

Attrition of domestic assaults from the New South Wales criminal justice system

Brigitte Gilbert

AIM

This study aims to track the progression of recorded incidents of domestic assault through the criminal justice system, from initial police report to sentencing.

METHOD

We used data from the NSW Computerised Operational Policing System (COPS) and the NSW Criminal Courts datasets to follow the progress of domestic assaults recorded by the NSW Police Force in 2022 through the NSW criminal justice system. The attrition of domestic assault incidents at the police investigation phase was examined, along with the attrition of any domestic violence charges associated with these incidents. Attrition rates were tracked separately for intimate partner assault, family assault and “other” domestic assault.

RESULTS

In 2022, there were 33,811 incidents of domestic assault recorded by the NSW Police. About 57 per cent of these incidents occurred in the context of an intimate relationship. NSW Police proceeded to charge an individual accused of domestic assault in 24,273 incidents (72% of incidents). This varied by relationship type, with 77 per cent of intimate partner assaults, 67 per cent of family assaults, and 58 per cent of “other” domestic assaults resulting in legal action. During the court phase, 68 per cent of court appearances with a domestic violence charge related to the initial recorded domestic assault incident had one of those charges proven. This was consistent across the relationship categories. Of the 12,916 court appearances in which a domestic violence charge was proven the vast majority (81%) were finalised by way of the defendant entering a plea of guilty. Just under 20 per cent of court appearances had all domestic violence charges withdrawn. Seventy-four per cent of court appearances with a proven domestic violence offence received a community correction order, of which half were supervised. Only 14 per cent received a custodial sentence, with this being higher for intimate partner assaults (16%) compared to family assaults (10%) and “other” domestic assaults (12%). Overall, these results indicate that only 39 per cent of the 33,811 domestic assault incidents recorded by NSW Police in 2022 resulted in a proven outcome.

CONCLUSION

While relationship type has no bearing on the likelihood of a domestic violence charge being proven at court, NSW Police are more likely to charge an individual suspected of intimate partner assault and where the offence is proven, judicial officers are more likely to impose harsher sanctions. Further research examining why non-intimate partner assault incidents receive a different criminal justice system response to intimate partner assault incidents is warranted.

KEYWORDS

Domestic assault

Assault

Attrition

Intimate partner violence

Family violence

INTRODUCTION

There is considerable focus on how governments in Australia and elsewhere respond to domestic violence, particularly the criminal justice system response. While numerous studies have evaluated the impact of various programs, policies and legislative changes aimed at reducing the prevalence and harms of domestic violence (e.g., Rahman & Poynton, 2018; Teperski & Boiteux, 2023; Yeong, 2020; Yeong & Poynton, 2023), there is surprisingly little information available regarding the basic facts of how domestic assault incidents progress through the criminal justice system.

Broadly speaking, a domestic assault incident enters the NSW criminal justice system when the incident is reported to, or detected by, the NSW Police Force. From there, NSW Police investigate and determine whether to charge the person accused of perpetrating the offence. If police decide to charge the accused and proceed to court, then generally the matter is resolved one of three ways: first, the accused can enter a plea of guilty, in which case the charge proceeds to sentence; second, the accused can enter a plea of not guilty, in which case the charge proceeds to a defended hearing (in the Local and Children's Court) or a trial (in the District or Supreme Court); finally, the charge can be withdrawn by the prosecution (e.g., because the victim is no longer willing to cooperate with police), dismissed due to the defendant being mentally ill, having a mental disorder, or having a mental health or cognitive impairment, or can be "otherwise" disposed of. In circumstances where a charge is withdrawn, dismissed on mental health grounds, or disposed of, it is no longer pursued by the prosecution. Among court appearances with a proven offence (i.e., where the accused enters a guilty plea or is found guilty at a trial or defended hearing), the accused is sentenced by a magistrate (in the Local and Children's Court) or a judge (in the District and Supreme Court).

The aim of this paper is to understand the criminal justice pathway for domestic assaults in NSW. We report on the outcome of all domestic assault incidents recorded by the NSW Police Force in the 2022 calendar year. In reporting these outcomes, we shed light on three important research questions:

1. What proportion of domestic assault incidents recorded by police result in a proven offence?
2. At which stage(s) of the criminal justice system do domestic assault incidents most often fail to progress?
3. How do attrition rates for domestic assault incidents compare across different victim-offender relationship categories?

METHOD

Data source

This study utilised two datasets. The first dataset was an extract from the NSW Police Force's Computerised Operational Policing System (COPS). The COPS extract included detailed information on all domestic assault incidents reported to, or detected by, NSW Police between 1 January 2022 and 31 December 2022.¹ The second dataset was an extract from the NSW Bureau of Crime Statistics and Research's (BOCSAR) Combined Criminal Courts data collection.² This extract contained information relating to all charges and court appearances that could be traced to an incident in the COPS extract.³ The COPS dataset was linked to court data using the police H number, a unique identifier given by the police when they start legal proceedings. This number is transferred to the court system and represents a set of charges from a single criminal incident. Each charge within that incident is then given its own unique offence sequence number.

We selected incidents recorded in 2022 to ensure that there was sufficient time for these incidents to progress through the criminal justice system⁴ and reach a conclusion in court.⁵ Since this study focuses on the date the incident was recorded by the police rather than when it occurred, some incidents may have occurred before 2022 but were recorded in that year. The final dataset contained information for 33,811 domestic assault incidents reported to or detected by NSW Police, which were linked to 28,050 finalised charges for domestic violence, resolved across 18,895 court appearances.

Definitions

Counting units

The analysis explores the attrition of domestic assault incidents at various stages within the criminal justice system by counting: (1) domestic assault incidents; (2) finalised domestic violence charges; and (3) finalised court appearances involving a domestic violence charge. The counting methods are detailed below.

1. Domestic assault incidents: A domestic assault incident is defined as one or more domestic assaults occurring at the same location, at the same time, involving the same victim/s and person/s of interest.

¹ Domestic violence is defined under the Crimes (Domestic and Personal Violence) Act 2007 (NSW) and extends beyond just intimate partners. The legislation considers a domestic relationship to include spouses, ex-spouses, partners, ex-partners, boyfriends/girlfriends (including exes), parents/guardians (including step/foster), children (including step/foster), siblings, other family members (including kin), household members, dependents or carers, and individuals involved in a "love triangle". All recorded incidents of domestic assault were included, noting that each incident could involve multiple victims and accused individuals, and could result in multiple charges. The year of report was based on the event date, which is the date the incident was first recorded by the police.

² This data collection encompasses details related to charges, outcomes, and penalties for criminal charges that have been finalised in the NSW Children's, Local, District, and Supreme Courts, including committal outcomes.

³ Both breaches of court orders and appeals were excluded from the data extract.

⁴ As on July 2024, 414 charges relating to a domestic assault in which legal action was taken by NSW Police had not been finalised in the NSW criminal courts.

