 Mid-Size City	STRATA 4 Semi-Rural/ Rural
<i>N</i>	16,762	13,827	1,022	1,062	851
Age	33.20	33.28	35.24	32.22	31.41
Race/Ethnicity					
Black	47%	47%	40%	65%	33%
Hispanic	32%	37%	8%	8%	14%
White	17%	10%	50%	27%	52%
Asian	5%	6%	2%	1%	1%
Male	83%	83%	87%	82%	82%

Current Charges

The charge information presented in Table 4.2 is not limited to the top charge; because a single case frequently includes multiple charges, the sum of the percentages is greater than 100%. The majority of cases included an assault charge (58%), with about one-third including a harassment charge (32%). Other common charges included weapons (15%), menacing (13%) and criminal contempt (15%). There are some notable differences between the strata: New York has significantly more assault charges; New York City suburbs sees more menacing charges; New York City has lower criminal contempt and criminal contempt only charges; and the rural

courts have more child victim cases (no statistical tests run). Although there are some differences, it is important to note that the most common charges are similar across the state.

Almost one-fourth of the sample was arrested on a felony charge (23%), and 12% were arraigned on a felony charge. Again, some differences do lie between the strata. One explanation for the much lower number of cases arraigned on a felony is that in New York City, the prosecutor often downgrades the charges from the felony to misdemeanor level when drawing up the official criminal complaint. The data seems to indicate that practice is not occurring in the other strata. There is no way to test whether or not this type of pre-filing prosecutorial procedure could affect recidivism, however, there are multiple points in the criminal justice process that the police or prosecutor could also have an effect on offender future behavior. For the purpose of this dissertation, I am only able to concentrate on cases that were arraigned and sent to the domestic violence courts; and it is at that point that I am able to test court policies.

Table 4.2. Profile of Domestic Violence Court Sample: Current Charges

	Full Sample	STRATA 1 New York City	STRATA 2 NYC Suburbs	STRATA 3 Mid-Size City	STRATA 4 Semi-Rural/ Rural
<i>N</i>	16,762	13,827	1,022	1,062	851
Current Charge Type					
Harassment	32%	34%	15%	17%	29%
Assault	58%	64%	35%	34%	29%
Menacing	13%	13%	21%	13%	10%
Stalking	1%	1%	4%	2%	1%
Criminal Contempt	15%	13%	23%	26%	18%
Criminal Contempt Only	9%	7%	17%	12%	10%
Child Victim	6%	5%	5%	9%	14%
Violent Felony	10%	10%	7%	17%	7%
Weapons	15%	16%	12%	22%	9%
Firearm	4%	4%	1%	5%	1%
Drug	2%	2%	2%	3%	2%
Driving While Intoxicated	1%	1%	1%	1%	1%
Current Charge Severity					
Felony Arrest	23%	23%	21%	41%	16%
Felony Arraignment	12%	9%	20%	41%	16%

Criminal History

The domestic violence court defendants have an extensive criminal history (see Table 4.3). In particular, 63% of the defendants had a previous arrest, with an average of almost five prior arrests. The two most common prior arrest charges are domestic violence (44%) and felony arrests (48%). Again, there are differences between strata. Most importantly, the prior arrest rate is much higher in mid-sized city (83%) with an average number of 8 previous arrests. The conviction numbers represent those offenders that were previously arrested. The overall incidence of convictions is 64%, which reflects only conviction rates of those previously arrested.

Table 4.3. Profile of Domestic Violence Court Sample: Criminal History

		STRATA 1 New York City	STRATA 2 NYC Suburbs	STRATA 3 Mid-Size City	STRATA 4 Semi-Rural/ Rural
<i>N</i>	16,762	13,827	1,022	1,062	851
Prior Arrests					
Any Arrest	63%	60%	65%	83%	77%
<i>Mean</i>	4.83	4.54	3.85	8.48	5.80
Domestic Violence	44%	42%	43%	63%	54%
<i>Mean</i>	1.45	1.32	1.21	2.84	1.86
Felony	48%	45%	49%	70%	56%
VFO	32%	31%	27%	49%	32%
Drug	38%	38%	32%	45%	31%
Weapon	31%	30%	24%	45%	28%
SOR	6%	6%	4%	15%	12%
Child Victim	10%	9%	5%	21%	20%
Warrants	37%	36%	35%	58%	43%
Prior Convictions¹					
Any Convictions	64%	58%	69%	81%	79%
<i>Mean</i>	3.18	2.98	2.78	4.24	3.81
Domestic Violence	57%	53%	59%	70%	66%
<i>Mean</i>	1.42	1.19	1.36	2.52	1.84
Felony	38%	36%	35%	48%	41%
VFO	15%	15%	13%	15%	13%
Drug	35%	35%	33%	37%	28%
Weapon	17%	16%	14%	19%	19%
SOR	3%	2%	3%	5%	5%
Child Victim	4%	2%	3%	7%	9%

¹ Represents conviction information for those that were previously arrested.

Profile of Domestic Violence Courts

As indicated in Chapter Three, criminal domestic violence courts in operation as of 2007 were included in the current study. The actual opening dates ranged from 1996 to 2007, with the New York City courts generally opening earlier than the others. The caseload data presented in Table 3.1 (see previous chapter) give a general sense of the relative caseloads of the 19 sites. Not surprisingly, the caseloads in the New York City courts are generally the largest, with additional sizeable caseloads in relatively larger upstate population centers. The remaining part of the chapter provides further summary data on the goals, policies, and operations of the 19 courts. In

presenting the information in each of the following sections, I simply followed the layout of the surveys to ensure reporting of responses of every question. Important to note, the questions on the survey were not organized under the theoretical constructs and as will be presented in Chapter 5, the courts are not primarily using deterrence or therapeutic jurisprudence policies, they are using a combination of both.

Domestic Violence Court Goals

Table 4.4 lists the full array of court goals included in the policy survey. At least 60% of respondents rated ten of the 13 goals in the survey as either very or extremely important, suggesting that most domestic violence courts share a long list of priorities.

Isolating only those goals that respondents identified as extremely important, three-quarters of the courts prioritize offender accountability (90%), victim safety (74%) and deterrence (74%). Other important goals are penalizing offenders (67%) and facilitate victim access to services (58%). On the other end of the spectrum, less than one-quarter considered either rehabilitating offenders (21%), improving victim perception of court fairness (21%) or increasing the visibility of domestic violence as a social problem (26%) to be extremely important.

Research by Labriola et al. 2009 demonstrates that New York State domestic violence courts are unique in the extent to which they do not prioritize rehabilitation on average; domestic violence courts in other parts of the country are significantly more likely than in New York State to prioritize rehabilitating offenders as extremely important. In general, we found that variation in how goals were conceived was not a function of state or other contextual factors. Whether the

respondent was from California, New York, or other states did not significantly influence the ratings of 10 of the 13 goals. The three exceptions follow⁵:

- Hold offenders accountable: Whereas 90% of court respondents from New York viewed accountability as extremely important, fewer respondents from other states rated it so highly: 67% from California and 70% from other states rated this goal extremely important. When the rankings “very important” and “extremely important” were combined, 100% of respondents in New York, 91% of respondents in California, and 96% of respondents in other states, endorsed accountability as an important goal.
- Rehabilitate offenders: Whereas only 21% of court respondents from New York rated rehabilitation extremely important, 57% from California and 49% from other states gave it this highest rating. In fact, respondents from New York selected rehabilitation least often of the 13 goals; it was tied for fourth among California’s respondents and fifth elsewhere. Evidently, the large number of New York courts substantially depressed the average level of support for rehabilitation that was found across the entire sample. With “very important” and “extremely important” combined, we still found that a minority of New York courts endorsed rehabilitation as an important goal (31%), while endorsement in California increased to 90% and in other states to 87%.
- Foster judicial expertise: About half of the court respondents from California and New York (52% and 53%, respectively) rated fostering expertise in judges or judicial officers as extremely important, compared to 39% from other states. With the “very important” and “extremely important” responses combined, support for this goal increased among all three state groupings (California=86%, New York=79%, Other States=77%).

⁵ All results presented here are from a previous study looking at domestic violence courts across the county (Labriola et al. 2009).

We lack data to explain New York’s polar opposite ratings of accountability (frequently rated as extremely important) and rehabilitation (infrequently rated as extremely important) as compared to other states. These ratings are consistent, however, with a prevalent perspective in New York that program mandates are not effective as rehabilitation but can serve as a mechanism of accountability, and that judicial monitoring and enforcement of mandates are a responsibility of domestic violence courts. This is important information to note, especially when considering generalizing any findings to a larger area. It seems that New York is indeed different than the rest of the country on various aspects of court goals.

Table 4.4. Respondent Rankings of Court Goals (N=19)

	Not a Goal	Somewhat Important Goal	Very Important Goal	Extremely Important Goal
Hold Offenders Accountable for Illegal Behavior	0%	0%	10%	90%
Increase Victim Safety	0%	5%	21%	74%
Penalize Offenders Noncompliant with Court Orders	4%	8%	21%	67%
Deter Offender Recidivism	5%	5%	16%	74%
Facilitate Victim Access to Services	10%	5%	26%	58%
Foster Expertise among Judges or Prosecutors	10%	10%	26%	53%
Apply State Statutes Correctly and Consistently	10%	26%	21%	42%
Increase Efficiency of DV Case Processing	5%	21%	32%	42%
Increase Consistency of DV Case Dispositions and Sentencing	0%	5%	58%	37%
Achieve Coordinated Response to DV	5%	21%	37%	37%
Improve Victim Perception of Court Fairness	21%	21%	37%	21%
Increase Community Visibility of DV as a Social Problem	21%	26%	26%	26%
Rehabilitate Offenders	53%	16%	10%	21%

Case Eligibility Criteria

As noted in Chapter 3, the majority of the 19 domestic violence courts (N=16) accept only cases that at arraignment are charged as misdemeanors, two courts accept only felonies, and one court accepts both misdemeanors and felonies. Besides these charge specifications, the courts vary in the types of intimate relationships that are deemed eligible (see Table 4.5). Whereas intimate partner violence cases are eligible for all 19 courts, there are some variations in the

operative definition of an intimate relationship. All 19 courts define as intimate partners those couples who are married or were previously married, have children in common, or live together. In addition, the majority of courts define as intimates former partners who were never married (N=15), same-sex couples (N=16), and couples who have no children together and do not reside together (N=15). Fewer courts accept non-intimate partner domestic violence cases. Nonetheless, 9 of the 19 courts accept elder abuse cases, seven accept child abuse cases, 8 accept cases of violence against other family members (e.g., siblings), and none accept cases of violence between non-intimates who are living together.

