

# **DOMESTIC VIOLENCE PROSECUTIONS: Inequalities by Gender and Race Perpetuated in Arizona**

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**Analysis by David Wells, Ph.D.  
in conjunction with students in the BIS 302 Spring 2003 course**

**For the Arizona Coalition Against Domestic Violence**

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**BIS 302 is a research methods course that works in conjunction with local nonprofit organizations. Students under the tutelage of professors Kevin Ellsworth, Layne Gneiting and David Wells in the course conducted a series of bivariate analyses that have been expanded upon and further developed in this analysis. Due to the huge size of the data set, the students used a 10% random sample for their analyses. Some of that work has been redone on the full data set here. In addition, related relevant relationships have been added.**

**The students also conducted interviews with victims and operators of shelters as well as observing family court proceedings related to domestic violence. Students also developed a textual analysis—using photographs to critically analyze what they show. Those parts of their analysis are not included in this presentation but the best of that work will be compiled to augment this presentation. Special thanks goes to Kevin Ellsworth for reformatting the original data set into one that could be analyzed with SPSS.**

## **PREFACE**

**The State of Arizona was an early leader in the move to criminalize domestic violence. The legislature took what were formerly considered public crimes, such as assault, and linked them to what happens in the privacy of the home. In this way, those who perpetrated assault on a family member would be charged and convicted with a crime explicitly designated as "domestic violence." This approach, it was thought, would aid in the collection and tracking of often hidden forms of and data on domestic violence. In addition, the domestic violence designation could trigger an appropriate disposition for the convicted perpetrator – ranging from counseling to incarceration– and also could mobilize resources for the victim of domestic violence.**

**Debates continue as to the efficacy of separating out and designating crimes related to domestic violence (DV). Critics across the country contend that doing so may result in several unintended consequences. Namely, advocates are concerned that the DV designation may devalue the crime of domestic violence as something other than or different from 'real crime.' Some argue that without proper education and training, police, prosecutors, and judges will not assess the domestic violence designation properly. For the same reason, others fear that women victims may be falsely accused of domestic violence. Still others predict that arresting and prosecuting individuals with a specialized or separated crime of domestic violence may result in lower rates of conviction or lesser forms of punishment than accorded to non-DV designated crimes. More broadly, many remain concerned that the policing of domestic violence will expand the already disproportionate surveillance, arrest, conviction, and incarceration rates of poor men and men of color in the US.**

**According to the timely and thorough report, *Domestic Violence Prosecutions: Inequalities by Gender and Race Perpetuated in Arizona*, these unintended consequences seem to have come to fruition in Arizona. Cases are not designated as domestic violence in a consistent manner; women victims are arrested improperly; lower conviction rates and lighter sentences are associated with cases designated as domestic violence, particularly notable at the felony level; and African American men are incarcerated at a higher rate while white men convicted of domestic violence typically receive fines and probation. This is not to argue against the DV designation approach per se -- police, prosecutors, and judges may differentially treat crimes of domestic violence with or without the designation. Rather, it seems that given these data, the State of Arizona, and specific counties within the state, may want to expand opportunities for first responders and others in the justice system to engage in *long term* education based on *collaboration* with local and national domestic violence advocates and other experts.**

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## **SUMMARY**

**This study examines the consistency and differences in charges for domestic violence based on charges from January 1, 2000 through December 31, 2002. From a societal standpoint assault within the home is much more dangerous than assault at a public bar. Thus, we should not discount the seriousness of domestic violence. Domestic violence is of particular concern due to the emotional and financial ties between victim and perpetrator. These emotional and financial ties can make prosecution more difficult, but ultimately also make the victim vulnerable to continued abuse.**

**Our database is a set of crimes that are often associated with domestic violence. We have no information on special rehabilitation programs that deal with domestic violence to which perpetrators might participate. Rather we have data based on charge, conviction, sentencing and whether domestic violence was designated either at the time of the arrest or time of disposition, i.e. when the charge is adjudicated.**

**As this is not a longitudinal study, we have no information on effectiveness. However, one should be concerned with the imperative of dealing with the problem. Because the perpetrator has an intimate connection with the victim, failure to effectively deal with domestic violence will lead in far too many cases to continuation of the abuse and quite possibly victims unwilling to test the legal system again. Ultimately, domestic violence has its roots in issues of control and dominance that the perpetrator must learn to deal with without resorting to violence.**

**Still by examining individual charges, we are able to ascertain differences in how domestic violence prosecution is dealt with within the state as well as key indicators that suggest substantial shortcomings that merit further investigation. We hope this report will help policy makers focus efforts on improving Arizona's response to domestic violence.**

- ◆ **Women appear to be falsely arrested in domestic violence disputes, especially in Pima County. Overall, in Arizona 1 in 5 criminal charges for domestic violence are brought against a woman. If women were not falsely arrested, then women should also be approximately 20 percent of convictions. But women are less likely to be convicted of domestic violence related charges than men, suggesting that we have a problem with false arrests in domestic disputes. The rate for charging women with domestic violence as a percent of the population is particularly high in Pima and Santa Cruz Counties.**
- ◆ **Men charged with domestic violence crimes are less likely to be convicted than men charged with the same crime without a domestic violence designation. And, if convicted, men are likely to receive lighter sentences than those not committing domestic violence, even when we control for the category of crime, i.e. assault or aggravated assault.**
- ◆ **Race matters in determining arrest and sentencing. "Race" may not be the direct cause of the disparity as it may correlate with socioeconomic status for which we**

**have no data. But in looking at Maricopa and Pima Counties only, we find that African-Americans are 3 times more likely to be charged with crimes associated with domestic violence than Whites<sup>1</sup>. American Indians are nearly 3 times more likely to be arrested than Whites in Maricopa County, but not in Pima County. While once arrested no racial group as a whole is more likely to be convicted, collectively those arrested more frequently are more likely to be convicted by virtue of the higher arrest rate. If convicted, African-Americans receive harsher sentences on average than American Indians or Whites, even when the crime category is controlled for.**