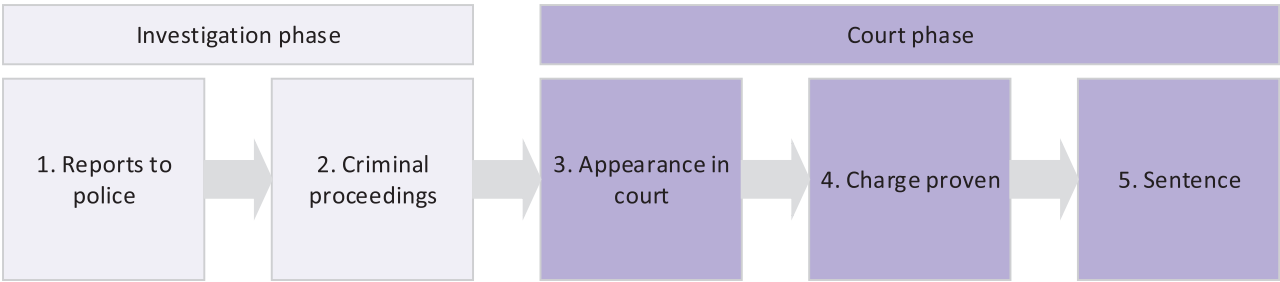
⁵ One way a court appearance can be finalised is when the prosecution withdraws all charges. In our sample, 1.3 per cent of the charges are both strictly indictable and withdrawn by the prosecution in the Local Court. Prosecutors often withdraw these charges and replace them with different charges following plea negotiations or to pursue a less serious charge that is easier to prove. Strictly indictable charges withdrawn in the Local Court are usually excluded from BOCSAR's standard reporting to prevent double counting of finalisations. Given this study's focus is on the progression of domestic assault incidents through the criminal justice system, we examine the outcomes of all charges, regardless of how they are finalised. This approach may lead to some discrepancies between the outcomes typically recorded by BOCSAR for domestic violence charges and the outcomes presented in this brief.

- 2. Domestic violence charges: For incidents where criminal proceedings were initiated from the initial domestic assault incident, we report the number of charges for domestic violence offences that were finalised in a NSW criminal court.⁶ A charge refers to an instance of a particular type of offence being charged against a defendant. Note that some incidents initially recorded as domestic assaults may result in charges for different offences following further investigation by the NSW Police Force. When counting finalised charges, we include all domestic violence charges linked to the original incident (in COPS) but exclude charges for any non-domestic violence offence.
- 3. Court appearances: This counts the groups of domestic violence charges that were finalised on the same date, within the same court, involving the same defendant.

System pathways and outcomes

There are several stages within the criminal justice system where a recorded domestic assault incident might not advance. Figure 1 illustrates these potential points of attrition, beginning with the initial report to the NSW Police Force and continuing through to sentencing.

Figure 1. Simplified stages of the NSW criminal justice system



In this analysis, we first examine the number of domestic assault incidents recorded by NSW Police (Stage 1) in 2022 that led to criminal proceedings (Stage 2). In our sample, 97 per cent of criminal proceedings were initiated through a Court Attendance Notice. The remaining three per cent were initiated via a caution (90%), warning (5%), a youth justice conference (4%) or a criminal infringement notice (1%). Of the accused who did not receive a court attendance notice, 98 per cent were under the age of 18. We then count the number of finalised domestic violence charges and court appearances (Stage 3) that were linked to the initial recorded domestic assault incident (from Stage 1). These incidents, charges, and court appearances are tracked through to a proven charge (Stage 4) and subsequent sentencing (Stage 5).

At Stage 3 court outcomes at the court appearance level are analysed. Table 1 outlines the specific court outcomes discussed in this brief. When multiple charges are finalised in the same court appearance with different outcomes, court appearances are categorised into mutually exclusive outcome categories based on the hierarchy shown in Table 1. Outcome categories listed below another category in Table 1 cannot include any previously mentioned outcomes. For instance, if a court appearance is categorised as proceeding to a trial or defended hearing, it cannot be categorised as a guilty plea. For defendants with at least one proven charge, we also present the type of penalty imposed.

⁶ This study tracks only those domestic assaults that lead to a domestic violence charge. Consequently, the finalised offence must be specifically related to domestic violence. A domestic violence charge was identified by a flag within the Combined Criminal Courts dataset.

Table 1. Definition of specific court outcomes

Outcome category	Specific outcome	Description
Proceeded to trial/ defended hearing	Not guilty of any domestic violence charge	A court appearance which had at least one domestic violence charge proceed to trial or a defended hearing and where all domestic violence charges received a not guilty verdict.
	Guilty of at least one contested domestic violence charge	A court appearance which had at least one domestic violence charge proceed to trial or a defended hearing in which at least one domestic violence charge was found guilty.
	Found not guilty of all contested domestic violence charges, but pleaded guilty to a domestic violence charge	A court appearance which had at least one domestic charge proceed to trial or a defended hearing and where all charges received a not guilty verdict. The defendant however pleaded guilty to or were convicted ex parte of a separate domestic violence charge within the same court appearance.
Guilty outcome not decided by trial or defended hearing	Guilty plea	A court appearance where any domestic violence charge received a guilty plea and proceeded to sentencing, and where no charge within the court appearance went to trial or a defended hearing.
	Proven offence: not further described	A court appearance in which the defendant was sentenced, but for whom there was not enough information to determine whether they had gone through a defended hearing resulting in a guilty verdict or if they were sentenced after pleading guilty.
	Convicted ex parte	A court appearance in which one charge resulted in a convicted ex parte outcome. This includes charges where the defendant either submitted a written guilty plea and was found guilty and sentenced in their absence, or did not appear in court, was convicted, and sentenced based on the evidence provided.
All domestic violence charges withdrawn, dismissed, or "otherwise" disposed of	Mental health dismissal	A court appearance in which all domestic violence offence charges were dismissed due to the defendant being mentally ill, having a mental disorder, or having a mental health or cognitive impairment (see s.14 and s.19 of the <i>Mental Health and Cognitive Impairment Forensic Provisions Act 2020</i> (NSW)).
	Withdrawn by prosecution	A court appearance in which all charges were withdrawn by the prosecution. Charges are considered withdrawn by the prosecution when the charges are formally dismissed by the court. This can occur if the police or the NSW Office of the Director of Public Prosecutions (ODPP) elect not to proceed because there is not enough evidence to obtain a proven outcome, or it is not in the public interest.
	"Otherwise" disposed of	A court appearance where all charges were disposed of. There are a variety of circumstances in which a charge is "otherwise" disposed of. These include the death of the defendant, or the charge being considered on a Form 1. ⁷

⁷ The Form 1 procedure lets a person who has committed multiple offences ask the court to consider those offences when deciding on the punishment for their main offence (see s.31-35A of the Crimes (Sentencing Procedure) Act 1999 (NSW)).

