

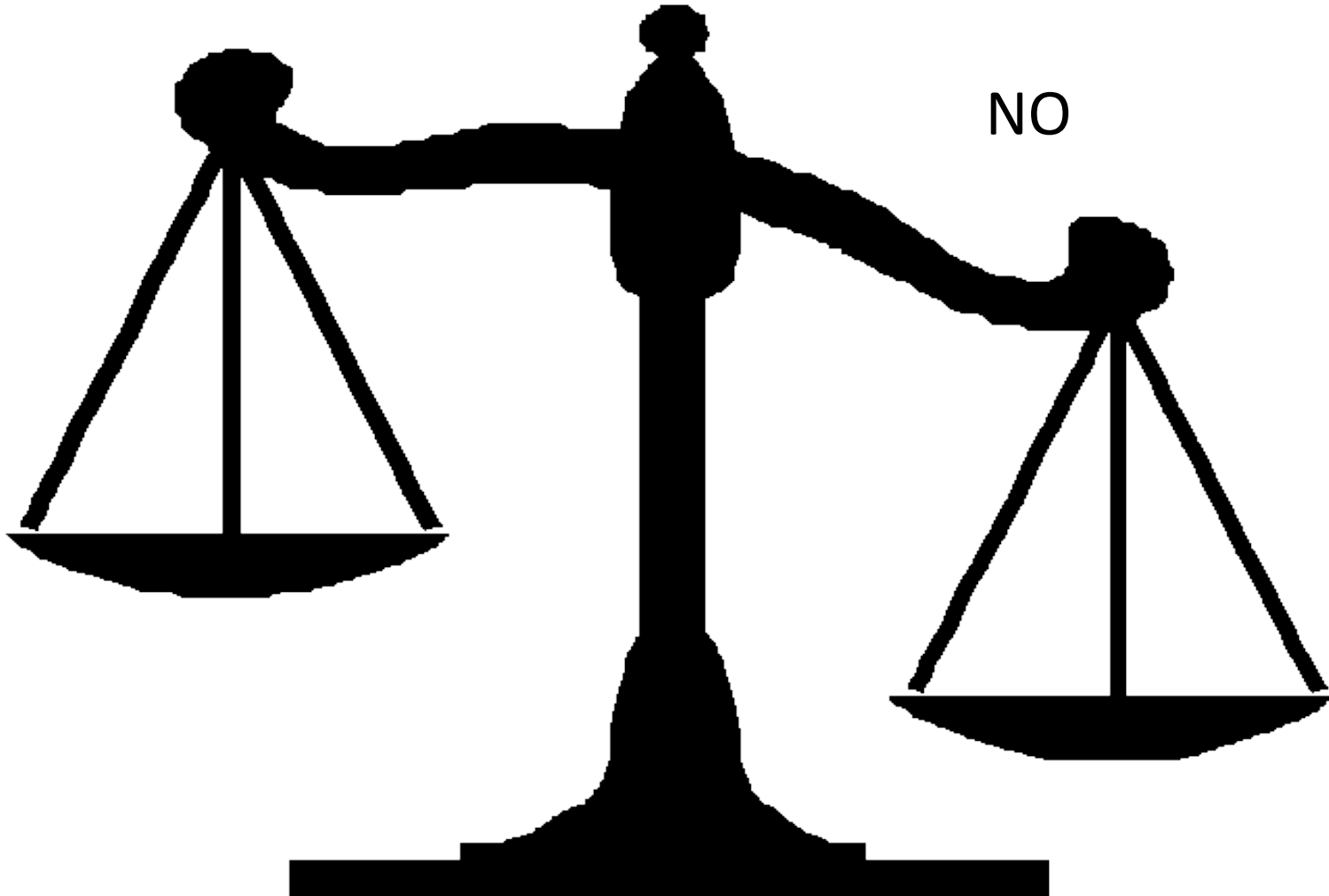
Impact of Differential Sentencing Severity for DV and non-DV Crimes Over Abusers' Life Spans

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Does DV Prosecution Deter Abusers?

YES

NO



Does Prosecution Deter Abusers?

“No consistent evidence that prosecution has a deterrent effect over arrest without prosecution, prosecution without conviction, or conviction regardless of sentence severity...”

(Garner & Maxwell, 2009)

Does Arrest Deter Abusers?

YES

NO



Does Arrest Deter Abusers?

