

Utah Project Safe Neighborhoods Task Force: Addressing Domestic Violence to Avert New Criminal Efforts (Project ADVANCE)

**Final Report
September 2015**



THE UNIVERSITY OF UTAH

Utah Criminal Justice Center

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**Utah Project Safe Neighborhoods Task Force:
Addressing Domestic Violence to Avert New Criminal Efforts (Project
ADVANCE)**

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Project ADVANCE (Addressing Domestic Violence to Avert New Criminal Efforts), was a two year initiative that enhanced ongoing Project Safe Neighborhood (PSN) efforts in Utah through specific targeting of domestic violence offenders¹. During 2013-2014, Project ADVANCE sought to address the rate of firearm-related domestic violence incidents by removing guns from domestic violence offenders. This can be particularly difficult in Utah, due to discrepancies between state and federal laws. Both restrict firearm possession by persons convicted of a felony; as such, possession of a firearm by a felon can be prosecuted in both federal and state court. Federal law also restricts individuals convicted of a misdemeanor crime of domestic violence, so long as the crime includes the use or attempted use of physical force or threatened use of a deadly weapon. Because there is no corollary state law (Law Center to Prevent Gun Violence (LCPGV), 2012), firearm possession cases stemming from a misdemeanor domestic violence conviction must be referred to the United States Attorney's Office for prosecution. Typically, a greater number of domestic violence cases adjudicated in Utah courts are comprised of misdemeanor than felony charges, which means the majority of convicted offenders would not be restricted from firearm possession under state law (Sarver, Prince, & Butters, 2014).

Discrepancies between the federal definition of domestic violence and the range of crimes that comprise cohabitant abuse under Utah law create additional difficulties enforcing federal firearms restrictions. Under Utah code (77-36-1), domestic violence, as codified by the Cohabitant Abuse Procedures Act (CAPA), is defined as: "any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another" (Utah Code, 2015). The statute identifies more than 15 specific offenses that qualify as domestic violence if committed by one cohabitant against another; however, some of those offenses do not include an element of physical force. As noted by Berkovich (2014), a 2011 ruling by the U.S. Supreme Court created confusion with respect to which offenses would result in firearms restrictions:

In Utah, before the now-controlling decision in *United States v. Hays*, every state-law domestic violence offense committed by one federally defined intimate partner against another rendered the offender a disqualified/restricted person. (p. 6)

In the wake of the *Hays* ruling, some of the domestic violence crimes listed under Utah statute do not render an offender a restricted person because they do not include an element of physical force and therefore do not meet the requirements of "qualifying misdemeanor crime of domestic violence" as defined by federal statute (Berkovich, 2014). Even within a single statute, some subsections may meet the force element while others do not. Another implication of *Hays* is that:

Where an offender is convicted of violating an assault or other statute for conduct against his or her intimate partner, and where the statute has at least one subsection that does not contain a force element, and where that conviction is

¹For an overview of previous PSN and Project ADVANCE initiatives, refer to the following reports: Sarver, Prince, & Butters, 2014; Sarver, Prince, & Butters, 2015; Van Vleet, Davis, Hickert, & Byrnes, 2005.

recorded by a court without specificity as to which subsection was violated, that conviction will not render the offender a disqualified/restricted person. (p. 8)

When considering misdemeanor offenses, the primary charge that would restrict an individual from legally possessing a firearm is assault (76.5.102²). Until recently, the assault statute was comprised of three subsections, two of which would restrict an individual and one of which would not (Berkovich, 2012). A recent examination of court records demonstrated that assault convictions were infrequently recorded in the state's Courts Information System (CORIS) such that the element of force against a person and the relationship between the victim and perpetrator was clearly and consistently identifiable (Sarver, Prince, & Butters, 2014; 2015). As such, Project ADVANCE sought to provide outreach and training to increase the specificity with which assault convictions were recorded in CORIS. During the 2015 legislative session, however, the assault statute was revised such that the non-restricting subsection was removed; the manner in which cases are recorded in CORIS is therefore of less concern. As of May, 2015, any domestic violence assault conviction in Utah meets the federal elements to restrict legal possession of a firearm.

As noted earlier, conviction on assault (76.5.102) is the primary misdemeanor charge with the potential to restrict a domestic violence offender from legally possessing a firearm. Because cases are often comprised of multiple charges, some of which are dismissed or reduced as the result of plea negotiations, the disposition of domestic violence assault charges is of particular interest when considering federal firearms restrictions. There are several trajectories through which a defendant charged with a misdemeanor domestic violence assault would not be restricted from firearm possession: 1) dismissal or not guilty finding for the entire case; 2) not guilty finding on assault charges; 3) plea negotiation in which assault charges are dismissed; and 4) plea in abeyance (PIA) to assault charges, wherein the charges are dismissed after a specified period of time so long as conditions of the plea are met. The vast majority of criminal cases adjudicated in the United States are resolved through plea negotiations, rather than a trial (Devers, 2011); the implications of having a misdemeanor assault conviction, with respect to firearm possession, may incentivize prosecutors to offer (and defendants to accept) pleas wherein assault charges are dismissed in exchange for a guilty plea to non-assault charges.

The current analysis seeks to understand the fate of assault charges in domestic violence cases. Data from five courts in Utah's Third District were analyzed to answer the following questions:

- What percent of domestic violence cases include at least one assault charge (misdemeanor and felony)?
- What percent of domestic violence cases are disposed via dismissal/not guilty?

² A felony conviction on any offense (whether or not the conviction was related to domestic violence) would result in an individual being restricted from legally possessing firearms under both state and federal law. Aggravated assault (76.5.103) is a felony and so a conviction would result in a firearms restriction whether or not it was domestic violence related.

- What percent of cases that include an assault charge at filing are disposed with a conviction on that charge?
- What percent of cases that include an assault charge at filing are disposed with a conviction on a different charge (and a disposition of dismissed or not guilty on the assault charge)?
- What percent of cases that include an assault charge at filing are disposed with a plea in abeyance on the assault charge?
- What sentences do misdemeanor and felony assault convictions result in?

Study Procedures

The current analysis will focus on the disposition of assault (76.5.102) and aggravated assault (76.5.103) charges in domestic violence cases. This report relies on the following data sources:

Table 1: Data Sources for Project ADVANCE Interventions and Outcomes

Data Sources
CORIS – Administrative Office of the Courts
Primary source for court data (e.g., charge type and degree, violation date, disposition, disposition date, and court location) for all cases with a domestic violence flag that were disposed in one of the following courts in 2013-2014: Salt Lake District, West Jordan District, Salt Lake City Justice, Salt Lake County Justice, and West Jordan Justice Court.
XChange – Administrative Office of the Courts
Text documents with court case information that is searchable by name, date of birth, court case number, court location, and/or date. Documents include information such as plea date, sentence date, disposition, judge, bail amount, court attendance, compliance with court orders, and sentence imposed. Records were available for all five courts included in this study (i.e., Salt Lake District, West Jordan District, Salt Lake City Justice, West Valley Justice, and Salt Lake County Justice).

The current analysis examines data from five courts in the Third District (Salt Lake City District Court, West Jordan District Court, Salt Lake City Justice Court, Salt Lake County Justice Court, and West Valley City Justice Court). Because Utah’s Cohabitant Abuse Procedures Act (CAPA) is inclusive of a range of crimes, domestic violence cases are charged and prosecuted under the relevant statute(s) and flagged as domestic violence (based on the relationship between the victim and perpetrator) within the Courts Information System (CORIS). All cases adjudicated in 2013-14, in the courts of interest, and flagged as domestic violence were requested from the Administrative Office of the Courts (AOC). Sentencing data were extracted by hand from Xchange, only for those cases with: at least one assault or aggravated assault charge at filing and a disposition of guilty/no contest/plea in abeyance on at least one charge of any type.