Domestic assault relationship categories

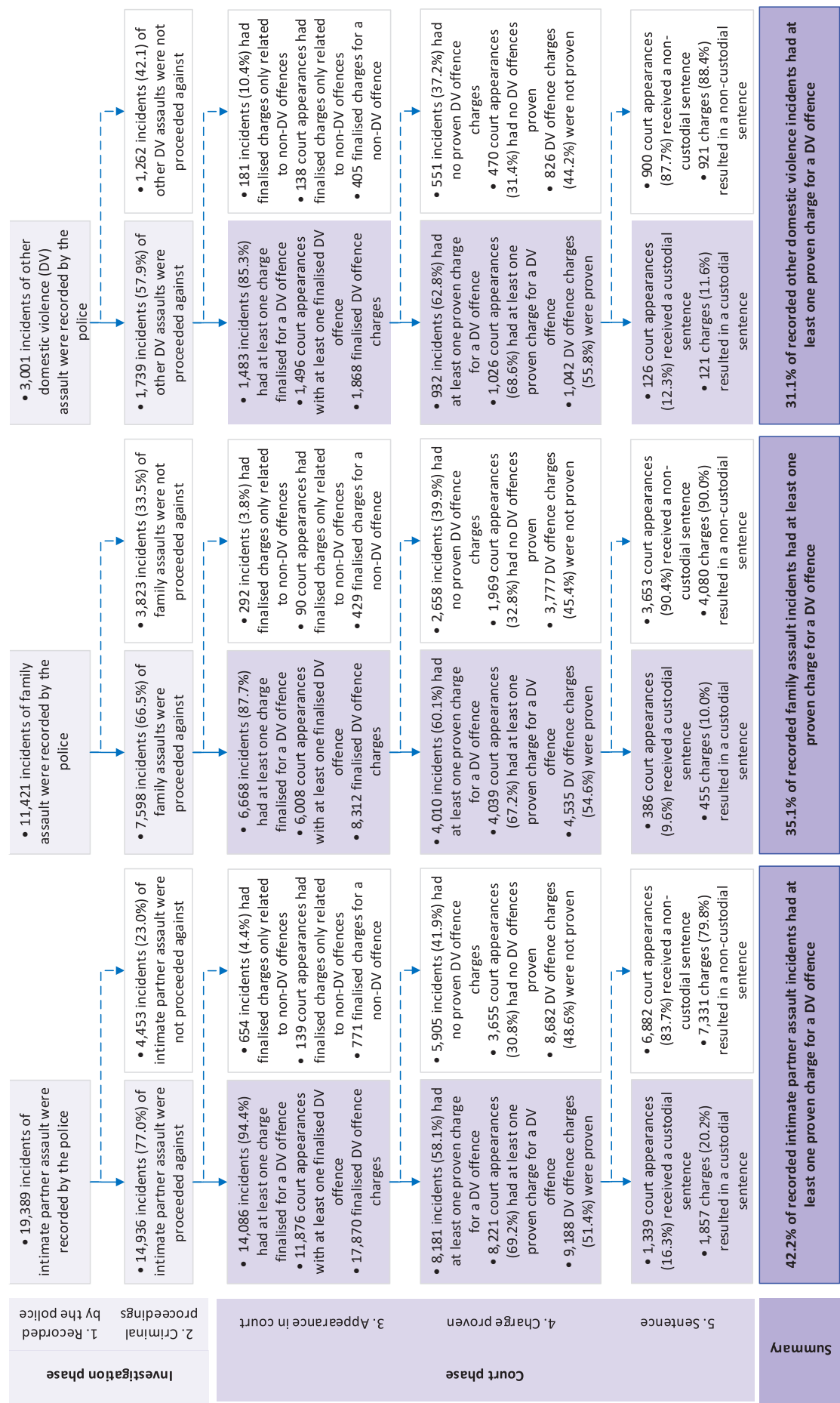
In this brief, we consider three types of domestic assault: first, intimate partner violence; second, violence committed by family members; and third, the residual of domestic violence incidents not included in the first two types, which we refer to as “other” domestic assaults. The separation between these categories is determined by the relationship between the primary victim and the accused. For this study, intimate partner assault refers to an assault perpetrated by a current or former partner, spouse, or boyfriend/girlfriend. Family assault refers to an assault perpetrated by a parent, guardian, offspring, sibling, or other family member. The “other” category includes an assault perpetrated by a housemate or former housemate, an ex-partner assaulting a current partner or vice-versa and a carer. The relationship type is documented by NSW Police during the initial incident and is recorded in COPS.

RESULTS

The progression of domestic assault incidents recorded by NSW Police in 2022 through the NSW criminal justice system are detailed in Figure 2. Figure 2 shows the number of recorded domestic assault incidents for each relationship category and the percentage of these incidents that led to legal proceedings. The figure also shows the number of domestic violence charges and court appearances involving a domestic violence charge that are directly related to the incidents that were proceeded against. It also includes the percentage of incidents, charges, and court appearances that resulted in a proven outcome for a domestic violence charge, and the percentage of proven domestic violence charges and court appearances with a proven domestic violence charge that resulted in a custodial sentence. The data are categorised separately for intimate partner assault, family assault, and “other” domestic assault.

Overall, 39 per cent of recorded domestic assault incidents result in a proven domestic violence offence. The proportion of incidents resulting in a proven outcome is higher for intimate partner assaults (42%) than for family assaults (35%) and “other” domestic assaults (31%). NSW Police charge an accused in 72 per cent of recorded domestic assault incidents. Intimate partner assaults (77%) have a higher legal action rate than the other two categories (67% for family assaults and 58% for “other” domestic assaults). This variation in the police legal action rate is responsible for the differences between relationship categories in the overall proportion of incidents that result in a proven offence. Only minor differences in outcomes are seen between intimate partner, family, and “other” domestic assaults during the court phase. Of finalised court appearances with at least one proven domestic violence offence (that were initially recorded by police as a domestic assault), 14 per cent result in a custodial sentence. The remainder of this section provides further detail regarding each phase of this process.

Figure 2. Attrition of domestic violence assaults recorded by police in 2022 through the NSW criminal justice system



Note. Within Stage 3, 178 incidents of domestic assault that had been proceeded against by police had no associated charges finalised by the end of the study period (July 2024). A further 731 incidents that had been proceeded against by police were resolved by a caution, a warning, a youth justice conference, or a criminal infringement notice. These 909 incidents were removed at stage 3.