- ◆ **Finally, we have concerns with accuracy of record keeping due to an under representation of domestic violence in the arrest data. If the charges are not designated as domestic violence, the prohibited possessor laws do not come into effect. Prohibited possessors cannot buy or have a firearm in their house nor their car nor carry it around with them. If they already own a firearm, they must turn it in to someone, usually the police, who will keep it until it's okay to return. If it is never okay to return, like a convicted felon, then they must sell it or give it away or throw it away. Thus the failure to designate domestic violence charges as domestic violence has serious negative impacts for victims.**

**While we don't believe the inaccuracies would change our findings in terms of disparities, there are too many cases missed. For instance, at the time of arrest, Custodial Interference is only noted as a crime associated with domestic violence less than one-fourth of the time and Aggravated Domestic Violence is not designated as domestic violence (a separate category) less than half of the time. Together these are a small percent of domestic violence designations (less than one percent), but if crimes like these are frequently misclassified, we must wonder how many other crimes are not designated.**

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<sup>1</sup> The "White" classification includes nearly all Hispanics in Arizona. The data set has no "Hispanic" designation.

## **METHODOLOGY AND THE DOMESTIC VIOLENCE DESIGNATION**

**We procured from the Arizona Department of Public Safety a database of arrests that occurred between January 1, 2000 and December 31, 2002. The database is arranged by charges, not individual, and had approximately 260,000 charges. Each individual does have a unique ID, but to pull out results by individual, rather than charge, would take a substantial amount of resources and could probably only be done for a random sample of ID's.**

**The crimes under Arizona Revised Statutes (A.R.S.) that we considered were as follows:**

**13-1201 Endangerment  
13-1202 Threatening or Intimidating  
13-1203 Assault  
13-1204 Aggravated Assault  
13-1302 Custodial Interference  
13-1303 Unlawful Imprisonment  
13-1304 Kidnapping  
13-1406 Sexual Assault  
13-1502 Criminal Trespass 1st Degree  
13-1503 Criminal Trespass 2nd Degree  
13-1504 Criminal Trespass 3rd Degree  
13-1602 Criminal Damage  
13-2810 Interfering with Judicial Order  
13-2904 Disorderly Conduct  
13-2921 Aggravated Harassment  
13-2923 Stalking  
13-3601 Aggravated Domestic Violence**

**All of these crimes, with the exception of sexual assault and aggravated domestic violence, are domestic violence crimes listed in A.R.S. 13-3601. Aggravated Domestic Violence is its own domestic violence crime. Sexual Assault (A.R.S. 14-1406) was included because it frequently occurs contemporaneously with domestic violence, one subcategory of which is A.R.S. 13-1406.01 which is sexual assault of a spouse.**

**Domestic violence designations can be made at arrest or disposition. For charges with no recorded disposition, we only have the arrest indicator. Table 1 shows the charges at time of arrest and whether a domestic violence designation was made. Collectively approximately 1/3 of the charges have a domestic violence designation.**

**The data is troubling because Custodial Interference will almost always be between parents and therefore meets the relationship test of domestic violence. Thus the vast majority of those charges should be designated as domestic violence. However, only 22% are so designated. Likewise, interfering with a judicial order will most often be interference with an order of protection, which is a domestic violence crime. Yet, only 11% of those charges were so designated. Even aggravated domestic violence, which obviously is a domestic violence crime, was designated in only 46% of the cases (see Table 1)!**

*Inequalities by Gender and Race Perpetuated in Arizona*

**Table 1**  
**Cases Examined With Domestic Violence Designation at Time of Arrest**  
**2000-2002**

ARS Code of Arrest -- Title \* Domestic Violence designated at time of arrest Crosstabulation

			Domestic Violence designated at time of arrest		Total
			No Domestic Violence Designation	Domestic Violence Designation	
ARS Code of Arrest -- Title	13-1201 Endangerment	Count % within ARS Code of Arrest -- Title	7398 88.9%	925 11.1%	8323 100.0%
	13-1202 Threatening or Intimidating	Count % within ARS Code of Arrest -- Title	8166 65.5%	4309 34.5%	12475 100.0%
	13-1203 Assault	Count % within ARS Code of Arrest -- Title	31199 44.4%	39003 55.6%	70202 100.0%
	13-1204 Aggravated Assault	Count % within ARS Code of Arrest -- Title	27289 83.7%	5326 16.3%	32615 100.0%
	13-1302 Custodial Interference	Count % within ARS Code of Arrest -- Title	293 77.9%	83 22.1%	376 100.0%
	13-1303 Unlawful imprisonment	Count % within ARS Code of Arrest -- Title	796 58.1%	574 41.9%	1370 100.0%
	13-1304 Kidnapping	Count % within ARS Code of Arrest -- Title	3691 92.1%	317 7.9%	4008 100.0%
	13-1406 Sexual Assault	Count % within ARS Code of Arrest -- Title	14 93.3%	1 6.7%	15 100.0%
	13-1502 Criminal trespass 1st degree	Count % within ARS Code of Arrest -- Title	14581 97.0%	453 3.0%	15034 100.0%
	13-1503 Criminal trespass 2nd degree	Count % within ARS Code of Arrest -- Title	4572 98.9%	50 1.1%	4622 100.0%
	13-1504 Criminal trespass 3rd degree	Count % within ARS Code of Arrest -- Title	7714 89.9%	870 10.1%	8584 100.0%
	13-1602 Criminal Damage	Count % within ARS Code of Arrest -- Title	22240 57.8%	16234 42.2%	38474 100.0%
	13-2810 Interfering with Judicial Order	Count % within ARS Code of Arrest -- Title	8629 88.7%	1098 11.3%	9727 100.0%
	13-2904 Disorderly Conduct	Count % within ARS Code of Arrest -- Title	30570 60.4%	20003 39.6%	50573 100.0%
	13-2921 Aggravated Harassment	Count % within ARS Code of Arrest -- Title	604 72.2%	233 27.8%	837 100.0%
	13-2923 Stalking	Count % within ARS Code of Arrest -- Title	295 81.3%	68 18.7%	363 100.0%
	13-3601 Aggravated Domestic Violence	Count % within ARS Code of Arrest -- Title	478 53.6%	413 46.4%	891 100.0%
Total		Count % within ARS Code of Arrest -- Title	168529 65.2%	89960 34.8%	258489 100.0%

Source: Arizona Department of Public Safety.