In Utah, misdemeanor offenses are classified according to severity, with class A as the most severe (possible jail term of one year and fine up to \$2,500) and class C as the least severe (possible jail term of 90 days and fine up to \$750). Felonies range from third degree as the least severe (possible prison term of 0-5 years and fine up to \$5,000) and first degree as the most severe (possible prison term of 5 years to life and fine up to \$10,000; this excludes capital offenses, which were not represented in the data). Class B and C misdemeanors are

processed in justice courts, while felonies and class A misdemeanors are under the jurisdiction of district courts. Class B and C misdemeanors may also be resolved in district court in some circumstances, for example, when they are prosecuted as part of a case that includes a more severe charge.

Results

Adjudicated Domestic Violence Cases

In 2013-2014, almost 8,000 domestic violence-flagged (DV) cases were adjudicated in the five courts (Table 2). These cases were comprised of 19,635 charges, with an average of 2.5 charges per case. Nearly half of all DV cases (45%) were from Salt Lake District Court (SLCD); one quarter were from Salt Lake City Justice Court (SLC, 22%) and almost 1-in-5 (18%) came from West Valley City Justice Court (WVC).

Table 2: Total number of DV cases by court (2013-2014)

Court	Frequency	Percent
Salt Lake City District	3,521	45
Salt Lake City Justice Court	1,751	22
Salt Lake County Justice	535	7
West Jordan District	687	9
West Valley City Justice	1,394	18
TOTAL	7,888	100

Prevalence of assault charges in DV-flagged cases. Table 3 classifies cases according to the presence, and type, of assault charges at filing. Assault charges were identified by statute: simple assault represents charges filed under code 76.5.102 and aggravated assault represents charges filed under code 76.5.103. Broadly speaking, simple assaults were misdemeanors and aggravated assaults were felonies; however, in some cases (such as charges involving statutory enhancements), there were exceptions. Table 3 classifies cases according to the following logic: cases with no assault charges; cases with at least one simple assault charge (but no aggravated assaults); cases with at least one aggravated assault charge (but no simple assaults); and cases with both simple and aggravated assault charges. The categories are mutually exclusive. Cases with no assault charges are dropped from subsequent analyses, leaving 4,733 DV cases that also involved an assault charge or a combination of assault charges (referred to hereafter as DV-assault cases). These numbers indicate that assault charges were present in more than half (60%) of all adjudicated domestic violence cases, most commonly simple assault charges (see Tables 6 & 7 for more detail on assault charges by court).

Table 3: Number and percent of DV cases with assault charges at filing

Outcome	Frequency	Percent
No assault charges	3,155	40
At least one simple assault charge (no aggravated)	3,714	47
At least one aggravated assault charge (no simple)	889	11
At least one simple and aggravated assault charge	130	2
TOTAL	7,888	100

Pattern of assault charge severity in DV-assault cases. One thousand thirty five (1,035) of the 4,733 DV-assault cases (24%) had a felony assault as the highest charge at filing. Of those, 490 (43%) also had an additional, non-assault felony charge. Table 4 provides information about the severity of felony assault charges in DV-assault cases. Within these cases, third degree felony (the least severe) was the most common highest assault charge at filing. Of note, there were 61 cases with a non-assault felony as the highest filed charge that also included a misdemeanor assault charge; those cases are not represented in Table 4, which only characterizes the severity of felony assault charges.

Table 4: Assault charge severity for DV cases at filing (felony)

Severity	Frequency	Percent
Felony III	898	79
Felony II	151	13
Felony I	86	8
TOTAL	1,135	100.0

Table 5 provides information about the severity of assault charges in DV-assault cases for which a misdemeanor or infraction was the highest filed charge. Three thousand five hundred ninety eight (3,598) of the 4,733 DV-assault cases (76%) involved a misdemeanor or infraction as the highest filed charge. Of these, a class B misdemeanor was the most common assault charge (74%), followed by the more severe class A misdemeanor (26%).

Table 5: Assault charge severity for DV cases at filing (misdemeanor)

Severity	Frequency	Percent
Class B misdemeanor	2,666	74
Class A misdemeanor	927	26
TOTAL	3,593¹	100

¹ There were 2 cases wherein the highest filed charge was an infraction and 3 cases where the highest filed charged was a Class C misdemeanor, bringing the total to 3,598.

When considering the results of Tables 3-5 together, misdemeanor assault charges were the highest severity charge in 45% of all adjudicated DV cases (3,598 of 7,888); felony assault charges were the highest severity charge in 14% of all cases (1,135 of 7,888). Such numbers confirm that misdemeanor assault is the most common charge through which a domestic violence offender would be restricted from legally possessing a firearm.

Disposition of DV-assault cases. When looking at all DV-assault cases, close to half (48%) were either dismissed or the defendant was found not guilty (Table 6). Cases in Table 6 are classified according to the following outcomes: dismissed/not guilty, transferred, or guilty/plea in abeyance (PIA). While the outcomes of not disposed, dismissed/not guilty, and transferred apply to entire cases (i.e., the entire case fell into one of these categories), the outcome of guilty/PIA applies to any charge within a case. If any single charge within a case was disposed as guilty/PIA, the disposition of that charge defines the entire case’s outcome. Less than half of adjudicated DV-assault cases (43%) involved either a guilty or PIA disposition on at least one charge (of any type).

Table 6: Case outcomes at disposition¹

Disposition Outcome	Frequency	Percent
Entire case dismissed/not guilty	2,268	48
Case transferred	402	9
At least one guilty or PIA disposition	2,027	43
TOTAL	4,733	100

¹ An additional 36 cases were not yet disposed; since the focus of this analysis is disposition, those cases are not included in subsequent analyses.

Disposition of DV assault charges. As noted earlier, the disposition of misdemeanor assault charges, which comprise the bulk of assault charges in DV cases (Table 5, p. 6), is a primary determinant of whether or not an offender is restricted from firearm possession. While any felony conviction would restrict the offender according to both state and federal law, a misdemeanor conviction would restrict the offender only if the conviction was to an assault charge (and was not a PIA). As such, the “loss” of assault charges between filing and disposition—due to case dismissal, a finding of not guilty, or charge dismissal through plea negotiations—represents the difference between the offender being restricted from firearm possession and not. The following analyses examine the changes in DV-assault cases, from filing to disposition, with respect to assault charges.

Tables 7 and 8 examine the outcomes for the 2,027 DV-assault cases with at least one guilty or PIA outcome at disposition. Table 7 provides information for the two district courts while Table 8 provides the same information for the three justice courts. Information in both tables is presented hierarchically; that is, cases are defined by the most severe outcome that is applicable at both filing and disposition. Each outcome within filing and disposition is mutually exclusive and, once a more severe outcome has occurred, the case is removed from being eligible for subsequent categorizations. To save space in the table, the acronym ORC is used in place of the repeated phrase “of remaining cases.”

District court cases. Table 7 shows that, in Salt Lake City District Court (SLCD), 40% of DV-assault cases were filed with a felony assault as the most severe charge. In comparison, more than half (60%) of the DV-assault cases in West Jordan District Court (WJ) were filed with a felony assault as the most severe charge. In approximately 10% of each court’s DV-assault cases, the highest charge was a non-assault felony, indicating that

the assault charge was neither a felony nor the highest charge. In all remaining cases in both courts, a misdemeanor assault was the highest charge. While the highest filed charge was a misdemeanor assault 50% of the time in SLCD, this occurred only 28% of the time in WJ.

When looking at the disposition of DV-assault cases comprised of at least one felony charge, 111 of the 348 (32%) charges filed as felony assault were disposed as felony assault in SLCD; a similar percentage (42 of 141, 30%) was observed in WJ. The rates were similar in SLCD when considering all felony charges (rather than just felony assault charges): close to one-third of cases with a felony charge at filing was disposed with a felony conviction (34%). In WJ, approximately one-quarter (25%) of cases with a felony charge at filing were disposed with a felony conviction. In both courts, the majority of charges filed as felony assault were disposed as misdemeanor assault (173 of 348 [50%] in SLCD and 68 of 141 [48%] in WJ). When looking at the overall disposition of felony charges, then, the majority of cases were disposed such that the offender would be restricted from legally possessing a firearm (82% in SLCD; 78% in WJ); however, in the majority of cases, the charges were reduced to a misdemeanor, such that an offender would be subject to the federal firearm restriction but not a state restriction.

