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The prosecutor effect in trials for petty violent offences in Russia

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ABSTRACT

The paper utilises the duality of criminal procedure in Russia - with or without the participation of public prosecutor - to compare trial outcomes for petty violent offences in the two types of trial and examine the effects associated with the participation of the public prosecutor in court. Controlling for the selection of cases into the public prosecutor track as well as for legal and extralegal characteristics of offence and offender, the analysis establishes that the participation of the public prosecutor in trials reduces the probability of acquittal and increases the probability termination of case in connection with reconciliation of parties. Another dimension of the public prosecutor effect is the mitigation of disparities in the likelihood of acquittal associated with the occupational status of defendant, save for the law enforcement employees. The latter are more likely to be acquitted than defendants with other occupational status and are less probable to reconcile with the victim.

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Introduction

In sentencing, research scholars usually look for disparities in the probability of imprisonment and in sentence length (or death penalty) and estimate variations in punishing offenders with different social characteristics (Ulmer, 2012; Spohn, 2015). They tend to focus on detrimental rather than favourable outcomes for defendants (e.g., conviction rather than acquittal).

Apart from public prosecution procedures initiated by the public authority, many jurisdictions also have a criminal proceeding initiated by a private person (Mujuzi, 2015). Usually, private prosecution cases are limited to petty offences (misdemeanours), handled by lower-level courts, and punished by fines or public works rather than imprisonment. There are much fewer empirical studies of trials for petty offences (misdemeanours) (Meyer & Jesilow, 1987; Munoz & Sapp, 2003; Kohler-Hausmann, 2014) than for offences of higher seriousness, and, to the best of our knowledge, no empirical studies of sentencing when outcomes are achieved through the private prosecution procedure.

This paper uses court data from the Russian jurisdiction and focuses on trial proceedings of petty violent offences (battery and minor injuries) that the Criminal Procedure Code defines as “private prosecution cases”. By default, such cases are initiated at the discretion of the victim (or his/her representative) by means of submitting a claim to the court of peace where the victim (or his/her representative) prosecutes the offender. If the victim is ready to reconcile with the offender, the judge is obliged to terminate the case.

In special circumstances, such as when the victim cannot defend his or her rights or the whereabouts of offender are unknown, the law gives the public authority discretion to initiate the criminal case from the private prosecution category, investigates it, and support the prosecution in

court. This provision results in the duality of trial type for the same offences: (1) victim against offender; (2) the public prosecutor against offender.

Such duality allows comparing behaviour of participants and outcomes in two different types of criminal trial process: adversarial and investigatory. The comparison, in turn, makes possible to identify and assess effects associated with the participation of public prosecution backed up by the formal police investigation as is the case in the investigatory trial type.

Furthermore, unlike other case types,¹ the disposition of private prosecution cases is characterised by rather high acquittal rates, which makes possible to model the outcome favourable for defendant. About 20% of defendants accused of petty violent offences and tried in private prosecution mode get acquitted. The second best option (about 50%) is the termination of case in court in connection with reconciliation of parties as mentioned in the Article 25 of the Criminal Procedure Code. In practice, the judge can terminate the criminal case at the written request of the victim and on the condition that the offender has compensated the damage in the amount that satisfied the victim. The procedure means *ipso facto* admission of guilt but leaves no criminal record in the offender's biography.

The available sentencing data from the Russian Federation includes information on the social status of offenders. Apart from general social status characteristics, such as gender, citizenship, education, etc., the data features occupational status characteristics ranging from the unemployed to top managers, state officials, and law enforcement employees. Since battery is a widespread and non-specific type of offence, all categories of the population are well represented among offenders (see Table A1 in the Appendix). Due to differences in social status and available resources, offenders can nonetheless be expected to have different chances of favourable outcome at trials.

The comparison of two types of trial, with and without participation of public prosecutor, for the same type of offences prompts the following research question: how does the appearance of the public prosecutor in court affect case disposition and outcomes for defendants with different social characteristics?

The data allow to distinguish between the two types of trial and to use the quasi-experimental non-equivalent control group design (Campbell & Stanley, 1963). The selection of defendants (cases) into the control group (adversarial private prosecution trial) and experimental group (investigatory public prosecution trial) is non-random, and the additional task therefore is to account for the selection mechanism and control for confounding variables related to selection.

The private prosecution cases and types of trial

The private prosecution procedure originated in Medieval Russia of X–XII centuries but was first formalised and distinguished from the public prosecution procedure in the Court Code of 1864. It included minor offences, such as insult, slander, and battery. The private prosecution procedure remained in the Soviet Procedure Codes of 1922 and 1960 (Koryakin, 2013, p. 227–228). The Russian Criminal Procedure Code as of 2011² classifies three offences as private prosecution cases (*dela chastnogo obvineniya*): Article 115.1 “Light damage to health”, Article 116.1 “Battery” and Article 128.1 “Slander”. These cases (1) are initiated by the victim by submitting the claim directly to the peace court, where (2) the victim or his/her representative acts as prosecutor. In exceptional cases, when the victim of the above offences is unable to defend him/herself because of the dependent or helpless condition or when the location of the offender is unknown, the Code (Part 4 Art.20) gives the investigation authority and the prosecutor's office discretion to initiate criminal cases in accordance with the public prosecution procedure. This implies that the case shall be supported by the public prosecutor in court despite its belonging to the private prosecution category.³

This study includes only violent offences (“Light damage to health” and “Battery”) processed by the first instance courts (courts of peace). “Battery” is the most frequent and rather mundane petty

offence. It constitutes the absolute majority of private prosecution cases and is the second most widespread registered offence in Russia: 50 to 80 thousand cases per year and about 10 per cent of all criminal cases in courts. “Battery” is also the kind of offence that is equally typical to all strata of the Russian society (see [Table A1](#) in the Appendix).