“Arrest deters repeat reabuse, whether the suspect is employed or not. In none of the sites was arrest associated with increased reabuse among intimates.”

(Maxwell, Garner, & Fagan, 2001)

Is DV prosecution problematic?

or

Is the Research on DV prosecution
the problem?

Fact

Most abusers who come to the attention of the law enforcement and the courts for DV have multiple arrests for DV and non-DV offenses.

(Klein, 2013, p. 16)

Rhode Island DV Study Sample

N= 982, ranging in age from 28 to 84 years old

→ Range of Prior Arrests: 1 to 33

→ Average number of arrests 6.8, median 5

→ Only 23.8% had **only** DV arrests

(disproportionately older, female)

→ Range of criminal career thru April 2012,
mean duration 9.4 years, median 8.6 years

Our Research Hypothesis

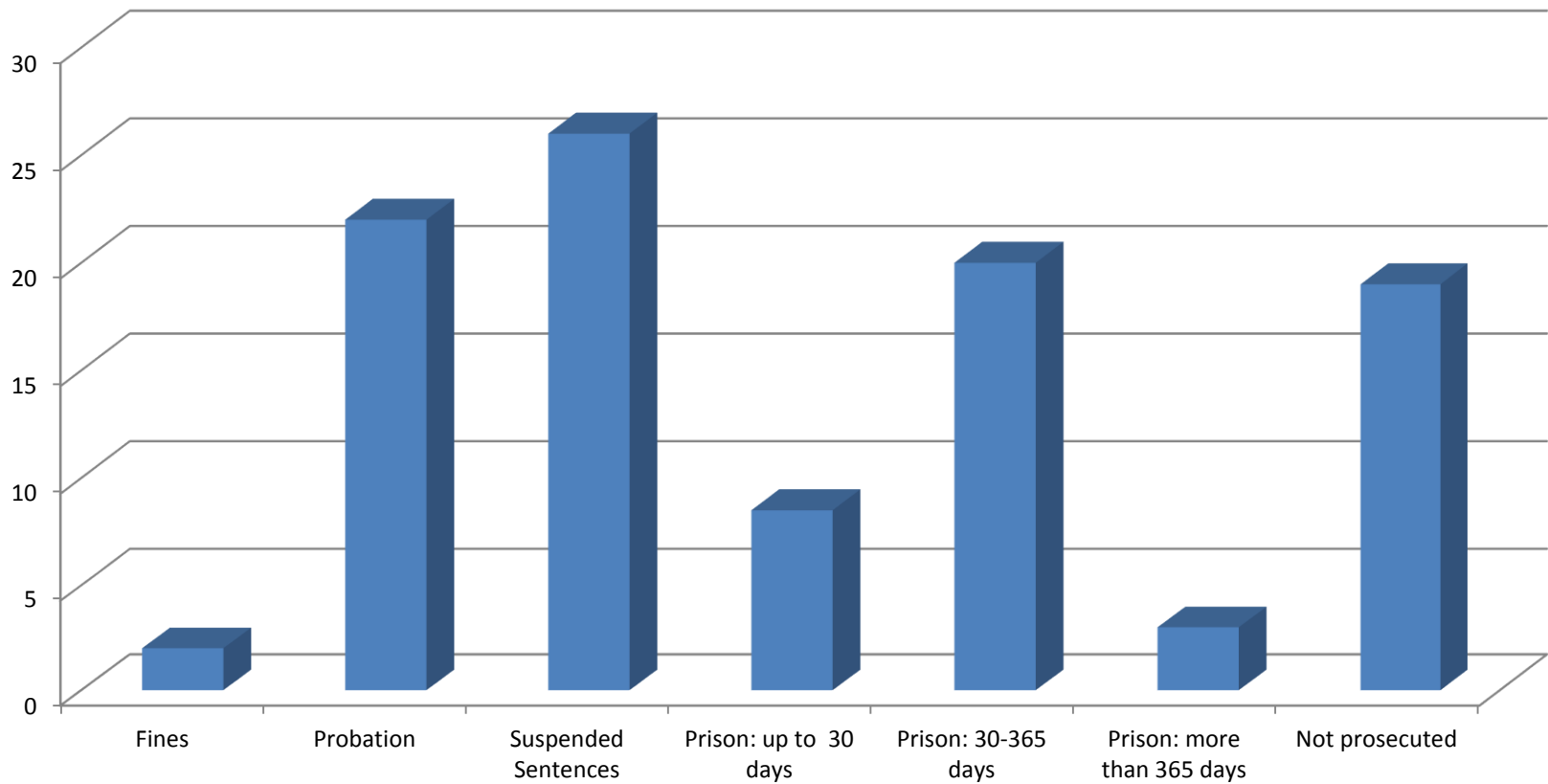
Given multiple arrests for DV and non-DV crimes over multiple years, we must look at a DV prosecution within that context, not in isolation as a single, discrete event to understand and evaluate its impact on the abuser.