Guilty verdicts as a percentage of filed cases were much more likely in both courts when the case was filed as a misdemeanor. Of 432 cases filed with a misdemeanor assault as the highest severity charge in SLCD, 366 were disposed as guilty on a misdemeanor assault charge (85%). Similarly, 53 of 65 (82%) filed misdemeanor assault charges were found guilty of misdemeanor assault in WJ.

Table 7: Filing and disposition of DV-assault cases with a guilty or PIA outcome by district court

Outcome		Salt Lake District		West Jordan District	
		Frequency	Percent	Frequency	Percent
Filing	Filed as felony assault charge	348	40	141	60
	ORC, non-assault felony charge	87	10	30	13
	ORC, misdemeanor assault charge	432	50	65	27
	ORC, non-assault misdemeanor charge	0	0	0	0
	TOTAL	867	100	236	100
Disposition	Guilty of at least one felony assault charge	111	13	42	18
	ORC, guilty of at least one felony non-assault charge	40	5	13	5
	ORC, guilty of at least one misdemeanor assault charge that was filed as a felony	173	20	68	29
	ORC, guilty of at least one misdemeanor non-assault charge that was filed as a felony	33	4	18	8
	ORC, guilty of at least one misdemeanor assault charge that was filed as a misdemeanor	366	42	53	23
	ORC, guilty to at least one misdemeanor non-assault charge that was filed as a misdemeanor	86	10	21	9
	ORC, plea in abeyance to at least one felony assault charge	25	3	12	5
	ORC, plea in abeyance to at least one felony non-assault charge	5	1	2	1

Table 7: Filing and disposition of DV-assault cases with a guilty or PIA outcome by district court

Outcome	Salt Lake District		West Jordan District	
	Frequency	Percent	Frequency	Percent
ORC, plea in abeyance to at least one misdemeanor assault charge	17	2	6	3
ORC, plea in abeyance to at least one misdemeanor non-assault charge	11	1	1	0
TOTAL	867	100	236	100

Justice court cases. Table 8 shows that, as would be expected, very few felony charges were observed in the justice courts; the majority of DV-assault cases were filed with a misdemeanor assault as the highest charge. In Salt Lake City Justice Court (SLC), 171 of 265 cases filed with a misdemeanor assault charge (67%) were disposed as guilty of a misdemeanor assault. This number was even higher in Salt Lake County Justice Court (SLCO; 101 of 128, 79%), but was lower in West Valley City Justice Court (WVC; 342 of 531, 64%). In cases where the defendant was found not guilty of a filed misdemeanor assault charge, the next most likely outcome in both SLCO and WVC was a guilty disposition on another non-assault misdemeanor. In SLC the next most likely outcome given a person was not guilty of a filed misdemeanor assault charge was a plea in abeyance for the assault charge. Overall, the disposition of misdemeanor assault charges through a plea in abeyance, rather than a conviction, was most common in SLC (22% of cases compared to 7% of SLCO Court cases and 11% of WVC cases).

Table 8: Filing and disposition of DV-assault cases with a guilty or PIA outcome by justice court

Outcome	Salt Lake City Justice		Salt Lake County Justice		West Valley City Justice		
	Frequency	Percent	Frequency	Percent	Frequency	Percent	
Filing	Filed as felony assault charge	7	3	0	0	0	0
	ORC, non-assault felony charge	2	1	0	0	1	0
	ORC, misdemeanor assault charge	256	97	128	100	530	100
	ORC, non-assault misdemeanor charge	0	0	0	0	0	0
	TOTAL	265	100	128	100	531	100
Disposition	Guilty of at least one felony assault charge	1	0	0	0	0	0
	ORC, guilty of at least one felony non-assault charge	0	0	0	0	0	0
	ORC, guilty of at least one misdemeanor assault charge that was filed as a felony	4	2	0	0	0	0
	ORC, guilty of at least one misdemeanor non-assault charge that was filed as a felony	2	1	0	0	0	0
	ORC, guilty of at least one misdemeanor assault charge that was filed as a misdemeanor	171	65	101	79	342	64

Table 8: Filing and disposition of DV-assault cases with a guilty or PIA outcome by justice court

Outcome	Salt Lake City Justice		Salt Lake County Justice		West Valley City Justice	
	Frequency	Percent	Frequency	Percent	Frequency	Percent
	ORC, guilty to at least one misdemeanor non-assault charge that was filed as a misdemeanor assault	22	8	17	13	117
ORC, plea in abeyance to at least one felony assault charge	1	0	0	0	0	0
ORC, plea in abeyance to at least one felony non-assault charge	0	0	0	0	0	0
ORC, plea in abeyance to at least one misdemeanor assault charge	56	21	9	7	58	11
ORC, plea in abeyance to at least one misdemeanor non-assault charge	8	3	1	1	14	3
TOTAL	265	100	128	100	531	100

Recall that plea in abeyance and conviction of a non-assault misdemeanor would not result in a firearm restriction. As such, these figures indicate that close to one-third of DV-assault cases adjudicated in both SLC (34%) and WVC (36%) were disposed in a manner that would not restrict the individual's right to possess a firearm (not in table). In SLCO, 21% of cases were disposed in the same fashion. Figure 1 (below) provides a simplified presentation of the disposition of misdemeanor assault charges in SLC.

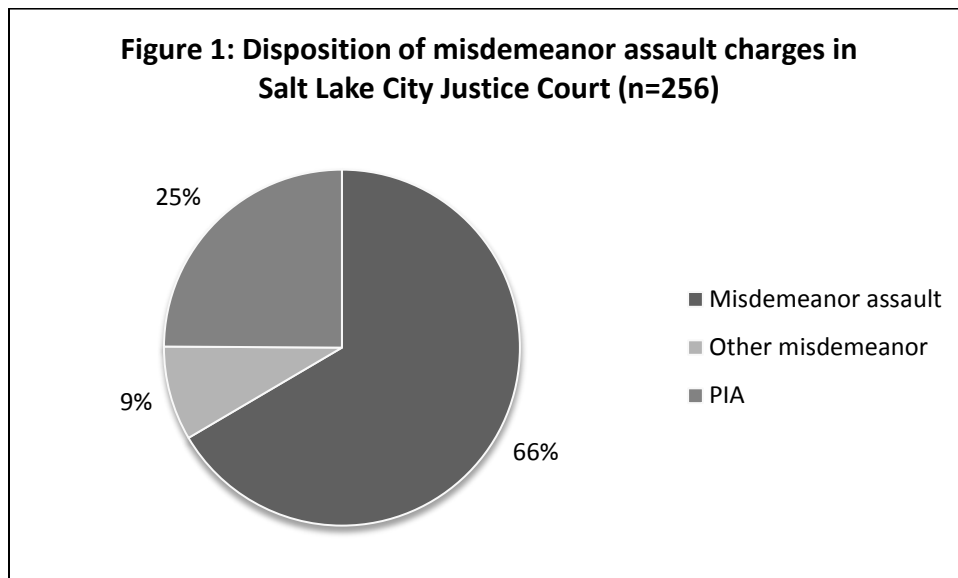


Figure 2 describes the disposition of misdemeanor assault charges in DV-assault cases in WVC.