The Russian legal system belongs to the continental European tradition of civil law. It relies on codified statute laws and procedural codes that regulate the application of laws. The key feature of criminal justice is the highly formalised investigation procedure and the domination of the investigator-prosecutor tandem, which results in a highly accusative bias with diminishing acquittal rate (Solomon, 1987). The criminal procedure system in Russia is often called neo-inquisitorial or investigatory, referring to the fact that the state in the face of its public officials objectively and on behalf of everyone concerned carries out the investigation of a crime to determine what happened (Burnham & Kahn, 2008).

The initiation of the criminal case is a formal procedure, and after the investigation official (inquirer for low gravity crimes and investigator for higher gravity crimes) has made the decision to initiate the case, he or she has to fill the criminal case file with the documental evidence and write an indictment. Once the investigation is completed, the case file is submitted to the prosecutor’s office for review. In contrast to the adversarial Anglo-American tradition where prosecution and defence present their evidence in trial before the judge, in the Russian system the judge first of all receives a written file that accumulates the previous work of the investigation and prosecution. The defence side can collect its own evidence and proof to present it at the trial, but the inclusion of the evidence supplied by the defence side into the case file is left to the discretion of the judge.

The above procedure relates to public prosecution cases. Private prosecution proceedings normally have neither criminal case file nor public prosecutor in court, but one private person against another before the judge, which makes them comparable to the adversarial process. Under the special conditions, however, when the victim is dependent upon the offender or helpless or there is a need to locate the offender, the court switches to the public prosecution trial mode, that of public prosecutor versus the private person (see [Figure 1](#)).

Although the Code states that the formal investigation procedure that obliges the public prosecutor to act in court in private prosecution cases is an exception, in practice, it is widespread. In 42% of private prosecution cases the judge is presented with the criminal case file produced by the criminal inquiry officer, and the public prosecutor appears in court.

Selection into the public prosecutor trial mode and the family violence issue

What determines the distribution of cases between the two types of trial? The Code refers to the circumstances of dependence of the victim upon the offender, helpless condition, and the necessity to identify the offender’s whereabouts as grounds for public interference on behalf of the victim. How do these regulations work in practice?

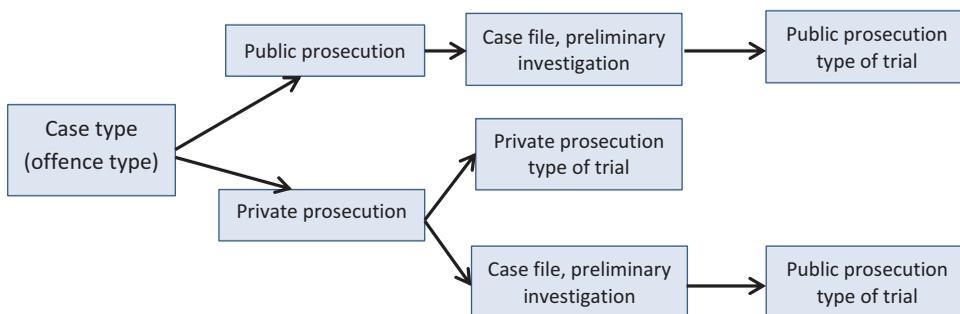


Figure 1. Case and trial types in the Russian criminal procedure.

To understand the practice I conducted an expert interview with the Head of the District Prosecutor's Office, focusing on the selection of cases related to offences in question, the procedure, the policies of the Prosecutor's Office, and the behaviour of its representative in court. Separate questions were asked about the behaviour of law enforcement employees and attitudes towards this category of offenders.⁴

In the course of interview, the district prosecutor made several important points illuminating the selection process.

First, a large proportion of battery cases that the prosecutor's office decides to support in court relate to family violence where the victim is a close relative (a child or an elder person) who cannot protect his or her rights; or a spouse or other dependent family member.

Second, the Prosecutor's Office follows the crime prevention policy that motivates it to look for cases of home violence and bring them to court. *"We have this notion of so-called preventive cases. The more such cases in the structure of crimes, the less murders. That is, home violence that can later result in murder. But if we initiate the criminal case on time, even if they reconcile afterwards, there's nothing wrong. This person will be marked in the [police] Information Centre that he went through reconciliation and case termination on 115 or 116 [articles of Criminal Code], in the home violence category. And the malefactor understands that he is already marked"*.

Third, he noted that the behaviour of the victim and the offender in court differs in cases selected by the public prosecution. *"Old people, children, dependents reconcile easier. So in cases that the prosecutor brought to court the percent of reconciliations will be higher."*

Fourth, law enforcement employees may have advantages over other categories of defendants. *"Law enforcers, they understand the situation very well and employ all kinds of formal and informal methods of defence, beginning from the informal interaction with the criminal inquiry officer to criminalistics skills. There are small districts in the Russian Federation, they have 120 people police staff in the district. All know each other. It's easier to conceal wrongdoings. They can sympathise with their colleague and bias the situation in his favour"*.