**The reason to have the designation was to keep records, but it also makes a difference for whether the perpetrator can possess a weapon. If the charges are not designated as domestic violence (DV), the prohibited possessor laws do not come into effect. A.R.S. 13-3101(6)(d) says that if someone is on probation after being convicted of a DV offense defined in 13-3601, then they are a prohibited possessor. Thus if there is no DV conviction, the law does not apply. Likewise, the federal law says that if someone is convicted of a misdemeanor that is a qualified domestic violence crime, i.e. one involving violence or threat of violence in an intimate relationship, then they are prohibited possessors under the Lautenberg law. So once again, if the crime is not designated as domestic violence, the federal law will not apply either. Prohibited possessors cannot buy or have a firearm in their house nor their car nor carry it around with them. If they already own a firearm, they must turn it in to someone, usually the police, who will keep it until it's okay to return. If it is never okay to return, like a convicted felon, then they must sell it or give it away or throw it away. Thus the failure to designate DV charges as DV has serious negative impacts for victims.**

**Many of the records have no recorded disposition. However, in reviewing the records we found that the reason for no recorded disposition was not simply that the arrest happened in the last few months of 2002. Rather we found records dating back to 2000 that had no recorded disposition. We classify these charges as “pending,” but they may represent charges that have essentially been dropped, but not recorded, or a significant lag in recording dispositions. The percent of “pending” cases does vary significantly by county and less so by whether there is a domestic violence designation or not. Perhaps some counties have failed to record their dispositions or have informally dropped charges.**

**The data set indicates also whether the crime had a domestic violence designation at time of arrest and at time of disposition. For our purposes we determine that domestic violence existed if either of these indicates domestic violence. While nearly 40,000 cases were consistent in their designation, nearly 6,000 (13%) cases were not consistently coded as domestic violence. Another 47,000 of the cases that had a domestic violence designation at time of arrest have no recorded disposition and are not included in Table 2 below.**

**Thus it appears that if the case is not designated as Domestic Violence at the time of arrest, there is only a very small possibility that it will be designated as Domestic Violence at time of disposition. When just analyzing arrests, due to the large number of “pending” cases, we use just the Domestic Violence at time of arrest designation. However, when looking at convictions and sentencing, we use the broader determination of domestic violence—meaning we flagged the case as being associated with domestic violence if either it had a domestic violence designation at time of arrest and/or a domestic violence designation at time of disposition. We believe this to be the best estimate of domestic violence cases.**



**Table 2**

**Few Corrections Made at Disposition**

**Domestic Violence designated at time of arrest \* Domestic Violence designated at time of disposition Crosstabulation**

Count		Domestic Violence designated at time of disposition		Total
		No Domestic Violence Designation	Domestic Violence Designation	
Domestic Violence designated at time of arrest	No Domestic Violence Designation	85831	3082	88913
	Domestic Violence Designation	2700	39455	42155
Total		88531	42537	131068

Source: Arizona Department of Public Safety arrests for crimes with dispositions in Table 3.

**Using only original arrest charges for cases that have a recorded disposition, Table 3 shows our ultimate breakdown relative to domestic violence. You'll note that even with this correction that only 60% of the cases of the crime 13-3601 "Aggravated Domestic Violence" have a domestic violence designation. As the error effects only 153 cases , we haven't corrected this apparent continued error. While it does not greatly impact our results, it does illustrate possible limitations with DPS data (see Table 3).**

*Domestic Violence Prosecutions*

**Table 3**

**Domestic Violence Designation by Time of Disposition  
2000-2002**

**ARS Code of Arrest -- Title \* Domestic Violence Crosstabulation**

			Domestic Violence		Total
			No Domestic Violence Designation	Domestic Violence Designation	
ARS Code of Arrest -- Title	13-1201 Endangerment	Count	3796	488	4284
		% within ARS Code of Arrest -- Title	88.6%	11.4%	100.0%
	13-1202 Threatening or Intimidating	Count	3774	1867	5641
		% within ARS Code of Arrest -- Title	66.9%	33.1%	100.0%
	13-1203 Assault	Count	14684	19901	34585
		% within ARS Code of Arrest -- Title	42.5%	57.5%	100.0%
	13-1204 Aggravated Assault	Count	13413	3375	16788
		% within ARS Code of Arrest -- Title	79.9%	20.1%	100.0%
	13-1302 Custodial Interference	Count	170	47	217
		% within ARS Code of Arrest -- Title	78.3%	21.7%	100.0%
	13-1303 Unlawful imprisonment	Count	354	306	660
		% within ARS Code of Arrest -- Title	53.6%	46.4%	100.0%
	13-1304 Kidnapping	Count	1688	205	1893
		% within ARS Code of Arrest -- Title	89.2%	10.8%	100.0%
	13-1406 Sexual Assault	Count	13	2	15
		% within ARS Code of Arrest -- Title	86.7%	13.3%	100.0%
	13-1502 Criminal trespass 1st degree	Count	8812	179	8991
		% within ARS Code of Arrest -- Title	98.0%	2.0%	100.0%
	13-1503 Criminal trespass 2nd degree	Count	2798	18	2816
		% within ARS Code of Arrest -- Title	99.4%	.6%	100.0%
13-1504 Criminal trespass 3rd degree	Count	4185	387	4572	
	% within ARS Code of Arrest -- Title	91.5%	8.5%	100.0%	
13-1602 Criminal Damage	Count	11287	8012	19299	
	% within ARS Code of Arrest -- Title	58.5%	41.5%	100.0%	
13-2810 Interfering with Judicial Order	Count	4704	800	5504	
	% within ARS Code of Arrest -- Title	85.5%	14.5%	100.0%	
13-2904 Disorderly Conduct	Count	15627	9220	24847	
	% within ARS Code of Arrest -- Title	62.9%	37.1%	100.0%	
13-2921 Aggravated Harassment	Count	237	163	400	
	% within ARS Code of Arrest -- Title	59.3%	40.8%	100.0%	
13-2923 Stalking	Count	136	39	175	
	% within ARS Code of Arrest -- Title	77.7%	22.3%	100.0%	
13-3601 Aggravated Domestic Violence	Count	153	228	381	
	% within ARS Code of Arrest -- Title	40.2%	59.8%	100.0%	
Total	Count	85831	45237	131068	
	% within ARS Code of Arrest -- Title	65.5%	34.5%	100.0%	