Investigation phase

Table 2 reports the number of recorded incidents (and victims) of domestic assault; the number of instances in which those incidents resulted in a charge (and the associated number of victims); and the legal action rate (i.e., the proportion of incidents or victims in which legal action was taken). From Table 2 we can see that, in 2022, 33,811 incidents of domestic assault were recorded by NSW Police. These incidents involved a total of 36,452 victims. When looking across the relationship categories, we can see that over half of these incidents were between intimate partners (57%), a third were between family members (34%), and the remaining were between people in “other” types of domestic relationships (9%). Perhaps the most striking feature of Table 2 is the difference in the legal action rate between relationship types, with NSW Police being 16 per cent more likely to proceed against an intimate partner than a family member and 33 per cent more likely to proceed against an intimate partner than individuals accused of “other” types of domestic assault.

Unfortunately, the COPS extract utilised in this study did not contain complete information on the reasons why NSW Police decided not to charge an accused in relation to the domestic assault incident. Just under half (42%) of the incidents where no legal action was taken had no reason recorded. Of the incidents that did have a recorded reason, the majority (65%) indicated no proceedings were initiated due to ‘insufficient evidence (proof)’. This was followed by the ‘victim/family/carers unwilling’ (17%), the charge being ‘not in the public’s interest’ (9%), the accused being a ‘child - doli incapax (10-14 yrs)’ (2.4%) or a ‘child - less than ten yrs of age’ (0.2%), the incident being ‘rejected’ (2%), an informal caution being given (1%), or the complainant withdrawing their complaint (1%).⁸ The reasons for not taking legal action vary by relationship category. For instance, family assaults are more likely to not proceed than other categories because the accused is a child, or the victim or family is unwilling to proceed. In contrast, Intimate partner assaults are more likely to not proceed due to insufficient evidence, and “other” domestic assaults are frequently not pursued because the offence is not considered to be in the public interest. See Appendix A for a full summary of the recorded reasons for legal action not being taken by relationship type.

Table 2. The number of domestic assault incidents (and victims) recorded by and proceeded against by the NSW Police Force in 2022, by relationship type

	Intimate partner		Family		Other		All	
	Incidents	Victims	Incidents	Victims	Incidents	Victims	Incidents	Victims
Recorded	19,389	20,017	11,421	13,080	3,001	3,355	33,811	36,452
Number with legal proceedings commenced	14,936	15,252	7,598	8,579	1,739	1,949	24,273	25,780
Proceeded against (%)	77.0	76.2	66.5	65.6	57.9	58.1	71.8	70.7

⁸ Research shows that victims withdrawing their complaints is a major reason why domestic violence incidents do not proceed (Dowling et al., 2018; Robinson & Cook, 2006). However, due to incomplete records, we cannot determine the exact proportion of incidents that were not charged because of retracted statements.

Appendix B offers additional descriptive details at the incident level for all recorded domestic assault incidents and for those that had legal action taken, including demographic information about the primary victim and accused. Perhaps unsurprisingly, women are more likely to be the victim of a domestic assault than men (68% vs 32% overall) and men are more likely to be the accused than women (70% vs 27% overall). Interestingly, however, this difference is largely a function of the fact that intimate partner relationships constitute the bulk of assaults in our sample. For domestic assaults not involving an intimate partner relationship, we see an almost even split between the genders in regard to victimisation. That is, among family domestic assaults, female victims constitute 57 per cent of victims; for “other” domestic assaults 47 per cent are female victims. Similarly, the gender differential among accused people is also less pronounced for family and “other” domestic violence assaults.

Appendix B also includes the proportion of each demographic variable that had legal action taken against them. A slightly greater percentage of incidents involving female victims (74%) had legal proceedings commenced compared to those involving male victims (68%). However, the difference varied by relationship category. Intimate partner assaults involving female victims were more likely to result in legal action than those involving male victims, whereas family assaults and “other” domestic assaults involving male victims were slightly more likely to result in legal action than those involving female victims. Meanwhile, men accused of domestic assault (76%) are more likely to have legal proceedings commenced than women accused (68%), with this gap narrowing for family and “other” domestic assaults.

In terms of other demographics, 18 per cent of domestic assault incidents involved an Aboriginal person⁹ as the primary victim, varying from 14 per cent for “other” domestic assault to 20 per cent for family assault. Domestic assault incidents involving an Aboriginal victim were equally likely to result in a legal action as incidents involving a non-Aboriginal victim, with this being true across all relationship categories. Over a fifth of incidents involved an Aboriginal person as the accused, with this being relatively stable across categories. We also see that an Aboriginal person accused of domestic assault was more likely to have legal action taken against them (77% compared to 72% for a non-Aboriginal accused), regardless of relationship category.

Overall, most of the primary victims were aged between 18 and 45 (62%). For intimate partner assaults this majority was more dominant (78%), whereas for family assaults only 38 per cent of primary victims fell within the 18 to 45 age group, with 30 per cent being under 18 years old. “Other” domestic violence incidents were more likely to have a primary victim over the age of 60 compared to the other two relationship category, with 17 per cent of “other” domestic violence assaults having a victim aged over 60 compared to only three per cent of intimate partner assaults and 12 per cent of family assaults. The majority of accused (65%) persons were also aged between 18 and 45, and, again, those accused of family assault were more likely to be younger than those accused of other types of domestic violence. Most domestic assaults were recorded within two weeks of the incident occurring (88%), and this was also true for all relationship categories.

Court phase

The majority of court appearances arising from domestic assaults were finalised in the Local Court (95%), with four per cent being finalised in the Children’s Court and less than one per cent being finalised in the District or Supreme Court. A single domestic assault incident can result in multiple charges, sometimes finalised across multiple court appearances. As illustrated in Figure 2, NSW Police proceeded against an accused in 14,936 incidents involving intimate partner violence. These intimate partner assault incidents directly resulted in 17,870 domestic violence charges finalised across 11,876 court appearances. Similarly, 7,598 incidents of family assault led to 8,312 finalised domestic violence charges across 6,008 court appearances, and the 1,739 incidents of “other” domestic assault resulted in 1,868 finalised domestic violence charges across 1,496 court appearances.

⁹ In this report we use the term Aboriginal to refer to Aboriginal people, Torres Strait Islanders and people who identify both as Aboriginal and Torres Strait Islander. Note that only a very small proportion of the Indigenous population in NSW are of Torres Strait Islander origin only (see <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-and-projections-aboriginal-and-torres-strait-islander-australians/2011-2031>). We use the terms ‘Indigenous’ and ‘Aboriginal and Torres Strait Islander’ where original sources use these.

Of the 28,050 finalised domestic violence charges in our sample, just under two-thirds (62%) were for common assault and one-third (33%) can be attributed to offences classified as serious assault resulting in injury.¹⁰ Approximately three-quarters of court appearances in our sample involved a male defendant (73%). This proportion was higher for intimate partner assault (77%) and lower for both family assault (67%) and “other” domestic assault (69%). About one in five court appearances involved an Aboriginal defendant (22%), ranging from 18 per cent for “other” domestic assaults to 24 per cent for family assaults. Seventy-two per cent of court appearances involved a defendant aged between 18 and 45 years. The age distribution remained relatively consistent across relationship types, with the exception of family assaults which had a higher proportion of defendants being aged under 18 at the time of the incident. Additional appearance-level defendant descriptives can be found in Appendix C.