R.I. Sample of Abuser Prosecutions

N=5,520 of their collective offenses were prosecuted, representing 83% of arrests.

Sentences (all offenses)

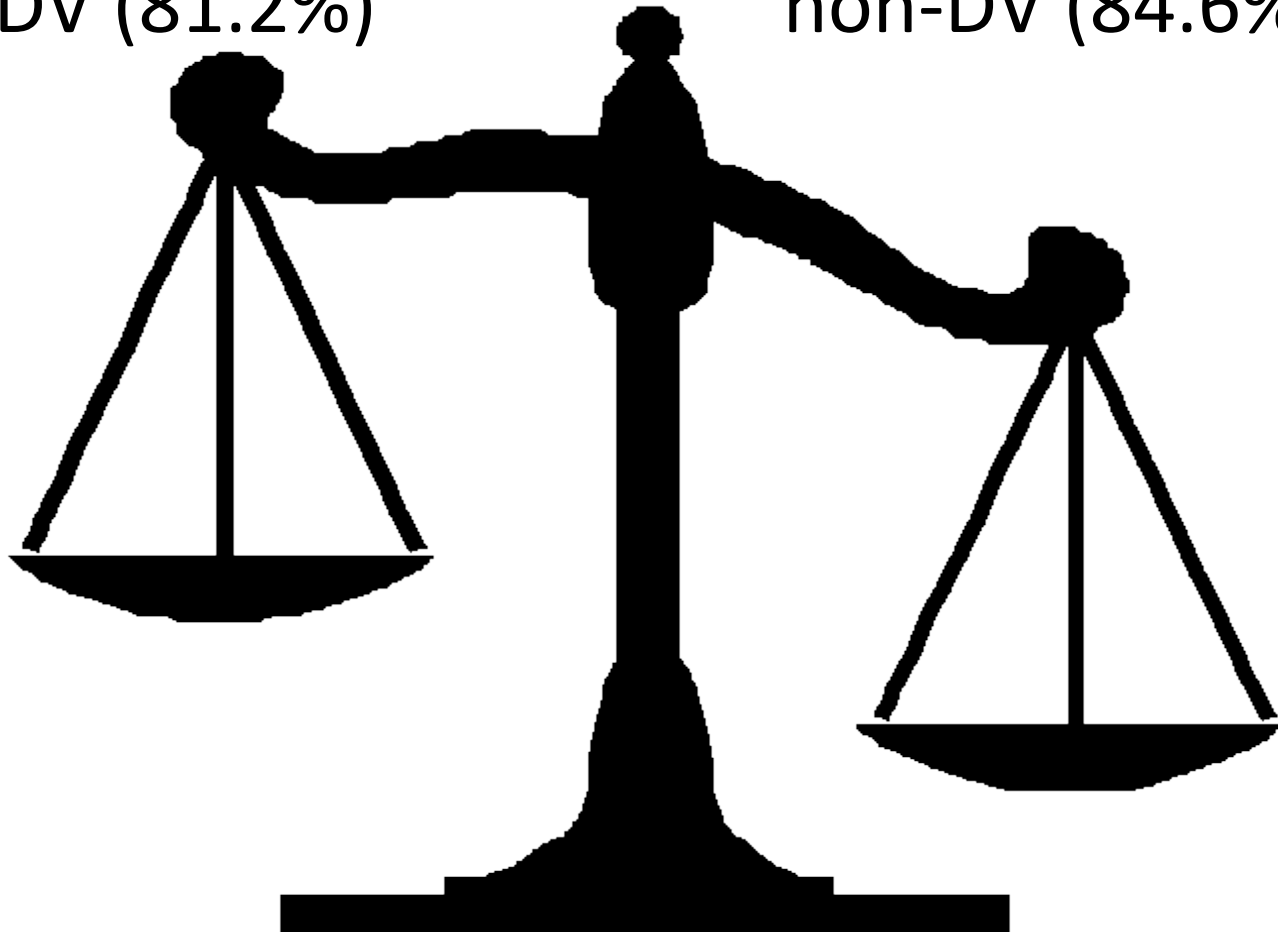
DV



Prosecution rate for DV & non-DV Crimes

DV (81.2%)