Domestic Violence is designated either at arrest and/or disposition.  
Source: Arizona Department of Public Safety.

## **WOMEN FACE 1 IN 5 DOMESTIC VIOLENCE CHARGES**

**Victims of domestic violence have a right to defend themselves, but only with proportionate force. Arrests for domestic violence should focus on the perpetrator and not the victim, even if the victim is defending herself (typically victims are women) with proportionate force. Victims of domestic violence can be either male or female, but male victims especially in heterosexual relationships are less likely to report it than female victims. Unfortunately, in Arizona it appears victims are likely to be arrested. In Table 4 proportionately compared to men, women are arrested for charges with domestic violence designations 20% of the time, yet women represent 16% (and not 20%) of those convicted for domestic violence. This lesser likelihood of conviction does not hold for those charges with no domestic violence designation (15% of charges and 16% of convictions)—in those cases women appear to be just as likely to be convicted as men.**

**Table 4**

**Charges for Crimes often Associated with Domestic Violence  
2000-2002**

County	Charges No DV Designation %Female	Charges DV Designation %Female	Convictions No DV Designation %Female	Convictions DV Designation %Female
Apache	16.2%	16.0%	21.5%	15.9%
Cochise	14.1%	21.8%	17.0%	21.9%
Coconino	13.3%	21.3%	13.2%	17.2%
Gila	18.3%	23.9%	19.6%	23.7%
Graham	14.6%	14.3%	16.6%	19.9%
Greenlee	20.4%	17.9%	15.9%	13.6%
La Paz	17.2%	21.8%	15.9%	17.8%
Maricopa	14.8%	20.3%	15.4%	13.8%
Mohave	18.8%	20.3%	27.0%	17.4%
Navajo	17.1%	20.8%	25.0%	12.3%
Pima	13.3%	21.1%	10.1%	15.4%
Pinal	15.8%	18.7%	18.7%	18.3%
Santa Cruz	10.4%	18.3%	8.9%	9.3%
Yavapai	16.1%	20.5%	19.8%	21.4%
Yuma	12.5%	20.5%	13.6%	18.6%
TOTAL	14.8%	20.5%	16.1%	16.0%

Charges are for those crimes listed in Table 1.  
Convictions are out of the dispositions for crimes listed in Table 3.

Source: Arizona Department of Public Safety.

**The differences between arrest and conviction rates for DV designated charges are particular pronounced in Maricopa, Navajo, Pima and Santa Cruz Counties when compared with how women fare with charges that have no DV designation.**

**While this lower likelihood of conviction relative to the rate of arrest occurs throughout Arizona, in particular Pima County is a concern. The above table doesn't show this as clearly because it shows charges brought against women relative to men. However, if a police department often arrests both victim and perpetrator, as opposed to arresting neither or just the perpetrator, then arrest rates will be higher for both men and women, so the percentage of women arrested is shown more clearly by looking at arrest rates.**

**High arrest rates against both men and women may be masked in Table 4. Table 5 follows up Table 4 by looking at Charges and Convictions brought against women in terms of an arrest and conviction rate (proportioned to population). In reviewing Table 5 one can clearly see that women are slightly less likely to be charged proportionately for DV related charges than for the same crimes when there is no DV designation (4.89 versus 6.48). However, in Pima County and Santa Cruz County, the arrest rate is higher for women when there's a DV designation. However, upon further review we find that those women who are arrested are rarely convicted.**

**In Pima County, the second most populous county in the state, the female arrest rate relative to the population 18 years of age or older is nearly twice the state average, yet the conviction rate is less than half the state average. For the state as whole for every 100 women arrested for charges with a domestic violence designation, only 14 women are convicted with 50 cases having no disposition. In Pima County for every 100 women arrested for domestic violence (twice the state average for arrests) only 4 women are convicted and 87 cases have no recorded disposition (we call these "pending").**

**Part of the reason for the large number of pending cases is because our data is through December 31, 2002 and not all arrests in the last part of 2002 have a formal disposition. But a large number of cases date back more than a year and still have no disposition, which suggests the cases have simply been shelved and are not being pursued. Alternatively, it could illustrate a failure to maintain data on a timely basis. However, if the latter were the case, we would expect that domestic violence designations shouldn't matter. For the state as a whole, this is generally true. But this doesn't hold for all counties. The "pending" classification occurs for an exceptionally large number of cases overall in Pima County, especially domestic violence associated cases (for both men and women).**