Table 3 reports the court appearance-level outcomes considered in this brief, that is outcomes for court appearances that included at least one domestic violence charge. Overall, 68 per cent of court appearances resulted in at least one proven domestic violence charge, with little variation across relationship categories. Over half (55%) were resolved by a guilty plea, while 19 per cent were withdrawn by the prosecution. Only 17 per cent went to a defended hearing or trial, with 55 per cent of these resulting in a proven charge. This was relatively consistent across the relationship categories, with between 54 per cent (for intimate partner assault) and 58 per cent (for “other” domestic assault) of defended court appearances resulting in at least one proven domestic violence charge. Thirty-nine per cent of defended court appearances resulted in no proven charges. The remaining six per cent had all contested domestic violence charges result in a not guilty outcome, but the defendant entered a guilty plea or was convicted ex parte for another domestic violence charge.¹¹ The remaining court appearances were either convicted ex parte (3%), dismissed due to mental health concerns (5%), or “otherwise” disposed of (0.3%).

Court appearances involving a male defendant had a higher percentage with at least one proven charge than court appearances involving female defendants (69% vs 66%, respectively). This was seen for all relationship categories, with the difference between genders only changing slightly between categories. Court appearances involving an Aboriginal defendant were slightly more likely to have a proven outcome than those involving a non-Aboriginal defendant (70% vs 68%, respectively). The exception was “other” domestic assaults where non-Aboriginal defendants had a higher proportion of proven charges (69% vs 67%, respectively) than Aboriginal defendants. Court appearances involving defendants aged between 18 and 29 had the highest proportion of proven charges, and this was consistent across the three categories. Refer to Appendix C for the proportion of guilty outcomes by each demographic variable.

¹⁰ The remaining four per cent of charges were related to intimidation/stalking (2%), breach of a violence order (1%), property damage (<1%), and other offence types (<1%).

¹¹ There was some variance between categories for this outcome with seven per cent of intimate partner assaults, four per cent of family assault, and three per cent of “other” domestic assaults having no proven charges at defended hearing or trial but having another domestic violence charge proven by way of a guilty plea.

Table 3. Outcomes for all court appearances with a domestic violence charge arising from an initial police report of domestic assault in 2022 in NSW, by relationship type

	Intimate partner		Family		Other		All	
	n	%	n	%	n	%	n	%
Proceeded to defended hearing/trial	2,115	17.8	943	15.7	246	16.4	3,208	17.0
Not guilty of any domestic violence charge	811	6.8	366	6.1	96	6.4	1,246	6.6
Guilty of at least one domestic violence charge	1,148	9.7	535	8.9	142	9.5	1,768	9.4
Found not guilty of all contested domestic violence charges but pleaded guilty to a domestic violence charge	156	1.3	42	0.7	8	0.5	194	1.0
Guilty outcome not decided by trial or defended hearing	6,917	58.2	3,462	57.6	876	58.6	10,954	58.0
Guilty plea	6,648	56.0	3,242	54.0	834	55.7	10,426	55.2
Proven offence: not further described	3	0.0	1	0.0	2	0.1	6	0.0
Convicted ex parte	266	2.2	219	3.6	40	2.7	522	2.8
All domestic violence charges withdrawn, dismissed, or "otherwise" disposed of	2,844	23.9	1,603	26.7	374	25.0	4,733	25.0
Mental health dismissal	468	3.9	492	8.2	92	6.1	1,025	5.4
Withdrawn by prosecution	2,339	19.7	1,096	18.2	277	18.5	3,652	19.3
"Otherwise" disposed of	37	0.3	15	0.2	5	0.3	56	0.3
Total finalised court appearances	11,876	100.0	6,008	100.0	1,496	100.0	18,895	100.0
Total finalised court appearances with a guilty outcome for at least one domestic violence charge ¹²	8,221	69.2	4,039	67.2	1,026	68.6	12,916	68.4

Note. The "All" column is not the sum of the three categories but the distinct number of court appearances involving a domestic violence offence. For example, a defendant accused of domestic violence against an intimate partner and a family member during different incidents may have both charges finalised at the same court appearance. In this case, the court appearance would be counted once in the intimate partner column, once in the family column and once (not twice) in the "All" column.

Table 4 presents the breakdown of the most serious penalty for the 12,916 court appearances that had at least one proven domestic violence charge arising from a domestic assault incident. Approximately three-quarters (74%) of proven court appearances received a community order, of which half were supervised and the other half unsupervised. The next most common penalty imposed was a custodial sentence (14%). Intimate partner assaults (16%) were the most likely to result in a custodial sentence, compared with "other" domestic assaults (12%) and family assaults (10%). Intimate partner assaults were also the most likely to receive a supervised community order (38% vs 33% for "other" domestic assaults and 35% for family assaults). Family assaults and "other" domestic assaults were more likely than intimate partner assaults to receive an unsupervised community order or a fine.

¹² The sum of court appearances proven at a defended hearing or trial, guilty pleas, ex parte convictions, and proven but not further described.

Table 4. Principal penalty for all defendants with a proven domestic violence offence arising from an initial police report of domestic assault in 2022 in NSW, by relationship type

	Intimate partner		Family		Other		All	
	n	%	n	%	n	%	n	%
Custody	1,339	16.3	386	9.6	126	12.3	1,766	13.7
Supervised community	3,131	38.1	1,427	35.3	342	33.3	4,734	36.7
Unsupervised community	2,882	35.1	1,622	40.2	407	39.7	4,815	37.3
Fine	441	5.4	281	7.0	89	8.7	806	6.2
Other	428	5.2	323	8.0	62	6.0	795	6.2
Total	8,221	100.0	4,039	100.0	1,026	100.0	12,916	100.0

Note. The “All” column is not the sum of the three categories but the distinct number of court appearances involving a domestic violence offence. For example, a defendant accused of domestic violence against an intimate partner and a family member during different incidents may have both charges finalised at the same court appearance. In this case, the court appearance would be counted once in the intimate partner column, once in the family column and once (not twice) in the “All” column.

CONCLUSION

In this study, we examined how incidents of domestic assault reported to, or detected by, NSW Police progress through the criminal justice system. We found that in 2022, NSW Police recorded 33,811 incidents of domestic assault and in 24,273 (or 72%) of these incidents police legally proceeded against an accused. These incidents resulted in a total of 28,050 domestic violence charges finalised across 18,895 court appearances. Over two-thirds of court appearances with a domestic violence charge had at least one domestic violence charge proven and the vast majority (81%) of these proven court appearances were finalised by a guilty plea. Just under 20 per cent of domestic violence court appearances arising from a domestic assault incident had all domestic violence charges withdrawn. Reflecting the serious nature of the offence and the ongoing safety risk to the victim, half of all defendants convicted of a domestic assault received either a custodial or supervised community correction order. This aligns with the NSW 2018 sentencing reforms (see the *Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017*), which introduced a presumption in favour of full-time detention or some form of supervised community order for all domestic violence offences.