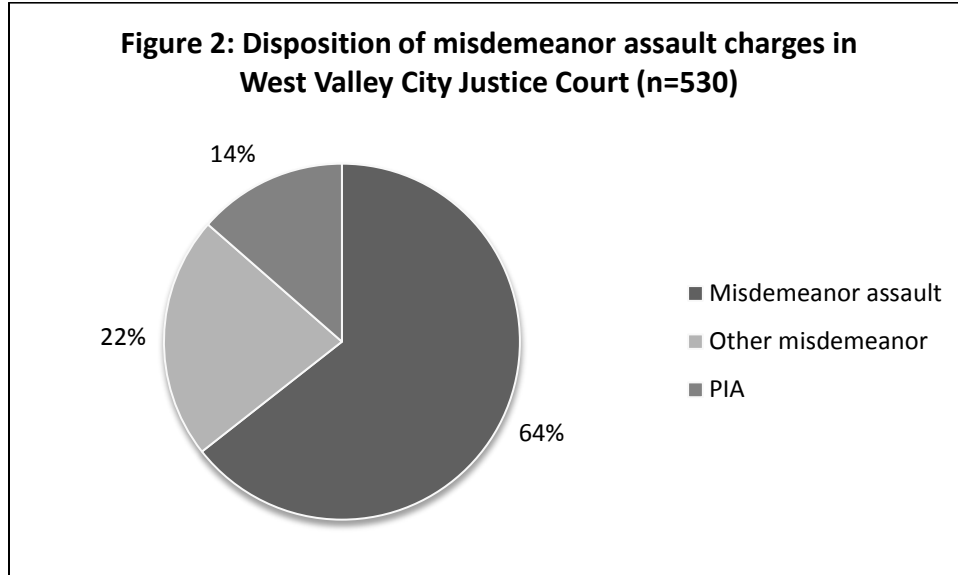


Table 9 (p. 12) provides a breakdown of the severity level at which cases were filed relative to disposed with respect to assault charges. These data reflect 1,423 DV-assault cases (excluding cases where the highest charge level at filing was infraction) for which a guilty verdict was entered (i.e., no PIA cases). Highlighted values along the diagonal reflect cases that were filed and disposed as guilty at the same severity level. All other outcomes reflect cases where disposition severity deviated from filed severity; values above the highlighted diagonal reflect cases where the disposed severity was less than filed severity, while values below the diagonal reflect cases where the disposed severity was greater than filed severity.

A disposed severity for an assault charge greater than the original filed severity occurred only one time, where a case filed as a class B misdemeanor was disposed as a class A misdemeanor. In total, 357 of 1,423 cases with a guilty disposition (25%) were disposed at a severity level less than originally filed. A reduction in disposed severity occurred most frequently with cases filed as felonies; 68% of third degree felony cases (224 of 332) and 34% of second degree felony cases (21 of 61) were reduced to misdemeanors by disposition. Within second degree felony cases, 49% (30 of 61) were reduced to third degree felonies, and only 16% (10 of 61) were disposed as second degree felonies. While six cases were filed as first degree felonies, none were disposed at that severity. Though relatively less frequent than the reductions observed with felony dispositions, cases filed with class A misdemeanor assault charges resulted in reductions to a class B misdemeanor 22% of the time (73 of 339 cases). Cases filed as class B misdemeanors were least likely to receive a severity reduction; when guilty, 99% of these cases (678 of 682) were disposed at the same severity as filed.

Table 9: Filed vs disposed severity of DV-assault cases with a guilty verdict

Disposed Severity	Filed Severity						Total
	MC	MB	MA	F3	F2	F1	
MC	3	3	0	0	0	0	6
MB	0	678	73	21	1	0	773
MA	0	1	266	203	20	0	490
F3	0	0	0	108	30	3	141
F2	0	0	0	0	10	3	13
F1	0	0	0	0	0	0	0
Total	3	682	339	332	61	6	1423

Sentencing Outcomes for DV-assault Cases

As noted earlier, there are substantial differences in terms of firearms restrictions if a domestic violence offender is convicted of a felony, a misdemeanor assault, or a misdemeanor other than assault. The following section of this report also examines whether differential convictions—particularly when considering misdemeanor assault and non-assault—have implications in terms of sentencing. The following section provides detail on the sentencing outcomes for DV-assault cases in the courts of interest.

Sentencing outcomes for DV-assault cases in district court³. Table 10 (p. 13) provides jail and prison sentencing for district court cases that were disposed as guilty. As with justice court cases, district court cases were defined by the most severe outcome that was applicable. Felonies (of any kind) were given priority over misdemeanor assaults which were, in turn, given priority over misdemeanor non-assaults. Each outcome is mutually exclusive and, once a higher priority outcome has occurred, the case is removed from being eligible for subsequent categorizations. In Table 10, The number of DV-assault cases in which an offender was sentenced to jail or prison is provided first, followed by the percentage of cases that number represents (in parentheses).

Owing largely to the fact that they were more likely to receive prison sentences, those guilty of felonies received jail sentences only 50% of the time across the two district courts (total). Nearly all offenders (98%) convicted of a felony in a DV case were sentenced to prison; however, in most cases that sentence was suspended (an outcome that was even more likely in West Jordan District Court (WJ)). Jail sentences imposed in these felony cases were, in contrast, less likely to be suspended, with suspensions occurring in less than one-fourth of Salt Lake City District Court (SLCD) cases and less than 40% of WJ cases. For cases disposed as felonies in which an offender received both jail and prison sentences, suspension of both sentences (i.e., both jail **and** prison) was relatively infrequent. However, in WJ, 20% of these cases received suspended jail and prison sentences compared to 10% in SLCD.

In district court, those cases where the most severe conviction was for a misdemeanor assault were rarely given a prison sentence, but did result in a jail sentence more than 90%

³ In cases where the highest disposed charge was a plea in abeyance (PIA), offenders were almost never sentenced to jail, prison, or probation. As such, the following tables only include sentencing outcomes for cases with a guilty conviction. Court-ordered treatment of PIA cases in district court is discussed on p. 16.

of the time in both courts. In comparison to justice court, jail sentences tended to be longer and somewhat more likely to be suspended: 86% of the time in SLCD and 96% of the time in WJ. A similar pattern was found for cases disposed as guilty of misdemeanor non-assault in the district courts; that is, both courts imposed jail sentences that were relatively long and those sentences were suspended 84% of the time in SLCD and 91% of the time in WJD.

Table 10: Jail and prison sentences for DV-assault cases by district court

Outcomes		Salt Lake City	West Jordan	TOTAL
		District	District	
Guilty of any felony	n (%) with jail sentence	68 (46)	34 (62)	102 (50)
	Avg. length of jail sentence (days)	253	240	249
	n (%) with jail sentence suspended	16 (24)	13 (38)	29 (28)
	n (%) with prison sentence	145 (98)	54 (98)	199 (98)
	n (%) with prison sentence suspended	92 (63)	44 (82)	136 (68)
	<i>n (%) with jail AND prison sentence</i>	<i>67 (45)</i>	<i>33 (60)</i>	<i>100 (49)</i>
Guilty of misdemeanor assault	<i>n (%) with jail AND prison sentence suspended</i>	<i>13 (9)</i>	<i>11 (20)</i>	<i>24 (12)</i>
	n (%) with jail sentence	407 (92)	116 (94)	523 (92)
	Avg. length of jail sentence (days)	389	487	411
	n (%) with jail sentence suspended	348 (86)	111 (96)	459 (88)
	n (%) with prison sentence	5 (1)	1 (1)	6 (1)
	n (%) with prison sentence suspended	3 (60)	0 (0)	3 (50)
Guilty of misdemeanor non-assault	<i>n (%) with jail AND prison sentence</i>	<i>2 (0)</i>	<i>0 (0)</i>	<i>2 (0)</i>
	<i>n (%) with jail AND prison sentence suspended</i>	<i>1 (0)</i>	<i>0 (0)</i>	<i>1 (0)</i>
	n (%) with jail sentence	80 (94)	35 (92)	115 (94)
	Avg. length of jail sentence (days)	392	411	383
	n (%) with jail sentence suspended	67 (84)	32 (91)	99 (86)
	n (%) with prison sentence	1 (1)	2 (5)	3 (2)
Guilty of misdemeanor non-assault	n (%) with prison sentence suspended	0 (0)	2 (100)	2 (67)
	<i>n (%) with jail AND prison sentence</i>	<i>0 (0)</i>	<i>2 (5)</i>	<i>2 (2)</i>
	<i>n (%) with jail AND prison sentence suspended</i>	<i>0 (0)</i>	<i>0 (0)</i>	<i>0 (0)</i>

Note: Length of sentence (jail) and sentence suspended (jail and prison) outcomes are out of those with a jail (n with jail sentence) or prison sentence (n with prison sentence), respectively. No values are given for length of prison stays because those values were categorical (i.e., 0-5 years) rather than continuous, making interpretation ambiguous.