Dedicated Staffing

All 19 domestic violence courts have a dedicated judge, with more than one dedicated judge in seven sites. The majority of courts also have at least one of each of the following staff members: victim advocate (92%), prosecutor (88%), resource coordinator/compliance monitor (83%), public defender (71%), court clerk (71%), and bailiff (67%). Slightly fewer courts have dedicated probation staff (54%) or a project coordinator (42%). All but two of the courts have *either* a resource coordinator/compliance monitor *or* a project coordinator, positions that are uncommon in standard criminal courts. Coordinators frequently help to alleviate the strain a specialized court might otherwise place on court staff by spearheading outreach to community partners and maintaining up-to-date compliance information or other supplementary court data.

Table 4.5. Court Survey Responses: DV Court Eligibility

		Domestic Violence Court	Eligible Charges	Eligible Violence Types					Eligible Intimate Relationships						
				Intimate Partner Violence	Elder Violence	Child Abuse	Violence against Other Relatives	Violence against Roommates	Married Partners	Separated/Divorced	Children in Common	Live Together	Not Living Together, No Children in Common	Former Partners	Same Sex Couples
STRATA 1	New York City	Bronx Misdemeanor DV Court	Misdemeanor	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓
		Brooklyn Misdemeanor DV Court	Misdemeanor	✓					✓	✓	✓	✓	✓	✓	✓
		Manhattan Criminal DV Court	Misdemeanor	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓
		Queens Misdemeanor DV Court	Misdemeanor	✓					✓	✓	✓	✓	✓	✓	✓
STRATA 2	NYC Suburbs	Nassau County Misdemeanor DV Court	Misdemeanor	✓					✓	✓	✓	✓	✓	✓	✓
		Nassau County Felony DV Court	Felony	✓					✓	✓	✓	✓			✓
		Westchester County DV Court	Misdemeanor & Felony	✓					✓	✓	✓	✓	✓	✓	✓
STRATA 3	Mid-sized Cities	Albany City DV Court	Misdemeanor	✓					✓	✓	✓	✓	✓	✓	✓
		Erie County Felony DV Court	Felony	✓	✓				✓	✓	✓	✓			
		Syracuse City DV Court	Misdemeanor	✓					✓	✓	✓	✓	✓	✓	✓
STRATA 4	Semi-Rural/Rural	Auburn City DV Court	Misdemeanor	✓	✓	✓			✓	✓	✓	✓	✓		✓
		Beacon City DV Court	Misdemeanor	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
		Binghamton City DV Court	Misdemeanor	✓					✓	✓	✓	✓	✓	✓	✓
		Glens Falls City DV Court	Misdemeanor	✓	✓	✓	✓		✓	✓	✓	✓			
		Kingston City DV Court	Misdemeanor	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
		Newburgh City DV Court	Misdemeanor	✓					✓	✓	✓	✓	✓	✓	✓
		Oswego City DV Court	Misdemeanor	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
		Troy City DV Court	Misdemeanor	✓			✓		✓	✓	✓	✓	✓	✓	✓
		Utica City DV Court	Misdemeanor	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓

Sentencing Conditions

Previous literature suggests that domestic violence courts make greater use of final orders of protection, program mandates, intensive probation, and other special conditions than non-specialized courts (e.g., Angene 2000; Gondolf 1998; Harrell et al. 2007; Klein and Crowe 2008; Newmark et al. 2001). Indeed, 18 of the 19 courts (95%) reported that they often or always include a protective order as part of the final sentence. In addition, 15 of the courts (79%) reported that at least half of all convicted offenders are ordered to attend a batterer program. Other commonly mandated programs include alcohol or substance abuse treatment (used by 17 of the 19 courts, or 89%), mental health treatment (84%), parenting classes (58%), and anger management (58%). The majority of courts (54%) reported that program completion has no impact on the case disposition or sentence, whereas one-third (33%) of courts reported that program completion results in a charge or sentence reduction.

Offender Assessment

Only five of the 19 courts (26%) reported that defendants are either often or always administered an assessment; those five courts were all located in the suburbs of New York City or in two of the mid-sized upstate cities, meaning that none of the courts with the highest volume (in New York City) report regularly conducting any type of assessment. Formal assessments can cover a range of issues. They include: drug and alcohol dependence (42% of all 19 courts), mental health issues (38%), socio-demographic background (29%), service needs (25%), risk for repeat violence (25%), history of victimization (21%), or risk for lethality (17%).

Supervision and Compliance

Probation Supervision. Ten of the 19 courts (53%) reported that they frequently mandate offenders to probation supervision, and an additional nine courts reported that they sometimes mandate to probation. In a recent study of specialized domestic violence probation, one factor that differentiated the specialized approach from traditional probation was greater probation contact with domestic violence victims (Klein and Crowe 2007). Thus, we were interested in whether victim outreach was common. Considering the 18 courts that reported ordering offenders to probation at least sometimes and answered questions about victim contact with probation, 90% of this sub-sample indicated that probation officers routinely contact victims. The most common reason for contacting victims was to elicit information (37%), with 26% specifically citing an interest in asking the victim about offender compliance with protection orders. Two courts indicated that probation officers routinely contact victims to alert them of noncompliance by their abuser, and two courts indicated that they contact victims to offer services. In general, New York City courts are less likely than others to report frequently mandating offenders to probation supervision.

Judicial Supervision. In general, judicial supervision involves regular status hearings before a judge or judicial hearing officer for the express purpose of compliance monitoring, not to address dispositional issues. Such supervision typically occurs after a conviction but can also occur earlier, sometimes in tandem with required attendance in a pretrial diversion program. All but one of the 19 courts (95%) reported that they engage in judicial monitoring. However, only 14 of the courts (74%) reported that judicial monitoring takes place at least once per month; and only six courts reported that they conduct monitoring on a separate compliance calendar rather than

mixing judicial status hearings with hearings on dispositional issues. Table 4.6 presents the typical content of judicial monitoring.

- Interaction: The judge or judicial officer conducts at least one form of basic “surveillance or interaction” in 75% of the 20 courts responding to this question. I defined such tasks to include conversing directly with the defendants (80%), reviewing probation or program reports (75%), or reviewing any allegations of criminal behavior (50%).
- Information Sharing: In 60% of the courts, the judge attempts to use court supervision in at least one respect to increase defendants’ information about and understanding of the requirements of the sentence. I defined such efforts to include reiterating program attendance requirements (60%), the consequences of noncompliance (55%), or restrictions on victim contact (40%).
- Sanctions and Incentives: In 80% of the courts, the judge takes at least one of the following actions: admonishing defendants for noncompliance (80%), imposing concrete sanctions for noncompliance (60%), or praising compliance (65%).

Table 4.6. Judge's Actions in Compliance Hearings	
	Full Sample¹
Court Does Not Engage in Regular Judicial Monitoring	n=1
Court Engages in Regular Judicial Monitoring	n=18
Surveillance and Interaction	75%
<i>Converse directly with defendant in court</i>	80%
<i>Review report submitted by program or probation</i>	75%
<i>Review any re-arrest or alleged violation of court orders</i>	50%
Information and Understanding: Reinforce Requirements	60%
<i>Reiterate program attendance responsibilities</i>	60%
<i>Explain consequences of future noncompliance with court orders</i>	55%
<i>Reiterate restrictions on contact with the victim</i>	40%
Sanctions and Incentives	80%
<i>Admonish defendant for noncompliant behavior</i>	80%
<i>Praise compliant behavior</i>	65%
<i>Impose concrete sanctions for noncompliant behavior</i>	60%
¹ Only 18 courts responded to questions about monitoring frequency and the judge's actions during compliance hearings. Therefore, all percentages are derived from an N of 18.	

Enforcement of Noncompliance. The vast majority (86%) of responding courts indicated that noncompliance with a program mandate is often or always met with a sanction. However, only four courts reported that they have written protocols prescribing a schedule of sanctions in response to noncompliance; and only two courts provide a copy of such a schedule to defendants.

Table 4.7 presents the frequency with which the courts report imposing specific sanctions for noncompliance with court orders. The most common responses are the least punitive: verbally admonishing defendants (95% report doing so always or often); ordering defendants to return to court immediately (74%); and ordering defendants to make more frequent court appearances (52%). Far fewer courts reported imposing any of a series of sanctions related to increased program attendance. At the most severe end of the spectrum, 29% of courts reported often or always imposing jail, and 19% of courts reported often or always revoking probation. These results regarding the use of sanctions for noncompliance and, in particular, the decreasing likelihood of using more severe sanctions—jail especially—closely mirrors the findings in a recent national survey of domestic violence courts (Labriola et al. 2009), indicating that the distribution of these policies in New York is broadly representative of the national field.