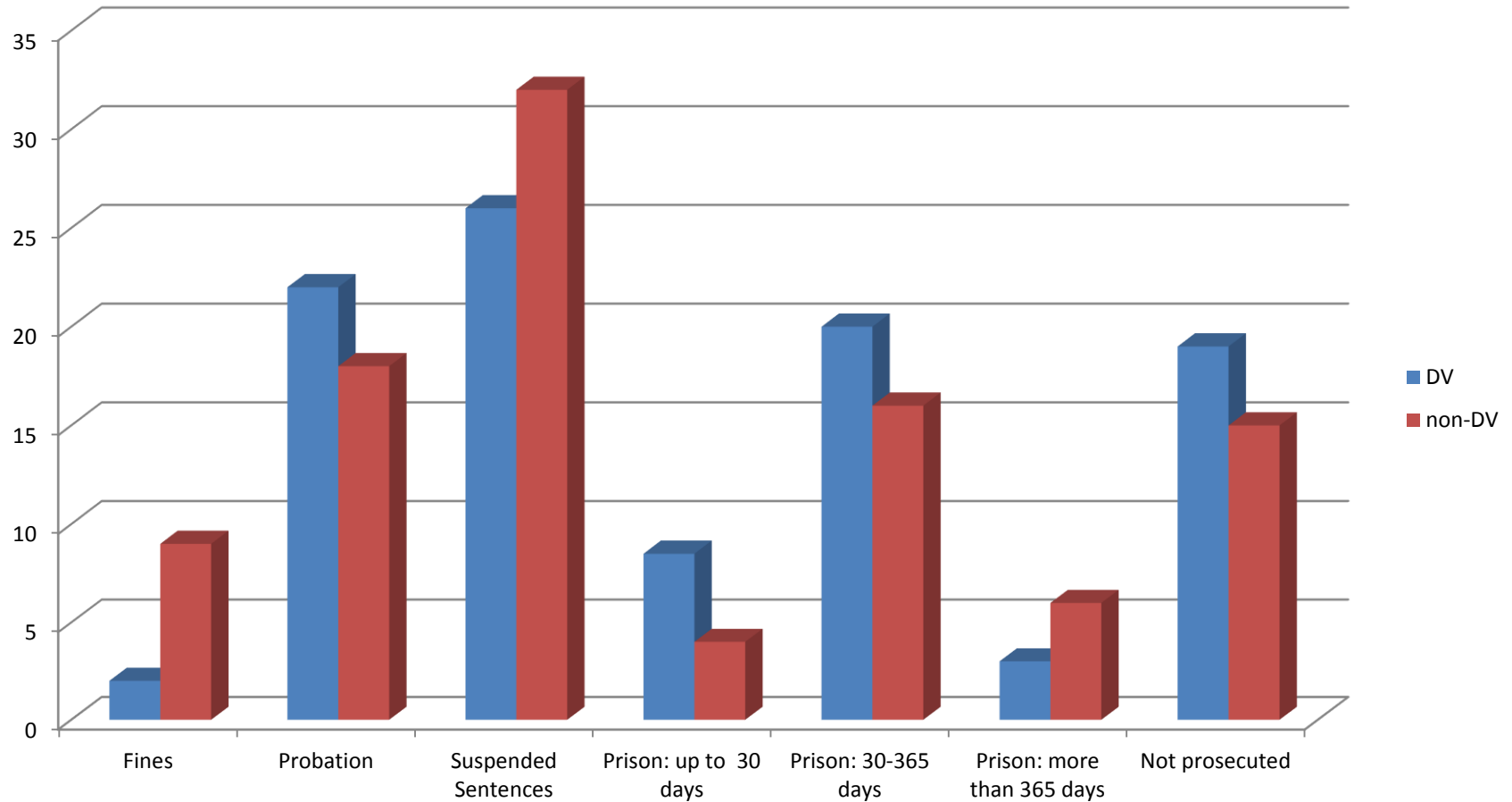
non-DV (84.6%)



DV (81.2%)

non-DV (84.6%)

DV vs. non-DV Sentences percentages



Findings

While DV offenders were significantly **less likely** to be prosecuted, those prosecuted were significantly **more likely** to be incarcerated, but less likely to be incarcerated for more than a year.