To sum up the expert opinion, the selection into the public prosecution trial is partly determined by the policy of the prosecutor, partly by the availability of the offender. The policy is to identify instances of regular family violence, initiate criminal prosecution, and either achieve conviction or push the parties towards reconciliation and terminate the case in court to warn the offender. The expert did not elaborate on other selection criteria, such as the need to locate the offender, but mentioned that this was specified in the Code.

Data

The data for this research is derived from two larger datasets. The first one is the dataset representing all defendants who faced trial for criminal charges in courts of general jurisdiction (Federal Courts) and courts of peace of the Russian Federation between 2009 and 2013 (5,041,773 observations). Originally, the information on defendants and their cases was recorded in the form of statistical cards. The latter are routinely filled by judges or their assistants in a special electronic format for each criminal case and submitted to the regional branch of the Judicial Department, the agency in charge of court management.⁵ Each statistical card contains depersonified information about the defendant, offence(s), and charges; the identification of the court and the name of the judge as well as information about the trial procedure and its outcome.

I filtered the dataset to avoid effects and restrictions of juvenile justice by removing all defendants under 18 years old. Defendants who at the moment of trial were in prison for previous offences were also removed from the dataset because the range of possible outcomes for inmates is constrained (in/out decision is not applicable, for example). I narrowed the analysis to courts of peace that handle private prosecution cases and to offence types in question. The resulting subset includes 362,942 observations representing the entire population of defendants tried for petty violent offences qualified as private prosecution cases (part 1 Article 115 and part 1 Article 116)

Table 1. Petty violent offences by the type of trial, 2009–2013.

	Without prosecutor	With prosecutor
All cases	209,477	153,465
Share, percent	57.7	42.3
Acquittals	65,111	4,766
Acquittals, percent	31	3
Terminations	81,847	80,342
Terminations, percent	41	54

between 2009 and 2013. Hereafter, I will refer to it as “Dataset 1” and use it for descriptive statistics only.

For simplicity, I will refer to the two types of trial as “with prosecutor” and “without prosecutor” cases (see Table 1). The comparison of case outcomes shows large differences between the two types of trial. The acquittal rate is 10 times lower in trials with the public prosecutor than in trials where the latter is absent. At the same time, the share of terminations in connection with reconciliation is higher in public prosecutor cases.

As follows from the comments from the district prosecutor, public authorities tend to interfere in those battery cases that contain episodes of family and home violence as well as violence against helpless individuals. The main dataset, however, does not have information on family relations between the victim and the offender that, according to the expert, affect the selection of cases by the public prosecutor. Another problem with the Dataset 1 is that it does not include information about the presence of medical expertise in the case file, i.e., a formal document from a medical institution that specifies physical injuries. From interview sources, we know that expert statements are regarded by judges as important evidence.

The problems of controlling for the selection into the public prosecution track and for the presence of medical expertise in the case file are addressed by creating another subset of sentencing decisions from texts of court verdicts available online (1,424,898 verdict texts of criminal case trials), which is the second source of data for this study.⁶ Information on family relations between victim and offender was extracted from texts of verdicts by means of an algorithm that identified cases that, in the section describing the offence, contained words related to family ties (“mother,” “father,” “wife,” “husband,” “spouse,” “son,” “daughter”) and coded them as either “spouse” or “parent.” A similar coding procedure was used to create the medical expertise variable.⁷ The quality of textual verdict data allowed only a limited one-to-one merger of text verdict information with the Dataset 1.⁸ The resultant additional dataset came to include 23,016 cases. I refer to it as “Dataset 2” and use it for regression analysis.

Occupational status and trial outcomes

The Dataset 1 (based on standard statistical cards of the Judicial Department) contains information about the social and occupational status of the offender. Age, gender, education level, citizenship (Russian or other), local residence permit, and marital status allow controlling for general social characteristics of defendants. There are also fields in original cards that identify the occupation of defendant and his or her position in the organisation (administrative status). These two fields allow constructing variables of occupational status.⁹

The cross-tabulation of the composition of defendants and outcomes of trials shows a number of disparities (see Table 2). Acquittal is the best outcome for defendants, and it appears socially stratified. For the public prosecution/investigation, acquittal is the worst outcome, because it is a negative performance evaluation indicator, and we see a dramatic drop in the acquittal rate in public prosecutor trials together with sharper stratification. For the bottom three categories of defendants the acquittal rate drops ten times when the public prosecutor appears in court; for the middle three categories – four to five times, whereas in case of public officials the difference is about 3,5 times. Law

Table 2. The occupational status of defendants and outcomes of trial for petty violent offences by the type of trial, 2009–2013.

Status	Acquittal, percent		Termination, percent	
	Without prosecutor	With prosecutor	Without prosecutor	With prosecutor
Law enforcer	46	23	28	47
Public official	36	10	38	61
Entrepreneur	32	7	37	56
Top manager	35	9	33	59
Office employee	35	6	36	62
College student	30	3	46	62
Manual worker	28	3	43	56
Unemployed	32	3	42	52

enforcers have the highest acquittal rate in trials both with and without the public prosecutor. The disparity between occupation status groups in trials without the public prosecutor is much less dramatic than when the prosecutor is present (almost eight times between the lower three and the law enforcers). As for the second best outcome, namely, the termination of case due to reconciliation of parties, the stratification is inverted and less sharp, almost disappearing in the prosecutor's trials.