Table 4.7. Court Responses to Noncompliance			
	Always/ Often	Sometimes	Rarely/ Never
	n=19		
Verbally admonish defendant	95%	0%	5%
Order defendant to return to court immediately	74%	11%	16%
Order defendant to make more frequent court appearances	52%	33%	14%
Resentence defendant to jail	29%	52%	19%
Order defendant back to program with extra sessions added	24%	24%	52%
Revoke or amend probation conditions	24%	67%	10%
Order defendant back to program	19%	57%	24%
Order drug test	14%	33%	52%
Order defendant to restart program	14%	62%	24%
Order defendant to start a new program	5%	71%	24%

Victim Safety and Services

All but two of the courts reported that at least one victim advocate is dedicated to the domestic violence court. This is slightly higher than the 80% of courts included in the recent national portrait of domestic violence courts that reported a dedicated domestic violence court victim advocate (Labriola et al. 2009). The majority of courts in this study (63%) estimated that a victim advocate is involved in more than half of all domestic violence court cases.

The courts reported engaging in a number of provisions for victims' physical safety in and around the court. Half (50%) reported having separate waiting areas for victims. Other strategies employed by some of the courts to promote victim safety include escorts before (38%) and after (42%) court; childcare centers so that children do not have to be present for court proceedings (21%); and separate seating in the courtroom for victims (21%).

Beyond provisions for victim safety *during* court proceedings, protective orders have long been a critical tool in the legal system's efforts to protect victims of domestic violence. Almost all courts in this study (95%) reported regularly issuing a protection order at some point during the case. The vast majority reported that a temporary order is usually issued either at a defendant's first appearance in the domestic violence court (75%) or prior to the first appearance (21%). Many courts reported, however, that victims may not receive copies of the order for several days. Specifically, 44% of the courts reported that victims are sent their copy in the mail by the court clerk, prosecutor's office, or victim advocate. Another 40% of courts reported that victims are *either* sent their protection order by mail or are given the order when they go to court. In the remaining courts, protective orders are delivered in-person by a law enforcement agent (8%) or the survey respondent did not know how victims receive a copy (8%).

Chapter 5

The Impact of Domestic Violence Courts on Recidivism

Many studies have examined whether domestic violence courts have a significant and negative effect on criminality; and some of those studies have been able to test whether the findings persist for some time after they leave the program. However, little is known about *how* domestic violence courts achieve success. This question is important not only for the domestic violence court field, but for criminology and affiliated fields as well; the mechanisms employed in a domestic violence court are not unique to that setting, and thus, lessons may have broad applicability.

As discussed in Chapter 2, two theories guide and steer the development and day-to-day activities of problem solving courts, and domestic violence courts in particular. These theories are unique in the policies and goals that are developed to achieve certain outcomes. Both theories have been proposed—but not tested—to answer the question of *how* domestic violence courts work. Deterrence theory, drawn from the economic and criminological literature, suggests that the threat of sanctions, including incarceration, deters future violence and offending. Second, therapeutic jurisprudence theory, drawn from the psychological literature, posits that engaging defendants in a holistic and transparent process that maximizes perceptions of equality, fairness, and justice (e.g., procedural justice) leads to desistance. In a similar vein, legal scholarship has identified participants' attitudes toward the judge—or their beliefs about the judges' competence, impartiality, and concern for their general well-being—as being critical to subsequent desistance, under the rubric of therapeutic jurisprudence (Hora, Schma, and Rosenthal 1999; Wexler and Winnick 1996).

After presenting the univariate results in the previous chapter, this chapter reports the results of the bivariate analyses and the multilevel hierarchical linear models (HLM) that empirically test how these theoretical pathways affect recidivism. Proposed factors include court practices (e.g., use of programs and judicial monitoring), court goals (e.g., accountability, rehabilitation) and victim safety and services.

To my knowledge, there has been no previous attempt to isolate the mechanisms through which domestic violence court affects behavior. What follows are the results of an analysis of a large number of theoretical predictors, specifically therapeutic jurisprudence and deterrence measures. To account for heterogeneity in the theoretical mediators, I included multiple measures of deterrence and therapeutic jurisprudence.

This chapter presents findings concerning the policies and practices that are implemented in domestic violence courts that appear to affect recidivism. First, basic frequencies are presented to lay a foundation for the incidence and prevalence of re-arrest amongst the sample.

Incidence and Prevalence of Re-Arrest

Although the mission of this dissertation is to analyze the effect of court policies and procedures on future re-arrests, I thought it would be first appropriate to show the incidence of re-arrest across New York State. Table 5.1 displays the recidivism findings, both statewide and for each geographic stratum (New York City, suburbs, mid-size cities, and semi-rural/rural areas). The upper portion of the table displays the information on re-arrest within one year of the initial instant case arrest. The statewide results indicate that about 35% of the defendants were re-arrested within one year, with 65% re-arrested on domestic violence charges, and 29% on

criminal contempt charges (of those arrested). The percentage of re-arrests for domestic violence and criminal contempt are similar across stratum. However, the percentage of any re-arrest for strata 3 (mid-size city) is 56%, significantly higher than the other stratum. New York City suburbs (strata 2) have higher domestic violence and criminal contempt re-arrests compared to the other strata.

Many domestic violence court policies, including program mandates, ongoing judicial and/or probation supervision, and sanctions for noncompliance, apply only to those defendants who are convicted of a crime. For this reason, as shown in the lower portion of Table 5.1, a separate analysis was conducted for defendants who were *convicted*. In most of the recidivism measures, a similar picture emerges. Within one year of conviction, 46% were re-arrested – and of those, 66% on a domestic violence charge and 26% on criminal contempt. Looking across stratum, the sample from strata three (mid-size city) again, has a higher rate of re-arrest.

Table 5.1 Recidivism Among Domestic Violence Offenders One Year Post-Arrest and One Year Post-Disposition

	Full Sample	STRATA 1	STRATA 2	STRATA 3	STRATA 4
		New York City	NYC Suburbs	Mid-Size City	Semi-Rural/Rural
One Year Post-Arrest					
<i>N</i>	16,762	13,827	1,022	1,062	851
Any Re-Arrest	35%	34%	33%	56%	41%
mean	0.66	0.65	0.51	0.77	0.70
DV Re-Arrest ¹	64%	63%	72%	68%	65%
mean	0.99	0.99	1.02	1.02	0.95
Criminal Contempt Re-Arrest ²	29%	28%	44%	26%	34%
mean	0.38	0.37	0.55	0.33	0.46
One Year Post-Disposition					
<i>N</i>	3,499	2,002	767	591	139
Any Re-Arrest	46%	48%	44%	54%	45%
mean	1.90	1.35	1.08	1.36	1.01
DV Re-Arrest ¹	66%	65%	70%	68%	68%
mean	1.03	1.04	1.01	1.02	0.96
Criminal Contempt Re-Arrest ²	26%	27%	26%	23%	27%
mean	0.38	0.40	0.33	0.29	0.64

***p<.001 **p<.01 *p<.05 +p<.10

^{1, 2} These percentages reflect re-arrest rates only of those arrested.

The Impact of Court Characteristics

Correlation Results

An examination of bivariate relationships between the level-one variables was not performed due to the fact that individual variables will not be included in the multi-level models, instead a level-one risk score was created that will be included. Also not included in the correlation matrix are the associations between the level-two variables and measures of re-arrest. Bivariate analyses cannot be conducted in HLM due to the use of two levels of data and bivariate analyses on two levels cannot be done in SPSS. Table 5.2 presents the associations between the independent level two variables. Pearson's R correlation coefficients are presented which indicate the strength of the association between variables.

For the most part, the measures are positively associated and not significantly correlated. It appears from these results that level-2 predictor variables were uncorrelated from each other. The magnitudes of the correlation coefficients range from .000 between judicial interaction and the importance of penalizing offenders to .818 between judicial interaction and the importance of accountability ($p < .001$). The former finding is not surprising, the purpose of monitoring under the therapeutic jurisprudence theory is to interact with the offender and discuss the program and other issues, not to penalize or stress the use of sanctions. On the other hand, although judicial interaction is under the therapeutic jurisprudence theory and accountability is under the deterrence theory, it is not surprising that these two constructs would be highly associated with each other. The use of programs are used as a tool to hold offenders accountable for their actions and the judges take their role to make sure the offender understands their responsibilities and the importance of the program very seriously.

In sum, the measures of therapeutic jurisprudence are not associated with one another, nor are the measures of deterrence. There are a few caveats though. Courts that routinely mandate severe sentences to those cases that end in conviction are associated with courts that rate penalization and accountability as extremely important goals of the court and courts that routinely provide strong sanctions for noncompliance.

A very interesting finding appeared; under the deterrence theory, judicial supervision has a weak relationship with imposition of sanctions, while under the therapeutic jurisprudence theory the relationship between judicial interaction and program noncompliance is one of the strongest relationships found. I believe this shows courts that are engaging in more holistic approaches to monitoring are also taking very seriously the responsibility of sanctions when an offender is noncompliant with the program. On the other hand, courts that are simply supervising and reiterating the responsibilities to the offender during monitoring are not also engaging in the imposition of sanctions. Other significant associations of note are judicial supervision and offender accountability are positively associated with approach to sentencing ($p < .01$).

Not surprisingly, individual measures of therapeutic jurisprudence and deterrence were also associated with the overall measures that include those measures standardized. Interestingly, the measure of accountability (whether a court thinks accountability is an extremely important goal) was strongly associated with individual measures of therapeutic jurisprudence as well as the overall measure of therapeutic jurisprudence. Lastly, the overall measure of therapeutic jurisprudence and deterrence are strongly associated with one another. I believe this is a very telling finding in that courts are not specializing and dedicating their policies and procedures under one of these theories, instead they are adopting a range of strategies that fall under each of these theories.