**With such a high arrest rate, but low rate of convictions and pending cases, the conclusion we reach for Pima and Santa Cruz Counties in particular is that police tend to arrest both perpetrator and victim, since the victim is typically female, they have a particularly high rate of false arrests. This is not simply an issue of paper work, but the victim, already traumatized by an abuser, now faces criminal charges and her children could be placed in Child Protective Services.**

**Table 5**

**Charges for Crimes often Associated with Domestic Violence  
2000-2002  
Women Charged Only**

County	Charges No DV Per 1000 Population 18+	Charges DV Per 1000 Population 18+	Convictions No DV Per 1000 Population 18+	Convictions DV Per 1000 Population 18+	% No DV Convictions	% DV Convictions	% No DV Pending	% DV Pending
Apache	3.91	0.75	1.08	0.49	54.8%	60.0%	41.3%	34.4%
Cochise	4.40	6.05	0.96	1.12	52.9%	43.3%	56.5%	59.0%
Coconino	14.08	6.66	4.63	1.79	69.9%	45.8%	48.5%	50.9%
Gila	10.98	8.79	3.75	2.45	60.3%	42.0%	41.0%	36.7%
Graham	4.14	2.56	1.84	1.41	55.1%	61.1%	18.6%	11.7%
Greenlee	11.48	6.86	1.71	1.20	37.0%	30.4%	58.2%	45.0%
La Paz	18.26	4.76	3.28	0.90	45.1%	34.1%	59.9%	45.9%
Maricopa	6.34	3.52	1.31	0.48	36.7%	19.7%	41.1%	34.9%
Mohave	10.67	6.70	4.30	2.10	67.1%	47.5%	38.0%	37.4%
Navajo	11.52	2.59	2.10	0.86	58.4%	63.5%	63.4%	71.8%
<b>Pima</b>	4.56	<b>8.59</b>	0.37	<b>0.33</b>	31.1%	28.8%	73.5%	<b>87.0%</b>
Pinal	7.27	5.61	1.97	1.21	52.9%	43.0%	47.7%	51.3%
<b>Santa Cruz</b>	7.58	<b>12.53</b>	0.67	<b>0.59</b>	15.5%	9.0%	43.0%	48.0%
Yavapai	6.14	4.09	1.99	1.08	51.3%	37.5%	32.4%	36.0%
Yuma	6.03	7.42	1.28	2.57	39.0%	49.6%	38.9%	35.5%
TOTAL	6.48	4.89	1.40	0.70	42.1%	28.3%	46.2%	52.9%

Percent Convictions is portion of cases with dispositions.  
Percent Pending is portion of all charges.

Source: Arizona Department of Public Safety.

**MEN FACE LOWER RATES OF CONVICTIONS AND LESSER SENTENCES IF CRIME HAS DOMESTIC VIOLENCE DESIGNATION**

As can be seen in Table 6, domestic violence designations are related to about 1/3 of the charges brought against men for this set of crimes. However, in counties like Apache they represent only 1/8 of such charges, suggesting that many perpetrators are not arrested or the county does a poor job of noting domestic violence designations. By contrast in Cochise, Mojave and Yuma Counties, domestic violence designations are assigned to roughly 40 percent of charges for this set of crimes. In Pima County we see that the arrest rate for domestic violence designations actually exceeds those without such designation, the same pattern as for women in Pima County. Overall, their arrest rate is nearly twice the state average. However, Pima has the second lowest rate of recorded convictions for their arrests and a poor record of convictions relative to acquittals. Thus, while not everyone arrested is guilty, it is reasonable to expect that a number of perpetrators in Pima County are not punished, even though they are arrested. By contrast Yuma and Mojave Counties have similar arrest rates, but conviction rates 4-5 times that of Pima County. Maricopa County has the third lowest conviction rate and the second lowest successful prosecution rate for arrests that are not “pending.”

Table 6

**Male Arrests for Crimes Often Associated with Domestic Violence  
2000-2002**

**Charges to Conviction  
No Domestic Violence Designation versus Domestic Violence Designation**

County	Charges Per 1000 pop. 18+		Convictions Per 1000 pop. 18+		% Convictions v. Acquittals	
	NoDV Charges	DV Charges	NoDV Convict	DV Convict	%NoDV Convict	%DV Convict
<b>Apache</b>	<b>20.17</b>	<b>3.94</b>	<b>4.80</b>	<b>1.36</b>	<b>41.9%</b>	<b>45.0%</b>
Cochise	26.88	21.76	4.84	3.87	37.4%	42.4%
Coconino	91.80	24.57	31.87	7.53	67.2%	49.6%
Gila	48.93	28.01	16.23	7.21	59.3%	42.0%
Graham	24.22	15.38	9.44	5.51	55.7%	48.1%
Greenlee	44.73	31.36	9.94	6.51	47.5%	46.3%
La Paz	88.13	17.10	17.74	3.86	37.6%	39.5%
<b>Maricopa</b>	<b>36.54</b>	<b>13.88</b>	<b>7.61</b>	<b>2.56</b>	<b>38.3%</b>	<b>28.0%</b>
<b>Mohave</b>	<b>46.09</b>	<b>26.31</b>	<b>11.84</b>	<b>9.52</b>	<b>47.7%</b>	<b>57.2%</b>
Navajo	55.89	9.85	7.67	2.83	53.0%	61.4%
<b>Pima</b>	<b>29.71</b>	<b>32.13</b>	<b>3.33</b>	<b>1.77</b>	<b>32.7%</b>	<b>32.7%</b>
Pinal	38.75	24.35	8.83	5.12	45.3%	40.5%
Santa Cruz	64.98	55.91	6.87	5.73	18.2%	19.2%
Yavapai	31.93	15.83	8.52	3.56	45.3%	31.8%
<b>Yuma</b>	<b>42.39</b>	<b>28.69</b>	<b>9.37</b>	<b>10.37</b>	<b>34.7%</b>	<b>49.2%</b>
TOTAL	37.39	18.96	7.73	3.24	40.5%	33.9%

*Inequalities by Gender and Race Perpetuated in Arizona*

Data is by charge, not individuals. A defendant may have multiple charges. Each charge is considered separately in this data set.