Together, these findings indicate that only 39 per cent of the 33,811 domestic assault incidents recorded by the NSW Police in 2022 resulted in a proven outcome. The high rate of withdrawal of charges is a key reason behind the relatively low conviction rate as the police charge rate is particularly high. Overall, the police legal action rate for domestic assault (i.e. 72%) is higher than all other major offence categories except murder and is more than double the rate for non-domestic violence related assault (78% and 31% respectively, BOCSAR, 2024a). The legal action rate has also increased over the last decade as NSW Police shift towards stronger enforcement policies to address the high prevalence and costs of domestic violence (Donnelly, 2025). However, amongst matters that do progress to court we see a smaller proportion of domestic assault matters resulting in a proven outcome compared with other offences (69% versus 87% for all court appearances; BOCSAR, 2024b) and this is because charges are more likely to be withdrawn by the prosecution (19% versus 7% for all court appearances; BOCSAR 2024b).

No information is available from NSW police or court data to indicate why domestic violence charges are more likely than other charges to be withdrawn by the prosecution and very little research has been undertaken in this area. A small number of studies have explored why victims oppose prosecution or are unwilling to cooperate in legal proceedings (Holder, 2006; Robinson & Cook, 2006). Reasons cited include that the victim believed the situation was resolved and the violence would not occur again; that they wanted the perpetrator to be rehabilitated and not punished; they feared the removal of their children; they wanted their relationship to continue; they feared retaliation; they had little to no understanding of the court process; or they felt pessimistic about the court process (Holder, 2006; Robinson & Cook, 2006). Here it should be noted that recent reforms in NSW have lessened the need for victims to be directly involved in the court process. For example, 2014 legislative changes enabled victims of domestic violence to provide their evidence-in-chief via a recorded video statement collected at the time of the incident (see the *Criminal Procedure Amendment (Domestic Violence Complainants) Act 2014 (NSW)*) rather than having to appear in court. This reform was found to not only reduce the probability of a domestic violence case being withdrawn but also improve the likelihood of a conviction (Yeong & Poynton, 2023).

Far less research has focused on the decisions made by the police and/or prosecutors to withdraw domestic violence matters. The NSW ODPP prosecution guidelines suggest that matters where the quality of the evidence is insufficient to achieve a guilty outcome or where a prosecution is not in the public's interest may fail to proceed (Office of Director of Public Prosecutions, 2021), however there is no evidence available to indicate how often domestic violence matters are withdrawn for these reasons. Another factor that could lead to the withdrawal of domestic violence charges at court is the long delay in finalising domestic violence matters. It is possible that significant delays between arrest and finalisation could affect victims' willingness to cooperate with the prosecution, especially in cases where the victim fears retaliation by the perpetrator or are pessimistic about the court process. In 2024 the median time taken to finalise a domestic violence matter in the NSW Local Court was 151 days, up from a median of 111 days in 2019. Interestingly, over the same period the rate of withdrawals rose by about 50 per cent.¹³ The extent to which court delay contributes to the withdrawal of domestic violence charges should be considered in future research.

Our results also show that the progression of domestic assault matters through the criminal justice system varies depending on the nature of the relationship between the victim and the accused. At the investigation phase, the legal action rate is higher for intimate partner violence compared with other domestic assaults, with NSW Police commencing legal proceedings in 77 per cent of assault incidents involving intimate partners, 67 per cent of assault incidents involving family members, and only 58 per cent of assault incidents involving "other" domestic relationships (e.g., housemates). Once NSW Police commenced legal action, however, the relationship between the victim and the defendant had little bearing on the court outcome (i.e., guilty, not guilty, withdrawn).

The different dynamics of domestic assault and the demographics of the accused are a likely explanation for the variation in police legal action rates across relationship categories. For example, in the case of family assaults, accused individuals are younger than in other types of domestic assault. In our sample, 19 per cent of those accused of family assault were under the age of 18 compared with two per cent of those accused of intimate partner assault and eight per cent of those accused of "other" domestic assault. Accused under the age of 18 were the least likely to have legal actions taken against them. In addition, where legal proceedings were commenced, young people were more likely than their older counterparts to be issued a warning, caution or referred to a youth justice conference under the *Young Offender's Act 1997* (NSW). Additionally, more than half the family assaults perpetrated by a person under the age of 18 were committed by the victim's child. Previous research on adolescent family violence has found that parents victimised by their children feel shame and guilt about the violence and express concern about the long-term consequences of their child having a criminal record (Coogan, 2014; Daly & Wade, 2015). The limited information recorded by police in COPS on the reasons for not taking legal action supports these explanations.

¹³ These numbers are derived from unpublished data provided by BOCSAR.

On the other hand, police more often cited that legal action was not commenced in relation to “other” domestic assaults because it was not in the public interest. Not in the public interest was the reason recorded by police for 14 per cent of incidents involving “other” domestic relationships that did not proceed to court, compared with six per cent and two per cent of intimate partner and family assaults, respectively. More detailed reasons as to why legal action was not in the public interest were not available from the incident-level police data. However, we can see that, in this relationship category, 10 per cent of those accused are aged over 65 and that this age group had the lowest legal action rate. Only one in ten accused aged over 65 were legally proceeded against by police in “other” domestic assault incidents, compared with over 60 per cent of accused aged over 65 who were alleged to have perpetrated family or intimate partner assaults. One possibility is that police are not proceeding against the accused in some of these matters as they involve elderly individuals with mental health conditions (such as dementia) or cognitive impairments, which would make legal proceedings more complex and sensitive (Withall et al., 2022). Further research unpacking the dynamics of this “other” domestic violence offence category would be beneficial to better understand why these matters are less likely to result in enforcement action.

Our analysis was limited by the fact that almost half of all domestic violence incidents had no information recorded by police regarding the reasons for not commencing legal action. Similarly, no information was available from the court data on the reasons why domestic assault charges were withdrawn by the prosecution. Investment in systems (e.g., IT infrastructure, training, new procedures) to routinely capture this information would support researchers to identify what is driving the lower conviction rate in domestic assault matters and the differential rate of attrition for intimate partner and non-intimate partner assaults. Investment in qualitative research is also needed to understand the factors underpinning decisions to withdraw domestic assault charges that have progressed to the court stage. The current study does, however, highlight the importance of considering the victim-offender relationship when recording and reporting on domestic violence, given that the nature of the violence and (therefore) the criminal justice response varies significantly across offence categories.

ACKNOWLEDGEMENTS

The author would like to acknowledge the work of Tracy Painting and the Data team at BOCSAR for data linkage, Suzanne Poynton, Jackie Fitzgerald, and Steve Yeong for their guidance and feedback during the completion of this study, and Florence Sin for desktop publishing.