	Rehabilitation	Programs	Judicial Interaction	Program Noncompliance	Staffing & Meetings	Coordinated Response	Assessment	Victim Safety	Overall Therapeutic Jurisprudence Measure
Rehabilitation		0.201	0.289	0.22	-0.144	0.151	0.393+	0.031	0.558*
Programs			0.139	0.209	-0.231	0.096	0.146	-0.248	0.297
Judicial Interaction				0.51*	0.288	0.3	0.248	0.198	0.621**
Program Noncompliance					-0.326	0.337	0.346	0.232	0.637**
Staffing & Meetings						0.002	-0.214	0.229	0.113
Coordinated Response							-0.117	0.226	0.506*
Assessment								0.145	0.492*
Victim Safety									0.552*
Overall Therapeutic Jurisprudence Measure									
Deterrence									
Penalize									
Accountability									
Judicial Supervision									
Adjournment									
Sanctions									
Sentencing									
Overall Deterrence Measure									

	Deterrence	Penalize	Accountability	Judicial Supervision	Adjournment	Sanctions	Sentencing	Overall Deterrence Measure
Rehabilitation	-0.108	0.233	0.393+	-0.278	-0.266	0.121	0.21	0.165
Programs	-0.067	0.257	0.213	-0.218	0.022	0.189	0.055	0.155
Judicial Interaction	0.269	0.000	0.818***	-0.097	-0.05	0.098	0.207	0.286
Program Noncompliance	-0.188	0.016	0.529*	-0.202	-0.025	-0.059	0.15	0.092
Staffing & Meetings	0.558*	0.2	0.106	0.414+	0.002	0.034	0.008	0.162
Coordinated Response	0.025	0.282	0.438+	0.048	0.334	0.285	0.604**	0.485*
Assessment	0.036	0.306	0.453+	-0.091	0.134	0.412+	0.176	0.448+
Victim Safety	0.232	0.412+	0.299	0.115	-0.156	0.266	0.385	0.275
Overall Therapeutic Jurisprudence Measure	0.153	0.501*	0.727***	0.006	-0.007	0.311	0.442+	0.533*
Deterrence		0.184	0.258	0.281	-0.159	0.217	0.333	0.436+
Penalize			0.257	-0.018	0.035	0.402+	0.525*	0.501*
Accountability				-0.2	0.023	0.52*	0.615**	0.643**
Judicial Supervision					0.11	0.065	-0.155	0.245
Adjournment						0.174	0.144	0.359
Sanctions							0.732***	0.817***
Sentencing								0.758***
Overall Deterrence Measure								

***p<.001 **p<.01 *p<.05 +p<.10

Multivariate Results

Table 5.3 through table 5.6 presents the results of multi-level regression analyses measuring the role of court-level policy domains in explaining the impact of domestic violence courts on re-arrest. As discussed in Chapter 3, having established a level one risk score that control for individual-level predictors, the analysis plan is to enter this risk score and a particular policy construct of interest into each model one at a time. Each of the constructs measuring a theoretical concept was standardized and an overall measure of each theory was created. This overall measure is also included. Table 5.7 presents the results from a model that includes the level one risk score and each of the overall theoretical measures. The results presented are for the one-year post arrest and re-arrest within one-year post-disposition for cases that were convicted on the initial case. Significance levels are based upon multivariate models including the specified independent variables, along with the risk score that are made up of key predictors⁶.

Therapeutic Jurisprudence

Research Question 1: To what extent are therapeutic jurisprudence based court policies and goals associated with all re-arrest and domestic violence re-arrest one-year post arrest?

In order to answer this research question, nine models were created (see Table 5.3). Models 1-8 represent each construct of therapeutic jurisprudence entered separately to predict one-year re-arrest (all models include the level one risk score). Model nine includes the overall measure of therapeutic jurisprudence (created by standardizing all of the individual constructs). The data from Table 5.3 suggest that four models were statistically significant.

⁶ Poisson regression analyses were also conducted with number of re-arrest variables. To simplify the presentation of results and because results are similar and do not add anything new to the discussion, those results are presented in the appendices.

- Model 4: Courts that routinely provide sanctions related to the program when noncompliance is detected are more likely to reduce domestic violence re-arrest ($\gamma = -.035$, $SE = 0.010$, $p = .01$).
- Model 5: Courts that have dedicated staff and conduct meetings that include outside agencies are more likely to increase domestic violence re-arrest ($\gamma = .044$, $SE = 0.016$, $p = .05$).
- Model 6: Courts that prioritize the goal of coordinated community response and provide trainings to staff are more likely to increase any re-arrest ($\gamma = .066$, $SE = 0.028$, $p = .05$).
- Model 7: Courts that administer offender assessments that detect mental health issues, drug or alcohol abuse issues and service needs, determine type of program are more likely to reduce re-arrest ($\gamma = -.040$, $SE = 0.18$, $p = .05$).

Lastly, model 9 shows that there is no association between the overall measure of therapeutic jurisprudence and less re-arrests one year post arrest. The results of model 2 which show that the use of programs is more likely to reduce any re-arrest are somewhat suggestive (.10 significance level). This could be a key finding since problem-solving courts rely on programs as a tool for treatment, sentencing and accountability. However, more research is needed to see if this result would hold up or if it just a chance finding.

Table 5.3. Logistic Regression Results: Therapeutic Jurisprudence Court Level Predictors of Re-Arrest at One-Year Post-Arrest

		One-Year Re-Arrest	One-Year DV Re-Arrest
	Number of Offenders	16,762	
	Number of Sites	19	
Control Variables			
All Models	Level One Risk Score	Included in each model, results not shown.	
Court Characteristics			
Therapeutic Jurisprudence			
Model 1	Offender Rehabilitation Priority	-0.063 (.059)	-0.056 (.066)
Model 2	Use of Programs Index	-.019+ (.010)	0.028 (.017)
Model 3	Judicial Interaction Index	-.008 (.012)	-0.026 (.020)
Model 4	Program Noncompliance Index	-.012 (.012)	-.035** (.010)
Model 5	Staffing and Meetings	0.007 (.015)	0.044* (.016)
Model 6	Coordinated Response and Training	0.066* (.028)	0.051 (.056)
Model 7	Offender Assessment Index	-.040* (.018)	-0.007 (.013)
Model 8	Victim Safety and Services Index	-0.004 (.006)	.001 (.012)
Model 9	Overall Measure of Therapeutic Jurisprudence	-.006 (.005)	-.001 (.010)

***p<.001 **p<.01 *p<.05 +p<.10

Research Question 2: To what extent are therapeutic jurisprudence based court policies and goals associated with all re-arrest and domestic violence re-arrest one-year post disposition (isolating only convicted offenders)?

In order to answer this research question, nine models were created (see Table 5.4).

Models 10-17 represent each construct of therapeutic jurisprudence entered separately to predict one year re-arrest (all models include the level one risk score). The data from Table 5.4 suggest that four models were statistically significant.

- Model 10: Courts that prioritize offender rehabilitation are more likely to reduce re-arrest post conviction ($\gamma = -.260$, $SE = 0.109$, $p = .05$).
- Model 14: Courts that have dedicated staff and conduct meetings that include outside agencies are more likely to increase domestic violence re-arrest ($\gamma = .087$, $SE = 0.030$, $p = .01$).
- Model 15: Courts that prioritize the goal of coordinated community response and provide trainings to staff are more likely to increase any re-arrest ($\gamma = .206$, $SE = 0.059$, $p = .01$) and domestic violence re-arrest as well ($\gamma = .216$, $SE = 0.049$, $p = .01$).
- Model 16: Courts that administer offender assessments that detect mental health issues, drug or alcohol abuse issues and service needs, determine type of program are more likely to reduce re-arrest post conviction ($\gamma = -.075$, $SE = 0.027$, $p = .05$).

The overall measure of therapeutic jurisprudence did not predict re-arrests one-year post conviction. Overall, consistent across both time periods, the tests of the concepts of therapeutic jurisprudence show that multiple key concepts are predictive of re-arrest.

Table 5.4. Logistic Regression Results: Therapeutic Jurisprudence Court Level Predictors of Re-Arrest at One-Year Post Disposition

		One-Year Post Disposition Re-Arrest	One-Year Post Disposition DV Re-Arrest
	Number of Offenders	7,323	
	Number of Sites	19	
Control Variables			
All Models	Level One Risk Score	Included in each model, results not shown.	
Court Characteristics			
Therapeutic Jurisprudence			
Model 10	Offender Rehabilitation Priority	-0.260* (.109)	-0.133 (.080)
Model 11	Use of Programs Index	-.014 (.049)	0.024 (.038)
Model 12	Judicial Interaction Index	-.013 (.032)	0.018 (.029)
Model 13	Program Noncompliance Index	.006 (.028)	.007 (.025)
Model 14	Staffing and Meetings	0.020 (.059)	0.087** (.030)
Model 15	Coordinated Response and Training	0.206** (.059)	0.214** (.045)
Model 16	Offender Assessment Index	-.075* (.027)	-0.013 (.023)
Model 17	Victim Safety and Services Index	-0.002 (.022)	-.009 (.021)
Model 18	Overall Measure of Therapeutic Jurisprudence	-.009 (.019)	.017 (.013)
***p<.001 **p<.01 *p<.05 +p<.10			

Deterrence

Research Question 3: To what extent are deterrence based court policies and goals associated with all re-arrest and domestic violence re-arrest one-year post arrest?

In order to answer this research question, eight models were created (see Table 5.5).

Models 19-26 represent each construct of deterrence entered separately to predict one year re-arrest (all models include the level one risk score). The data from Table 5.5 suggest that three models were statistically significant.

- Model 19: Courts that prioritize deterrence (scored the goal as extremely important) are significantly more likely to reduce any re-arrest ($\gamma = -.067$, $SE = 0.27$, $p = .05$).
- Model 20: Courts that prioritize offender accountability (scored the goal as extremely important) are significantly more likely to increase domestic violence re-arrest ($\gamma = .106$, $SE = 0.29$, $p = .01$).
- Model 25: Courts that consistently impose a protective order, probation and incarceration for cases that end in conviction are significantly more likely to increase domestic violence re-arrest ($\gamma = .019$, $SE = 0.007$, $p = .05$).