Table 11 provides sentences related to probation within district courts. Patterns were similar for felonies, misdemeanor assault, and misdemeanor non-assault cases. Across all severities, between 75% (felonies and misdemeanor non-assault cases) and 80% (misdemeanor assault cases) of SLCD cases received probation. These numbers ranged from 80% (felonies) to 86% (misdemeanor assault) in WJ. Only the lengths of probation were notably different across severity levels (but not notably by courts). Felony-disposed cases received probation sentences of 35 months on average in both courts, compared to 22 months on average for misdemeanor assault cases and 19 months for misdemeanor non-assault cases. Though only a slight difference, WJ cases disposed as misdemeanors (assault or non-assault) tended to receive longer probation sentences.

Table 11: Probation sentences for DV-assault cases with by district court

Outcomes		Salt Lake City	West Jordan	TOTAL
		District	District	
Guilty of any felony	n (%) with probation	111 (75)	44 (80)	155 (76)
	Length of probation (mths)	35	35	35
Guilty of misdemeanor assault	n (%) with probation	357 (80)	106 (86)	463 (81)
	Length of probation (mths)	21	24	22
Guilty of misdemeanor non-assault	n (%) with probation	64 (75)	32 (84)	96 (78)
	Length of probation (mths)	18	20	19

Note: Length of probation is out of those with a probation sentence

Table 12 provides information regarding the types of probation to which district court cases were sentenced. As with outcomes for justice courts presented above, probation types are organized in order of descending severity. Felony cases were particularly likely to be sentenced to AP&P supervision (the strictest form of supervision), and this was more likely in WJ relative to SLCD. In both courts almost two-thirds of misdemeanor assault (though slightly less in SLCD) cases were sentenced to AP&P supervision. Both courts were similar in their use of Criminal Justice Services (CJS)/county supervision of misdemeanor assault cases, but SLCD cases were more likely to utilize court/good behavior probation for these cases. Though least likely to receive AP&P supervision, misdemeanor non-assault cases still received AP&P supervision nearly 50% of the time in both courts; however, while the next most restrictive form of supervision was the second most common in WJ, the least restrictive form of supervision was the next most likely in SLCD for these cases.

Table 12: Types of probation for DV-assault cases by district court

Outcomes		Salt Lake City	West Jordan	TOTAL
		District	District	
Guilty of any felony	n (%) AP&P	93 (85)	42 (96)	135 (88)
	n (%) CJS/County	1 (1)	0 (0)	1 (0)
	n (%) Court/Good Behavior	16 (14)	2 (4)	18 (12)
Guilty of misdemeanor assault	n (%) AP&P	221 (63)	72 (69)	293 (64)
	n (%) CJS/County	52 (15)	18 (17)	70 (15)
	n (%) Court/Good Behavior	79 (22)	15 (14)	94 (21)
Guilty of misdemeanor non-assault	n (%) AP&P	31 (49)	14 (45)	45 (48)
	n (%) CJS/County	14 (22)	12 (39)	26 (28)
	n (%) Court/Good Behavior	18 (29)	5 (16)	23 (24)

Note: The number of cases receiving a specific probation type does not sum to the number receiving probation because not all cases receiving probation had a probation type listed; probation types are mutually exclusive.

With respect to being court-ordered to treatment evaluation or classes, Table 13 (p. 15) shows discrepancies between the two district courts in their respective treatment of felony cases. WJ felony cases were more likely to be court-ordered to treatment evaluation or classes, community service, and fines. Similar patterns of slightly more frequent use of these services were found for WJD cases involving assault and non-assault compared to SLCD. A notable departure from this pattern is found in the use of fines, however, where WJ was 18% and 33% more likely to impose fines for assault and non-assault cases, respectively.

Table 13: Other court ordered outcomes for DV-assault cases by district court

Outcomes		Salt Lake City	West Jordan	TOTAL
		District	District	
Guilty of any felony	n (%) Treatment evaluation or classes	89 (60)	43 (78)	132 (65)
	n (%) Community service	35 (24)	21 (38)	56 (28)
	n (%) Fines	47 (32)	31 (56)	78 (38)
Guilty of misdemeanor assault	n (%) Treatment evaluation or classes	342 (77)	103 (83)	445 (78)
	n (%) Community service	118 (27)	41 (33)	159 (28)
	n (%) Fines	205 (46)	77 (62)	282 (50)
Guilty of misdemeanor non-assault	n (%) Treatment evaluation or classes	53 (63)	30 (79)	83 (68)
	n (%) Community service	18 (21)	10 (26)	28 (23)
	n (%) Fines	32 (38)	27 (71)	59 (48)

Note: Court ordered outcomes are not mutually exclusive.

When coding sentencing related to treatment, outcomes were classified according to the following groups: anger management classes (AM), domestic violence treatment (DV), mental health treatment (MH), parenting classes (PC), and substance abuse treatment (SA). In most cases, offenders were sentenced to evaluation and treatment on one or more of the aforementioned domains. In a minority of cases, offenders were sentenced to complete an evaluation and indicated treatment without reference to a specific domain; while those cases were classified as “other,” it is likely such offenders were ultimately referred to one of the aforementioned types of treatment.

Table 14 shows the types of treatment and classes to which cases were court-ordered. Given that all cases involved domestic violence, it is not surprising that the vast majority were ordered to DV treatment across courts whether guilty of a felony, misdemeanor assault, or misdemeanor non-assault. In general, close to two-thirds of convicted offenders were ordered to DV treatment, although those figures were notably lower for those convicted of a non-assault misdemeanor. District courts also made frequent referrals to SA and mental health (MH) treatment. Relative to SLCD, WJ made notably greater use of anger management classes.

With respect to comparisons between district courts, WJ was notably more likely to order almost all services compared to SLCD for felony-disposed cases (the only exception, in which SLCD ordered more cases to treatment, was for “other treatment”). The pattern for misdemeanor assault cases was somewhat different. In these cases, SLCD ordered more DV treatment and “other treatment,” comparable SA treatment, and relatively less MH treatment (as well as less of the aforementioned anger management classes). The two courts were more comparable on most court ordered services for misdemeanor non-assault cases, with the aforementioned exception of a markedly greater use of anger management classes by WJ.

The final row of the table (for each guilty outcome) summarizes the number and percentage of cases ordered to any form of non-DV treatment or classes (i.e., all previously listed treatments and classes other than DV treatment). As with justice court outcomes, because the prior categories were not mutually exclusive, the numbers in these rows are

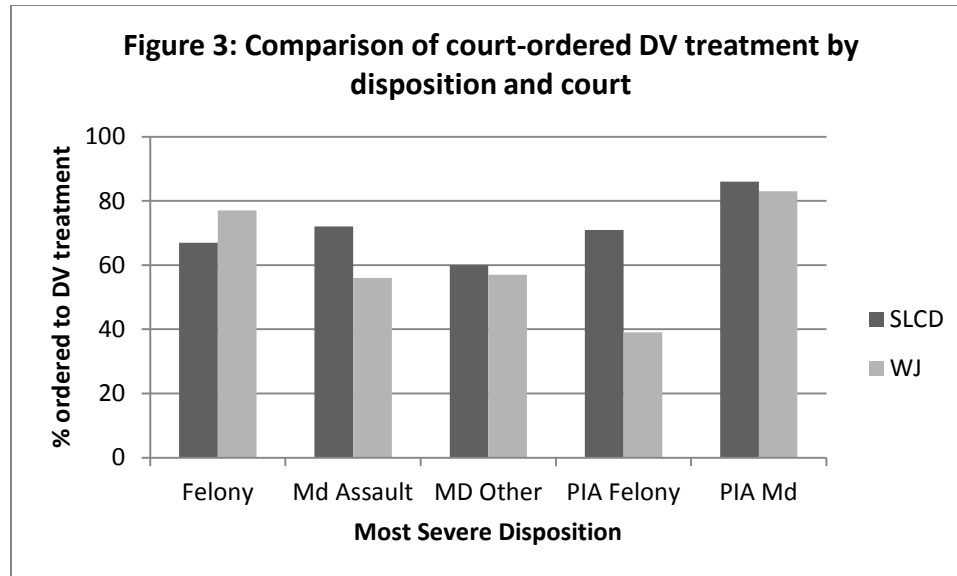
not the sum of all non-DV treatment and class types. When aggregated, the discrepancy in use of these services between the two district courts is further accentuated. Across all guilty outcomes, WJ made greater use of non-DV specific treatment and classes.