REFERENCES

- Coogan, D. (2014). Responding to child-to-parent violence: Innovative practices in child and adolescent mental health. *Health & Social Work, 39*(2), 1-9. <https://doi.org/10.1093/hsw/hlu011>
- Daly, K., & Wade, D. (2015). Gender and adolescent-to-parent violence: A systematic analysis of typical and atypical cases. In *Working with adolescent violence and abuse towards parents* (pp. 148-168). Routledge.
- Donnelly, N. (2025). *Trends in police legal action rates in New South Wales: 2009 to 2023 (Bureau Brief no. 175)*. Sydney: NSW Bureau of Crime Statistics and Research. Retrieved from <https://bocsar.nsw.gov.au/documents/publications/bb/bb151-200/BB175-Report-trends-in-police-legal-action-rates-nsw.pdf>
- Dowling, C., Morgan, A., Boyd, C., & Voce, I. (2018). *Policing domestic violence: A review of the evidence*. Australian Institute of Criminology. Retrieved from https://www.aic.gov.au/sites/default/files/2020-05/rr_policing_domestic_violence_211118.pdf
- Holder, R. (2006). The emperor's clothes: Court and justice initiatives to address family violence. *Journal of Judicial Administration, 16*(1), 30-47. Retrieved from: https://www.researchgate.net/profile/Robyn-Holder/publication/278029586_The_emperor's_new_clothes_Court_and_justice_initiatives_to_address_family_violence/links/557a677108aeb6d8c020608c/The-emperors-new-clothes-Court-and-justice-initiatives-to-address-family-violence.pdf
- NSW Bureau of Crime Statistics and Research [BOCSAR]. (2024a). *New South Wales Recorded Crime Statistics: Quarterly Update September Quarter 2024*. Retrieved from the BOCSAR website: https://bocsar.nsw.gov.au/documents/publications/rcs/rcs-quarterly/2024q3/NSW_Recorded_Crime_Sep_2024.pdf
- NSW Bureau of Crime Statistics and Research [BOCSAR]. (2024b). *NSW Criminal Courts Statistics Jul 2019 – Jun 2024*. Retrieved from the BOCSAR website: <https://bocsar.nsw.gov.au/statistics-dashboards/court-and-sentencing.html>
- Office of Director of Public Prosecutions. (2021). *Prosecution Guidelines* Office of Director of Public Prosecutions. Retrieved from <https://www.odpp.nsw.gov.au/sites/default/files/2025-01/Prosecution-Guidelines.pdf>
- Rahman, S., & Poynton, S. (2018). *Evaluation of the EQUIPS Domestic Abuse Program (Crime and Justice Bulletin no. 211)*. Sydney: NSW Bureau of Crime Statistics and Research. Retrieved from <https://bocsar.nsw.gov.au/research-evaluations/2018/cjb211-evaluation-of-the-equips-domestic-abuse.html>
- Robinson, A., & Cook, D. (2006). Understanding victim retraction in cases of domestic violence: Specialist courts, government policy, and victim-centred justice. *Contemporary justice review, 9*(2), 189-213. <https://doi.org/10.1080/10282580600785017>
- Teperski, A., & Boiteux, A. (2023). *The long and short of it: The impact of Apprehended Domestic Violence Order duration on offending and breaches (Crime and Justice Bulletin no.261)*. Sydney: NSW Bureau of Crime Statistics and Research. Retrieved from <https://bocsar.nsw.gov.au/research-evaluations/2023/cjb261-summary-advo-2023.html>
- Withall, A., Karystianis, G., Duncan, D., Hwang, Y. I., Kidane, A. H., & Butler, T. (2022). Domestic violence in residential care facilities in New South Wales, Australia: a text mining study. *The Gerontologist, 62*(2), 223-231. <https://doi.org/10.1093/geront/gnab068>
- Yeong, S. (2020). *An evaluation of the suspect target management plan (Crime and Justice Bulletin no. 233)*. Sydney: NSW Bureau of Crime Statistics and Research. Retrieved from <https://bocsar.nsw.gov.au/research-evaluations/2021/cjb233-an-evaluation-of-the-suspect-target-management-plan.html>
- Yeong, S., & Poynton, S. (2023). Can Pre-recorded Evidence Raise Conviction Rates in Cases of Domestic Violence? *Australian Economic Review, 56*(4), 487-499. <https://doi.org/10.1111/1467-8462.12525>

Appendix A. Recorded reason for no legal action being taken, by relationship type

	Intimate partner		Family		Other		All	
	n	%	n	%	n	%	n	%
Insufficient evidence (proof)	1,937	43.5	1,311	34.3	363	28.8	3,611	37.9
Victim/family/carers unwilling	432	9.7	426	11.1	95	7.5	953	10.0
Not in public interest	98	2.2	235	6.1	182	14.4	515	5.4
Child – doli incapax (10-14 years)	1	0.0	202	5.3	24	1.9	227	2.4
Rejected	82	1.8	43	1.1	13	1.0	138	1.4
Informal caution given	9	0.2	23	0.6	4	0.3	36	0.4
Complaint withdrawn	14	0.3	15	0.4	2	0.2	31	0.3
Child - less than ten yrs of age	0	0.0	16	0.4	2	0.2	18	0.2
Deceased	5	0.1	4	0.1	0	0.0	9	0.1
Statute barred	1	0.0	0	0.0	0	0.0	1	0.0
Not recorded	1,874	42.1	1,548	40.5	577	45.7	3,999	41.9
Total	4,453	100	3,823	100	1,262	100	9,538	100

Appendix B. Incident-level descriptives for victims and accused of recorded domestic assaults in 2022 in NSW, by relationship type