Lastly, model 26 indicates a suggestive positive relationship between the overall measure of deterrence and domestic violence re-arrests one-year post arrest ($\gamma = .010$, $SE = 0.006$, $p = .10$).

Table 5.5. Logistic Regression Results: Deterrence Court Level Predictors of Re-Arrest at One-Year Post-Arrest

		One-Year Re-Arrest	One-Year DV Re-Arrest
	Number of Offenders	16,762	
	Number of Sites	19	
Control Variables			
All Models	Level One Risk Score	Included in each model, results not shown.	
Court Characteristics			
Deterrence			
Model 19	Deterrence Priority	-.067* (.027)	0.063 (.057)
Model 20	Offender Accountability Priority	-0.008 (.028)	.106** (.029)
Model 21	Judicial Supervision Index	-0.004 (.012)	-0.001 (.016)
Model 22	Adjournment to Court	0.006 (.015)	0.038 (.046)
Model 23	Imposition of Sanctions	-0.050 (.032)	0.066 (.050)
Model 24	Penalize Offenders Priority	0.045 (.038)	-0.002 (.043)
Model 25	Sentencing Index	0.005 (.009)	.019* (.007)
Model 26	Overall Measure of Deterrence	-.001 (.004)	.010+ (.006)

***p<.001 **p<.01 *p<.05 +p<.10

Research Question 4: To what extent deterrence based court policies and goals associated with all re-arrest and domestic violence re-arrest one-year post disposition (isolating only convicted offenders)?

In order to answer this research question, eight models were created (see Table 5.6).

Models 27-34 represent each construct of deterrence entered separately to predict one-year re-arrest post-disposition (all models include the level one risk score). The data from Table 5.6 suggest that four models were statistically significant.

- Model 28: Courts that prioritize offender accountability are more likely to increase domestic violence re-arrest post conviction ($\gamma = .269$, $SE = 0.85$, $p = .01$).
- Model 30: Courts that routinely return a defendant to court when they receive a report of noncompliance are more likely to increase domestic violence re-arrest ($\gamma = .078$, $SE = 0.039$, $p = .05$).
- Model 31: Courts that always or often use severe sanctions (revoke or amend probation conditions, resentence to jail) are more likely to increase domestic violence re-arrest ($\gamma = .189$, $SE = 0.046$, $p = .001$).
- Model 34: The overall measure of deterrence did predict an increase in domestic violence re-arrests one-year post conviction ($\gamma = .025$, $SE = 0.008$, $p = .01$).

Overall, across time periods, the measures of deterrence theory seem to predict an increase in re-arrests and domestic violence re-arrests. In fact, results indicate that courts that prioritize deterrence is the only concept within this theoretical framework that is likely to *reduce* re-arrest, as compared with the other significant concepts which are more likely to *increase* re-arrest.

Table 5.6. Logistic Regression Results: Deterrence Court Level Predictors of Re-Arrest at One-Year Post Disposition

		One-Year Post Disposition Re-Arrest	One-Year Post Disposition DV Re-Arrest
	Number of Offenders	7,323	
	Number of Sites	19	
Control Variables			
All Models	Level One Risk Score	Included in each model, results not shown.	
Court Characteristics			
Deterrence			
Model 27	Deterrence Priority	-.184 (.130)	-0.006 (.117)
Model 28	Offender Accountability Priority	0.003 (.208)	.269** (.085)
Model 29	Judicial Supervision Index	-0.019 (.027)	0.016 (.022)
Model 30	Adjournment to Court	0.052 (.055)	.078* (.039)
Model 31	Imposition of Sanctions	0.092 (.067)	.189*** (.046)
Model 32	Penalize Offenders Priority	-0.075 (.123)	0.123 (.093)
Model 33	Sentencing Index	-0.003 (.024)	.031+ (.017)
Model 34	Overall Measure of Deterrence	-.002 (.014)	.025** (.008)
***p<.001 **p<.01 *p<.05 +p<.10			

Overall Measures of Therapeutic Jurisprudence and Deterrence

The last model conducted included the level one risk score and both overall theoretical measures. As the bivariate results indicated, these courts do not seem to specialize in one particular theoretical model; instead they adopt a range of strategies that cross both theories. This model, results shown in table 5.7, indicates that the overall measure of therapeutic jurisprudence

is more predictive of re-arrest one-year post arrest. The overall measure of deterrence was more likely to increase domestic violence re-arrest one-year post disposition (isolating only convicted offenders). These findings seem to indicate that different policies may be more effective for convicted offenders, especially deterrence based policies that stress supervision and severe sanctions for noncompliance.

Table 5.7. Logistic Regression Results: Court Level Predictors of Re-Arrest at One-Year Post Arrest and Post Disposition

		One-Year Re-Arrest	One-Year DV Re-Arrest	One-Year Post Disposition Re-Arrest	One-Year Post Disposition DV Re-Arrest
Number of Offenders		16,762		7,323	
Number of Sites		19		19	
Control Variables					
Level One Risk Score		Included in each model, results not shown.			
Court Characteristics					
Overall Measure of Therapeutic Jurisprudence		-0.019+ (.018)	-0.031* (.014)	-0.012 (.028)	-0.013 (.020)
Overall Measure of Deterrence		.011 (.007)	0.027 (.010)	.004 (.020)	0.031* (.014)

Summary

The results presented here suggest that domestic violence courts that have implemented and embraced key therapeutic jurisprudence policies, practices and priorities lead to less recidivism among offenders one-year post arrest. Specifically, prioritizing and implementing policies that are focused on programs, routinely providing sanctions for noncompliance and administering assessments, appear to engender less recidivism. This finding is borne out when both theoretical constructs are in the same model and therapeutic jurisprudence is significantly

associated with less re-arrest at this time period. However, the results also indicate that key domestic violence court policies, policies that differentiate them from a non-problem solving court model, seem to actually produce increased re-arrest. In other words, dedicated staff, stakeholder meetings and training seem to produce a significant increase in re-arrests.

In addition, the findings show that deterrence concepts are associated with increased re-arrests. In particular, courts that prioritize offender accountability (scored the goal as extremely important) and consistently impose a protective order, probation and incarceration for cases that end in conviction are significantly more likely to increase domestic violence re-arrest. When isolating convicted offenders, courts that prioritize offender accountability, routinely return a defendant to court when they receive a report of noncompliance, always or often use severe sanctions and consistently impose a protective order, probation and incarceration for cases that end in conviction are significantly more likely to *increase* domestic violence re-arrest post-disposition. Possibly most revealing, the overall measure of deterrence did predict an increase in domestic violence re-arrests one-year post-disposition (and this significant finding remained when controlling for the other theoretical construct).

The simple measure of re-arrest is not indicative of whether or not a policy is working or is effective. To be clear, many of these policies are designed to put into place mechanisms that ensures the court is alerted to re-arrests and assaults. So, in many cases, it is beneficial to have an increase in re-arrest, because it shows that these mechanisms are working and the community is taking the crime seriously. Further discussion is presented in the final chapter.

Chapter 6

Conclusion

The purpose of this study was to investigate whether or not there are certain policies and procedures that can be implemented in a domestic violence court that can affect future re-arrest or future abuse. Specifically, two theoretical constructs were conceptualized and tested. For each theory, a series of two-level models were constructed to examine the extent to which court goals, judicial monitoring, imposition of sanctions, victim safety and service and other court-related variables were associated with re-arrest. Ultimately, the overall goal for this study was to provide empirical evidence that supports the rationale that courts should implement specific policies and practices based upon the specific research findings. The fundamental issue that needs to be understood when interpreting the results is the exact issue that previous literature has faced that was discussed in Chapter 2. The outcome measure may be recidivism but it is not as clear-cut as other criminal justice initiatives that are aimed at simply reducing recidivism. The goal of many of the policies and procedures that are implemented in domestic violence courts are designed to actually increase recidivism by establishing policies that provide courts with information about future assaults which can lead to a prompt re-arrest, or providing training to court staff, police officers and other criminal justice stakeholders so they are aware of the intricacies of domestic violence and do not simply ignore victim complaints but instead arrest the perpetrator. This being said the findings point to various policies that both increase and decrease re-arrest. Future research can and should build off the information that this dissertation provides and by focusing on the goals of some of these policies can further interpret whether the court is effective.

Many studies have examined whether domestic violence courts have a significant and negative effect. But those studies have not focused on a variety of policies that cannot be simplified into positive and negative language. However, understanding how these policies work is important not only for the domestic violence court field, but for criminology and affiliated fields as well; the mechanisms employed in a domestic violence court are not unique to that setting, and thus, lessons may have broad applicability.

As I discussed in Chapter 2, two theories have been proposed—but not tested—to answer the question of *how* domestic violence courts, and problem solving courts generally, work. Deterrence theory, drawn from the economic and criminological literature, suggests that the threat of sanctions, including incarceration, deters drug use and offending. Second, therapeutic jurisprudence theory, drawn from the psychological literature, posits that engaging defendants in a holistic and transparent process that maximizes perceptions of equality, fairness, and justice (e.g., procedural justice) leads to desistance.

This dissertation was an investigation of the extent to *how* criminal domestic violence courts can affect recidivism. While previous research explored these questions, no such study has provided a theoretical test to understand how policies and priorities can affect recidivism. I sought to answer the research question with a multi-site design, including 19 criminal domestic violence courts throughout New York State. This chapter reviews the major study findings, as well as identifying important study assets and limitations.