Table 14: Types of treatment or classes for DV-assault cases by district court

Outcomes		Salt Lake City	West Jordan	TOTAL
		District	District	
Guilty of any felony	n (%) DV treatment	60 (67)	33 (77)	93 (71)
	n (%) SA treatment	55 (62)	30 (70)	85 (64)
	n (%) MH treatment	19 (21)	20 (47)	39 (30)
	n (%) Other treatment	5 (6)	0 (0)	5 (4)
	n (%) Anger classes	1 (1)	7 (16)	8 (6)
	n (%) Parenting classes	2 (2)	2 (5)	4 (3)
	n (%) Other classes	0 (0)	0 (0)	0 (0)
	<i>n (%) Any form of non-DV treatment</i>	<i>66 (74)</i>	<i>38 (88)</i>	<i>104 (79)</i>
Guilty of misdemeanor assault	n (%) DV treatment	247 (72)	58 (56)	305 (69)
	n (%) SA treatment	172 (50)	48 (47)	220 (50)
	n (%) MH treatment	69 (20)	40 (39)	109 (25)
	n (%) Other treatment	16 (5)	6 (6)	22 (5)
	n (%) Anger classes	28 (8)	15 (15)	43 (10)
	n (%) Parenting classes	8 (2)	5 (5)	13 (3)
	n (%) Other classes	3 (1)	0 (0)	3 (1)
	<i>n (%) Any form of non-DV treatment</i>	<i>231 (68)</i>	<i>83 (81)</i>	<i>314 (71)</i>
Guilty of misdemeanor non-assault	n (%) DV treatment	32 (60)	17 (57)	49 (59)
	n (%) SA treatment	33 (62)	17 (57)	50 (60)
	n (%) MH treatment	9 (17)	7 (23)	16 (19)
	n (%) Other treatment	1 (2)	2 (7)	3 (4)
	n (%) Anger classes	2 (4)	9 (30)	11 (13)
	n (%) Parenting classes	0 (0)	1 (3)	1 (1)
	n (%) Other classes	0 (0)	0 (0)	0 (0)
	<i>n (%) Any form of non-DV treatment</i>	<i>37 (70)</i>	<i>25 (83)</i>	<i>62 (75)</i>

Note: Treatment and class types are not mutually exclusive.

Court-ordered treatment in PIA cases in district court. Figure 3 (p. 18) compares differences in court-ordered DV treatment by disposition and court. In contrast to Table 14, Figure 3 includes outcomes for cases where the most severe disposition was PIA. As presented in Figure 3, cases resolved through PIA on a misdemeanor charge were the most likely type of disposition to be sentenced to DV treatment. In contrast, cases resolved through PIA on a felony charge in WJ were the least likely to be court-ordered to DV treatment; the rate of court-ordered DV treatment for a felony conviction was nearly twice that of cases resolved with a PIA on a felony charge.



Sentencing outcomes for DV-assault cases adjudicated in justice court⁴. Table 15 (p. 18) provides jail sentences for domestic violence cases, adjudicated in justice courts, which were disposed as guilty. Recall that all cases in the sample were identified as domestic violence cases that had at least one assault charge at filing. In the current analysis, cases are defined by the most severe charge of which the offender was found guilty; misdemeanor assaults were considered more severe than misdemeanor non-assaults. Each outcome is mutually exclusive and, once a higher priority outcome has occurred, the case is removed from eligibility for subsequent categorizations.

With the exception of those found guilty of misdemeanor non-assaults in Salt Lake County Justice Court (SLCO), the majority of individuals convicted of any misdemeanor (assault or non-assault) were sentenced to jail. Individuals found guilty of any misdemeanor in West Valley City Justice Court (WVC) were most likely to receive a jail sentence and received the longest jail sentences relative to the other courts; they were also slightly more likely to have the sentence suspended. There was little difference between courts with respect to the percentage of DV-assault cases with a suspended jail sentence: over 80% of jail sentences in cases with an assault conviction were suspended overall (total) and almost 90% of jail sentences in cases with a non-assault conviction were suspended (for non-assault cases, suspended jail sentences were slightly less likely in Salt Lake City Justice Court (SLC)).

⁴ As noted earlier, in cases where the highest disposed charge was a plea in abeyance (PIA), offenders were almost never sentenced to jail, prison, or probation. As such, the following tables only include sentencing outcomes for cases with a guilty conviction. Court-ordered treatment of PIA cases in justice court is discussed on p. 20.

Table 15: Jail sentences for DV-assault cases by justice court

Outcomes		Salt Lake City Justice	Salt Lake County Justice	West Valley City Justice	TOTAL
Guilty of misdemeanor assault	n (%) with jail sentence	116 (67)	79 (78)	283 (83)	478 (78)
	Avg. length of sentence (days)	177	140	203	186
	n (%) with sentence suspended	93 (80)	64 (81)	241 (85)	398 (83)
Guilty of misdemeanor non-assault	n (%) with jail sentence	12 (60)	7 (41)	103 (88)	122 (80)
	Avg. length of sentence (days)	145	97	172	165
	n (%) with sentence suspended	9 (75)	6 (86)	93 (90)	108 (89)

Note: Length of sentence and sentence suspended outcomes are out of those with a jail sentence (n with jail sentence).

Table 16 provides outcomes related to probation. For both assault and non-assault cases, WVC cases were more likely to receive probation. The difference between courts was more notable on cases where the most severe guilty disposition was for a misdemeanor non-assault charge: 80% of WVC cases received probation compared to only 45% and 47% in SLC and SLCO, respectively. Length of probation was similar regardless of court for assault classified cases, while, on non-assault cases, WVC cases received longer probation outcomes in general (the other two courts were more similar). Non-assault cases tended to receive shorter probation sentences overall except in the WVC (where the average non-assault and assault probation sentences were equivalent). Such numbers indicate that the WVC Justice Court treats DV-assault cases similarly, whether or not there is a conviction on the assault charge.

Table 16: Probation sentences for DV-assault cases by justice court

Outcomes		Salt Lake City Justice	Salt Lake County Justice	West Valley City Justice ¹	TOTAL
Guilty of misdemeanor assault	n (%) with probation	103 (60)	63 (62)	239 (70)	405 (66)
	Length of probation (mths)	12	12	13	13
Guilty of misdemeanor non-assault	n (%) with probation	9 (45)	8 (47)	94 (80)	111 (72)
	Length of probation (mths)	11	10	13	13

Note: Length of probation is out of those with a probation sentence

¹ In WVC, 15% (n=11) of cases with a highest disposition severity of PIA were sentenced to probation; neither of the other courts had any PIA cases sentenced to probation.

Table 17 (p. 19) provides information regarding the types of probation to which assault and non-assault cases were sentenced. Probation types are organized in order of descending severity. As expected, being sentenced to Adult Probation and Parole (AP&P) supervision (which is the most restrictive form of supervision) was rare for justice court cases; however, it is clear from the table that cases in WVC were notably more likely to receive higher levels of supervision (i.e., Criminal Justice Services (CJS)/county rather than court/good behavior) with respect to assault cases. This difference does not exist for non-assault cases; only WVC had a notable number of non-assault cases with probation classifications, but an approximately equal percentage received CJS/county supervision relative to SLC (the only three non-assault cases with probation classifications in SLCO received the least restrictive probation).