		Intimate partner			Family			Other			All	
		Recorded	Proceeded	% proceeded	Recorded	Proceeded	% proceeded	Recorded	Proceeded	% proceeded	Recorded	% proceeded
Primary victim gender	Male	4,330	3,084	71.2	4,880	3,276	67.1	1,591	962	60.5	10,801	67.8
	Female	15,036	11,838	78.7	6,509	4,303	66.1	1,409	777	55.1	22,954	73.7
	Unknown	23	14	60.9	32	19	59.4	1	0	0.0	56	58.9
Primary victim age	Under 18	535	397	74.2	3,426	2,035	59.4	395	214	54.2	4,356	60.7
	18 to 24	3,468	2,708	78.1	1,537	1,085	70.6	512	345	67.4	5,517	75.0
	25 to 29	3,270	2,555	78.1	717	465	64.9	309	214	69.3	4,296	75.3
	30 to 34	3,237	2,512	77.6	640	412	64.4	267	169	63.3	4,144	74.6
	35 to 39	2,777	2,181	78.5	711	466	65.5	240	159	66.3	3,728	75.3
	40 to 44	2,338	1,802	77.1	768	478	62.2	220	144	65.5	3,326	72.9
	45 to 49	1,601	1,227	76.6	830	572	68.9	226	150	66.4	2,657	73.4
	50 to 54	957	744	77.7	800	584	73.0	192	122	63.5	1,949	74.4
	55 to 59	499	356	71.3	600	444	74.0	120	68	56.7	1,219	71.2
	60 to 64	286	202	70.6	474	375	79.1	95	57	60.0	855	74.2
Primary victim Aboriginality	65 and over	388	226	58.2	846	637	75.3	406	91	22.4	1,640	58.2
	Unknown	33	26	78.8	72	45	62.5	19	6	31.6	124	62.1
	Aboriginal	3,236	2,540	78.5	2,319	1,532	66.1	418	252	60.3	5,973	72.4
	Non-Aboriginal	16,122	12,374	76.8	9,013	6,012	66.7	2,565	1,478	57.6	27,700	71.7
Time to report	Unknown	31	22	71.0	89	54	60.7	18	9	50.0	138	61.6
	Within 2 weeks	16,486	12,846	77.9	10,561	7,144	67.6	2,838	1,673	58.9	29,885	72.5
	2 weeks to 3 months	1,142	884	77.4	343	189	55.1	82	33	40.2	1,567	70.6
	3 to 6 months	426	330	77.5	116	60	51.7	21	12	57.1	563	71.4
	6 to 12 months	434	310	71.4	127	64	50.4	23	9	39.1	584	65.6
	After 12 months	901	566	62.8	274	141	51.5	37	12	32.4	1,212	59.3

Appendix B. Incident-level descriptors for victims and accused of recorded domestic assaults in 2022 in NSW, by relationship type (cont'd)

	Accused gender	Intimate partner				Family				Other				All			
		Recorded	Proceeded	% proceeded	Recorded	Proceeded	% proceeded	Recorded	% proceeded	Recorded	Proceeded	% proceeded	Recorded	Proceeded	% proceeded		
Accused age	Male	14,709	11,828	80.4	7,005	4,956	70.7	1,870	1,171	62.6	23,584	17,955	76.1				
	Female	4,114	3,013	73.2	4,008	2,587	64.5	949	551	58.1	9,071	6,151	67.8				
	Combination	481	89	18.5	351	50	14.2	102	17	16.7	934	156	16.7				
	Unknown	85	6	7.1	57	5	8.8	80	0	0.0	222	11	5.0				
Accused age	Under 18	368	259	70.4	2,117	1,328	62.7	241	146	60.6	2,726	1,733	63.6				
	18 to 24	2,895	2,318	80.1	1,750	1,281	73.2	418	299	71.5	5,063	3,898	77.0				
	25 to 29	3,017	2,399	79.5	1,048	767	73.2	329	236	71.7	4,394	3,402	77.4				
	30 to 34	3,150	2,523	80.1	1,120	800	71.4	303	219	72.3	4,573	3,542	77.5				
	35 to 39	2,875	2,314	80.5	1,090	782	71.7	280	210	75.0	4,245	3,306	77.9				
	40 to 44	2,427	1,873	77.2	1,137	797	70.1	269	186	69.1	3,833	2,856	74.5				
	45 to 49	1,691	1,345	79.5	928	670	72.2	221	142	64.3	2,840	2,157	76.0				
	50 to 54	1,082	825	76.2	692	500	72.3	179	114	63.7	1,953	1,439	73.7				
	55 to 59	637	483	75.8	382	272	71.2	125	84	67.2	1,144	839	73.3				
	60 to 64	308	224	72.7	208	136	65.4	74	40	54.1	590	400	67.8				
	65 and over	472	296	62.7	282	170	60.3	296	29	9.8	1,050	495	47.1				
	Combination	369	68	18.4	549	85	15.5	165	34	20.6	1,083	187	17.3				
	Unknown	98	9	9.2	118	10	8.5	101	0	0.0	317	19	6.0				
Accused Aboriginality	Aboriginal	3,914	3,216	82.2	2,599	1,836	70.6	463	322	69.5	6,976	5,374	77.0				
	Non-Aboriginal	15,301	11,696	76.4	8,664	5,742	66.3	2,387	1,394	58.4	26,352	18,832	71.5				
	Combination	151	14	9.3	144	18	12.5	139	19	13.7	434	51	11.8				
	Unknown	23	10	43.5	14	2	14.3	12	4	33.3	49	16	32.7				

Appendix C. Appearance-level descriptors for defendants of domestic violence charges arising from an initial police report of domestic assault in 2022, NSW, by relationship type

	Intimate partner			Family			Other			All	
	Finalised	Guilty	% Guilty	Finalised	Guilty	% Guilty	Finalised	Guilty	% Guilty	Finalised	% Guilty
Defendants gender											
Male	9,168	6,434	70.2	4,004	2,710	67.7	1,032	719	69.7	13,816	9,563
Female	2,703	1,782	65.9	2,000	1,326	66.3	464	307	66.2	5,070	3,345
Unknown	5	5	100.0	4	3	75.0	0	0	0.0	9	8
Defendants age											
Under 18	150	103	68.7	596	311	52.2	67	34	50.7	795	439
18 to 24	1,770	1,289	72.8	1,139	803	70.5	283	203	71.7	3,110	2,225
25 to 29	1,872	1,335	71.3	675	480	71.1	229	164	71.6	2,699	1,917
30 to 34	1,966	1,350	68.7	696	477	68.5	195	143	73.3	2,798	1,922
35 to 39	1,906	1,283	67.3	677	454	67.1	194	140	72.2	2,691	1,816
40 to 44	1,523	1,022	67.1	668	436	65.3	171	119	69.6	2,305	1,536
45 to 49	1,131	780	69.0	589	407	69.1	122	76	62.3	1,809	1,237
50 to 54	698	471	67.5	424	288	67.9	100	63	63.0	1,184	794
55 to 59	402	270	67.2	248	180	72.6	68	42	61.8	696	474
60 to 64	194	137	70.6	130	86	66.2	37	24	64.9	355	244
65 and over	256	175	68.4	157	109	69.4	29	18	62.1	435	298
Unknown	8	6	75.0	9	8	88.9	1	0	0.0	18	14
Defendants Aboriginality											
Aboriginal	2,470	1,761	71.3	1,464	1,013	69.2	270	180	66.7	4,091	2,857
Non-Aboriginal	9,398	6,454	68.7	4,544	3,026	66.6	1,223	844	69.0	14,793	10,051
Unknown	8	6	75.0	0	0	0.0	3	2	66.7	11	8

Note. The "All" column is not the sum of the three categories but the distinct number of court appearances involving a domestic violence offence. For example, a defendant accused of domestic violence against an intimate partner and a family member during a different incident may have both charges finalised at the same court appearance. In this case, the court appearance would be counted once in the intimate partner column, once in the family column and once (not twice) in the "All" column.