Policies and Practices in New York’s Domestic Violence Courts

The 19 courts in this dissertation are situated in a variety of geographic locales—from New York City to its more affluent surrounding suburbs to several smaller upstate cities to more rural areas that comprise the majority of the upstate region. Yet, these courts appear to share a few philosophical underpinnings and court policies. Specifically, most of the courts appear, at least in theory, to be interested in pursuing an “accountability model” (see Labriola et al. 2007). Ninety percent of the domestic violence courts (17 of 19) responded to the policy survey by listing the goal of holding offenders accountable for illegal behavior as “extremely important.” The goals cited second most often as extremely important was protecting victim safety (74%) and deterrence (74%). Reflecting some use of policies that might promote accountability, all except one of the 19 domestic violence courts reported that they require at least some offenders to return to court for judicial monitoring, and the majority of courts (86%) indicated that noncompliance with a program mandate is typically met with a sanction. However, the sanction that is most common is verbal admonishment, hardly a sanction one could consider “severe”. In addition, nearly all of the 19 courts (95%) reported that a protective order is frequently imposed as part of a final sentence. In addition, the 19 courts share certain staffing practices; they all have a dedicated judge who has received special training; and the majority (16) has a resource or project coordinator as well as a dedicated victim advocate.

However, on further policy details, I found substantial diversity. In particular, there was wide variation across our 19 courts in eligible case types, use of probation, offender assessments, specific court response to noncompliant offenders, and the legal ramifications of successfully completing a program mandate (i.e., whether or not program completion affects the final charges or the case disposition). This variation in the full operationalization of a domestic violence court

model allowed me to tease out specific court policies, present in some but not other courts, which appear particularly conducive to impacts on the outcomes of interest.

For the purposes of analysis, I operationalized the various policies into eight indices measuring therapeutic jurisprudence and seven indices measuring deterrence (see Chapter 3 for more detail). By standardizing the indices, I was able to construct an overall measure of therapeutic jurisprudence and deterrence for analyses purposes as well.

The Impact of Court Policies and Procedures in New York's Domestic Violence Courts

The guiding research question of this dissertation was to test whether domestic violence courts that had implemented certain policies were more effective than others. Most important, I wanted to test the theories of therapeutic jurisprudence and deterrence. The results of these multi-level analyses indicated that various policies do have an impact on future re-arrest. Unfortunately, although policy constructs seem to have an impact, it is not clear that one theoretical construct is more or less influential.

The results presented here suggest that domestic violence courts that have implemented and embraced key therapeutic jurisprudence policies, practices and priorities have an effect on recidivism among domestic violence offenders. Specifically, court policies that stress the importance of providing sanctions for program related noncompliance (order back to program, restart the program, etc.) instead of jail or probation revocation and the use assessments to determine service needs are more likely to reduce re-arrest. These policies rooted in the therapeutic jurisprudence theory are meant to assess defendants and place them in appropriate

sentences that they might benefit from and instead of using jail or other deterrence based sanctions, they use sanctions that are program focused.

Findings also show that other therapeutic jurisprudence policies, such as trainings and meetings including outside agencies, seem to increase the rate of re-arrest. Again, these policies are meant to educate and inform community and other criminal justice stakeholders about the intricacies of domestic violence. And it is these trainings and education that have help shape the issue of domestic violence as a societal problem and not just a family problem. Police officers who in the past would tell perpetrators to “take a walk and cool down” are much more likely, and in most states mandated, to make an arrest.

Significant findings focusing on the deterrence concepts are for the most part associated with increased re-arrests. For example, under the deterrence theory, imposition of severe sanctions, mandate of severe sentences to convicted offenders and quickly returning an offender to court after a report of noncompliance is received, all are predictors of increased arrests. I believe that these findings are consistent in proving the effectiveness of these policies that are designed to hold offenders accountable and provide swift and clear sanctions to noncompliance. These policies are also designed to make the court aware of any noncompliance or any statement from the victim, which can in turn lead to future re-arrest.

I believe I can conclude, albeit with caution, that recidivism reductions are enhanced under some conditions. Substantially advancing the state our knowledge (and reflecting logical and intuitive findings), these analyses point to a greater focus on therapeutic jurisprudence mechanisms, as primary candidates for policy factors that may lead some make domestic violence courts to reduce recidivism more than others. In turn, there are a number of therapeutic jurisprudence and deterrence policies that lead domestic violence courts to increase recidivism as

well. This indicates the effectiveness of policies that focus on shared communication, training of outside stakeholders, and accountability mechanisms that are designed and implemented to increase re-arrest when there are reports of assault. The results seem to point to a theoretical model that needs to be tested more to find policies that can be most beneficial to domestic violence offenders and victims of these crimes.

Study Strengths and Limitations

This dissertation possessed several unique strengths, as compared with the previous literature. The multi-site framework allowed me to produce findings with stronger external validity than previous studies, all of which were implemented in single sites, with the one exception of the three-site Judicial Oversight Demonstration evaluation. The process data demonstrated that New York's 19 domestic violence courts were somewhat diverse in their primary goals and highly diverse in the degree to which they adopted various policies related to staffing, assessments, program mandates, monitoring, court responses to noncompliance, and victim services.

Related to the process data, this dissertation was fortunate to have robust information on the various policies and procedures implemented in each of the 19 courts. In addition, I was able to obtain a 100% response rate from each court, ensuring detailed information from each court. However, I was only able to use self-reported data. A limitation facing this dissertation is the lack of objective data on the actual implementation of these policies. Especially since I found that certain policies have an effect on future re-arrests, it would have been beneficial to have quantitative data on whether or not the court actually implements certain policies, instead of just

relying on their reported use. Another limitation in using this secondary data is that not all questions were worded exactly as I would have preferred to be successful at measuring some of the key theoretical constructs. Especially with the dichotomous questions measuring the importance of various goals, there are severe limitations to the wording of the questions, simply because the survey was not designed to measure theoretical constructs.

Although I was testing two theoretical constructs, it is important to note that these theories are not mutually exclusive. In most cases, especially in a courtroom setting, therapeutic jurisprudence is occurring simultaneously with practices of deterrence (the bivariate results in Chapter 5 showed this to be true). This dissertation tried to isolate those policies and practices and test them independent of each other but because this testing was not done in a laboratory where I could ensure the true independence of each action, I just wanted to point out that these policies could be quite intermingled.

The external validity of this dissertation is qualified by its limitation to a single state court system. Also noteworthy, the Chief of Policy and Planning for the New York State Unified Court System (who is in effect, the state's "problem-solving court" coordinator) provides some level of centralized guidance to all of the state's domestic violence courts. The known emphasis of this guidance, coupled with the results of previous national research (Labriola et al. 2009), suggest that as a group, New York's domestic violence courts may place a greater philosophical emphasis on monitoring and accountability, and a lesser emphasis on defendant rehabilitation, than domestic violence courts in other states. At the same time, it would be incorrect to view this philosophical tendency as defining all 19 courts in the sample; the courts still reflect a sizable amount of policy variation. Thus, because of the unique nature of New York domestic violence courts, caution should be taken when generalizing these findings to all jurisdictions.

Besides a reasonable claim to external validity, another study advantage for producing valid impact estimates was obviously the high level one sample size, including at least 7,000 cases for all main effect analyses. However, it is important to note that court-level sample involved only 19 sites. Although this is within the acceptable multi-level model framework, it must be realized that some statistical findings are difficult to disentangle with a small sample.

Concerning available baseline data, the results of an evidence-based risk/needs assessment were not available, which would have allowed me to tease out high- and low-risk defendant subgroups (between which impacts might vary). However, I could control for classic static factors (demographics, criminal history, noncompliance history, and charges); but lacked other psychosocial data. Although the level one risk score controlled for a variety of background, criminal history and instant case charge information, there are offender characteristics that I was not able to control for or obtain. Information such as psychosocial characteristics, employment, education and a plethora of other critical information that would have been beneficial. Without this information, it is impossible to ascertain how these factors could have influenced how various court policies are used with certain offenders. But I believe that the number of characteristics I was able to obtain provides an excellent foundation to understanding how these court policies affect recidivism, separate from individual influences.

A key component to the therapeutic jurisprudence theory is offender perceptions of fairness. Unfortunately, for the purposes of this dissertation, I was not able to conduct interviews or focus groups with offenders to ascertain their perceptions regarding the domestic violence court.

Finally, this dissertation focused exclusively on official criminal justice outcomes. Compared with two of the Judicial Oversight Demonstration sites (Ann Arbor, MI and Dorchester, MA, see Harrell et al. 2007), I could not examine case-level data related to victim services, victim

perceptions, uses of different program mandates in individual cases, supervision strategies, or responses to noncompliance. Instead, in addressing these topics, I had to rely only on the court-level policy survey. Related, the recidivism measures are limited to official re-arrests, while omitting victim reports of re-abuse. The lack of a victim voice, either concerning services or re-abuse, is a limitation to this dissertation especially since many of these policies are designed to be beneficial to the victim.

Future Research Priorities

The findings raise several areas for future research. In particular, findings regarding the potentially greater impact of domestic violence courts that focus on therapeutic jurisprudence merit future exploration. In the absence of a national multi-site evaluation, one direction might be for future single-site evaluations to identify and study only domestic violence courts that are known to make extensive use of judicial monitoring that focuses on program mandates, and offender assessments.

What this study achieved in its multi-site scope it lacked in the details of the defendant experience. To isolate the effects of different therapeutic jurisprudence policies (specifically, procedural fairness) with greater precision, future single-site research might also employ defendant interviews one or several months after baseline—for example, to measure early perceptions concerning threat of sanctions, procedural justice, and understanding of responsibilities. Follow-up one-year interviews might then add measures of intervention dosage—including questions concerning of array of possible interventions and service experiences, including program sessions, probation contact, court appearances, or other

service/supervision experiences that domestic violence courts might employ. Analysis might then seek to link perceptions and service experiences to impacts.

There is a need for research seeking to replicate this study outside of New York, where it has been shown they overwhelmingly emphasize accountability and monitoring compared to other parts of the country.

Researchers, practitioners, and criminal justice stakeholders all recognize the need to develop better assessment tools for identifying risk factors and predicting re-assault among domestic violence offenders. These tools would inform decisions about the appropriate level of supervision and shape court mandates and dispositions. This avenue for future research is even more important in light of the findings from this dissertation that show that the use of assessments was one of the most consistent and strong predictor of reduced recidivism.

