



**LEGAL DATA AND DESIGN CLINIC**  
UNIVERSITY OF BALTIMORE SCHOOL OF LAW

# **Domestic Violence and Pretrial Incarceration: Baltimore City Courtroom 5**

## ***Report of Findings***

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## **1. Introduction**

In February 2021, The Office of the Public Defender (OPD) approached the UB Legal Data and Design Clinic (LDDC) to investigate their anecdotal suspicion that 70-80% of defendants charged with domestic violence (DV)<sup>1</sup> related offenses in Baltimore City receive Nolle Prosequi (NP) dispositions. Since many defendants whose cases are ultimately dismissed are held without bail pretrial, the concern was that DV defendants suffer excessive and unnecessary pretrial incarceration. The LDDC agreed to investigate OPD's concerns by conducting an empirical study of Baltimore City's main DV docket. This report follows.

## **2. Scope of Study**

Working with OPD, the LDDC designed a study to analyze DV cases in Baltimore City. DV cases in Baltimore City are heard only in Courtroom 5 of the North Avenue location of the District Court of Maryland for Baltimore City. For an 11-day period from February 19th to March 5th, 2021, OPD forwarded the case numbers for all cases heard in that courtroom on the DV docket. This sample contained 108 separate case numbers and represented prosecutions against 91 individual defendants.<sup>2</sup> The LDDC systematically tracked information about charging, bail outcomes, and dispositions for all of these cases.

Student attorneys of the LDDC created a database to house critical information regarding the 108 cases. Information recorded includes outcomes at Bail Review (BALR) hearings – whether a defendant was Held Without Bail (HWOB), Released on Recognizance (ROR) and so on. In the following six weeks, student attorneys tracked each case on the Maryland Judiciary Case Search website and updated the outcomes of each case at District Court in order to determine the percentage of defendants who were HWOB that ultimately received a Nolle Prosequi disposition at District Court. More expansive study findings are discussed below.

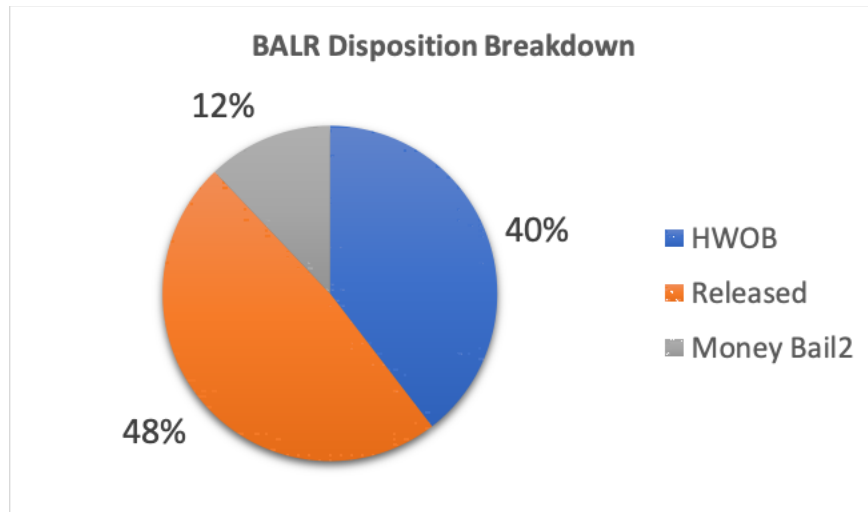
## **3. Basic Overview**

Of the 91 defendants included in the sample, 36 were given a HWOB disposition at their BALR hearings and 44 defendants were released ROR pretrial. The remaining 11 defendants were released on money bails ranging from \$1,000 to \$10,000.