Methodology

Three main hypotheses concerning the prosecutor effect will be tested: (1) Defendants with higher occupational status have higher chances of acquittal in trials without the public prosecutor; (2) The participation of public prosecutor in court drops acquittal rate but preserves disparities in the probability of acquittal connected with social characteristics of defendants; (3) The participation of public prosecutor increases the probability of case termination predicated upon the compensation of damage and reconciliation of parties.

The main dependent variables are:

- (1) Whether the defendant was acquitted. (Acquittal = 1) when the verdict stated that the defendant was either not guilty, or the crime did not take place, or the victim dropped charges.
- (2) Whether the case was terminated in connection with reconciliation (Termination = 1).
- (3) Whether the victim was represented by the public prosecutor in court (Prosecutor = 1). In models 6 and 7 this variable was also used as independent predictor.

Independent variables of interest are those related to the occupational status of defendants. The reference category used in regression models is the “unemployed”. The main control for the selection of cases into the trial with public prosecutor is the family violence variable available in the Dataset 2 (Family violence = 1 if verdict text mentions family categories, such as wife, husband, spouse, mother, father, son, daughter). Another control for the selection into the prosecutor track and, at the same time, for legally relevant case characteristic is the “number of charges” – a continuous variable ranging from 1 to 5. An additional charge is likely to be more serious than small violence (e.g., threat of murder or robbery), and its presence in the case determines the public prosecution mode of trial.

To account for legal characteristics of case, offence, and offender the following controls are introduced. Since the analysis is limited to one type of crime specified by two subsections of articles of the criminal code (part 1, Art.115 “Light damage to health” and part 1, Art.116 “Battery”) each corresponding to one and the same level of seriousness, no control for crime seriousness is required. To account for unobserved variation in the use of law between the two articles, I include fixed effects for article subsection. I also control for defendant's criminal history by including dummy variables of expired prior convictions (“record”), non-expired convictions (“active record”), and recidivism. The conviction

record is expired when the probation period after serving the punishment is finished; until that the record is active. A premeditated offence committed by an individual with non-expired conviction for a prior premeditated offence constitutes an instance of recidivism. The “fast track” binary variable relates to what in Russia is known as “the special mode of trial”, an equivalent to plea bargain that, according to the law, should reward the defendant by limiting the punishment to not more than two-thirds of the upper bound if he admitted guilt and agreed to the trial without the assessment of evidence. The presence of “medical expertise” variable serves as proxy for the quality of proof in the case file.

To account for possible mitigating circumstance, such as the presence of small children who depend upon the offender, the analysis includes this variable. I also control for whether the offence was committed under the influence of alcohol, which is typical for interpersonal violence, but is up to the judge to be considered an aggravating circumstance.

The data also allow controlling for characteristics of offence and offender that are not mentioned in the Criminal Code but may affect case outcomes. A number of dummy variables account for social characteristics of offender: Russian citizenship, local residence, marital status, gender, and higher education. To control for unobserved variations in law enforcement policies between regions, fixed effect for Russia’s regions are included in all models. The list of variables and descriptive statistics are presented in [Table 3](#).

A number of important limitations for the modelling should be acknowledged. In order to compare two subsets and examine the public prosecutor effect, it is important to control for the selection of cases into the prosecutor’s track, so that the distribution of cases is close to random. But perfect control is impossible to reach. Violence against a dependent victim (family violence) is regarded here as a major factor responsible for the selection. The Dataset 2 shows that 74% of all cases that contain family violence episode go down the public prosecutorial track. Yet, in the

Table 3. Summary statistics.

Variables	Mean	Median	SD	Min	Max	Non-missing values
<i>Dependent</i>						
Acquittal	0.193	0.000	0.394	0	1	362,942
Termination	0.468	0.000	0.499	0	1	362,942
Prosecutor	0.423	0.000	0.494	0	1	362,942
<i>Occupational status</i>						
Law enforcer	0.003	0.000	0.058	0	1	362,941
Public official	0.015	0.000	0.122	0	1	362,941
Entrepreneur	0.032	0.000	0.177	0	1	362,941
Top manager	0.014	0.000	0.119	0	1	362,941
College Student	0.022	0.000	0.145	0	1	362,942
Office worker	0.047	0.000	0.212	0	1	362,941
Manual worker	0.305	0.000	0.460	0	1	362,941
Unemployed	0.514	1.000	0.500	0	1	362,941
<i>Social status</i>						
Age	36.953	35.000	12.886	18	89	362,941
Male	0.754	1.000	0.431	0	1	362,942
Higher education	0.152	0.000	0.359	0	1	362,942
Russian citizen	0.990	1.000	0.102	0	1	362,942
Local resident	0.969	1.000	0.174	0	1	362,942
Married	0.393	0.000	0.488	0	1	362,942
Small children	0.359	0.000	0.480	0	1	362,942
<i>Crime characteristics</i>						
Family violence	0.200	0.000	0.400	0	1	23,053
Alcohol	0.310	0.000	0.462	0	1	362,942
Medical expertise	0.316	0.000	0.465	0	1	23,056
<i>Legal controls</i>						
Fast track	0.196	0.000	0.397	0	1	362,942
Number of charges	1.154	1.000	0.429	1	5	362,942
Recidivism	0.030	0.00	0.172	0	1	362,942
Active record	0.053	0.000	0.224	0	1	362,94
Record	0.085	0.000	0.279	0	1	362,94
<i>Fixed effects</i>						
Region						89