Table 17: Types of probation for DV-assault cases by justice court

Outcomes		Salt Lake City Justice	Salt Lake County Justice	West Valley City Justice	TOTAL
Guilty of misdemeanor assault	n (%) AP&P	1 (1)	0 (0)	4 (2)	5 (1)
	n (%) CJS/County	22 (23)	1 (3)	145 (65)	168 (47)
	n (%) Court/Good Behavior	73 (76)	39 (98)	75 (33)	187 (52)
Guilty of misdemeanor non-assault	n (%) AP&P	0 (0)	0 (0)	1 (1)	1 (1)
	n (%) CJS/County	3 (33)	0 (0)	29 (34)	32 (33)
	n (%) Court/Good Behavior	6 (67)	3 (100)	55 (65)	64 (66)

Note: The number of cases receiving a specific probation type does not sum to the number receiving probation because not all cases receiving probation had a probation type listed; probation types are mutually exclusive.

With respect to being court-ordered to treatment evaluation or classes, Table 18 shows notable parity existed between the courts for cases with a conviction on an assault charge. Roughly 80% of cases with an assault conviction were ordered to these services in all courts. In contrast, WVC cases were more likely than both SLCO and (particularly) SLC to be court-ordered to these services for non-assault classified cases. Community service orders were rare (ranging from 0 to 15%) across courts for both assault and non-assault cases, but were more likely in SLC Court than the others. Relative to other courts, fines were slightly more likely in WVC cases involving an assault conviction, but were considerably more likely in WVC cases relative to other courts on non-assault cases.

Table 18: Other court ordered sentences for DV-assault cases by justice court

Outcomes		Salt Lake City Justice	Salt Lake County Justice	West Valley City Justice	TOTAL
Guilty of misdemeanor assault	n (%) Treatment/evaluation/classes	138 (80)	83 (82)	280 (82)	501 (81)
	n (%) Community service	19 (11)	6 (6)	8 (2)	33 (5)
	n (%) Fines	99 (57)	64 (63)	236 (69)	399 (65)
Guilty of misdemeanor non-assault	n (%) Treatment/evaluation/classes	12 (60)	14 (82)	104 (89)	130 (84)
	n (%) Community service	3 (15)	0 (0)	4 (3)	7 (5)
	n (%) Fines	11 (55)	8 (47)	94 (80)	113 (73)

Note: Court ordered outcomes are not mutually exclusive.

Table 19 (p. 20) shows the types of treatment and classes to which offenders were court-ordered. Because all cases involved domestic violence, it is not surprising that the vast majority of offenders were ordered to DV treatment across courts (whether guilty of an assault or non-assault misdemeanor). There was notable parity across courts with respect to the percentage of cases with a conviction on an assault charge that were ordered to DV treatment. Considerably more variation existed for those where the most severe disposition was guilt on a non-assault offense. For non-assault offenses, SLCO cases were most likely to be court-ordered to DV treatment, while SLC and WVC had fewer cases sentenced to such treatment.

Other services were relatively rare, regardless of whether a case was a misdemeanor assault or non-assault. Substance abuse (SA) treatment was the most commonly ordered service other than DV treatment, and it was most common in WVC (for assault or non-assault cases). Nonetheless, less than one-third of cases were court ordered to SA

treatment. All other treatment services were ordered in 10% of cases or less across all courts (for both assault and non-assault cases) with the single exception of “other treatment,” ordered for 17% of SLC non-assault cases (reflecting only two cases). When compared to district court sentences related to treatment, justice courts ordered domestic violence treatment at a higher rate, but SA and MH treatment at lower rates.

The final row of the table (for each guilty outcome) summarizes the number and percentage of cases ordered to any form of non-DV treatment or classes (i.e., all previously listed treatments and classes other than DV treatment). Because the prior categories were not mutually exclusive, the numbers in these rows are not the sum of all non-DV treatment and class types within a court. Even aggregated, these other services remain relatively infrequent, yet notably more common in WVC (though they reached 50% in SLC for non-assault cases, this reflects only 6 total offenders ordered to these treatments or classes, making it difficult to draw conclusions about the overall tendency to order these services within this court).

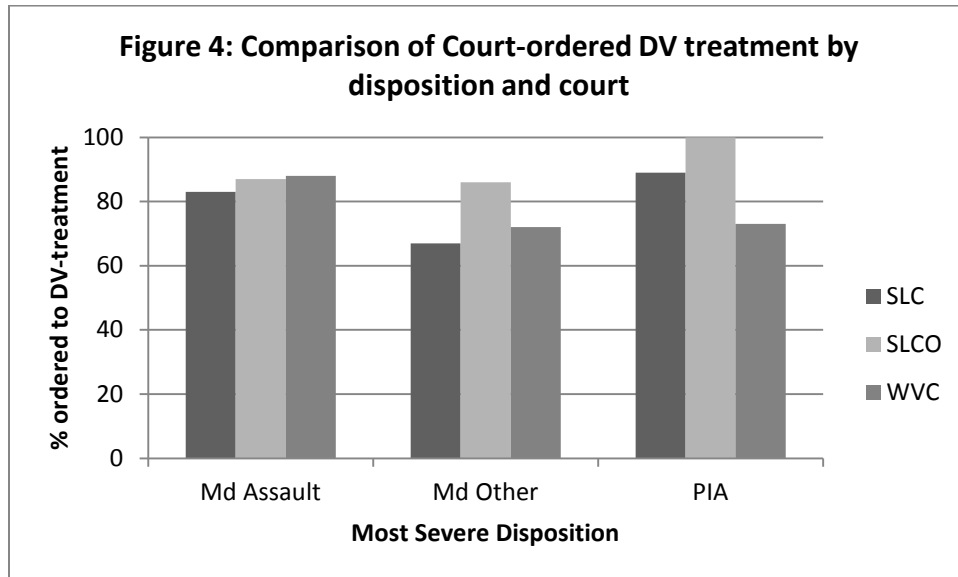
Table 19: Types of treatment or classes for DV-assault cases by justice court

Outcomes		Salt Lake City Justice	Salt Lake County Justice	West Valley City Justice	TOTAL
Guilty of misdemeanor assault	n (%) DV treatment	114 (83)	72 (87)	246 (88)	432 (86)
	n (%) SA treatment	20 (15)	11 (13)	75 (27)	106 (21)
	n (%) MH treatment	5 (4)	4 (5)	12 (4)	21 (4)
	n (%) Other treatment	14 (10)	3 (4)	6 (2)	23 (5)
	n (%) Anger classes	0 (0)	2 (2)	13 (5)	15 (3)
	n (%) Parenting classes	2 (1)	0 (0)	5 (2)	7 (1)
	n (%) Other classes	0 (0)	0 (0)	2 (1)	2 (0)
<i>n (%) Any form of non-DV treatment</i>		<i>40 (29)</i>	<i>19 (23)</i>	<i>103 (37)</i>	<i>162 (32)</i>
Guilty of misdemeanor non-assault	n (%) DV treatment	8 (67)	12 (86)	75 (72)	95 (73)
	n (%) SA treatment	2 (17)	1 (7)	33 (32)	36 (28)
	n (%) MH treatment	0 (0)	1 (7)	3 (3)	4 (3)
	n (%) Other treatment	2 (17)	1 (7)	6 (6)	9 (7)
	n (%) Anger classes	1 (8)	0 (0)	4 (4)	5 (4)
	n (%) Parenting classes	0 (0)	0 (0)	1 (1)	1 (1)
	n (%) Other classes	1 (8)	0 (0)	3 (3)	4 (3)
<i>n (%) Any form of non-DV treatment</i>		<i>6 (50)</i>	<i>3 (21)</i>	<i>47 (45)</i>	<i>56 (43)</i>