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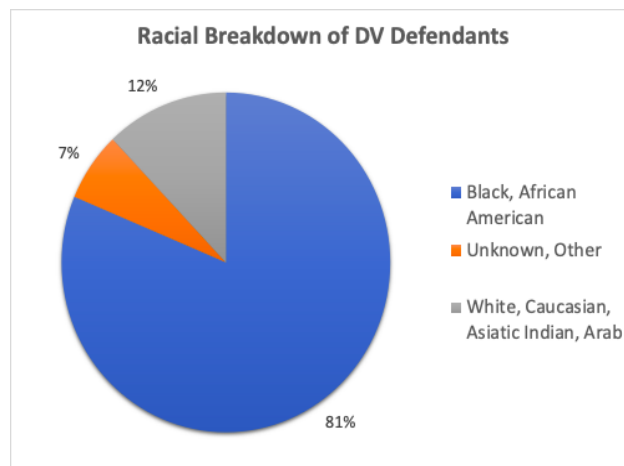
<sup>1</sup> Also known as intimate partner violence (IPV).

<sup>2</sup> Some defendants faced multiple cases, which is why there were more cases (108) than defendants (91). Note that OPD provided case numbers for some cases that could not be tracked on the Maryland Judiciary Case Search website because they were protected. By necessity, the LDDC did not include these cases in its sample.



*Fig. 1. Breakdown of BALR Disposition of Defendants*

A basic demographic overview revealed that 81% of defendants in the DV docket are African American, 12% of defendants are White, Caucasian, Asiatic Indian, Arab, and 7% of defendants belong to an Unknown or Other race. While the Maryland Judiciary Case Search groups defendants' races in a rather unusual manner and does not include a category for Hispanic/Latino individuals, a clear contrast between the racial makeup of the defendants is nonetheless very visible.



*Fig. 2 Racial Breakdown of Defendants*



#### 4. Study Findings

90 out of the 91 total defendants in the sample received their District Court dispositions as of August 17, 2021. Approximately 74%, or 67 of these defendants received Nolle Prosequi dispositions on all charges.

DISTRICT COURT DISPOSITIONS	HELD WITHOUT BAIL	MONEY BAIL	RELEASED ON RECOGNIZANCE	TOTAL
ABATED BY DEATH	1	-	-	1
ALL NOLLE PROSEQUI	21	8	38	67
FWD TO CIRCUIT COURT	8	2	2	12
GUILTY	5	1	-	6
NOT GUILTY OR ACQUITTAL	1	-	3	4
TOTAL	36	11	43	90

*Fig. 3 Number of District Court Dispositions Grouped by BALR Dispositions as of 08/17/2021*

An overwhelming percentage of defendants who were released at BALR hearings ultimately received Nolle Prosequi dispositions on all of their charges. In fact, 88% or 38 out of the 43 defendants released ROR at BALR had all charges dropped against them. Remarkably, not a single defendant who was released ROR was eventually found guilty.

Five defendants, or 14% out of 35 defendants who were HWOB received a GUILTY disposition in District Court. A closer look revealed that 4 out of those 5 defendants accepted a guilty plea before trial. Although not dispositive, this data is consistent with the common hypothesis that holding defendants without bail pretrial may have a coercive effect resulting in guilty pleas in order to allow defendants to leave jail.

Analyzing these findings, it becomes clear that the approach to DV prosecutions in Baltimore City courtroom 5 is not working. 74% of all cases that came to a conclusion in District