prosecutorial docket as a whole they constitute only 30% of cases (compared to 10% in the private prosecution docket). So, not all family violence cases go down the public prosecutor track (although the majority do), and not all public prosecutor cases are those involving family violence. Among the remaining cases, there may be those where relations of dependence were not of family nature, but, for instance, those where a boss battered his subordinate or a nurse physically harassed a patient. The remaining parts are most likely to be those where the police had to identify the offender and his location as well as to ensure his appearance in court.

Furthermore, the available data does not contain such case characteristics as witness testimonies that may affect the trial outcome, and part of the variation of dependent variables may be connected with unobserved characteristics of the case. The datasets have no information on the social status of victims, which is a sensitive omission, especially in private prosecution cases where the capacity of the victim to hire a good attorney is important.

For regression analysis I use Dataset 2, dividing it in two subsets corresponding to cases with no prosecutor and those where prosecutor participated in trials. To model acquittal decisions by the judge and decisions to terminate the case I run logistic regressions and estimate marginal effects at the mean level of explanatory variables.

To assess effects associated with the participation of the public prosecutor two procedures are employed. First, I compare significance and direction of effects of covariates in the two subsets related to the two types of trial (the comparison of the strength of coefficients of binominal regression and marginal effects on two different samples does not allow valid conclusions). Then I also run OLS regressions that include interaction of the prosecutor variable with occupation and social status variables as well as with family violence variable.

Results

The analysis proceeds as follows. First, I examine the characteristics of the offender and offence that predict that the case is supported in court by the public prosecutor. In order to estimate effects associated with the participation of the public prosecutor I model probabilities of acquittal and of case termination for cases with and without prosecutor. Then, I model the prosecutor effect by interacting the prosecutor variable with variables of occupational status. Results of logistic regression and marginal effects modelling the selection into the public prosecutor trial are presented in [Table 4](#).

As expected, the model shows that family violence and multiple charges are the strongest predictors of selection of cases into the public prosecution trial. Apart from that, the criminal history is strongly connected with the prosecutor's choice of cases, as does other indicators of marginal social status, such as unemployment and lack of higher education.

Acquittal

Because the probability of acquittal in trials with prosecutor is low, the modelling of acquittal uses the complimentary log-log regression. Marginal effects are calculated at mean levels of explanatory variables. I analyse two separate samples, representing cases where both victim and defendant are private parties presenting their positions before the judge (Model 2) and cases where the victim is represented by the public prosecutor using the casefile with results of formal investigation (Model 3). Both models include occupational status variables, the unemployed being the reference category. Results of regression modelling are presented in [Table 5](#).

The occupational status variables representing higher status groups, such as law enforcer, private entrepreneur, and top manager, predict higher likelihood of acquittal. But occupational (and social) status predictors are not significant in trials with prosecutor, save for the law enforcer. Compared to other occupation status categories the law enforcer status has a strong positive effect on the decision to acquit in both samples.

Table 4. The probability of selection into the trial with public prosecutor, logistic regression, marginal effects.

	Model (1) Selection	
	Marginal Effects	SE
Unemployed	0.07***	0.007
Age	-0.002**	0.0002
Male	0.03***	0.008
Higher education	-0.10***	0.009
Russian citizen	-0.03	0.03
Local resident	0.02	0.02
Married	-0.02***	0.007
Dependants	0.02	0.007
Family violence	0.23***	0.01
Alcohol	0.12***	0.008
Number of charges	0.29***	0.01
Recidivism	0.18***	0.02
Active record	0.11***	0.01
Record	0.11***	0.01
Observations	23,050	

Note: Standard errors clustered at court level.

Coefficients are interpreted as percent.

Region and article part FE included.

*** p < 0.01, ** p < 0.05, * p < 0.1

Table 5. The probability of acquittal in trials for petty violent offences with and without public prosecutor (log-log, marginal effects).

	Model (2) Acquittal, without prosecutor		Model (3) Acquittal, with prosecutor	
	Marginal Effects	SE	Marginal Effects	SE
Law enforcer	0.15***	0.05	0.05***	0.01
Public official	0.06**	0.03	0.01	0.009
Entrepreneur	0.05***	0.02	-0.005	0.009
Top manager	-0.004	0.03	0.003	0.01
College student	-0.03	0.03	-0.01	0.01
Office employee	0.0008	0.02	0.007	0.006
Manual worker	-0.0006	0.01	0.0006	0.003
Male	-0.02**	0.01	-0.002	0.003
Higher education	0.03**	0.01	0.01***	0.003
Russian Citizen	0.08*	0.04	0.02	0.02
Local resident	-0.10***	0.02	0.003	0.008
Married	0.01	0.009	0.001	0.003
Small children	-0.03***	0.009	-0.01**	0.004
Family violence	-0.03	0.02	-0.03***	0.004
Alcohol	-0.06***	0.01	-0.02***	0.004
Medical expertise	-0.08***	0.01	-0.01***	0.003
Number of charges	0.02	0.02	-0.02***	0.007
Recidivism	0.02	0.03	-0.04***	0.01
Active record	-0.003	0.02	-0.03***	0.01
Record	-0.02	0.02	-0.03***	0.008
Observations	11,316		10,678	

Note: Standard errors clustered at court level.