Future research analyzing the effect of court policies should include information from the victims. Domestic violence courts are designed to serve victims and provide services that a non-specialized court would not provide. To truly understand if this type of court is “effective”, interviews or surveys or focus groups need to be conducted with victims.

Finally, and possibly most important, for the results of this dissertation to truly be tested, data needs to be collected on actual implementation of policies and procedures. Researchers in a possible study could work with court stakeholders in developing protocols and policies, which would test some of these constructs. In light of the fact that domestic violence courts are different than other problem-solving court models, this dissertation serves an important purpose in determining whether or not therapeutic jurisprudence type court policies should stay out of the domestic violence courtroom. I truly believe this dissertation provides an excellent foundation and first-step in opening the dialogue on how domestic violence courts can be discussed with

other problem solving courts.

APPENDIX A.
STATEWIDE EVALUATION OF DOMESTIC VIOLENCE COURTS
2008 COURT SURVEY

Background Information

Please complete the following:

Name of Court: _____

Your Name: _____

Position: _____

Address: _____

Phone: _____

E-mail: _____

***Please read:* For the purpose of this survey, a criminal domestic violence court handles domestic violence cases on a separate calendar or assigns domestic violence cases to one or more dedicated judges or judicial officers.**

1. Does the court handle criminal domestic violence cases on a separate calendar?
 Yes
 No

2. Does the court assign criminal domestic violence cases to one or more dedicated judges or judicial officers?
 Yes → How many dedicated judges or judicial officers? _____ (#)
 No

***Please read:* If you answered “no” to BOTH questions 1 and 2, please stop here and return the survey in the enclosed envelope. Thank you for your participation.**

I. GENERAL QUESTIONS

3. In what year was the domestic violence court established? _____ (year)
4. Approximately how many cases did the domestic violence court hear in 2007? _____ (#)
5. How many staff members from each of the following roles are assigned specifically to work in the domestic violence court?
- _____ # Judges or judicial officers
 - _____ # Project coordinators/administrators
 - _____ # Program compliance monitors, resource coordinators, or case managers
 - _____ # Police officers or sheriffs
 - _____ # Probation officers
 - _____ # Public defenders
 - _____ # Prosecutors
 - _____ # Victim advocates
 - _____ # Court clerks
 - _____ # Bailiffs/security officers/marshals
 - _____ # other dedicated staff. Please specify their roles: _____
6. About how long are judges or judicial officers typically assigned to the domestic violence court before rotating out?
- _____ Years or _____ Months
 - No typical timeframe for rotation
 - Unsure
 - Other: Please explain: _____
7. Have the judges or judicial officers who are currently assigned to the domestic violence court received domestic violence training?
- Yes
 - Some but not all
 - None
 - Unsure
8. In approximately what percent of cases do domestic violence defendants require interpreter services in court?
- None
 - 1% to 24%

- 25% to 49%
- 50% to 74%
- 75% to 100%

II. DOMESTIC VIOLENCE COURT GOALS AND OBJECTIVES

9. Please rank the importance of the following potential goals of handling domestic violence cases in a specialized court? *Please check one column for each item.*

Goals and Objectives	Not a goal of the DV Court	Somewhat important	Very important	Extremely important
a. Hold offenders accountable for illegal behavior				
b. Rehabilitate offenders				
c. Deter offender recidivism				
d. Penalize offenders who are noncompliant with court orders				
e. Increase efficiency of DV case processing				
f. Increase consistency of DV case dispositions and sentences				
g. Increase community visibility of DV as a social problem				
h. Achieve coordinated response to DV				
i. Increase victim safety				
j. Facilitate victim access to services				
k. Foster expertise in judges or judicial officers who handle DV cases				
l. Improve victim perception of the fairness of the court process				
m. Apply statewide statutory requirements correctly and consistently				
n. Other goals: Please specify				

10. In your opinion, how is the domestic violence court most different from a non-specialized court in how it handles domestic violence cases?

III. CASE ELIGIBILITY AND SCREENING

11. What kinds of cases does the domestic violence court hear? (Please check all that apply.)

- Felonies
- Misdemeanors
- Ordinance violations
- Civil protection/restraining orders
- Other: Please specify: _____

12. Which forms of domestic violence are eligible for the court? (Please check all that apply.)

- Intimate partner violence
- Elder abuse
- Child abuse
- Violence between other relatives
- Violence between roommates
- Other types: Please specify: _____

13. Which specific intimate partner relationships are eligible? (Please check all that apply.)

Victim and defendant:

- are married
- are legally separated or divorced
- have children in common (regardless of current relationship status)
- live together but are not married
- do not live together and do not have children in common
- were formerly intimate partners
- are the same sex

14. At the first domestic violence court appearance, does the court routinely impose a temporary criminal protection/restraining order?

- Yes
- No
- No – but such an order or condition has usually been imposed already by another judge
- No – but the DV court judge routinely issues a civil protection/restraining order

IV. DISPOSITIONS AND SENTENCES

15. Does the court primarily use a diversion model?

- Yes
- No

16. For cases that end in conviction, are specific domestic violence sentences mandated by state law?

- Yes → Please briefly summarize or provide statutory references:

- No

17. For cases that end in conviction, please indicate how frequently the following sentences or sentencing conditions are imposed:

	Never	Rarely	Sometimes	Often	Always
a. Batterer program					
b. Other type of program					
c. Probation					
d. Incarceration for less than one-year					
e. Incarceration for one-year or longer					
f. Protection/restraining order					
g. Restitution					
h. Fine					
i. Community service					
j. Conditional discharge					
k. Other: Please specify:					

VI. PROGRAMS FOR DEFENDANTS

18. How often does the court mandate defendants to a batterer program or other program *before* they plead guilty or are convicted?

- Never
- Rarely
- Sometimes

- Often
- Always

19. Approximately what percent of *convicted* defendants did the court sentence to a batterer program in 2007? (If you are unsure, please provide your best estimate.)

- None → *Please skip to question 23.*
- All defendants convicted of domestic violence are mandated by state law to attend a batterer program.
- 1% to 24%
- 25% to 49%
- 50% to 74%
- 75% to 100%

20. How many batterer programs are available to court-mandated defendants?

_____ (# programs)

- Not sure
- None

21. What is the typical number of weeks that defendants must attend a batterer program?

_____ (# of weeks)

22. Please rate the importance of the following reasons for the court to mandate defendants to batterer programs:

	Not Important	Somewhat Important	Very Important	Extremely Important
a. Treatment or rehabilitation				
b. Accountability				
c. Monitoring				
d. Proportionality (appropriate penalty)				
e. Alternative to incarceration				
f. Mandated by state statute				
g. Others: Please specify:				

23. What other types of programs are defendants mandated to attend by the domestic violence court? (Please check all that apply.)

- Alcohol or substance abuse treatment
- Anger management for intimate partner cases
- Anger management for other domestic violence cases (parent-child, siblings, etc.)
- Couples counseling
- Mediation
- Mental health treatment/counseling
- Parenting class
- Supervised visitation
- None
- Other. Please specify: _____

24. What is the typical legal outcome for defendants who have completed all mandated programs? (Please only select the one most typical outcome.)

- Case closed and probation term shortened
- Case closed and conviction charges reduced (e.g., misdemeanor to violation)
- Case dismissed
- No impact on the case disposition or sentence
- Other. Please specify: _____

VII. ASSESSMENT OF DOMESTIC VIOLENCE OFFENDERS

25. How often do defendants receive an assessment?

- Never → *Please skip to question 29.*
- Rarely → *Please skip to question 29.*
- Sometimes
- Often
- Always

26. What does the assessment evaluate? (Please check all that apply.)

- Risk of repeat violence
- Background characteristics
- Mental health issues
- Drug or alcohol abuse issues
- Service needs
- Victimization of the defendant (e.g., background of child abuse)

- Risk of lethality
- Other issues: Please specify: _____

27. Are standardized assessment tools used?

- Yes
- No
- Unsure

28. What are the purposes of defendant assessment? (Please check all that apply.)

- Determine type or length of sentence
- Determine type of treatment or program(s) ordered
- Determine bail recommendation
- Determine intensity of probation or judicial supervision
- Other: Please specify: _____
- Unsure

VII. SUPERVISION AND COMPLIANCE

A. PROBATION SUPERVISION

29. How often does the court mandate domestic violence offenders to probation supervision?

- Never → *Please skip to question 34.*
- Rarely → *Please skip to question 34.*
- Sometimes
- Often
- Always

30. For defendants supervised by probation, about how often do they meet with their probation officer (including both office and home visits)?

- _____ times per month **OR** _____ times per year
- Unsure

31. How often does probation require defendants to attend substance abuse or mental health treatment as a probation requirement, even if it was not expressly ordered by the court?

- Never
- Rarely
- Sometimes
- Often

Always

32. Do probation officers routinely contact victims for any of the following reasons? (Check all that apply.)

- Probation officers do not contact victims
- Verify with victims that offender is compliant with restraining orders
- Offer services to victims
- Alert the victim that the offender is noncompliant (i.e., abusing drugs, rearrested, etc.)
- Elicit information from victim
- Other: Please specify: _____
- Unsure

33. When does the court typically receive a status report from probation? (Check all that apply.)

- Never
- Rarely
- Regularly (please specify)
_____ times per month **OR** _____ times per year
- Upon filing of a probation violation
- Upon completion of probation requirements

B. COURT SUPERVISION

34. How often does the court require defendants to see a judge or judicial officer for regular compliance monitoring?

- Never → *Please skip to question 41.*
- Rarely → *Please skip to question 41.*
- Sometimes
- Often
- Always

35. Over the duration of the judicial monitoring period, how frequently do defendants typically see the judge or judicial officer?