Charges are based on Crimes listed in Table 1.  
Convictions are based on Crimes listed in Table 3.

Convictions excludes charges with no recorded disposition including pending cases.  
% Convictions excludes charges with no recorded disposition including pending cases.

**Code Key:** (Yavapai reflects the state average)

**Green**—County’s Performance Greatly Exceeds State in Arrests, Convictions and % Convicted for Domestic Violence.

**Teal**—County’s Performance looks promising—while the county may not perform as well as green counties, ultimately they seem to do well comparatively dealing with DV cases.

**Pink**—County’s Performance gives rise to concern. At some stage of the process something appears amiss. There’s too large a discrepancy between DV and nonDV arrests or the rate of convictions (after arrest) is very poor.

**Red**—County’s Performance fails. Ultimately abusers are either unlikely to be arrested or if arrested much more likely not to be convicted.

Source: Bureau of the Census, Arizona Department of Public Safety

**However, just because a person is found guilty doesn’t necessarily mean he’ll spend time in jail (less than one year—in the cases we reviewed typically a few days up to 9 months) or prison (one year or more). Men convicted of crimes with a DV designation were significantly less likely to spend time in jail for misdemeanors and in prison for felonies.**

**Table 7**  
**Males Convicted of Crimes often Associated with Domestic Violence 2000-2002**

		Charge Type of Disposition	
		Felony	Misdemeanor
No Domestic Violence Designation	None	26.0%	37.8%
	Jail	38.9%	62.2%
	Prison	35.1%	
Domestic Violence Designation	None	29.6%	50.1%
	Jail	45.8%	49.9%
	Prison	24.6%	

None means person sentenced to fine and/or probation.

Males convicted for crimes listed in Table 3.  
Source: Arizona Department of Public Safety.

**Because the distribution of crimes may vary, the same analysis was done just for the crimes of assault and aggravated assault. Assault is a misdemeanor and one of the most frequent crimes that has a domestic violence designation. Aggravated Assault is a felony and also is frequently associated with domestic violence. There are different classes within each of these—and they have not been analyzed separately. For assault the same pattern repeats itself. Men who commit Assault with a domestic violence designation were less likely to receive jail time than men who did not.**

Table 8					
Sentences for Men Convicted Of Assault 2000-2002: Original Arrest and Final Disposition					
	ASSAULT ARREST			ASSAULT DISPOSITION	
	Confinement Type			Confinement Type	
	None	Jail		None	Jail
No Domestic Violence Designation	35.9%	64.1%		35.7%	64.3%
Domestic Violence Designation	44.8%	55.2%		44.7%	55.3%

Source: Arizona Department of Public Safety.

**Likewise, men who commit the felony, Aggravated Assault with a DV designation were less likely to spend time in prison and more likely to receive probation and/or a fine with no confinement than men who committed Aggravated Assault with no such designation.**

Table 9						
Sentences for Men Convicted of Aggravated Assault 2000-2002: Original Arrest and Final Disposition						
	AGGRAVATED ASSAULT ARREST			AGGRAVATED ASSAULT DISPOSITION		
	Confinement Type			Confinement Type		
	None	Jail	Prison	None	Jail	Prison
No Domestic Violence Designation	24.8%	36.1%	39.1%	21.7%	35.7%	42.6%
Domestic Violence Designation	32.5%	44.7%	22.8%	29.3%	44.1%	26.6%

Source: Arizona Department of Public Safety.

**When analyzed by county and just looking at dispositions for assault and aggravated assault, we find significant variation by county for both DV designations and convictions without such designations. The disparities suggest that sentencing guidelines are not providing consistency in the judicial system. For Misdemeanor Assault only 6% of those convicted in Gila County received jail time, while in Mojave County nearly 75% of those convicted received jail time. Felony Aggravated Assault is harder to compare due to a smaller number of cases. Only counties with at least 20 cases of each designation were considered for comparison relative to the state average. However, even here we find variation both within counties and between them. In Yuma County half of those convicted of Aggravated Assault with a DV designation receive only probation and/or a fine. By contrast in the same county half of those without such a designation are sent to prison (1 year or more confinement). Between counties we also see variation. Pima County, for instance, puts Aggravated Assault convicts with a DV designation in jail or prison 60% of the time, while Maricopa County does so 75% of the time.**