Coefficients are interpreted as per cent. Region and article part FE included.

*** p < 0.01, ** p < 0.05, * p < 0.1

Case termination in connection with reconciliation

The modelling of reconciliation and case termination also uses two samples but applies logit regression. In comparison with models 2 and 3, the set of controls is modified. The “Recidivism” variable is excluded because the Criminal Code does not grant the opportunity of case termination in case of repeated crime; the medical expertise variable is dropped, because expertise is usually not mentioned in verdict texts that refer to reconciliation. An additional variable indicating whether the

defendant agreed to a fast track mode of case hearing is included (incompatible with acquittals because fast track implies guilty plea). Results are presented in [Table 6](#).

In the private prosecution trials, variables representing the upper status groups are negatively connected with reconciliation with the victim (Model 4). With the appearance of the public prosecutor, these effects disappear and other effects emerge: lower status groups variables become significant and predict higher probability to reconcile. Also notable is a strong negative effect of family violence cases on the probability to reconcile in Model 4, which disappears in the prosecutor's track (Model 5).

Interaction terms

Two additional models use Dataset 2 without the division into two samples. They include the participation of prosecutor as independent variable, employ OLS regression, and estimate effects of interaction between occupational status variables and the prosecutor variable on the likelihood of acquittal and reconciliation. Results are presented in [Table 7](#). The table reports only effects of variables of interest. All controls as in Models 2–5 are included but not reported.

In the model of acquittal, the interaction of prosecutor variable and occupational status variables makes most occupation variables effects non-significant, except for entrepreneur where correlation changes the direction, predicting lower probability of acquittal when interaction is included. In the reconciliation and case termination model, the interaction of the prosecutor variable with occupational status variables changes direction of correlation, indicating higher probability of reconciliation for these defendants when the prosecutor interferes. The interaction with family violence variable shows the same pattern.

Table 6. The probability of case termination in trials for petty violent offences with and without public prosecutor (logit, marginal effects).

	Model (4) Termination, without prosecutor		Model (5) Termination, with prosecutor	
	Marginal Effects	SE	Marginal Effects	SE
Law enforcer	-0.21***	0.08	-0.15*	0.1
Public official	0.001	0.04	0.005	0.05
Entrepreneur	-0.06**	0.02	0.04	0.03
Top manager	0.0009	0.03	-0.03	0.06
College student	0.05	0.03	0.13***	0.03
Office employee	-0.03	0.02	0.08***	0.02
Manual worker	0.005	0.01	0.02**	0.01
Male	0.01	0.01	0.05***	0.01
Higher education	-0.03**	0.01	0.01	0.02
Russian Citizen	-0.05	0.05	-0.04	0.04
Local resident	0.09***	0.02	0.05*	0.03
Married	0.027***	0.01	0.05***	0.01
Small children	-0.01	0.01	0.001	0.01
Family violence	-0.22***	0.02	0.006	0.01
Alcohol	0.029**	0.01	-0.005	0.01
Fast track	-0.03	0.03	-0.18***	0.01
Number of charges	-0.03	0.03	0.20***	0.01
Active record	-0.14***	0.02	-0.4***	0.02
Record	-0.08***	0.02	-0.05***	0.01
Observations	11,321		11,722	

Note: Standard errors (in parentheses) clustered at court level. Coefficients are interpreted as per cent. Region FE included. *** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

Table 7. The probability of acquittal and termination, interaction terms, OLS.

	Model (6) Acquittal		Model (7) Termination	
	Coefficients	SE	Coefficients	SE
Prosecutor	-0.21***	0.04	0.22***	0.06
Law enforcer	0.20***	0.07	-0.21***	0.069
Prosecutor#lawenforcer	0.076	0.13	0.04	0.15
Public official	0.08**	0.04	-0.021	0.038
Prosecutor#official	-0.044	0.05	0.045	0.06
Entrepreneur	0.062***	0.022	-0.07***	0.023
Prosecutor#entrepreneur	-0.069***	0.025	0.12***	0.039
Top manager	-0.002	0.031	-0.04	0.035
Prosecutor#top manager	0.004	0.036	0.072	0.06
College student	-0.017	0.03	0.059*	0.035
Prosecutor#student	-0.0004	0.029	0.029	0.046
Office employee	0.003	0.019	-0.056**	0.023
Prosecutor#office employee	0.008	0.02	0.16***	0.03
Manual worker	-0.0002	0.010	-0.007	0.012
Prosecutor#worker	-0.002	0.01	0.037**	0.015
Family violence	-0.040***	0.013	-0.21***	0.016
Prosecutor#family violence	0.027	0.013	0.21***	0.019
Observations	23,053		23,053	
R-squared	0.15		0.12	

Note: Standard errors clustered at court level.

Coefficients are interpreted as per cent. All other control variables and region FE included.