Why more jail for prosecuted DV?

Almost half (45.3%) of DV prison sentences were the result of a probation revocation, while only 36% of the non-DV prison sentences were the result of a revocation.

Why more Revocations for DV Probation?

Unfortunately, the revocations were the result of new DV convictions. The prosecutor would wrap up a jail sentence for the new DV and the revocation for the old DV and run them concurrently.

In short, a jail sentence that added no jail time.

Reabuse

More than 2/3 (70%) of the sample were rearrested for DV after their first DV offense through April 2012.

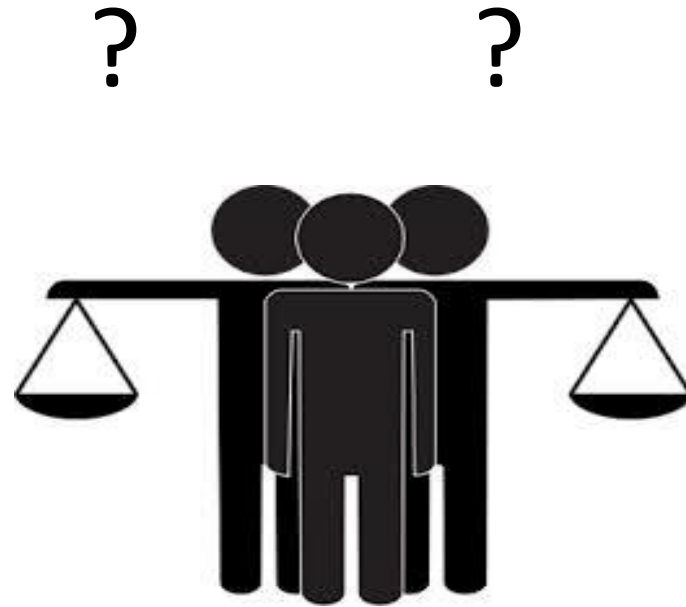
Subsequent DV rearrests ranged from less than a month to 23 years, average was 3.3 years and median was 1.75 years.

Reabuse Severely Under-Assessed in Typical DV Research

Higher reabuse rates than most studies, but most studies measure reabuse over much shorter periods, 6 months to 2 years. Average median DV career among our sample was almost 5.21 years so that any reabuse study that only tracked abusers for 5 years would miss **half** of the reabuse!

So back to the first question.

Does DV prosecution deter
abusers?