_____ times per month **OR** _____ times per year

36. Does the domestic violence court have a separate compliance calendar? (Are compliance cases heard at a different time than cases dealing with dispositional issues?)

- Yes
- No

37. Which of the following does the judge or judicial officer typically do in compliance hearings? (Please check all that apply.)

- Reviews any re-arrests or alleged violations of court orders
- Restates program attendance responsibilities
- Restates responsibilities related to contact with the victim
- Restates what consequences will follow future noncompliance with court orders
- Praises compliant behavior
- Verbally admonishes defendant for noncompliant behavior
- Imposes concrete sanctions for noncompliant behavior
- Reviews report submitted by program or probation
- Converses directly with defendant in court
- Other - Please specify: _____

38. How often does the court impose sanctions in response to noncompliance with a program mandate?

- Never Rarely Sometimes Often Always

39. When a defendant is reported to be noncompliant with a program, how often does the court do each of the following?

	Never	Rarely	Sometimes	Often	Always	Unsure
a. Order defendant to return to court immediately						
b. Verbally admonish defendant						
c. Order defendant back to program with credit for sessions attended						
d. Order defendant back to program with extra sessions added						
e. Order defendant to restart program						
f. Order defendant to start a new program						
g. Order defendant to make more frequent court appearances for compliance monitoring						
h. Revoke or amend probation conditions						
i. Resentence defendant to jail						
j. Order drug test						

k. None of the above						
l. Other sanctions:						

40. Does the court have a protocol or guidelines defining which sanctions may be imposed when a defendant is noncompliant with a program?

- Yes
- No
- Unsure

VIII. VICTIM SERVICES

41. Please indicate approximately how often victims come to court for each of the following reasons:

	Never	Rarely	Sometimes	Often	Always	Unsure
a. To observe the proceeding						
b. To testify						
c. To request a protection/restraining order						
d. To request termination or modification of a protection/restraining order						
e. To meet with a victim advocate						
f. To obtain services						
g. Other:						

42. What provisions are made for victim safety in and around the courthouse? (Please check all that apply.)

- Separate waiting area in the courthouse
- Separate seating area in the court
- Escort before court proceedings *outside* the courthouse
- Escort before court proceedings *inside* the courthouse
- Escort after court proceedings *inside* the courthouse
- Escort after court proceedings *outside* the courthouse
- Daycare/childcare center so children do not have to come to court
- None
- Other: Please specify: _____

43. How do victims receive copies of their criminal protection/restraining orders?

- Court clerk mails orders to victims
- Prosecutor's office mails copies to victims
- Victim advocates mail copies to victims
- Victims receive copies when they come to court
- N/A (criminal court does not issue protection/restraining orders)
- Unsure
- Other: Please specify: _____

IV. CONCLUSION

44. Please briefly state the top three challenges faced by the domestic violence court.

1. _____

2. _____

3. _____

45. What lessons have you learned that might benefit new domestic violence courts?

46. Please briefly describe any innovative features of your domestic violence court.

47. We would like to distribute a survey to the prosecutor's office affiliated with your court because we believe prosecutorial philosophy and practice is a critical context for understanding the development of individual DV courts. Can you please provide us with the

name and contact information for the prosecutor's office that most often works in your DV court?

Agency Name: _____

Contact Name _____

Agency Address: _____

Agency Phone: _____

Thank you very much for your participation and assistance!

If you have any further questions, please call Melissa Labriola, Center for Court Innovation, at 212-373-1693 or e-mail her at mlabriol@courts.state.ny.us.

APPENDIX B.
STATEWIDE EVALUATION OF DOMESTIC VIOLENCE COURTS
2010 COURT SURVEY SUPPLEMENT

Background Information

Please complete the following:

Name of Court: _____

Your Name: _____

Position: _____

Address: _____

Phone: _____

E-mail: _____

Do you give us permission to use the information that you previously provided?

- Yes**
- No**
- Unsure - Please call and provide more information**

1. Does the domestic violence court team meet regularly as a group?
 - Yes
 - How often? ____ times per month OR ____ times per year
 - No
 - Unsure
2. Who attends these meetings?

- Judge(s) or judicial officer(s)
- Court staff
- Police / Sheriff Department
- Probation Department
- Prosecutor's office
- Defense bar
- Victim assistance agency
- Batterer program
- Other _____
- Unsure

3. Indicate the court's overall approach to judicial monitoring.

- No judicial monitoring is conducted
- Offender brought back to court when noncompliant
- Regular judicial monitoring is conducted, same intervals given between adjournment dates for every offender
- Regular judicial monitoring is conducted, less frequent intervals given between adjournment dates for noncompliant offenders
- Offender returns to court only when mandate is complete

4. When the court receives a report of noncompliance, how soon is the defendant returned to the court calendar?

- Within two weeks, regardless of the court appearance schedule
- From two weeks to a month, regardless of the court appearance schedule
- At the next scheduled court appearance
- Other: please specify: _____

5. Does the court have a written protocol or guidelines defining which sanctions may be imposed when a defendant is noncompliant with a program?

- Yes
- No
- Unsure

5a. If yes, is the protocol given to the defendant?

- Yes
- No
- Unsure

5b. If yes, how often is the protocol followed?

- Never Rarely Sometimes Often Always

6. How often does a court staff member administer an assessment directly to a defendant?

- Never → *Please skip to question 10.*
- Rarely → *Please skip to question 10.*
- Sometimes
- Often

Always

7. What does the assessment evaluate? (Please check all that apply.)

Risk of repeat violence

Background characteristics

Mental health issues

Drug or alcohol abuse issues

Service needs

Victimization of the defendant (e.g., background of child abuse)

Risk of lethality

Other issues: Please specify: _____

8. Are standardized assessment tools used?

Yes: Please provide the name of the assessment used _____

No

Unsure

9. In what percentage of your cases are victim advocates/victim witness assistants involved (e.g., make contact with victim, offer services, etc.)? Please estimate to the best of your ability.

1% to 24%

25% to 49%

50% to 74%

75% to 100%

Unsure

10. Is there a victim advocate from the prosecutor's office available in the courtroom during the domestic violence court calendar?

Never

Rarely

Sometimes

Often

Always

11. Is there a victim witness assistant from an independent victim assistance agency available in the courtroom during the domestic violence court calendar?

Never

Rarely

Sometimes

Often

Always

Thank you for very much for your participation and assistance.

Please email your responses to Melissa Labriola at mlabriol@courts.state.ny.us or by fax at (212) 397-0985. If you have questions, please call (212) 373-1693.

**APPENDIX C.
Poisson Regression Results**

Appendix C. Poisson Regression Results: Therapeutic Jurisprudence Court Level Predictors of Re-Arrest

		One-Year Re-Arrest	One-Year DV Re-	One-Year Re-Arrest	One-Year DV Re-
		One-Year Post-Arrest		One-Year Post-Disposition	
Number of Offenders		16,762		7,323	
Number of Sites		19		19	
Control Variables					
All Models	Level One Risk Score	Included in each model, results not shown.			
Court Characteristics					
Therapeutic Jurisprudence					
Model 1	Offender Rehabilitation Priority	-.187* (.076)	-.058 (.067)	-.245* (.113)	-.180* (.072)
Model 2	Use of Programs Index	-.001 (.022)	-.004 (.010)	.026 (.037)	.016 (.025)
Model 3	Judicial Interaction Index	-.028 (.027)	-.009 (.011)	-.003 (.032)	.011 (.023)
Model 4	Program Noncompliance Index	-.016 (.022)	-.018* (.008)	.018 (.026)	.003 (.018)
Model 5	Staffing and Meetings	.005 (.043)	.024* (.009)	-.026 (.059)	.080+ (.040)
Model 6	Coordinated Response and Training	.108+ (.054)	.013 (.022)	.167* (.060)	.114* (.043)
Model 7	Offender Assessment Index	-.048* (.020)	-.017 (.014)	-.059+ (.028)	-.039+ (.019)
Model 8	Victim Safety and Services Index	-.003 (.014)	.001 (.004)	-.007 (.022)	-.012 (.016)
Model 9	Overall Measure of Therapeutic Jurisprudence	-.012 (.012)	-.001 (.006)	-.004 (.020)	.001 (.010)

***p<.001 **p<.01 *p<.05 +p<.10

**APPENDIX D.
Poisson Regression Results**

Appendix D. Poisson Regression Results: Deterrence Court Level Predictors of Re-Arrest					
		One-Year Re-Arrest	One-Year DV Re-Arrest	One-Year Re-Arrest	One-Year DV Re-Arrest
		One-Year Post-Arrest		One-Year Post-Disposition	
	Number of Offenders	16,762		7,323	
	Number of Sites	19		19	
Control Variables					
All Models	Level One Risk Score	Included in each model, results not shown.			
Court Characteristics					
Deterrence					
Model 10	Deterrence Priority	-.109 (.084)	.025 (.018)	-.257+ (.131)	-.045 (.100)
Model 11	Offender Accountability Priority	-.025 (.015)	.046*** (.008)	-.048 (.267)	.135 (.081)
Model 12	Judicial Supervision Index	-.021 (.017)	-.006 (.009)	-.008 (.023)	-.002 (.017)
Model 13	Adjournment to Court	.033 (.047)	.011 (.007)	.017 (.056)	.048 (.034)
Model 14	Imposition of Sanctions	.073 (.044)	.017 (.034)	.087+ (.045)	.091* (.039)
Model 15	Penalize Offenders Priority	-.010 (.086)	.004 (.021)	-.014 (.120)	.019 (.079)
Model 16	Sentencing Index	-.005 (.015)	.005 (.005)	-.006 (.024)	.007 (.014)
Model 17	Overall Measure of Deterrence	-.000 (.012)	.004 (.002)	-.003 (.016)	.009 (.007)
***p<.001 **p<.01 *p<.05 +p<.10					

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