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$

Discussion

The paper examined effects of the public prosecutor on outcomes of trials for petty violent crimes. The main hypotheses were derived from the interview with the prosecutor describing the selection process and policy of the Prosecutor's Office as well as from the knowledge of organisational features of Russia's criminal justice. The modelling shows that the public prosecution tends to use its power against individuals involved in family violence, belonging to the lower and marginalised strata of society, having criminal record and involved in alcohol abuse. This corresponds with the law enforcement prevention policy described in the interview – using criminal trial to warn and mark rather than punish the offender.

Hypothesis (1) concerning connections between occupational status of defendants and chances of acquittal was confirmed by the analysis. Defendants with higher occupational status, such as law enforcers, public officials, and entrepreneurs are more likely to be acquitted than the unemployed and defendants from low strata (Models 2 and 6). The participation of public prosecutor drops and evens the chances of acquittal. Status-related disparities tend to disappear, but there is one exception. Law enforcers continue to enjoy higher likelihood of acquittal in trials with public prosecutor as well. Thus, hypothesis (2) found only partial support.

In the organisational context of Russia's law enforcement, acquittal is a strong negative performance indicator for the public prosecutor and the inquiry officer. Both will do their best to avoid this outcome, using the institutional power of their office to influence the judiciary (Paneyakh, 2014, 2016). On the other hand, conviction has a much higher price for law enforcers compared to other defendants, since this causes the job loss without any possibility of reinstatement. Thus, the weakening of the prosecutor effect with regards to the insiders to the criminal justice may reflect corporate solidarity at the expense of justice, even though this may potentially lead to negative performance evaluation of the prosecution.

Another effect associated with the participation of the public prosecutor can be observed with regard to the reconciliation with the victim and case termination. The latter allows the defendant to avoid conviction and criminal record. The important point about this type of case disposition is that it means the admission of guilt. This satisfies the public prosecutor/inquiry officer tandem, letting

them to avoid negative evaluation of their work. From the expert interview with the prosecutor, we also know that this is a method of subtle home violence prevention – warning the violator. Thus, case termination in connection with reconciliation is a kind of second-best solution for both defendant and the prosecutor.

So, Hypothesis (3) was confirmed and highlighted another prosecutor effect: the rise of the rate of cases terminations in connection with reconciliation of parties. Defendants, who in adversarial private prosecution trials aim at acquittal and are less likely to reconcile, change their behaviour when the prosecutor appears in court. This feature relates to lower strata of defendants who are also targets of the prosecutor's prevention policies.

A separate issue that emerged in the course of examining the role of the prosecutor is that of family violence. One may assume that relatives reconcile more readily, and this is what the prosecutor indicated in the interview, but the analysis does not support this assumption. However, the analysis shows that the prosecutor, in full accordance with what he indicated in the interview, uses his influence to reconcile relatives or cohabitants instead of convicting the violator. The strong negative prediction of reconciliation in family violence cases in trials without prosecutor (Model 4) becomes non-significant in the model (5). A similar effect is manifest in the interaction of the prosecutor and the family violence variable (Model 7).

Conclusion

The Russian Criminal Code prescribes that petty violent offences, such as battery and minor injuries, be heard in the private prosecution type of trial, whereby the victim side, represented by a private person, prosecutes the offender in the peace court. For the same offences, the Code also specifies conditions that require preliminary investigation and the participation of the public prosecutor in trial on behalf of the victim. Trials for petty violent offences are also characterised by relatively high acquittal rates. The research design utilised these features to look for effects associated with the appearance of the public prosecutor in court and examine outcomes favourable for defendants.

Because in inquisitorial type of criminal procedure the combined power of the investigation officer that produces the criminal case file and of the prosecutor strongly outweighs the capacity of private defence, the acquittal rate in trials with prosecutor drops significantly compared to trials between private parties. This may be due to the selection of cases with higher quality of proof, as well as to extra-legal power of the Procuracy that predisposes judges to side with the prosecution. The major result of this analysis, however, is not an illustration that the public prosecutor does his job much better than the private party, but the examination of nuanced public prosecutor effects on case disposition and outcomes. The private prosecution trials seem to give higher status defendants more chances to avoid conviction through acquittal. The power of the public prosecutor diminishes the chances of acquittal and mitigates status disparities with regard to this outcome. But disparities tend to re-emerge with regard to the second best option, namely, case termination. In order to avoid conviction, higher status defendants prefer to reconcile with victim and to compensate the damage. With regard to lower status defendants, the prosecutor pushes the sides towards reconciliation and agrees on case termination when family issue is involved. Law enforcement employees are a stark exception to the described pattern. Having more chances of acquittal in private prosecution trials, law enforcers aim at this first rather than the second best option in trials with public prosecutor as well. Prosecutors and judges are more lenient towards the insiders to the criminal justice system when the law allows this discretion.¹⁰