So we compared

First six years of the sample 982 abusers' criminal careers*

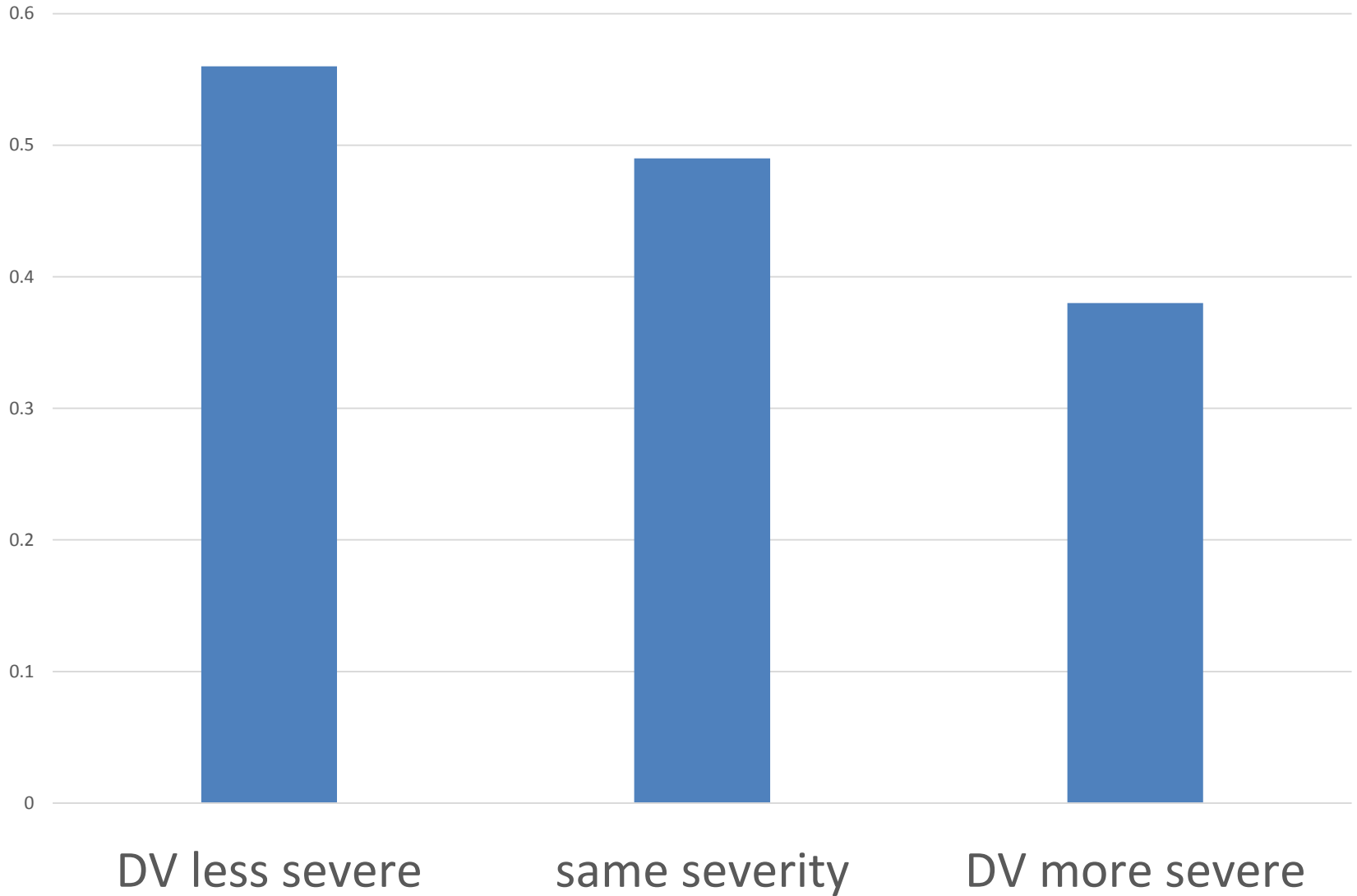
1. Sentenced more severely for DV than non-DV
vs.
2. Sentenced less severely for DV than non-DV

*excluding those who committed only DV or all non-DV prosecutions were after all of the abusers' DV prosecutions (N=473)

We controlled for the following typical risk predictors for reabuse

1. Age of abuser at first offense
2. Gender

Percent of Abusers with 1 or More DV Re-offenses by Differential Maximum Sentencing DV v Non-DV