<b>Table 10</b>									
<b>Male Conviction Sentencing by County and Domestic Violence Designation</b>									
<b>Sentencing Completed for Disposition 2000-2002</b>									
Arresting Agency County Code		Misdemeanor Assault Confinement Type			Felony Aggravated Assault Confinement Type				
		None	Jail	Cases	None	Jail	Prison	Cases	
Apache	No DV Designation	63.3	36.7	30	46.7	6.7	46.7	15	
	Domestic Violence	87.0	13.0	23	100.0	0.0	0.0	3	
Cochise	No DV Designation	74.6	25.4	59	18.0	36.0	46.0	50	
	Domestic Violence	57.1	42.9	161	40.0	60.0	0.0	5	
Coconino	No DV Designation	49.0	51.0	296	38.8	27.1	34.1	85	
	Domestic Violence	44.6	55.4	298	40.9	13.6	45.5	22	
Gila	No DV Designation	98.8	1.2	82	25.0	60.0	15.0	20	
	Domestic Violence	94.3	5.7	87	20.0	40.0	40.0	10	
Graham	No DV Designation	19.0	81.0	21	12.5	66.7	20.8	24	
	Domestic Violence	42.2	57.8	45	0.0	0.0	100.0	4	
Greenlee	No DV Designation	50.0	50.0	8	0.0	50.0	50.0	6	
	Domestic Violence	56.3	43.8	16	0.0	0.0	100.0	1	
La Paz	No DV Designation	28.9	71.1	38	20.0	10.0	70.0	10	
	Domestic Violence	11.1	88.9	27	0.0	0.0	0.0	0	
Maricopa	No DV Designation	27.5	72.4	3509	21.9	37.1	41.0	1884	
	Domestic Violence	39.2	60.9	3305	24.1	52.0	23.8	294	
Mohave	No DV Designation	39.1	60.9	202	2.6	52.6	44.7	114	
	Domestic Violence	26.3	73.7	395	22.2	53.3	24.4	45	
Navajo	No DV Designation	53.0	47.0	83	4.5	81.8	13.6	22	
	Domestic Violence	74.5	25.5	98	0.0	100.0	0.0	3	
Pima	No DV Designation	40.6	59.4	175	25.6	23.1	51.3	540	
	Domestic Violence	46.5	53.5	488	41.9	28.4	29.7	74	
Pinal	No DV Designation	85.2	14.8	203	19.5	27.3	53.2	77	
	Domestic Violence	85.4	14.6	315	13.3	66.7	20.0	15	
Santa Cruz	No DV Designation	88.9	11.1	18	54.2	25.0	20.8	24	
	Domestic Violence	74.4	25.6	43	66.7	0.0	33.3	6	
Yavapai	No DV Designation	57.1	42.9	175	9.9	53.2	36.9	111	
	Domestic Violence	70.0	30.0	247	21.1	47.4	31.6	19	
Yuma	No DV Designation	20.0	80.0	100	18.9	32.0	49.2	122	
	Domestic Violence	33.8	66.2	479	51.2	24.4	24.4	41	
Total	No DV Designation	35.7	64.3	5071	21.7	35.7	42.6	3160	
	Domestic Violence	44.7	55.3	6041	29.3	44.1	26.6	546	

Jail refers to sentences from 1 day to less than a year.  
Prison refers to sentences of 1 year or more

**Code Key:**

**Green**—No Bias. County's sentencing performance more stringent for DV than non-DV cases.

**Teal**—County's performance looks promising, sentencing fairly comparable for DV and non-DV cases.

**Pink**—County's performance gives rise to concern. DV sentencing weaker than non-DV cases or in Cochise County's case high portion of convictions without jail or prison.

**Red**—County's performance fails. Strong bias against stringent sentences in DV cases.

Source: Arizona Department of Public Safety

**RACE MATTERS IN ARRESTS AND SENTENCING IN MARICOPA AND PIMA COUNTIES**

We also analyzed the impact of race on arrests and sentencing. Due to the variation that exists between counties and that the distribution of residences by race is not evenly distributed through the state, we focused only on the two most populous counties in the state, Pima and Maricopa. The Arizona Department of Public Safety’s (DPS) “race” category is divided into five classifications: American Indian, Black, White, Asian, and Unknown. There is no subcategory for Hispanics, who make up approximately ¼ of the state’s population. We surmise that most Hispanics families originate either from the Southwest or migrated here from Mexico or Central America are probably classified as “White.” Some Hispanics from the Caribbean might be classified as “Black,” but they would represent a very small percentage of the Hispanics in Arizona. As such, we assume that the “White” category includes virtually all Hispanics. We do not know how people who identify with more than one ethnicity are classified.

In looking at the population breakdown by county we see that approximately 3-4 percent of the respective populations of the counties are African-American and 2-3 percent are American Indian.

**Table 11**

**2000 Population by Race for Maricopa and Pima Counties**

RACE	Maricopa County					Pima County			
	all	%	18+	%		all	%	18+	%
<b>Total population</b>	<b>3,072,149</b>	<b>100</b>	<b>2,244,146</b>	<b>100</b>		<b>843,746</b>	<b>100</b>	<b>635,850</b>	<b>100</b>
One race	2,982,680	97.1	2,196,542	97.9		816,677	96.8	620,778	97.6
White	2,376,359	77.4	1,805,726	80.5		633,387	75.1	499,961	78.6
Black or African American	114,551	3.7	76,415	3.4		25,594	3	18,064	2.8
American Indian and Alaska Native	56,706	1.8	36,280	1.6		27,178	3.2	17,338	2.7
Asian	66,445	2.2	50,627	2.3		17,213	2	13,756	2.2
Native Hawaiian and Other Pacific Islander	4,406	0.1	2,959	0.1		1,088	0.1	800	0.1
Some other race	364,213	11.9	224,535	10		112,217	13.3	70,859	11.1
Two or more races	89,469	2.9	47,604	2.1		27,069	3.2	15,072	2.4

Source: Bureau of the Census

Because the arrest rate was lowest for the racial classification Asian, and Asians were a small percent of the respective counties populations, we omitted them from our analysis. We instead focused on the three remaining racial categories with the highest arrest rates relative to the number of adults who self-identified as being in that racial

**category. We have omitted the approximately 12-13 percent of the population who identify with another race or identify with two or more races. As such, the arrest rates by racial classification should be judged as approximate, since only a small portion of those in the DPS data base are racially identified as “unknown.” Careful readers will also note that because we are excluding approximately 12-13 percent of the population that the rates of arrest and conviction appear higher in the following tables than in Table 6 which showed the aggregate arrest and conviction rate for the entire population. We’re more interested in differences between racial categories, so we feel comparisons to clearly identified racial categories are most accurate for this purpose.**

**When analyzing arrests and convictions per 1000 population of each racial category, we find that domestic violence designations reflect the same disparity as found among those who commit the same crimes without such a designation. If you’re African-American or Native American you are far more likely to be arrested, and, if convicted, African-Americans are far more likely to be sentenced to prison as compared to Whites. The reasons for such disparities could range from bias against people of these ethnic backgrounds or a bias in favor of perpetrators who are White to a more focused police presence in the neighborhoods in which people who are African-American or Native American reside.**