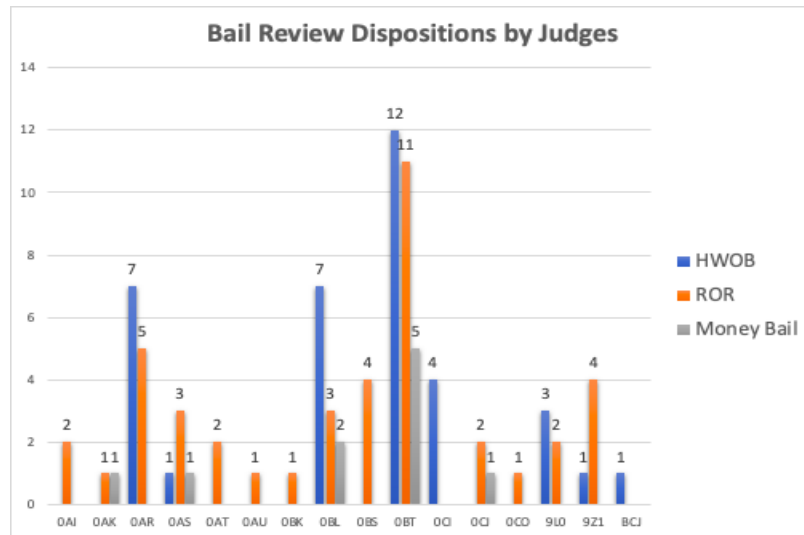


Court had all the charges against the defendant dropped in their entirety. The presumption of innocence for these defendants was ultimately vindicated.

Zooming in on defendants who were HWOB before trial, we see that over half of those cases (58%) resulted in Nolle Prosequi of all charges. In other words, each of those defendants spent time incarcerated pretrial even though they were presumed innocent at BALR and even though their presumed innocence was ultimately vindicated.

**The average number of days spent in jail for defendants who were HWOB that eventually received Nolle Prosequi dispositions at District Court is 25 days.** The human cost of this unnecessary incarceration should not be underestimated or discounted. The trauma caused by these incarcerations as well as the consequential effects such as lost employment can exacerbate the domestic situation after defendants are released from jail.

One last notable finding by the LDDC was a compilation of BALR dispositions by BALR judges. Names of the judges were unavailable as Case Search only displayed their individual judge codes.



*Fig. 7 BALR Dispositions by BALR Judges*



## 5. Conclusion

DV is a complex issue, but the adverse effects of unnecessary and excessive incarceration as a form of punishment “up front” does more harm than good. Scholars have documented that unemployment/underemployment and trauma are highly correlated to DV.<sup>3</sup> Unnecessary incarceration puts defendants’ jobs and livelihoods at risk and subjects them to further trauma from being incarcerated; thus driving further cycles of DV rather than deterring violence. Such effects are not helpful in reducing future DV-related offenses, and the current practice requires some much-needed change. To further illustrate the point of financial strain and uncertainty being driving forces behind DV, a July 2020 study conducted by Brigham Young University Department of Economics discussed the sharp increase of DV incidents at the start of lockdown in March 2020 due to various stressors. The study noted that, “the increase in domestic violence persisted for several weeks before attenuating around the middle of April.” This does not seem to be coincidental, as CARES Act stimulus checks were disbursed in mid-April.<sup>4</sup>

The LDDC’s findings from the sample study conducted for OPD on DV cases for 11 days revealed that a significant number of defendants who are HWOB reach a Nolle Prosequi disposition. More troubling is that defendants who are HWOB are incarcerated for an average of 25 days. The current approach does not help to reduce or deter DV and exacerbates driving forces behind DV. Lengthy incarceration correlates with job loss or underemployment, and the traumatic experience of being unnecessarily incarcerated can lead to even more violence. Though solutions to this issue are multifaceted and extend beyond just criminal justice system reform, the LDDC considers the findings of this study to coincide with OPD’s initial suspicions and further illustrates that the current approach is in need of change.

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<sup>3</sup> See Leigh Goodmark, *Decriminalizing Domestic Violence: Economic, Public Health and Community Solutions*, The Gender Policy Report, <https://genderpolicyreport.umn.edu/decriminalizing-domestic-violence> (last visited April 27, 2021). See also Leigh Goodmark, *Should Domestic Violence be Criminalized?*, 40 *Harvard Journal of Law and Gender* 53 (2017).

<sup>4</sup> See Emily Leslie & Riley Wilson, *Sheltering in Place and Domestic Violence: Evidence from Calls for Service During COVID-19*. *Journal of Public Economics*, Forthcoming (2020).  
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