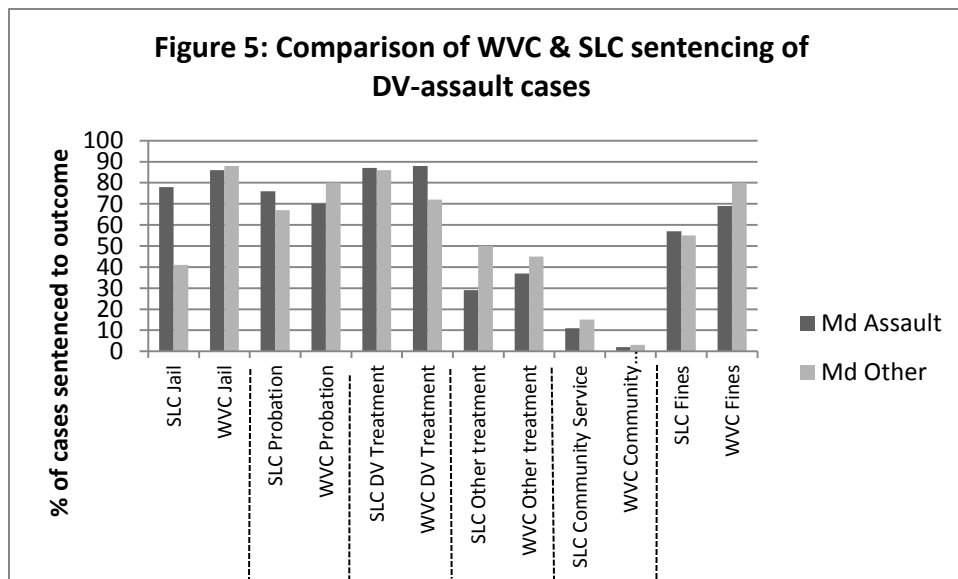
Note: Treatment and class types are not mutually exclusive.

Court-ordered treatment in PIA cases in justice court. Figure 4 compares differences in court-ordered DV treatment by disposition and court. In contrast to Table 19, Figure 4 includes outcomes for cases where the most severe disposition was a PIA on a misdemeanor charge. As presented in Figure 4, cases resolved through PIA were as likely, and sometimes more likely, to be sentenced to DV treatment. Differences did emerge by court: in SLC, cases where the most severe disposition was a conviction on a misdemeanor non-assault were less likely than those with an assault conviction or a PIA to be sentenced to DV treatment; in SLCO, cases resolved with any misdemeanor conviction were less likely than those with a PIA to be sentenced to DV treatment; and in WVC, cases resolved with a

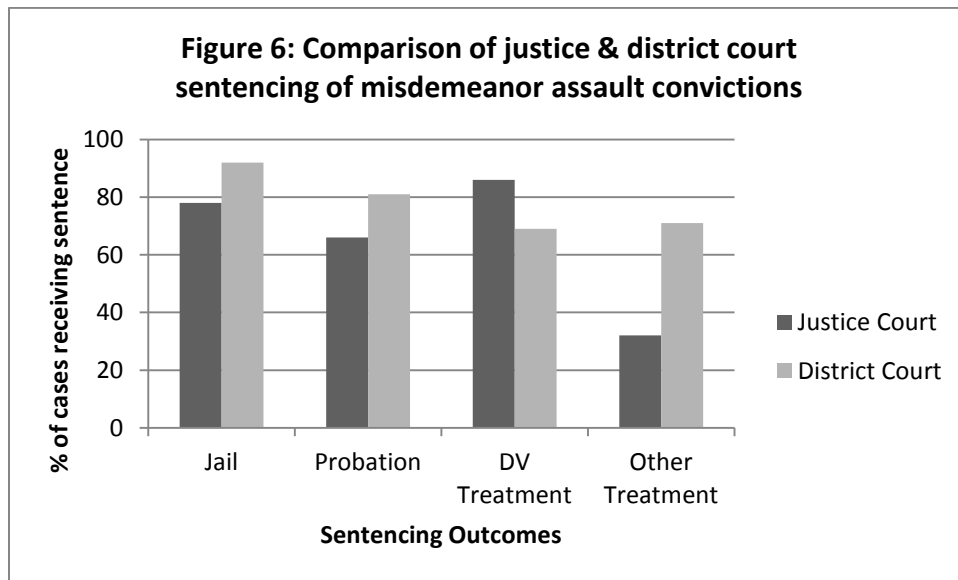
non-assault conviction or PIA were less likely than those resolved with a conviction on an assault to be sentenced to DV treatment.



Comparison of all sentencing outcomes by disposition and court. Figure 5 provides an overview of all sentencing outcomes in SLC and WVC, comparing cases resolved with a misdemeanor assault and those resolved with a non-assault. In general, DV-assault cases adjudicated in WVC are equally (or more) likely to be sentenced to jail or probation, whether or not there was a finding of guilt on the actual assault charge. Non-assault cases in WVC are less likely to receive DV treatment, but more likely to receive other treatment and fines. In SLC, non-assault cases are less likely to be sentenced to jail and probation but are equally likely to be sentenced to treatment (DV and other).



Comparison of sentencing outcomes across district and justice courts. As noted earlier, cases adjudicated in district courts are comprised of more severe charges. As such, it is difficult to make comparisons between district and justice courts on the sentencing of DV-assault cases. Figure 6, however, compares sentencing outcomes for cases where the most severe conviction was guilt on a misdemeanor assault charge. Broadly speaking, district courts were more likely to order jail, probation, and non-DV treatment in misdemeanor assault cases (prison sentences were rare in misdemeanor assault cases in district court and nonexistent in justice court and were therefore excluded from Figure 6). In contrast, justice courts were more likely to order DV treatment in misdemeanor assault cases.



Discussion

This analysis confirmed that, in the courts in question, the primary domestic violence charge with the potential to restrict firearms possession was a misdemeanor assault, which comprised both the bulk of filed domestic violence assault charges and the bulk of disposed outcomes (e.g., once cases where all charges were dismissed were removed, nearly half of remaining felony assault charges were resolved as misdemeanors). While recent legislative changes have clarified that all misdemeanor assault convictions are restricting charges under federal law, the ongoing gap between state and federal law results in logistical difficulties in removing firearms from offenders who are only subject to a misdemeanor firearm restriction.

When considering all DV-assault cases adjudicated in the courts of interest (n=4,733), the majority (72%) were resolved such that the offender was not restricted from firearm possession under state or federal law. In close to half of cases (48%), this was because all charges were dismissed. When looking only at cases where the defendant was convicted (including PIA) of at least one charge, anywhere from 17-36% were resolved such that the offender was not restricted from firearm possession under state or federal law, which may indicate that assault charges were being reduced or dismissed in exchange for guilty pleas on other, non-restricting charges.

With respect to sentencing outcomes, there were some differences, between courts, in the treatment of DV-assault cases. In general, justice courts made more referrals to DV treatment than district courts, while the latter made more referrals to other types of treatment. While this difference may simply reflect the relatively greater complexity of district court cases, it may also suggest different approaches to responding to domestic violence in the respective courts. When comparing misdemeanor convictions—to assault or non-assault charges—in justice courts, West Valley City Justice court tended to treat those two types of convictions similarly in terms of supervision (jail and probation sentences) but issued relatively fewer DV-treatment sentences to offenders convicted of a non-assault. In Salt Lake City Justice Court, both types of convictions were referred to treatment at similar rates, but those convicted of non-assaults were less likely to be sentenced to jail or probation. Again, current data does not allow the researchers to identify whether these differences were a function of case characteristics or differences in court-level approaches for responding to domestic violence.

The federal statutes restricting firearm possession by domestic violence offenders characterize assault as a proxy for risk of harm to the victim. As noted in the Congressional Record: “anyone who attempts or threatens violence against a loved one has demonstrated that he or she poses an unacceptable risk, and should be prohibited from possession of firearms” (1996, p. S11878). As described in the current analysis, however, a substantial number of domestic violence victims continue to be at risk even after the case has been adjudicated. Research on other types of offenders indicates that risk is best managed through targeted application of both rehabilitative and supervisory interventions (Andrews & Dowden, 2007). With respect to both conviction type and sentencing outcomes, the safety of victims may be enhanced through adoption of a validated risk assessment to inform decisions regarding plea negotiations and sentencing outcomes.

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