**Table 12**

**Charges for Crimes often Associated with Domestic Violence  
2000-2002**

**For Males by Race and Domestic Violence Designation in Maricopa and Pima Counties**

County & Race	Charges No DV Per 1000 Population 18+	Charges DV Per 1000 Population 18+	Convictions No DV Per 1000 Population 18+	Convictions DV Per 1000 Population 18+	% convicts jail time No DV	% convicts jail time DV	% convicts prison time No DV	% convicts prison time DV
<b>Maricopa</b>								
Black	143.13	41.48	32.87	7.88	73.1%	64.0%	6.4%	3.5%
American Indian	120.92	37.21	40.05	7.50	78.3%	62.9%	2.6%	0.7%
White	36.65	14.64	7.56	2.86	60.6%	52.7%	6.2%	1.6%
<b>Pima</b>								
Black	116.81	105.51	12.90	5.26	60.5%	48.4%	20.2%	6.3%
American Indian	48.39	38.47	8.54	2.25	73.0%	59.0%	5.4%	2.6%
White	31.72	35.46	3.56	1.99	50.1%	48.2%	19.8%	3.2%

Convictions for males from list of crimes with dispositions listed in Table 3.

Source: Arizona Department of Public Safety, Bureau of the Census.

**The patterns are found for both Maricopa County and Pima County (see Table 12). For Maricopa County both Native Americans and African-Americans are much more likely to be arrested than Whites, while for Pima County the difference appears only for African-Americans. Conviction rates generally follow arrest rates, showing no**

**significant pattern in terms of greater conviction except that if you're more likely to be arrested that ultimately a greater proportion will also be convicted.**

**In sentencing, all racial categories show domestic violence perpetrators to be less likely to be sentenced to jail or prison, but African-Americans are more likely to be sentenced to prison (1 year or more) than Whites or Native Americans. White men convicted of domestic violence related offenses are least likely to spend time in jail or prison, suggesting they receive a fine and/or probation.**

**More disturbing is that the patterns continue to hold even when we control for the crime they are convicted of. When looking at just domestic violence cases for those committing misdemeanor assault and felony aggravated assault, African-American men are most likely to be sentenced to jail or prison, and White men are least likely to receive such a sentence (see Table 13).**

**Table 13**

**Male Conviction Sentencing with Domestic Violence Designation  
Sentencing Completed for Disposition 2000-2002 by Race and County**

County and Race	Misdemeanor Assault Confinement Type			Felony Aggravated Assault Confinement Type			
	None	Jail	Cases	None	Jail	Prison	Cases
<b>Maricopa County</b>							
Black	26.0	74.0	354	20.0	37.5	42.5	40
American Indian	32.1	67.9	196	22.2	66.7	11.1	9 <sup>1</sup>
White	41.4	58.7	2761	24.9	53.9	21.2	245
<b>Pima County</b>							
Black	37.5	62.5	40	28.6	0.0	71.4	7 <sup>1</sup>
American Indian	36.4	63.6	22	100.0	0.0	0.0	2 <sup>1</sup>
White	47.9	52.1	428	41.5	32.3	26.2	65

<sup>1</sup>Too few cases to make a firm comparative judgment.  
Source: Arizona Department of Public Safety.

## **CONCLUSION**

**This quantitative analysis of arrest rates and dispositions in Arizona illustrates that inequalities by gender and race are perpetuated within the criminal justice system with respect to domestic violence.**

**Women appear to be arrested at a rate greater than men, if we use rate of conviction as a guide to actual guilt. Of course, while the challenges in prosecuting a domestic violence case such as uncooperative victims and abusers should not be discounted, the concern here is that Arizona, and Pima County in particular, has a problem with false arrests. For women with children, false arrests immediately bring Child Protective Services into the picture and make victims have to deal with the legal issues as well as custody issues. For all women, false arrests make it more likely that the victim will not seek police help in the future.**

**We also find that the domestic violence designation decreases the likelihood of men being convicted, and, if convicted, decreases the punishment. Jail or prison time may not be the best way to confront and solve domestic violence, but confinement is likely preferable to simply a fine and/or probation. However, it's the latter which many men convicted of domestic violence receive.**

**The broad variation by county suggests that sentencing guidelines do not provide much continuity, rather which county you are sentenced in makes a greater difference.**

**While it's well documented that African-American men are incarcerated at a huge rate, we do need to also investigate racial bias within the criminal justice system. Being White makes a man less likely to be arrested for domestic violence, and if convicted, less likely to receive any jail or prison time. While African-American men are arrested at 3 times the rates of Whites<sup>2</sup>, once arrested they are no more likely to be convicted, but if convicted they are much more likely to be sentenced to jail or prison, even if we control for the specific crime. These differences may mask other differences, such as socio-economic status or prior criminal history, but we should examine this issue more closely to determine the cause of these differences.**

**Finally, the state needs to improve its record-keeping, when less than half of arrests for "Aggravated Domestic Violence" are officially designated as domestic violence at the time of arrest and only 60% are so designated by the time of disposition. A number of domestic violence cases are not being properly recorded. If the charges are not designated as domestic violence, the prohibited possessor laws do not come into effect. Prohibited possessors cannot buy or have a firearm in their house nor their car nor carry it around with them. If they already own a firearm, they must turn it in to someone, usually the police, who will keep it until it's okay to return. If it is never okay to return, like a convicted felon, then they must sell it or give it away or throw it away. Thus the failure to designate domestic violence charges as domestic violence has serious negative impacts for victims.**

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<sup>2</sup> The "White" classification includes nearly all Hispanics in Arizona. The data set has no "Hispanic" designation.