Notes

1. In contrast to private prosecution cases, the acquittal rate in public prosecution cases in Russia (those processed *only* with preliminary investigation and supported by the public prosecutor) is about 0,4 per cent (and 20 per cent of cases are terminated in court).
2. In 2001–2010 the private prosecution also included “insult”. In 2017 “battery” committed for the first time was decriminalised and made an administrative offence.
3. Article 20, Part 2 of the Russian Criminal Procedure Code: “Criminal cases on crimes envisaged by Articles 115, Part One and 116, Part One of the Criminal Code of the Russian Federation, are seen as criminal cases of private prosecution, are initiated only upon application from the victim or from his legal representative, except for the cases stipulated by Part Four of this Article, and are subject to termination in connection with the reconciliation of the victim with the accused.” Part 4: “The head of an investigative agency, the investigator, as well as the inquirer with the consent of the procurator shall institute a criminal case on any crime indicated in Parts Two and Three of this Article, and in the absence of an application of the victim or his legal representative, if the crime has been committed with respect of a person who, due to his dependent or helpless state or for other reasons cannot defend his rights and legal interests. The other reasons shall also include the case of commission of a crime by a person the information about whom is unknown.” Full text of the Code in English available at https://www.unodc.org/res/cld/document/rus/1996/the-criminal-procedure-code-of-the-russian-federation_html/Russia_Criminal_Procedure_Code_2001_as_amd_2012.pdf
4. The jurisdiction of the Prosecutor’s Office is a large district of the city of Saint-Petersburg. Before being assigned to the position of the Head of the Office, the respondent worked as prosecutor in other city districts and as investigator in a small suburban town. The interview took place on 11 June 2014, lasted for over two hours, is fully recorded and transcribed.
5. Since 2011 the Judicial Department of the Supreme Court in Moscow assembled statistical cards from all regional courts at the central server. In 2012 and 2014, the Institute for the Rule of Law of the European University at Saint-Petersburg requested and was given access to these cards for research purposes. The institute then converted them into the dataset. Dmitriy Skougarevskiy identified the source of data and conducted a titanic work of creating, ordering, and cleaning the dataset in cooperation with Kirill Titaev, Irina Chetverikova, and Mikhail Pozdnyakov.
6. <https://rospravosudie.com/>
7. The author is thankful to Irina Chatsverykova for creating the additional dataset.
8. Courts are obliged to publicise verdict texts but there is no unified standard regarding the form and detail. As a result, different courts include different kind of case information. The merger strategy included matching available combinations of criminal case number, verdict date, judge name, first two primary charges, court type, and region name in verdict texts and the main dataset of court decisions.
9. The logic of constructing occupational status variables is explicated in more detail in (Volkov, 2016).
10. As another study established (Volkov, 2016), in trials for more serious crimes (felonies), law enforcers get harsher sentences than other categories of defendants, because the Criminal Code regards a premeditated crime committed by a law enforcement employee an aggravating circumstance.

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References

- Burnham, W., & Kahn, J. (2008). Russian criminal procedure code five years out. *Review of Central and East European Law*, 33(1), 1–93.
- Campbell, D., & Stanley, J. (1963). Experimental and quasi-experimental designs for research. *Handbook of research on teaching*. Houghton, Boston.
- Kohler-Hausmann, I. (2014). Managerial justice and mass misdemeanors. *Stanford Law Review*, 66, 611–694.
- Koryakin, A. (2013). The history of the institution of private prosecution in Russian criminal process, problems of Russian procedural law in the criminal process, and methods to improve the institution of private prosecution in the Russian criminal process (in Russian). *Vestnik Omskogo Universiteta. Seriya "Pravo"*, 3(36), 225–233.
- Meyer, J., & Jesilow, P. (1987). *"Doing justice" in people's court. Sentencing by municipal judges*. Albany: State University of New York.
- Mujuzi, J. (2015). The right to institute private prosecution: A comparative analysis. *International Human Rights Law Review*, 4(2), 222–255.
- Munoz, E., & Sapp, S. (2003). Racial/Ethnic misdemeanors sentencing disparities. *Journal of Ethnicity in Criminal Justice*, 1(2), 27–46.
- Paneyakh, E. (2014). Faking performance together: systems of performance evaluation in Russian and production of bias and privilege. *Post-Soviet Affairs*, 30(2–3), 115–136.
- Paneyakh, T. (2016). The practical logic of judicial decision making. *Russian Politics & Law*, 54(2–3), 138–163.
- Solomon, P. (1987). The case of the vanishing acquittal: informal norms and the practice of soviet criminal justice. *Soviet Studies*, 39, 531–555.
- Spohn, C. (2015). Evolution of sentencing research. *Criminology and Public Policy*, 14(2), 225–232.
- Ulmer, J. (2012). Recent developments and new directions in sentencing research. *Justice Quarterly*, 29, 1–40.
- Volkov, V. (2016). Legal and extralegal origins of sentencing disparities: evidence from Russia's criminal courts. *Journal of Empirical Legal Studies*, 13(4), 637–665.

Appendix

Table A1. Top five most frequent criminal charges for selected occupational groups.

	Law enforcer	Public official	Top manager	Entrepreneur	Office employee	Manual worker	College student	Unemployed
1	Power abuse	Battery	Fraud	Battery	Theft	Theft	Theft	Theft
2	Battery	Fraud	Battery	Theft	Drugs	Battery	Robbery	Drugs
3	Fraud	Bribery	Bribery	Fraud	Battery	Drugs	Drugs	Robbery
4	Bribery	Theft	Embezzlement	Drugs	Embezzlement	Threats of murder	Battery	Battery
5	Office abuse Threats of murder	Embezzlement murder	Tax evasion	Copyright violations	Fraud	Robbery	Health	damage

Source: The dataset representing all defendants who faced trial for criminal charges in courts of general jurisdiction (Federal Courts) and courts of peace of the Russian Federation between 2009 and 2013 (5,041,773 observations).