Percent with new DV

56%

Less Severe

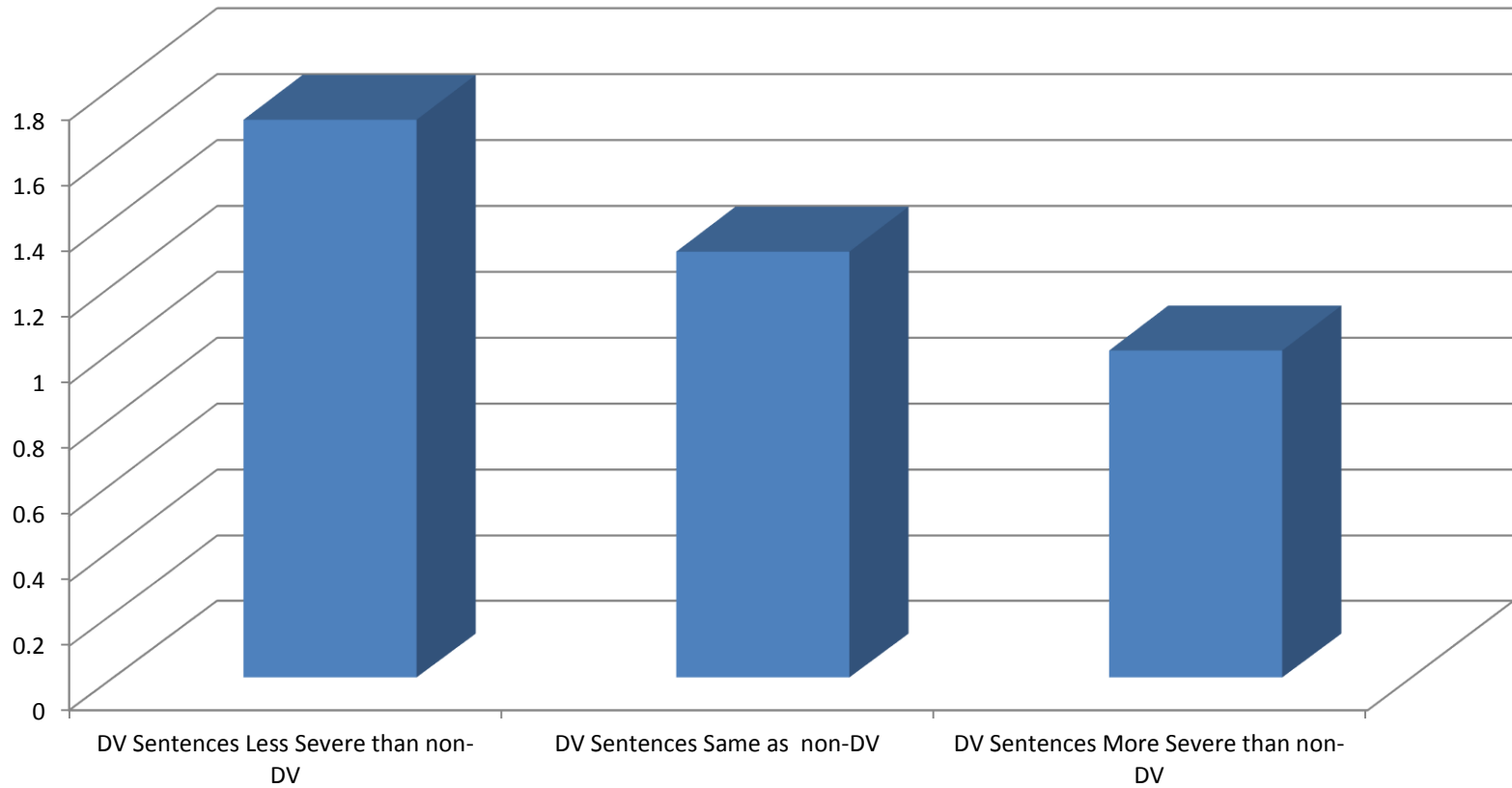
36%

More Severe



Comparison by Maximum DV vs Non-DV Sentence

Average Number New DV Arrests



Number of new DV arrests after first 6 years

DV Sentenced Less Severely

1.63

DV Sentenced More Severely

1.12



Conclusion

If the “going rate” is higher for his DV than his typical non-DV crimes over an abuser’s criminal career, he will be significantly less likely to reabuse and if he does reabuse, he will do so less often.

But is it fair to sentence DV crimes more severely than the non-DV crimes abusers commit?



JUSTICE

DV vs. Non-DV arrests of sample abusers

Crimes against persons	DV	Non-DV
• DV: Total Assaults	56.25%	16.7%
• Harassment (Telephone Calls)/Stalking	6.25%	2.8%
• Violation Protective/No Contact Order	12.5%	2.8%*
Total Crimes/Persons	75%	22.3%
• Drugs	0	27.8%
• Drunk Driving	3.1%	8.3%
• Disorderly/Obstruct Police/Elude Arrest	6.25%	19.4%
• Larceny/B&E/Shoplifting/Forgery/Poss.	6.2%	11.1%
• Vandalism	9.4%	2.8%
• Major Motor Vehicle	0	2.8%
• Carrying Unlicensed Pistol	0	5.1%

* Trespassing

Challenge: Getting Prosecutors/Judges to Take DV Seriously

In R.I., probation took up the slack,

But after a new offense, often a new DV offense, was committed

Enforcing Enhancement Statutes

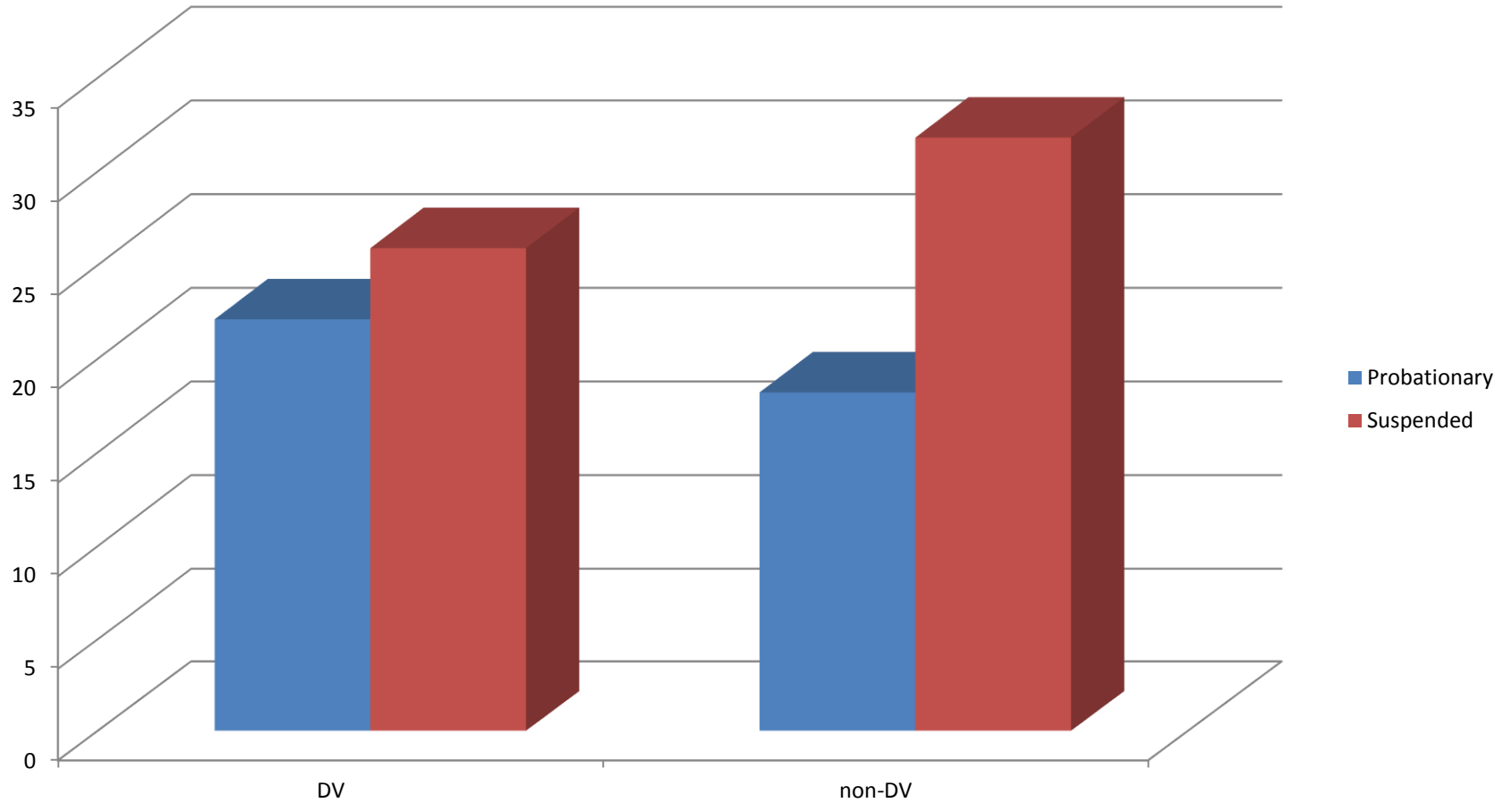
RI mandates 10 days imprisonment for 2nd DV conviction and one year for third or more, but.....

Several loop holes

Enforcing DV Enhancements

1. Prosecutor has to charge defendant as a repeat offender and prove prior conviction
2. In R.I., probationary sentences don't count as a conviction!

DV vs. Non-DV Sentencing



RI Not Alone

State enhancement statutes

- look at only prior DV convictions
- Sunset provision creating perpetual first offenders (Utah)
- Making 4th conviction a felony with maximum penalty of 3 years (Colorado)

Bottom Line

We now know: DV prosecution deters chronic abusers if prosecutors prosecute and judges impose sentences, as a rule, that are more severe for crimes against persons than other crimes committed by these chronic abusers.

We don't know: How severe? How many DV and non-DV crimes needed to establish impact? How any unique RI characteristics, if any, influenced the findings?